

REGISTRATION OF CHARGES



Section 77 - Section 87

+

The Companies (Registration of Charges) Rule, 2014

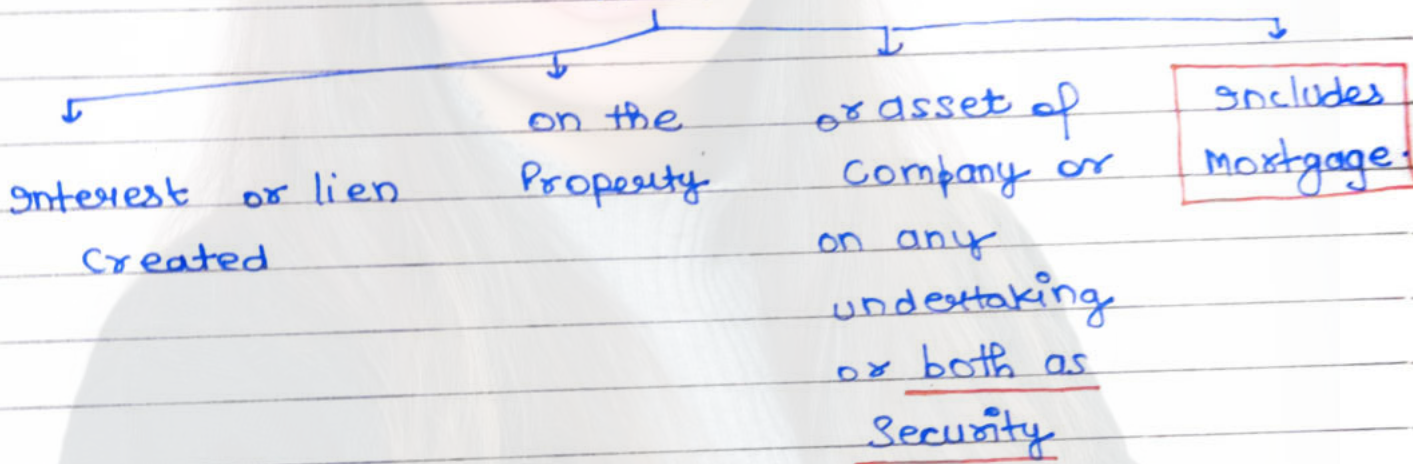


Form CHG-1 - CHG-9

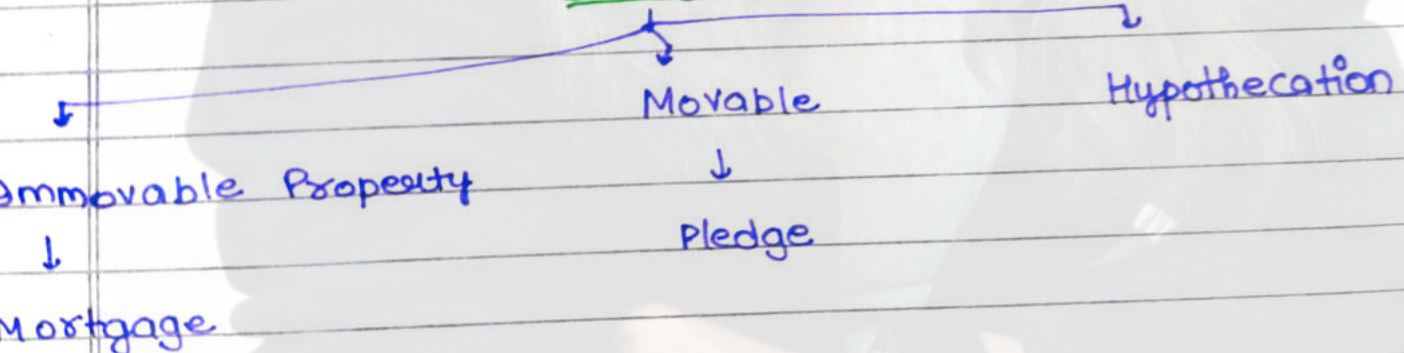
Charge - Section 2(16)



Means



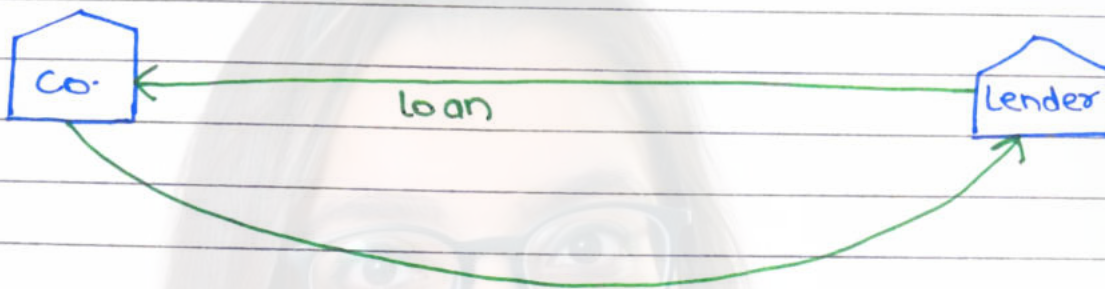
Charge



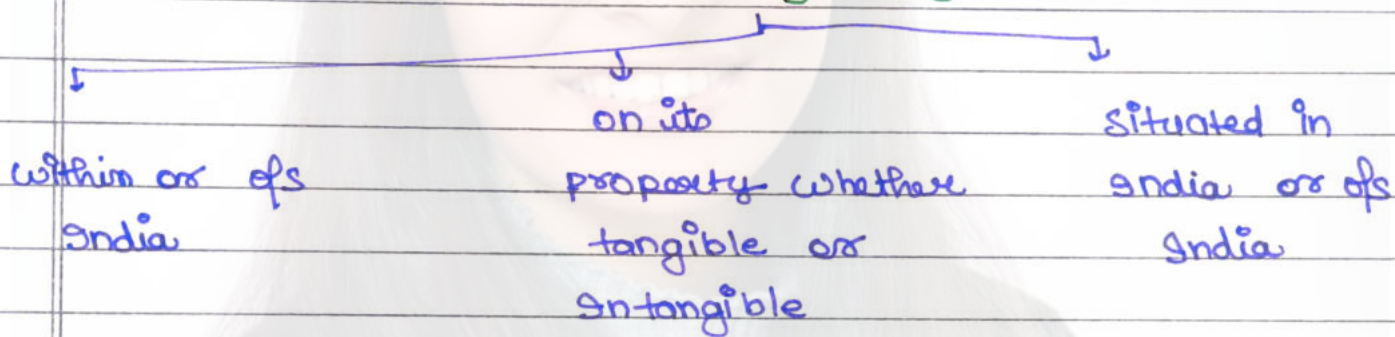
Once a charge is Registered with Company, it becomes Public Document.

Section 77

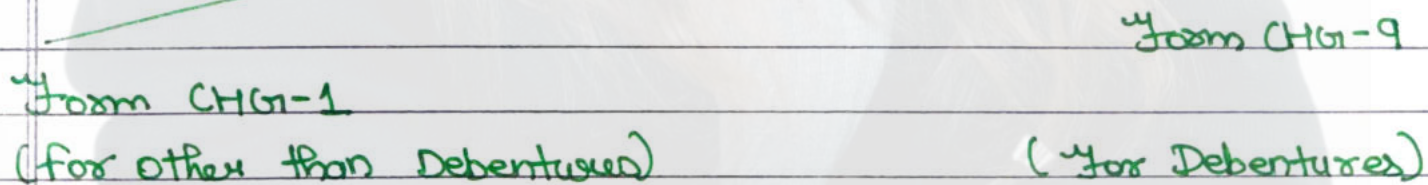
Duty to Register Charges



Creating charge



Register charge signed by Co. and charge holder



↓
with Registrar within 30 days
+
Normal Fees

Extension

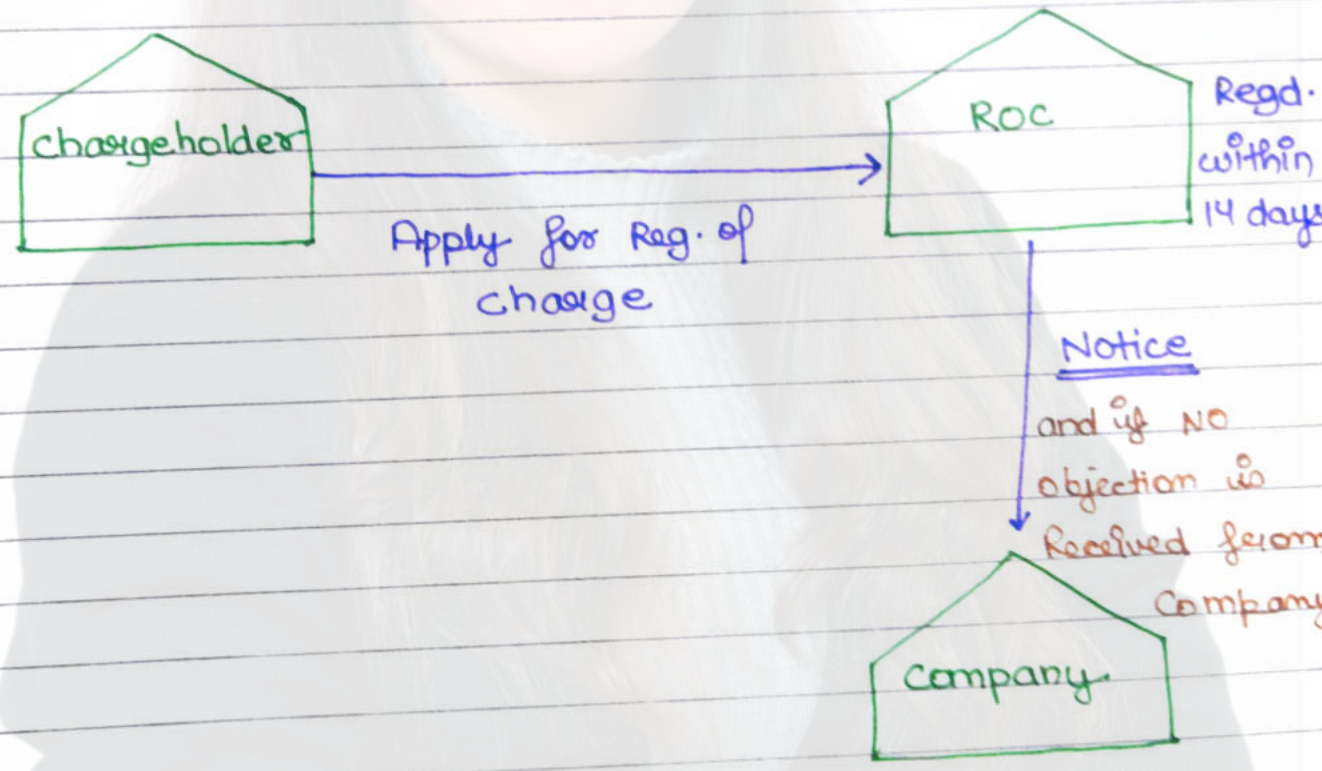
- Ist → Next 30 days + Additional Fees
- IInd → Next 60 days + Additional Fees

ROC → Issue Certificate → Registration
 ↓
 Form
 CHGr-2

Section-78

Application for Registration of Charge by Charge holders

↓
 Gives Right to chargeholders to get charge Registered if Company fails to do so.



ROC shall Not allow Registration



* charge holder shall be entitled to recover from company amount of any fees or add. fees paid by him to Registrar for registration.

Section 79

Section 77 to Apply in Certain Matters
[Modification]

Property where charge is already registered and if it is sold with permission of charge holder.

Modification of charge.
 ↓
 Increase in amount of loan or interest rate.

↓
 It shall be duty of Co. Acquiring it to get it registration.

↓
 ROC shall issue Certificate of Modification
 ↓
 CH-3
 ↓
 Conclusive Evidence

change in Bank Rate is Not Modification.

Section 80

Deemed Notice of Charge

Deemed as Notice to
General public

Duty of General
Public to inspect
the details of
charges created by
Co. before entering
in to any
Contract.

Section 81

Register of charges to be kept by Registrar

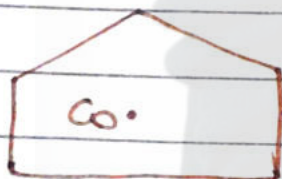
Co. is Required
Maintain Register
charges

Registers
open for inspection
by any person
on payment of
fee.

Can be
inspect
electronically
on MCA
Website

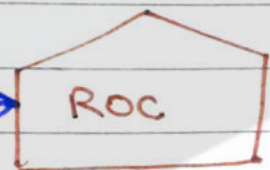
Section 82

Company to Report Satisfaction of Charge



Form No. CHG-4

within 30 days from
Date of Payment of
loan

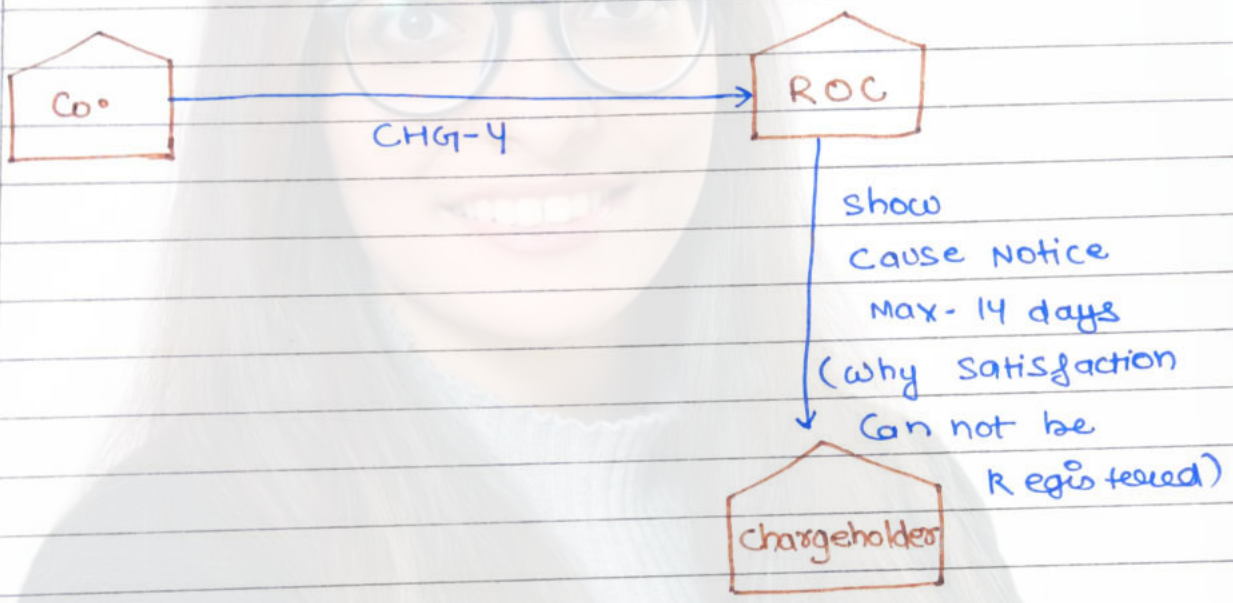


will issue
CHG-5

Certification of Satisfaction

What if CHG-4 Not filled in said 30 days?

↓
 ROC on Appⁿ may allow such Registration to be made within a period of 300 days of such Payment. [with CHG-10]



* No Notice is Required if intimation in CHG-4 is Signed by holder of charge.

Section 83

Power of Registrar to Make entries of Satisfaction and Release in Absence of Intimation from Company -

Registrar on being Satisfied

Debt for which charge given has been Paid or Satisfied

Property or undertaking has been released from charge.

↓
 on whole or part

↓

Enter in the Register Particulars of Such Satisfaction and inform the Parties within 30 days of Making Entry:

Section 84

Intimation of Appointment of Receiver or Manager

of any Person

↓
obtains order of appointment of Receiver

or

↓
Appoints such Receiver under any powers contain in instrument

↓

He shall give Notice of Same within 30 days

↓
ROC

↓
Along with order or instrument

↓
Company
↓
Copy of CHG-6

↓
In form CHG-6 + Fees

Section 85

Register of Charge

Co. shall maintain Register of charges
At its Registered office

CHG-7

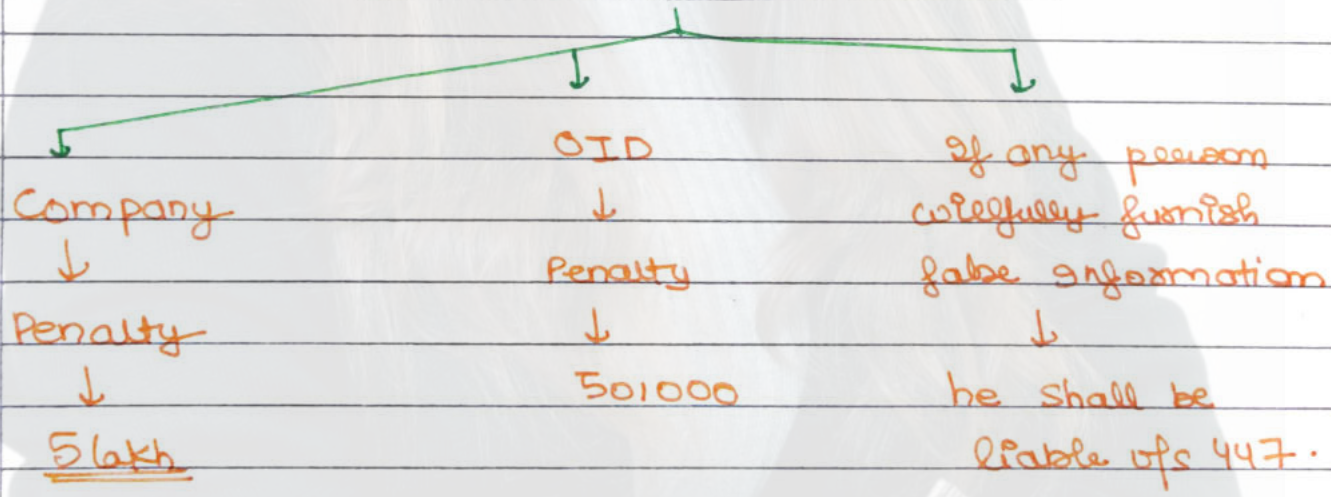
⊕

Copy of instrument creating charge

Inspection open during
Business hours.

Section 86

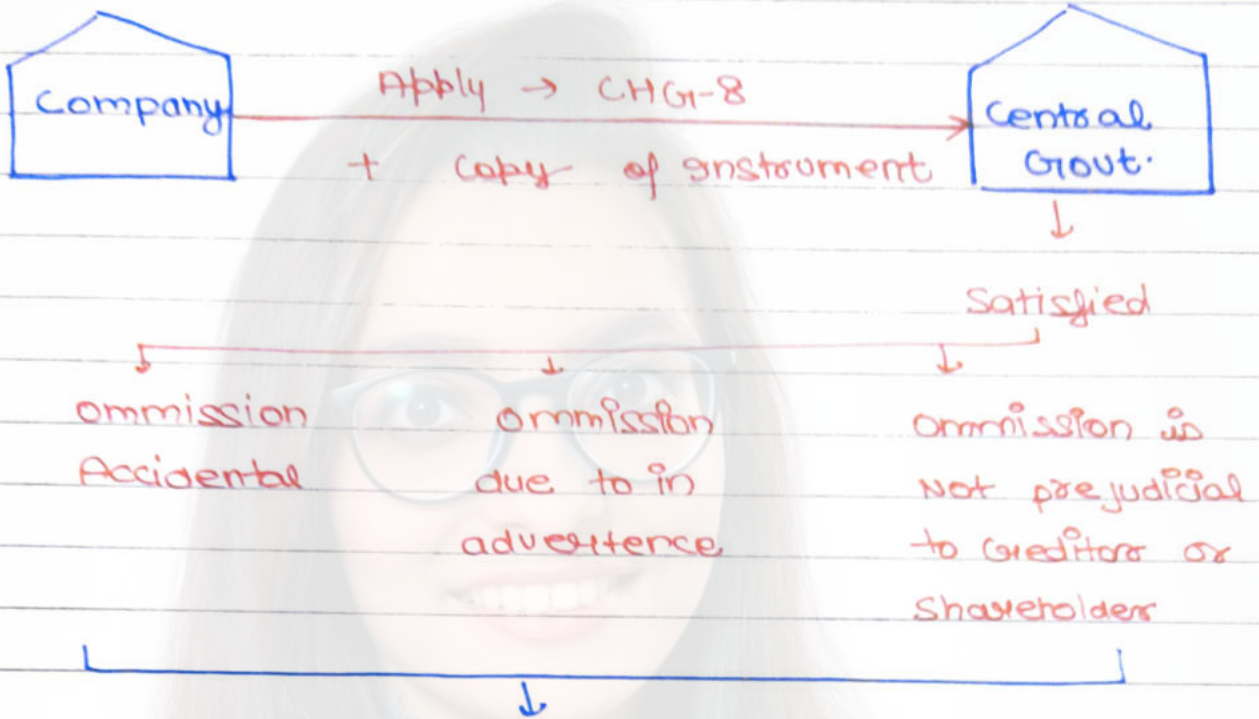
Punishment for Contravention



Section 87

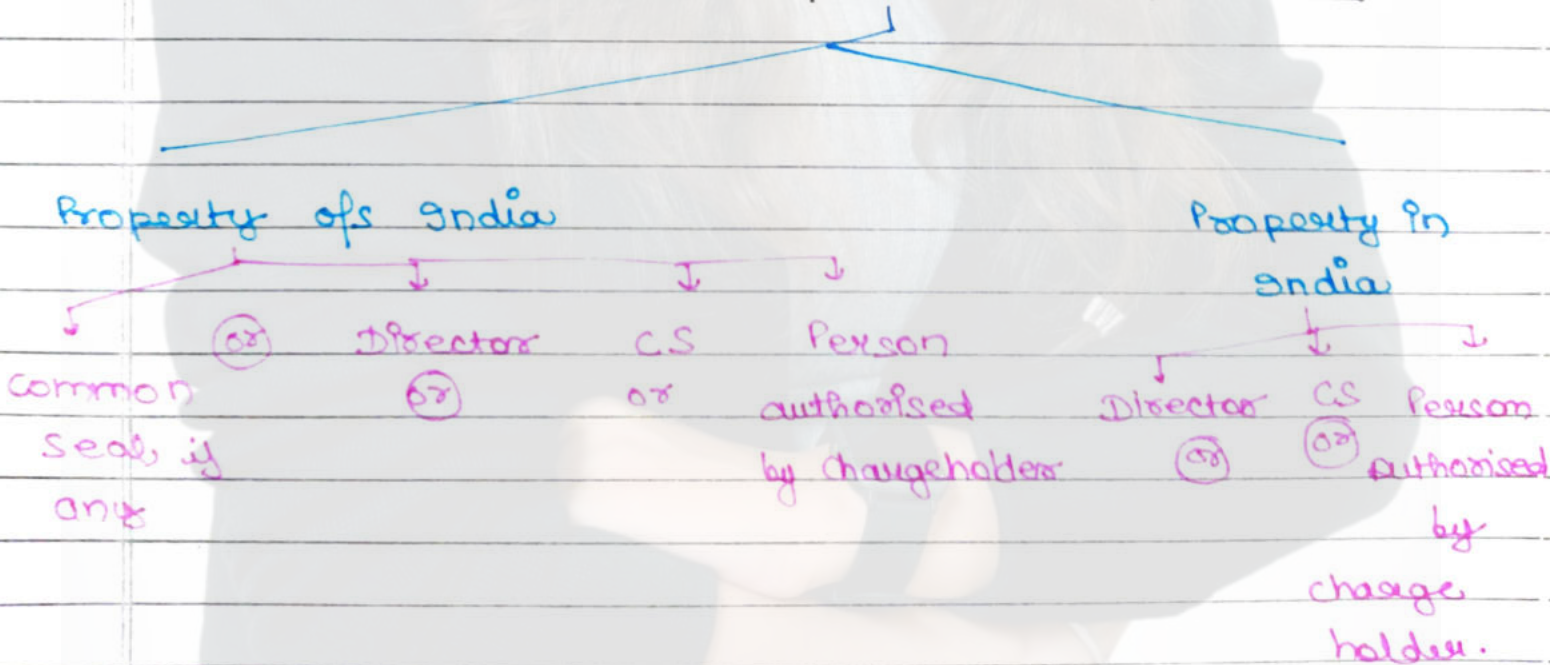
Rectification of CG in Register of Charges

Condonation of Delay
in case company forgot to Register Satisfaction
of charge ~~with~~ after 300 days.



Direct that the time for filing the particulars or for the registration of charge or for giving intimation for satisfaction of charge.

Verification of instrument of charge



Kinds of Charge

Fixed Charge

A charge is called fixed or specific when it is created to cover assets which are ascertained and definite.

Ex: Land, Building or plant & Machinery.

Floating charge

A floating charge as a type of security is peculiar to Companies as Borrowers.

A floating charge is not attached to any definite property but covers property of fluctuating type.

Ex: Stock in trade.

Crystallisation of Floating charge

A floating charge attaches to the company's property generally remains dormant till it crystallizes or becomes fixed.

The company has a right to carry on its business with help of assets over which a floating charge has been created.

A floating charge crystallises and security becomes fixed in the following cases:-

- when the company goes in to liquidation.
- when the company ceases to carry on its business.
- when the creditors or the debenture holder take steps to enforce their security.
- on the happening of the event specified in the deed.

Effect of Crystallisation of a Floating Charge



- On crystallization, the floating charge converts into fixed charge on the property of company.
- It has priority over any subsequent equitable charge and unsecured creditors.

Postponement of Floating Charge

- * The creation of a floating charge leaves the co free to create a legal mortgage on the same property until the floating charge crystallises.
- * where such mortgage is created it has priority over the floating charge which gets postponed.

TOPIC

DATE

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The floating charge is postponed in favour of following person;

- A Landlord who distrains for Rent.
- A creditor who obtains a garnishee order absolute.
- A Judgement Creditor who attaches goods of company and gets them sold.
- The employees of the Company, as well as the other preferential Creditors in event of winding-up