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## Chapter → 6 Registration of charges

### ■ Duty to register charges Sec 77

- ① It is the duty of every company which has created a charge on its property - situated in India or outside India, whether tangible or intangible, to get this charge registered with the ROC within 30 days of its creation in FORM CHG1 and CHG9 (debentures)
- ② Where the charge is not registered within the original period of 30 days, the ROC may allow the registration to be made within a period of 60 days of such creation on the payment of additional fees.
- ③ If the charge is not registered within the extended period as above, the company shall make an application to the ROC & the ROC may allow the registration to be made within a further period of 60 days after payment of ad valorem fees. This should be supported with a declaration signed by the C.S./director that the belated filing has not adversely affected the creditor.

④ ROC will issue a Certificate of Registration in FORM CHG2.

### ⑤ Consequences of non-registration

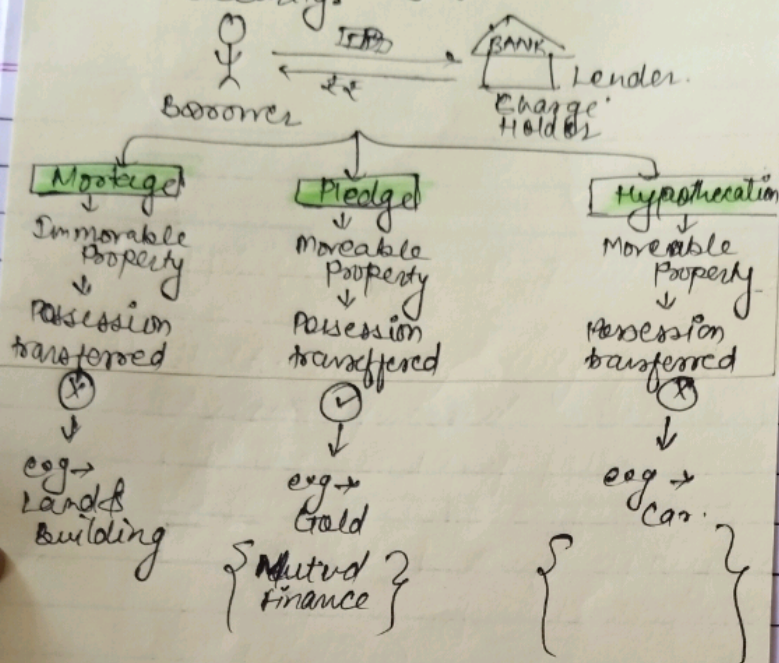
• will be deemed as that the creditors are unsecured

• Late registration - no priority.

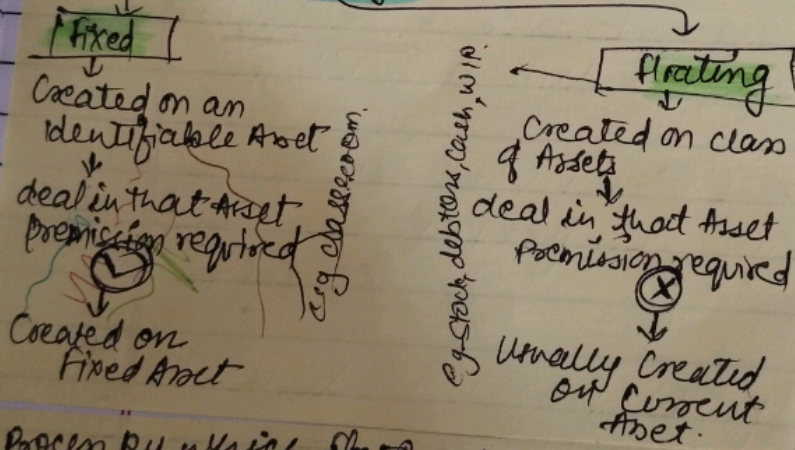
• Windup - Liquidator unsecured creditor.

Payment  
not made  
out

**Charge** means giving your asset as security.



**Kind of Charges**



Creation  
modification  
satisfaction

Process by which floating charge converts into fixed charge called **crystallization**

→ to Exercise floating charge.  
Floating converts/crystallize into fixed

Job - Co ISWR or Pyari hojaygi tab floating charge fixed charge ko convert hoga.

- I → Insolvent
- S → Stopped its Business
- W → windup
- R → Default in Repayment

## Application for Registration by Charge Holder (Sec 79 of Charge)

- It is the primary duty of the company to get the charge registered within a period of 30 days. If the company fails to do so then the person in whose favour the charge is created (Charge Holder) may apply to ROC for registration of charge along with the instrument of charge.
- On the receipt of such an application the ROC shall give a notice to the company and if no objection is received within a period of 14 days then the ROC will register this charge.
- Such person (Charge holder) is entitled to recover from the company the amount of fees paid to the ROC.

## Deemed Notice of Charge (Sec 80)

- All charges registered with the ROC are public documents. Thus, any person who wishes to lend money to the company must refer the MCA portal & find out the details of the charges created by the company on its assets.
- Thus, this registration acts as a deemed constructive Notice. It means, even though the 3rd party has not referred to this public document. He would still be considered

Registration of charge - are public documents

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to have seen it.

- ② Therefore this person will not be able to claim the loss from the company if he suffers any

Acquisition of Property Subject

Section 79

Acquisition of Property  
subject to charge

- ① Where a company sells its property which is subject to charge [with the consent of chargeholder] its charge will get vacant and  
and  
the company acquiring this property shall get this charge registered as if a new charge has been created in accordance with sec 77.

जहाँ प्रॉपर्टी अकवायर्ड  
होती है वहाँ अल्ready  
charge created है

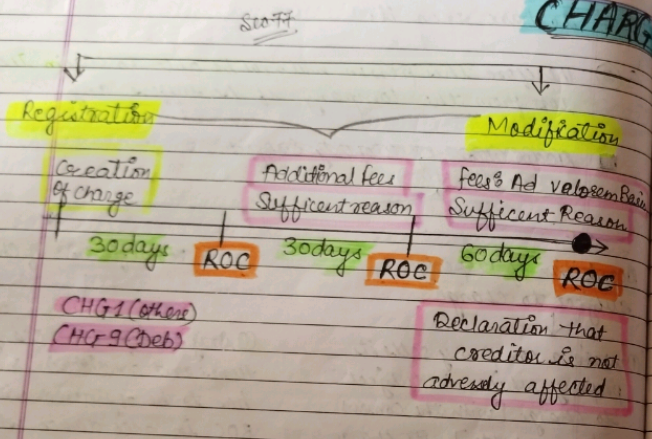
change  
Modification of Charge

- ① Any modification (change in terms and conditions) in charge has to be registered with the ROC in accordance with sec 77.  
② The ROC shall issue a certificate of modification of charge in form CH-3.

अल्ready registered  
charge को modify करें

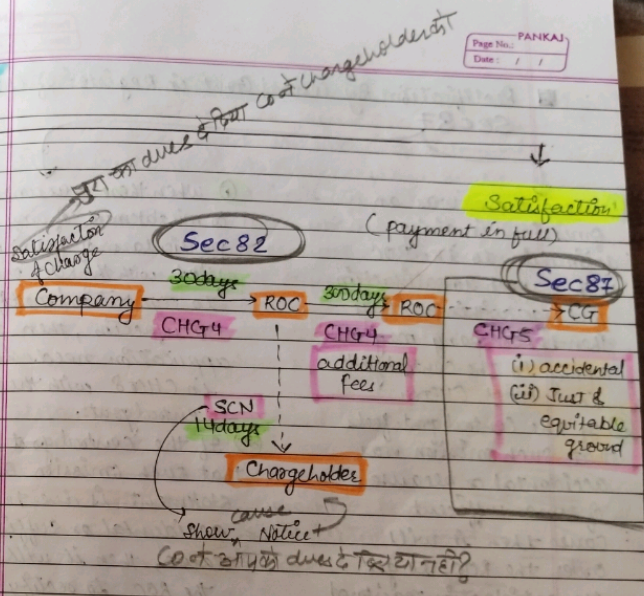
Every kind of charge (Fixed or floating) created on any asset (tangible, intangible, movable, immovable) gets to register with ROC

# CHARGES



Primary responsibility to get the charge registered is on Chargeholder.

Bank  $\xrightarrow{\text{Loan}}$  Co  
 RBI + 2%  
 6+2 = 8%  
 7+2 = 9%  
 This is not a modification



## Rectification By Central Govt in Register of Charge

### Sec 87

① Where there was an omission in giving intimation to the ROC with respect to satisfaction of charge within 30 days then the company may apply to the central govt in FORM CHG 8.

② If the central govt feels that such omission was accidental or because of some sufficient cause then it will order the ROC to get the satisfaction registered within an extended time.

① When there was an omission or misstatement of any particulars of forms previously filed with the ROC relating to registration/modification of satisfaction, then an application needs to be filed in CHG 8 with the central govt.

② If the central govt feels that such omission or misstatement is due to an accidental or sufficient cause, then it will direct the ROC to rectify such omission or misstatement.