

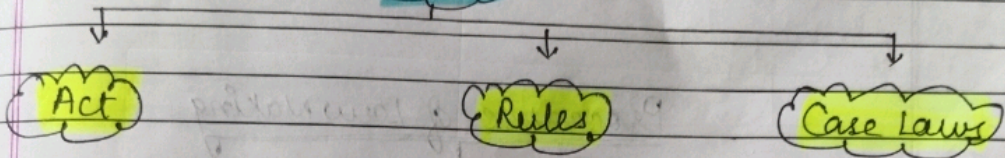
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Chapter → 7 Management and Administration

Law



It is a type of law passed by the parliament. It comprises of Section + Subsec + clauses + sub clauses.

It is a type of law made by central govt. on these matters as are mentioned - as may be prescribed by the rules.

Sometimes an authorised body (NCLT, Court) applies the provision and passes an order. Such judicial decisions form a part of law.

Regulation

It is a type of law passed by a regulatory body established by an Act, (eg ICAI is a regulatory body established by the ICAI Act 1949)

Bylaws

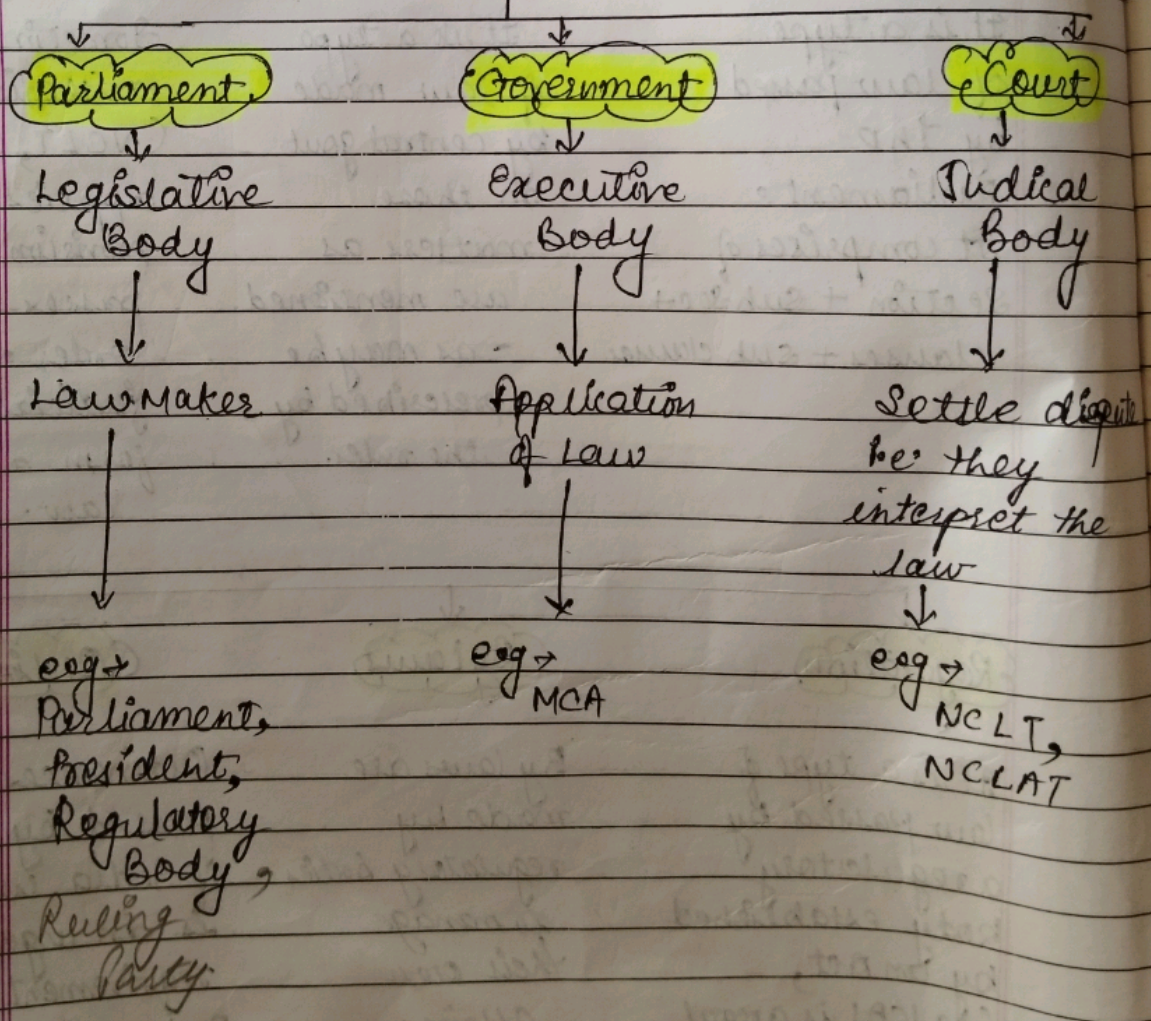
By laws are made by regulatory bodies to manage their own affairs.

Ordinances

Ordinances are passed by president of India when there is an urgent requirement of law. But such ordinances are valid only for a period of 6 weeks from the time

both the houses
of parliament start
functioning.

Procedure of Law Making



Types of Meeting

Shareholders Meeting

eg →
Reliance
AGM
ITC AUM

~~Board of~~ Board of Directors Meeting

eg → Reliance
Mukesh Ambani
Nita Ambani,
Bahlad uncle

Creditor Meeting

eg → Adani Group
Bank of Baroda,
Punjab national bank, SBI

Requirements of a valid meeting

① Properly convened

Section 101

Proper Authority

Adequate Notice

- 1) BODs have the power to call for the meeting.
- 2) Thus, a single director will have no power to call for meeting.
- 3) If the directors wish, they can delegate their powers to someone else. Then this person will be authorized to call for a meeting.

- 1) Length of Notice
 - a) 21 clear days
 - b) for calculating the same, following shall be excluded:
 - date of dispatch
 - date of meeting
 - 48 hours for transmission (post)
 - c) Section 8 Company - 14 clear days.
 - d) In case of shorter length for AGM we will require consent from 75% members who are entitled to vote.

- 2) Content of Notice
 - a) Date
 - b) Place
 - c) Hour
 - d) Agenda (objective) [AGDA]

- 3) Notice to whom
 - a) Each and every member
 - b) Legal representative of deceased member
 - c) Official assignee Insolvency (Liquidator) member.
 - d) Auditor.
 - e) Director.

- 4) Omission
 - a) Deliberate Omission - proceedings Invalid meeting
 - b) Accidental Omission - proceedings not Invalid.

Section 102
Business to be transacted

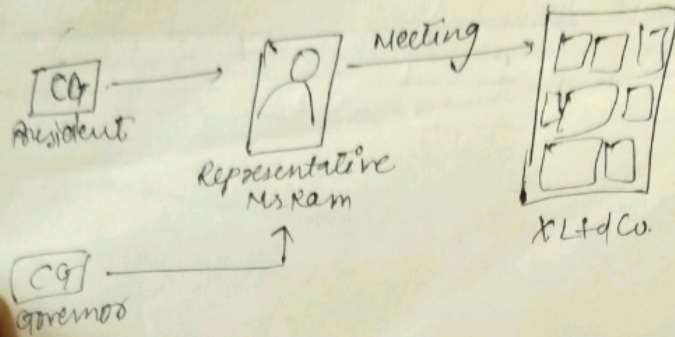
- In every AGM there are 2 types of business
- | Ordinary Business (AGDA) | Special Business |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> • Appointment of Auditor • Appointment of Director • Declaration of Dividend • Consider & Adopt financial statement | Other than Ordinary [requires a explanatory statement containing the material facts] |

Every business in AGM is a special business.

Shortfall in Notice

- AGM → 75% members entitled to vote
- Other → 2) Having 75% (using capital)
- EGM Majority in no. + Holding → 75%
- | class no. of shareholders | Total SC |
|---------------------------|-----------|
| 500 | 1000,000 |
| 8507 | > 950,000 |
- 2) Not having SC > 75% Total voting power

Sec 112 & 113 Representative.



Elements of a valid
② Legally
Constructive

• 2 members personally present.

Public Company

no. of members as on the date of meeting	Quorum required
upto 1000	5
1000 <= 5000 <small>more than 1000 upto 5000</small>	15
more than 5000	30

holders & proxies are not counted for

Quorum purposes.

5) Representative will be counted for Quorum purpose (Section no. 112 & 113)

[Note: AOA can provide for a larger number.]

3) If the Quorum is not present within half an hour then

a) Meeting shall be adjourned called by 2/3rds

that the adjourned meeting also then the members present shall be the Quorum.

b) Meeting shall be cancelled if it is called by the members themselves.

If at the adjourned meeting also quorum is not present from members present shall be the Quorum (But only if the original meeting was adjourned in want of Quorum)

decided to Adjourned meeting -> good

Postpone

Same date
time
day
New Week
same place

Requirements of a valid meeting
② Legally Constructed

Section 103
Quorum

- 1) Private Company
• 2 members personally present.
- 2) Public Company

no. of members at the date of meeting	Quorum required
upto 1000	5
1000 < 5000	15
more than 5000	30

Preference share holders & proxies are not counted for Quorum purposes.
Representative will be counted for Quorum purposes. (Section no. 112 & 113)

Note: AOA can provide for a larger number.]

3) If the Quorum is not present within half an hour then

- a) Meeting shall be adjourned. Called by AOA if not adjourned meeting also then the members present shall be the Quorum.
- b) Meeting shall be called if it is called by the members themselves.

If at the adjourned meeting also a quorum is not present then members present shall be the Quorum (but only if the original meeting was adjourned in want of Quorum)

decided to Adjourned meeting → good
if not
Same date
time
day
same place

Meeting

Section 105
Proxy

1) A proxy is appointed through MGT 11 which must be deposited with the company at least 48 hours before the meeting.

2) Even if AOA provide for a longer time, we will consider it as 48 hours.

3) A member is entitled to inspect proxy form deposited by giving at least 3 days notice.

inspection can be done 24 hours before commencement of meeting and ending with conclusion of meeting.

4) If a member attends the meeting himself, it will act as automatic revocation of appointment of proxy.

5) Later appointed proxy will act as revocation of proxy appointed proxy.

6) Even if article provide for a proxy form MGT 11 submitted will be considered as valid appointment.

7) Usually appointed by AOA.

8) Casting vote in case of equality of votes.

Section 107
Chairman

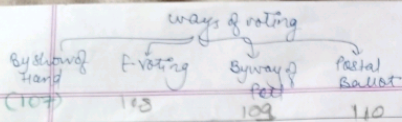
1) Unless AOA otherwise provide the members shall elect among themselves to be the Chairman or a person in his stead.

2) Chairman presides over the meeting & sees to it that business is being properly conducted in meeting.

3) Chairman manages the business of the company & has the right of casting vote in Board Meeting & general meetings.

4) Chairman has right of casting vote in Board Meeting & general meetings. re: equality chairman and vice chairman.

Proxy - address
Party - conditions
Full & complete
By way of proxy
Should Hand
• must be dated
• must be signed by
• must be submitted to
• must be submitted to
• must be submitted to



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Proposee Conducted

Section 114 Resolution

Ordinary Resolution
 • Votes in favour of the resolution are more than votes against the resolution
 ($V_f > V_a$)

Special Resolution
 • Votes casted in favour are not less than 3 times the votes casted against the resolution
 ($V_f \geq 3V_a$)

As soon as the special resolution is passed MGT 14 will be passed and filed with the ROC within 30 days (Sec 117)

Voting

E-voting Sec 108

a) Every listed company and a company having 1000 or more members shall provide the facility of e-voting.

b) The notice shall be sent to every member, director, auditor by post, speed post, courier, email.

c) The notice shall also be placed on the website.

d) The notice shall contain the manner for e-voting, time schedule, Login ID.

e) steps to generate password
 f) The company shall give a public notice by way of an advertisement in an English newspaper and a vernacular newspaper.

f) The facility for e-voting shall remain open for not less than 3 days and shall be closed at 5 days prior to the date of the meeting.

g) A scrutineer (CA, CS, CMA, CL) shall be appointed.

h) The scrutineer shall be in front of 2 witnesses and shall prepare a dated copy of the total votes.

i) He shall also maintain a register and keep it in his safe.
 j) The result along with the dated copy shall be placed on the website.

Restriction on voting rights Section 106

a) A member can be restricted from voting only on two grounds:-
 (i) Calls in Arrear

(ii) Company has exercised right of lien.

b) These restriction shall be contained in the articles of Association (AOA).

(Company is not allowed to restrict its member on any ground other than 2 specified above)

Sec 107

Show of hands
 • one member one vote

Sec 109

voting by poll
 • one share one vote

Sec 110

Postal Ballot

A company shall in respect of the following business, transact only by means of Postal Ballot:-

a) Alteration of object clause of MOA.

b) Alteration of AOA in respect of insertion or removal of restrictive clauses [LRP]

c) Change in the office outside the city.

d) Change in the object for which money was raised from public.

e) (Unutilised amount)

f) Issue of DVRs (shares with differential voting rights)

g) Buy-back of shares with DVRs

h) Election of small shareholders director

i) Sale of whole or substantially whole of the undertaking

j) Giving loans or guarantees in excess of the limits as specified under section 185.

DOL Ko RASSOT ghume
 BH ke Nath Phade

Sec 118

Minutes

- 1) Minutes of the general meeting shall be signed by the chairman within 30 days of the conclusion of the meeting.
- 2) In case of death or incapacity of the chairman one of the directors authorised by the board must sign the minutes.
- 3) The chairman has the absolute discretion in not recording statements which he thinks:
 - Irrelevant & immaterial
 - Defamatory to any person
 - Detrimental to interest of company.

Sec 119

Inspection of ~~minutes~~ Minute Books.

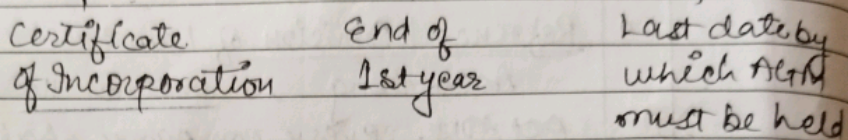
- 1) ~~Minutes~~ Minutes are kept at the registered office & are preserved permanently.
- 2) Inspection of the minutes can be done by any member without any charge.
- 3) A member can demand for a copies of the minutes on the payment such sum as may be prescribed in AOA.
[Not exceeding ₹ 10 per page]

AGM

Annual General Meeting Section 96

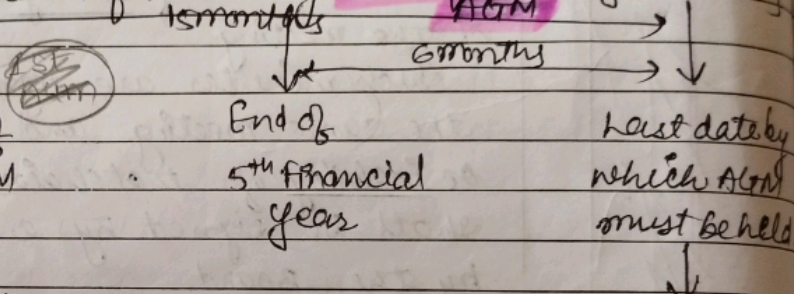
1) The limit for conducting the AGM :-

a) The time limit for holding first AGM



b) Time limit for holding subsequent AGM

In case of subsequent AGM, ROC may grant an extension for a period not exceeding 6 months for special reasons.

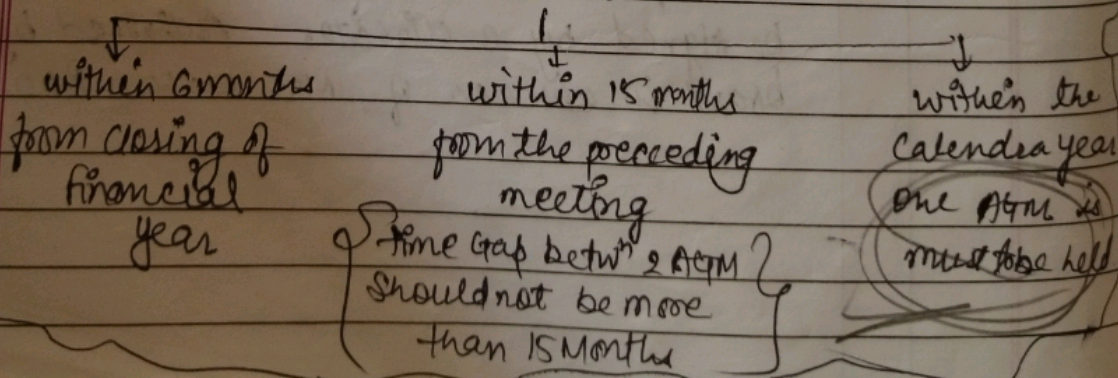


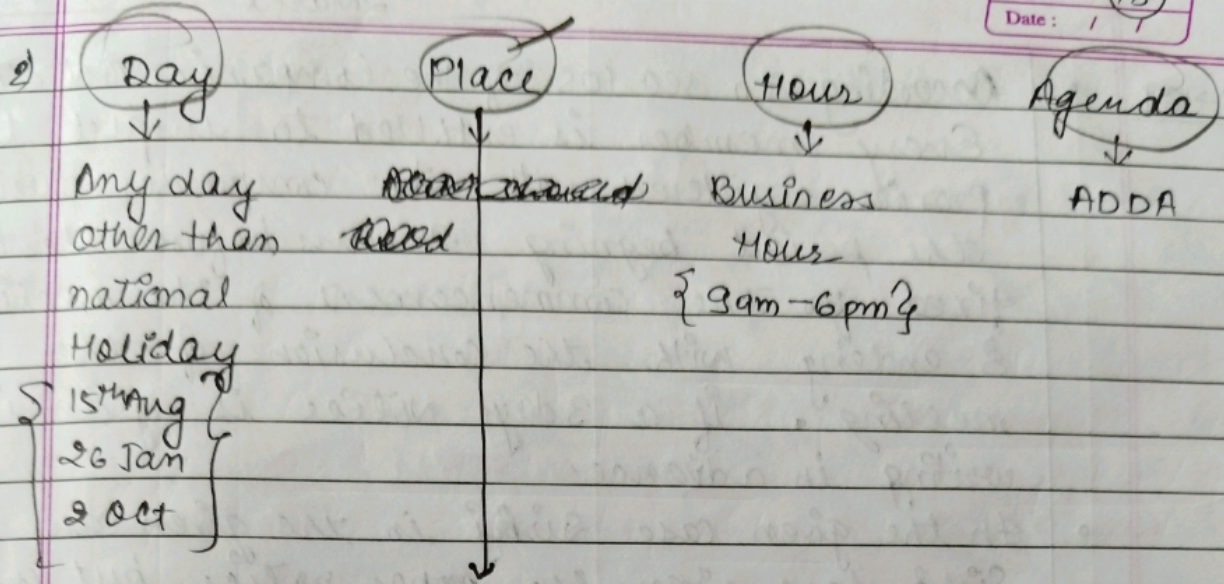
DD/MM/YY ← one AGM must be held in each calendar year → 31/12/YY+1

In simple words :-

a) 1st AGM → meeting shall held within 3 months of the ends of 1st financial year

b) Subsequent AGM → Meeting shall be held whichever is earliest



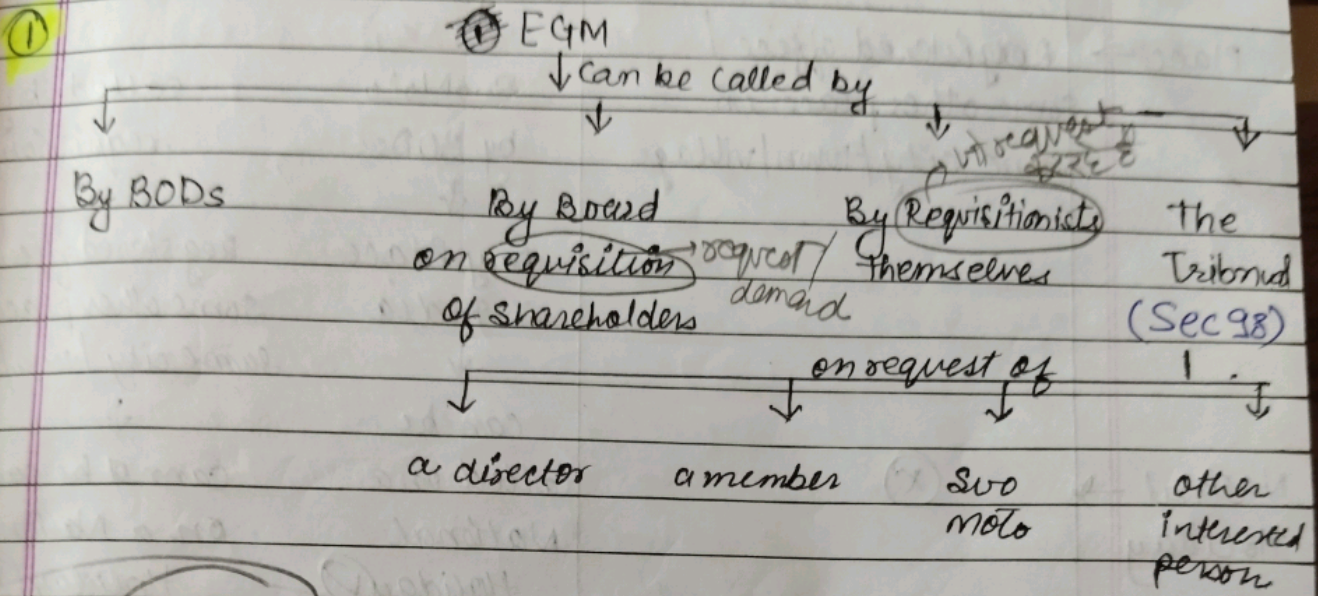


■ AGM should be held at the Registered office of the company or some other place within the same city/Town/village.

■ In case of an Unlisted company AGM may be held at any place in India if the consent of all the members is obtained in writing or electronic mode.

■

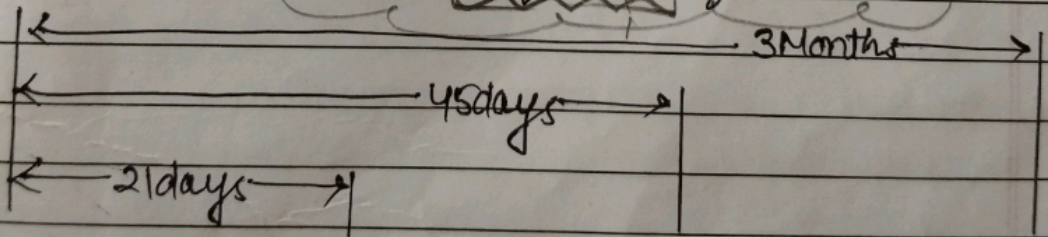
Extra Ordinary General Meeting (EGM) Sec 100



② The EGM of the company shall be held at a place within India

If an Indian company is a wholly owned subsidiary of a foreign company, it can hold its EGM anywhere in the world

③ EGM on requisition of Members



Deposit of requisition with the company by members holding at least 1/10th of total sharecap/voting power	Board must proceed to call EGM	EGM to be held when called by Board	EGM to be held when called by members
-----------------------------------------------------------------------------------------------------------	--------------------------------	-------------------------------------	---------------------------------------

(4)

ACM

EGM

Place → Registered office /
Some other place in
same city / town / village

Suoto
by BODs

called by the
requisitionists

Any Place
in India

Registered office /
some other place in
same city / town / village

National
Holiday

(X)

can be
called on a
National
Holiday (✓)

cannot be called
on a National
Holiday (X)

remuneration
covered

Registers of Members → Sec 88

- Every company shall keep & maintain
 - Register of Members — MGT 1
 - Register of Debenture Holders — MGT 2
 - Register of other security holders

These registers have to be maintained at the companies

- (i) Registered office, or
- (ii) after passing a special resolution
 - (a) any other place within the city of the registered office.
 - (b) any other place in India where more than 10% of the members reside.

Index is not necessary where the no. of members is less than 50. (50 & more than 50 → compulsory)

A company can also keep a foreign register containing the details of the members residing outside the India.

In such a case, the company shall fill MGT 3 with the ROC within 30 days

foreign register — entry —> into foreign register

register - name
place

Minor - Guardian name

Dhar card no.

Date of Member MGT

Pan card no.

Date to cease to member

no. of share
Email Id

Beneficial holder → online share holder through demat

■ Power to close the Register of members, Debenture Holders or other security holders Sec 91

- ① A company can close its register by giving a 7 days notice.
- ② These registers may be closed for any period not exceeding 30 days at one time and aggregate period of 45 days in one year. calendar year

■ Place of keeping and Inspection of Registers, Returns etc Sec 94

①

Inspection of Registers, Returns

- ① Member, ② DH, ③ other security holder, ④ Beneficiary Holders

Free of cost

Other person ✓
(e.g. → directors, lawyers, employees, customers, creditors)

Inspection is possible with prescribed payment of fees.

②

Copies of Registers

- ① Member, ② DH, ③ Other security holder, ④ Beneficiary holder

yes on payment of fees

will get copies within 7 days

Other Person

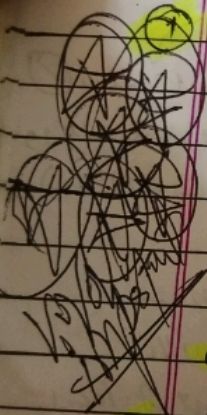
NO

⑧ Register of Members [including foreign register] → preserved permanently

⑨ Register of Debenture holder & Register of other Security Holder → 8 years from the date of redemption

• Annual Returns → 8 years from the date of filing with Registrar of Companies (ROC)

Annual Returns Sec 92



Every company shall file annual return in form no. MGT 7 [OPC and Small Co. — MGT 7A] with the ROC within 60 days from the date on which AGM is held.

Where no AGM is held, annual return shall be filled within 60 days on which from the date on which the AGM should have been held. *completion of AGM within*

② **Signing of Annual Return**

MGT 7
(Generally)
↓
(i) Director + CS
OR
(ii) Director + P.C.S
↓
Practising

MGT 7A
(OPC and Small Co.)
↓
(i) CS
OR
(ii) Director

③ Certification of Annual Return

- Practising Company Secretary
- MGT 8
- (i) Listed Companies
- (ii) Turnover $\geq 500\text{cr}$
- (iii) Paid up share Capital $\geq 100\text{cr}$

④ Content of Annual Return

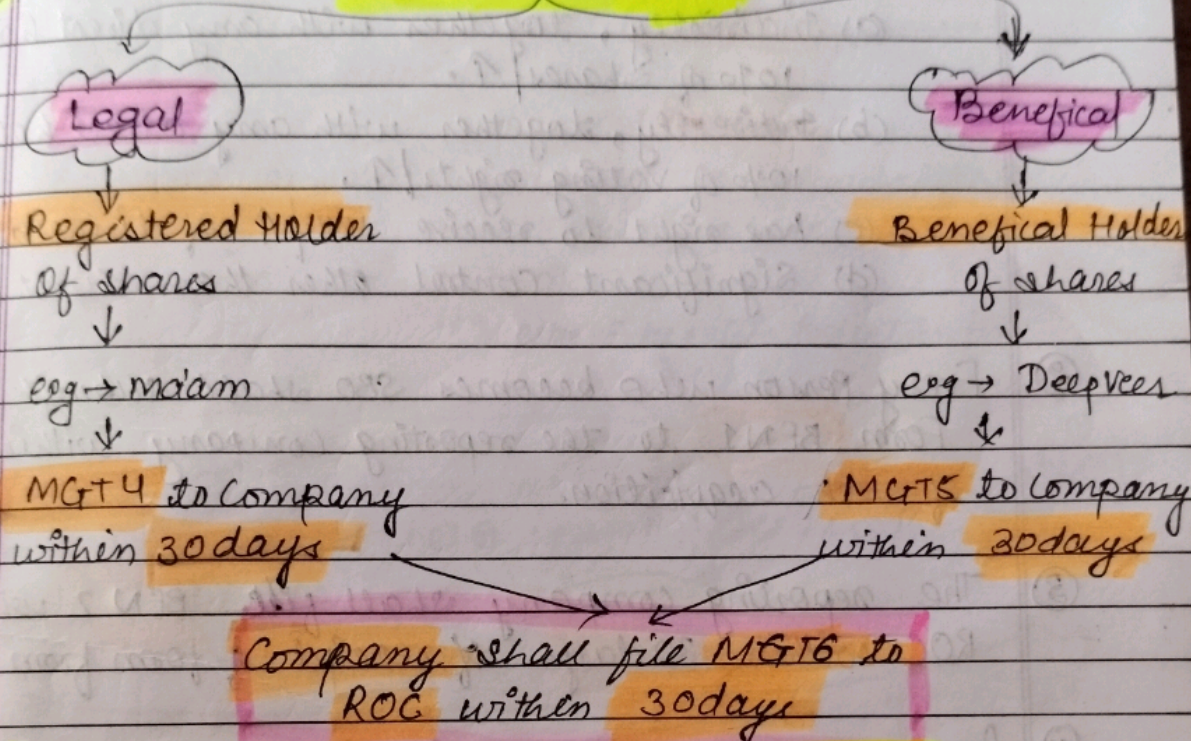
- (i) Companies Registered Office - Address
- (ii) Companies Principal Business
- (iii) Companies Holding, Subsidiary, Associate Companies.
- (iv) Details of debentureholders, Shareholders, other security holders.
- (v) Pattern of debentureholders, Shareholders
- (vi) Name of Directors, Key Manager Personnel, Promoter
- (vii) Remuneration of directors, Key Manager Personnel
- (viii) No. of meetings of Shareholders, BODs
- (ix) Details of foreign Institutional Investors
- (x) Penalty / Punishment to Company
- (xi) Compliance Certificate.

written
inform no.
MGT 8

Sometimes Beneficial holder & Registered holder
Are different

Declaration in Respect of Beneficial interest in
any share → Sec 89

Interest in shares



Note 3 - Where the shares are gifted, they become the property of the donee. Thus, the provisions relating to Sec 89 will not apply.

Register of Significant Beneficial Owners in a Company (SBO) Sec 90

- ① SBO → If any person holds
 - (a) Indirectly, together with any direct holding 10% of Shares/↑.
 - (b) Indirectly, together with any direct holding 10% of voting rights/↑.
 - (c) has right to receive 10%/↑ of dividend.
 - (d) Significant control other than direct holding
- ② Every person who becomes SBO shall submit Form BEN 1 to the reporting company within 30 days of such acquisition.
- ③ The reporting company shall file BEN 2 with the ROC within 30 days of receipt of form from SBO.
- ④ Every company shall maintain Register of significant beneficial owners in form No. BEN 3.
- ⑤ Every reporting company shall give notice in form BEN 4 to any person whom the company feels is
 - (a) SBO
 - (b) has knowledge of SBO
 - (c) has knowledge of the person who ~~knows~~ knows about SBO.

- ⑥ If the person fails to give the required information to the company within 30 days, the company may apply to the tribunal within 15 days.
- ⑦ Tribunal can direct restrictions on the shares. rights attached to such shares.
- ⑧ Aggrieved person may apply to Tribunal within 1 year of such order else shares will be transferred to IEPF etc.
↳ Investor Education Protection fund.

