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Management & Administration [Sec 88 - 122]

Sunday, 10 September 2023 3:16 PM

- Registers / Returns [Sec 88-92]
- Meetings [96-100] — Pre-Requisites
  - Before [101-102]
  - During [103-117]
  - Post [118-122]

Sec 88 हर Co को maintain करना है

↓
Depository Sec 11 of Dep Act से कर लेगा

→ Register of members [Co ltd by shares: MGT-1]
↓
[Co NOT having SC]
→ Register of DH } MGT-2
→ Register of OSH }

👤 — 📋 Entry: 7 days of approval of allotment / t/f etc. by Board / Committee

📋 → Particulars:
- नाम
- पता
- e-mail
- PAN/CIN
- Nationality
- Minor: Name of guardian (+) DOB of member
- Nominee - नाम (+) पता
- Date of becoming member
- Date of cessation
- Amt of guarantee etc....

✱ Joint holders: chronology

Place — Registered office
unless
SR at GM: any other place in India where 1/10th members reside

Foreign Register
- AOA ✓
- MGT-3 (+) fees: File notice with ROC of situation / change / discontinuance of office within 30 Days
- Transmit copy of every entry to India within 15 days → Duplicate Register
  - → kept at registered office
  - → part of principal register
- deemed part of principal register
- same format as principal register
- Inspection same manner as principal register
  - before closing ad in 2 newspaper
- Entry: after BOD/committee approves
- Rectification: decision of appropriate competent authority binding
- During continuance: No transaction in any other register
  - After discontinuation:
    - t/f to other foreign register
    - t/f to principal register

Other info in 📋
→ order by SEBI / other authority attaching security
→ listed co: pledge, charge, etc. created by promoters within 15 days

Update change in status 👤 - death
- insolvency
- name change
- t/f to IEPF

Rectification: order by competent authority

Index of Names ✓ [simultaneous entry]
✗ where no. of members < 50.

Authentication of entries
- CS
- person authorised by Board

Penalty: Co - 3L
OID - 50K [compoundable offence]

Sec 89 Declaration of Beneficial interest in share

Registered owner —MGT-4, 30 days→ Company
Beneficial owner —MGT-5, 30 days→ Company
Company —MGT-6, 30 days→ ROC

Dividend तो members को देना ही पड़ेगा

if not:
Beneficial owner कोई right enforce नहीं कर पाएगा [dividend / vote etc.]
(+)
Penalty: 50K continuing failure: 200/day
max: 5L

if not:
Penalty: Co: 1000/day
max: 5L
OID: 1000/day
max: 2L

Exemption: MF/VC approved by SEBI
Govt. co [no default of 92/137]

Gift }
Charity } को sec नहीं लगता

Sec 90 Significant Beneficial Owners

👤 SBO —BEN-1, 30 days Declaration→ Co. —BEN-2, 30 days→ 👤 ROC

[90 Days from commencement]
if not:
Penalty: 50K
continuing failure: 1000/day
max: 2L

Co. — maintain Register BEN-3
↓
open for inspection business hrs [2 hrs / day] by members
Fees ≤ 50 ₹

if not:
Penalty -
Co: 1L
Continuing failure: 500/day
max: 5L
OID: 25K
Continuing failure: 200/day
max: 1L
[Compoundable]

meaning
👤 Individual acting alone or through persons / trust
- holds 10% shares
- holds 10% voting rights
- participate in 10% dividend
- exercise significant influence / control

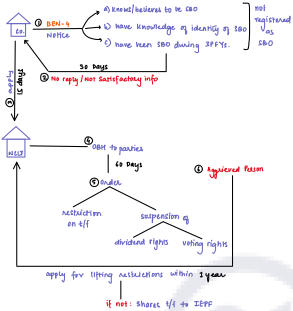
} indirectly or together with direct holdings

↓
[participate in financial / operating policy decisions]

Indirect SH:
→ BC
→ HUF
→ Partnership
→ Trust
→ Pooled Investment vehicle

Not SBO: 👤 holds right directly
- Shares held in name of Individual
- Beneficial owner made declaration u/s 89

any 👤 wilfully furnishes incorrect info - Sec 447


Co.
① BEN-4
Notice
a) knows/believes to be SBO
b) have knowledge of identity of SBO
c) have been SBO during 3PFYs.
not registered as SBO
30 Days
② No reply / Not Satisfactory info
③ apply
15 days
NCLT
④ OBH to parties
60 Days
⑤ order
restriction on t/f
suspension of
dividend rights
voting rights
⑥ Aggrieved Person
apply for lifting restrictions within 1 year
if not: Shares t/f to IEPF

Non - Applicability :
→ IEPF
→ Holding Co
→ CG/SG/ LA or entity controlled by CG/SG
→ Investment vehicles : MF/AIF/REIT/InVIT
regulated by SEBI
regulated by RBI, IRDA etc.
→ Govt. Co. [no default of 92/137]

Sec 91 Power to close registers u/s 88

Closure period : Aggregate - **45 Days**

at one time - **30 Days**

Notice period : min 7 days or lesser period specified by SEBI for listed company

Exemption to Private company
→ vernacular newspaper
→ english newspaper
→ on website of co & notified by CG

Contravention:
Penalty -
Co (+) OID : 5000/day
max : 1L
[compoundable offence]

Sec 92 Annual Return

Every Co : MGT-7
OPC (+) Small Co : MGT-7A [abridged form]

Content :
→ Registered office, principal business, particulars of H-S-A
→ shares, debentures & SH pattern
→ members, DH (+) changes
→ promoters, directors, KMP (+) changes
→ meetings of members, BOD, committees (+) attendance details
→ Director, KMP → remuneration (₹) ~~[private co.]~~
→ Compliances certification
→ penalty & details of compounding of offences (+) appeals etc....

Sign :
Company : Director (+) CS [if no CS : CS in practice]
OPC (+) Small Co (+) Pvt. Co [Start-up] : CS [if no CS : by director]
[No default of 92/137]

Certification :

company
listed
PUSC ≥ 10cr or T/O ≥ 50cr
by CS in practice — Penalty : 2L
MGT-8 : " AR discloses facts correctly & adequately
Co has complied with The companies Act "

जिस CS ने sign किया
वो certify नहीं कर सकता

Place ~~[IFSC co]~~
website
disclose weblink in BR

Time - limit — if fails :
Co (+) OID : 10K
continuing failure : 100/day
max : Co - 2L
OID - 50K

AGM held
↓
60 days
↓
ROC

AGM not held
↓
60 days from date on which AGM should have been held (+) Reasons for not holding AGM
↓
ROC

Sec 94

Registers ☰

Place of keeping
- Registered office
- Place in India where 1/10th of members reside
  - ↓ SR ✓

Inspection
- open
  - → members, DH, SH, BO : w/o fees
  - → any other person : with fees specified in AOA but ≤ 50₹
    - **Extracts**: w/o fees
    - **Copies**: fees ≤ 10/page ↓ supplied within 7 days
  - Business hours ≥ 2hrs
  - unless closed u/s 91

Following particulars not available:
- → member's address
- → " email ID
- → " UIN
- → " PAN

↓

Penalty for Refusing Inspection/Extract/copy:
Co (+) OID : 1000/day
max : 1L

CG [delegated to RD] may direct immediate inspection.

Preservation
- → members : permanently
- → DH/OSH : 8 years from Date of Redemption
- → Foreign Register
  - members : permanently unless discontinued
  - DH/OSH : 8 years from DOR

} Custody : CS / any other person authorised by BOD

- → certificates/Docs filed with ROC : 8 years from Date of filing

Sec 95 Registers/ Indices/ Annual Return = Prima facie evidence

Meetings

- **General meeting**
  - AGM
  - EGM
  - ↓ SH
  - Authority to call : BOD — 👤 ~~director~~
    - ↓ But can be Ratified by BOD → BR ✓
- **Board meeting**
  - ↓ BOD
- **Class meeting**
  - ↓ Creditors, pref SH, DH etc.

Sec 96 Annual General meeting — Notice में 'AGM' mention करो

Every company ~~[OPC]~~

Subsequent AGM
- → Every year
- → gap ≤ 15 months
- → 6 months from close of FY
  - not possible to hold AGM ↓
  - Extension : 3 months by ROC
    - ↓ Special reason

First AGM
- → year of incorp ✗
- → N.A.
- → 9 months from close of FY
  - ↓ ✗ already granted

Time & Place
- During business hours 9 a.m. to 6 p.m.
- ~~National holiday~~
- Registered office / some other place within city/town/village
  - Unlisted Company
    - any place in India
    - consent ✓ : all members in writing/e-mode in advance

Exemption : Sec 8 Co : decided before hand by BOD
Govt. Co : → same (+) or such other place as CG may approve
} [No default of 92/137]

Sec 97 ← Power of Tribunal [NCLT] → **Sec 98**

Sec 97
- overrides Act, AOA
- ↓ to call AGM
- Co. defaults 96
- 👤 member → applies → NCLT
  - → calls AGM
  - → directs Co to call AGM
    - ↓ Deemed AGM u/s 96 ✓
  - gives directions it thinks expedient
    - Eg: 👤 1 member/proxy = Quorum

Sec 98
- → to call any other meeting [EGM/BM etc.]
- Impracticable to call by manner given in Act/AOA
  - → suo moto
  - → member
  - → director
  -] applies → NCLT
    - gives directions it thinks expedient
    - orders meeting to be called/held/conducted in manner it thinks fit

Sec 99 Punishment for default → Sec 96 to Sec 98
Co (+)
OID — Penalty : 1L
Continuing default : 5K/day

Sec 100 Extra-ordinary General meetings

Calling

- BOD on its own
- BOD on **requisition**
  - proceed within 21 days call meeting not later than 45 Days
    - if BOD doesn't
      - Requisitionists themselves within 3 months from requisition [next 45 days]
        - Right to recv. list of members (+) Address (+) no. of Shares as on 21st day (+) changes before expiry of 45 days.
        - (जो expense लगा Co. reimburse करेगी Director की rem^{n} से Deduct होगा)

कितने लोग :
- → Co. having SC : members holding $1/10^{th}$ PUSC
- → Co. NOT having SC : Members having $1/10^{th}$ TVP

Set out matters for consideration
Signed by requisitionists [authorised] e-request (+) attach scanned copy
sent to registered office
21 days prior to proposed date of EGM

- place
- date
- day
- hour

} same as 96(2)

- agenda
- 102 का expl^{n} stmt^{n} नहीं चाहिए
- may disclose reasons for resolution

Notice to members : → Speed post / → Registered post / → e-mode
जिनका नाम Requisition deposit के 3 days में Register of members में है.

Accidental omission : Meeting not invalid.

Held
↓
at a place within India
except : → 100% subsidiary of → Co incorp. o/s India
→ IFSC Co. : BOD may with consent of all SH convene EGM at a place within / o/s India

Sec 101 Notice of a meeting

IFSC Public Co. ✓
unless AOA ✗

- → atleast **21 clear days** [Sec 8 : 14 days]
  - ↓ [No default of 92/137]
- → Exclude :
  - Date on which notice served
  - Date of meeting
- → Sent by post : deemed served after 48 hours [2 Days]

"तो 21 Days कहने के : Reality में 25 Days"

Shorter Notice :
Consent in writing / e-mode by
- AGM → ≥ 95% members
- EGM
  - Co. having SC → majority in no. (+) ≥ 95% of PUSC
  - Co. NOT having SC → ≥ 95% of TVP

"जिस member को vote करने का हक है बस उस member को गिनना"

Contents :
- Place
- Date
- Day
- hour
- business to be transacted [agenda]

Persons entitled to receive :
- Member
  - deceased : LR
    - insolvent : assignee
- auditor
- Director

[As per depository records]
↳ provide advance opp. once a FY : Update e-mail ID
↓
member fails
↓
Co. not in default

Sending Notice through E-mode :

E-mail → text / attachment / e-link / URL
↓
Sub : Name of Co.
Type of meeting
Place
Date
Attachment :
non-editable
PDF / format
→ through :
- in house facility or
- registrar & t/f agent
- 3rd party agency providing bulk e-mail facility

★ Co. not responsible for failure in transmission beyond its control

↓
Place on → website of Co.
→ website notified by CG

meaning :
secured computer programme
capable of producing confirmation
keeps record of comm^{n}

Accidental omission
Non-receipt by member
} Shall not invalidate meeting
↓
onus on Co. to prove.

Sec 102 Explanatory statement annexed to Notice

IFSC Public Co. ✓
unless AOA ✗

- Ordinary Business ✗
  - ↓ at AGM :
    - → Consideration of FS (+) BR (+) AR
    - → Declaration of Dividend
    - → Appointment of Directors
    - → Appt (+) Rem^{n} of Auditors
  - ↓ इनमें expl^{n} Stmt नहीं annex करना
- Special Business ✓
  - ↓ at AGM :
    - → other businesses
  - at EGM :
    - all businessess
  - ↓ इनमें expl^{n} stmt^{n} annex करना है
    - ↓ if NOT :
      Effect of Non / Insufficient Disclosure –
      Benefit to → promoter / director / manager / KMP } इनके Relatives
      - → Shall hold benefit in trust for company
      - → liable to compensate Co. to the extent of benefit
      - (+)
      - Penalty : Promoter / Director / Manager / KMP } 50K or 5 times amt of benefit (w.e.h.)

Content :
- → Nature of Interest of → Directors / managers / KMP } इनके Relatives
- → other info / facts that enable members to understand
  - meaning
  - scope
  - implication

  of business & to take decision.
- → अगर special business किसी **Company** से related है
  - ↓ extent of SH → promoter / director / manager / KMP } if SH ≥ 2% of PUSC
- → if business refers to **document** to be considered at meeting
  - ↳ time & place where such document can be inspected

Sec 103 Quorum — min no. of members **personally** present – valid meeting
↓ proxy not counted

IFSC Public Co. ✓
unless AOA ✗

Public Co.
- ≤ 1000 → ⑤
- >1000 ≤ 5000 → ⑮
- > 5000 → (30)

Private Co. → ②

unless
AOA provides for larger number

if not present within ½ hour
- Meeting called by Requisitionists → cancelled
- meeting called by Board → adjourned
  - same day
  - next week
  - same time
  - same place

  or

  such other time & place as BOD may decide

Notice: Co —≡→ 👤 members (≥ 3 days)
Ad. in newspaper → 1 english, 1 vernacular

Quorum not present at adjourned meeting also
↓
Members present = Quorum ✓

★ Points in Secretarial Standard -2:
- → Rep of BC: counted for Quorum ✓
- → Rep of >1 BC: counted >1 member ✓
  But atleast 2 Individuals shall be present.
- → Quorum must be present while transacting every business ✓
- → members voted by e-vote but attending meeting: counted for Quorum ✓
- → member not entitled to vote being related party: counted for quorum ✓
- → Postal ballot पर Quorum नहीं लगता ✗

Sec 104 Chairman of meeting

IFSC Public Co. ✓
unless AOA ✗

Private Co. ✓
unless AOA ✗
[No default in 92/137]

↓
elected by 'Show of hands' — Ex. mr A 👤 elected
↓ [unless AOA otherwise provides]
Demand for Poll for electing chairman — 👤 mr A continue करेगा जब तक कोई और elect ना हो जाए
↓
Ex. mr B 👤 elected
ये continue करेगा for rest of the meeting

Powers :
- → manages meeting
- → maintains decorum
- → executes minutes
- → prima facie authority to decide all Questions
- → observe strict impartiality
- → "Casting vote": if AOA ✓
  ↳ in event of equality of vote Chairman has a right to cast a second vote

if AOA ✗
या chairman vote ना करे
OR fails

Sec 105 Proxies → Not applicable: Co. not having SC unless AOA ✓

IFSC Public Co. ✓
unless AOA ✗

101 ☰ Notice → 👤 member entitled to attend & vote — entitled to appoint → 👤 "proxy" another person to attend & vote [जरूरी नहीं member हो]
↓
Sec 8 Co. में member होना जरूरी

↓
Reasonable prominence – Statement:
"Proxy appoint कर सकते हो
Proxy का member होना जरूरी नहीं"
Penalty – OID: 5K

किसी person का नाम/Number mention किया invitation में at Co's expence
Penalty – OID: 50K
↓
Not liable if member ने खुद request किया था

MGT-11
↑ Co. can't Question this by special req. in AOA
↓ **48 hours** पहले
signed by appointee / attorney
↓ BC: seal / officer duly authorised

Disabilities
- → no right to speak
- → can't vote except poll [show of hands पर vote नहीं कर सकता]
- → Not counted for quorum

max proxy
- 50 members (+)
- ≤ 10% of SC carrying voting rights

अगर एक 👤 member ≥ 10% SC hold करता है:
can appoint a single person as proxy
↓
अब ये person किसी और की proxy नहीं बनेगा

Proxy Inspection
- → min 3 days' notice in writing
- → Business hours : 24 hrs before meeting से conclusion of meeting तक

Voting

Show of hands

Sec-107

E-means

Sec-108

Poll

Sec-109

Postal Ballot

Sec - 110

Sec 106 Restriction on voting rights

IFSC Public Co. ✓
unless AOA ✗

cumulative
- AOA ✓ (+)
- calls not paid : amt due (+)
- Right of lien exercised

can't prohibit on any other grounds

Can't requisition EGM u/s 100 also

if shares forfeited – re-alloted : New allottee can't vote जब तक calls remain unpaid

member/proxy need NOT :
- use all votes
- cast all votes in same way

Joint SH:
- must concur [agree] unless AOA contrary

Reg 52 of Table F:
vote of [Senior] shall be accepted excluding other jointholders
↳ order in which name stand in Register

Sec 107 Voting: Show of hands ✓
unless
- poll u/s 109 } demanded
- e-means u/s 108 }

IFSC Public Co. ✓
unless AOA ✗

Declaration by chairman (+) entry in minute book – conclusive evidence
↓
Resolution passed

Sec 108 Voting through e-means

Exemption:
- Nidhi Co.
- Institutional Investor referred in SEBI

Companies required to provide facility
- listed : Eq sh on RSE
- ≥ 1000 members

E-voting system:
- secured
- e-ballots
- records votes : number → in favour / → against
- entire voting registered & counted in e-registry
- in centralised server with cyber security

★ Resolution proposed through e-means shall not be withdrawn

Procedure

① Notice to → members / → directors / → auditors
by
- → Registered Post
- → Speed Post
- → e-means [e-mail ID]
- → courier service

on website → content:
1) co. providing e-voting facility
2) e-means/ballot/polling paper available at meeting
↳ जिनहोने already e-vote नहीं किया उनके लिए
3) already voted ? may attend
not entitled to vote again
4) process (+) manner of e-voting
5) e-voting का time schedule
6) details about login ID
7) process for generating password

→ Publication: Public Notice via ad in newspaper → English / → Vernacular (+) website
21 days before GM
↓
Content:
1) statement : "Business transacted through e-means"
"Remote e-voting not allowed beyond...."
"manner of voting at GM"
"already voted ? may attend
not entitled to vote again"
"जिसका नाम cut-off पर Register में है बस वही vote करेंगे"
2) Date & time of commencement (+) end of remote e-voting
3) cut-off Date —— cut-off : not earlier than $\boxed{\text{7 days}}$ before GM determining eligibility to vote
4) जिनहोंने shares बादमे acquire किए वो कैसे login-ID (+) password पाए.
5) website address
6) responsible to address grievances
- नाम
- designation
- पता
- e-mail ID
- phone no.

② Time: ≥ 3 days
close at 5:00 p.m.
on preceding date of GM
facility forthwith blocked

★ manner of vote of member:
secret [not even chairman, scrutiniser knows] till voting at GM.

③ vote casted by e-mode
- → can't change
- → can't vote again

④ Scrutinizer :
- → CA/CS/advocate/CMA etc...
- → NOT 'yee
- → appt. by BOD
- → repute ✓ fair ✓ transparent ✓
- → willing to be appointed
- → available for ascertaining requisite majority
- → assistance from person well versed with e-voting system ✓
- → shall have details of members
  - names ✓
  - folios ✓
  - no. of shares ✓
  - who have casted votes ✓
  - manner of voting ✗

⑤ Chairman (+) Scrutinizer
ballot/polling paper/e-voting system से
उन members को vote करना allow करेंगे
जिनहोने remote e-vote नहीं किया

⑥ counting : GM concludes
↓
Scrutinizer पहले meeting वाले vote count करेगा
↓
Remote e-votes unblocked [2 witness NOT 'yees present]

⑦ Scrutinizer's Report : not later than 3 days
- votes in favour
- votes against

↓
Chairman : countersigns.
↓
declares result. → Results (+) Report placed on website
if Eq.sh listed on RSE : forward to Stock Exchange → place on its website.
Resolution deemed to be passed on date of GM.

⑧ maintenance of Registers by Scrutinizer
- → assent/dissent
- → नाम, पता, folio no., client ID
- → no. of shares, nominal value, DVRs.

⑨ Safe custody of Registers → Scrutinizer
until
Chairman approves & signs minutes.

Sec 109 Demand for poll

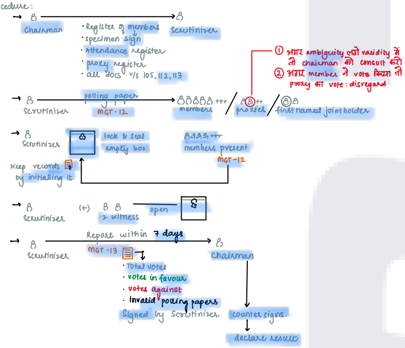
Chairman
- own motion
- demand by specified members [proxy ✓]
  - Company having SC: 1/10th of TVP or Shares ≥ 5L
  - Company NOT having SC: 1/10th of TVP

can be withdrawn at any time

Time
- ① adjournment of meeting ② appt. of chairman → forthwith
- any other Question → not later than 48 hours of demand

Scrutinizers:
- appt. by chairman
- duty: proper conduct polling process
  maintain proper records

Procedure:



→ Chairman → Scrutinizer
- Register of members ↓
- specimen sign
- Attendance register
- proxy register
- all docs u/s 105, 112, 113

→ Scrutinizer —polling paper MGT-12→ members +++ / proxies ++ / first named jointholder

① अगर ambiguity लगे validity में तो chairman को consult करो
② अगर member ने vote किया तो proxy का vote: disregard

→ Scrutinizer — lock & seal empty box — members present +++ MGT-12

Keep records by initialling it

→ Scrutinizer (+) 2 witness — open

→ Scrutinizer —Report within 7 days→ Chairman
MGT-13
- Total votes
- votes in favour
- votes against
- invalid polling papers

Signed by Scrutinizer → counter signs. → declare result

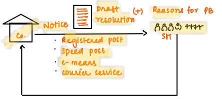
★ Sec 101 से 107 (+) Sec 109 : Private Co ✓
unless AOA ✗
[no default of 92/137]

Sec 110 Postal Ballot [Sec 108 से किया तो भी चलेगा]
through
- post
- e-mode

Exempt: OPC
Other Co : ≤ 200 members

mandatory: CG notified
- alteration of object clause
- alteration of AOA [conversion pvt to public vice-versa]
- change of registered office o/s local limits [Sec 12]
- change in objects – prospectus : unutilized amt. [Sec 13]
- issue of DVR [Sec 43]
- variation of rights – shares/deb [Sec 48]
- buyback [Sec 68]
- election of SSHDirector [Sec 151]
- sale of substantial undertaking [Sec 180]
- Giving loan/guarantee/security – excess of limit [Sec 186]

optional
~~ordinary business [Agm वाले 4]~~
~~business where director/auditor have right OBH~~
इसके अलावा कोई भी business PB से कर सकते हैं



Co. — Notice — Draft resolution (+) Reasons for PB → SH
- Registered post
- Speed post
- e-means
- courier service

send assent/dissent within 30 days

Public Notice:
Ad in newspaper — 1 English / 1 vernacular (+) website [remain till last date]
Content:

- statement: "Business is to be transacted by postal ballot / e-means ✓"
- date of dispatch of notice
- date of commencement of voting
- date of end of voting
- PB/e-vote recvd beyond date - Not valid
- members who have not recvd - may apply for duplicate
- contact details of person handling grievances

Scrutinizer:
→ appt. by BOD
→ Not 'yee
→ can conduct fair, transparent voting
→ willing ✓
→ majority asc. ✓
→ PB: safe custody ✓ — till Chairman approves & sign minutes → उसके बाद co. को दे दो
→ maintain register
  - assent
  - dissent
  - नाम, पता, folio no. client ID
  - no of shares, DVRs.
  - defaced/mutilated PB/Invalid PB.

No person shall deface or declare identity of SH

Scrutinizer → Report (7 days) → Co. → place Results (+) Report on website

Sec 111 Circulation of members resolution

Requisitionists same as u/s 100

2 or more copies (+) sufficient sum (₹) to meet company's expenses

Signed (+) deposited at Registered office → Notice / Statement related to matters in proposed resolution → members

Don't circulate: on applⁿ by aggrieved person CG [delegated to RD] declares right abused to secure needless publicity

★ cost incurred by co. paid back to company by requisitionists

- Requisition requires notice of resolution ⇓ not less than 6 weeks before meeting
  ↳ need not be complied if AGM called within 6 weeks after deposit ↓ deemed to be deposited within time
- Other resolutions ⇓ not less than 2 weeks before meeting

Penalty - Co (+) OID : 25K

Sec 112 — Representation — **Sec 113**

Sec 112 ↓
→ President [India]
→ Governors [State]
↓ appoints another person to act as Rep.

Sec 113 ↓
Body corporate → member / creditor / DH
↓ appoints another person to act as Rep.

↓ same rights & powers as member
[can appoint proxy
postal ballot ✓]

Resolutions [sec 114-117]

Motion [proposal] → majority vote in favour → Resolution [adoption of motion]
- approval
- disapproval

Sec 114 Resolution
- Ordinary = votes in favour > votes against
- Special [specify intention in Notice] = votes in favour ≥ 3x votes against
  - 101 - 21 days पहले ✓
  - 102 - explⁿ stmt ✓

Resolution —
- 107 ✓
- 108 ✓
- 109 ✓
- 110 ✓
- members ✓ / proxy ✓
- casting vote of chairman ✓

* can chairman pass all resolutions together?
- → to avoid confusion & mixup : move separately
- → but nothing illegal in moving together

unless ① members require separate
② Sec-162 : 2 or more directors can't be appointed by single resolution

Sec 115 Resolutions requiring Special Notice

Cases:

140(4)
- → appt. auditor other than retiring auditor
- → expressly : retiring auditor shall not be reappointed

169(2)
- → remove director before expiry of period
- → appointing another person in place of removed director

by members holding 1% of TVP or PUSC ≥ 5L

Procedure:

by members → Co. : कम से कम 14 Days पहले, ज्यादा से ज्यादा 3 months पहले

Co. → members : at least 7 days पहले

same manner as notice of GM

exclude :
- → Day of notice
- → Day of meeting

Not practicable : Publish at least 7 days पहले
- English newspaper
- Vernacular newspaper

(+) Notice

Exclude:
- → Day of publication
- → Day of meeting

Sec 116 Resolution passed at adjourned meeting

↓

treated as passed on day which it is actually passed

↓

not earlier date

Sec 117

Co. → ROC : MGT-14 (+) fees, 30 days

IFSC Co. : ~~30 Days~~ 60 Days ✓

- Resolution (CSR✓)
- agreement
- explⁿ stmtⁿ
- unanimous resolutions
- Reslⁿ appt MD
- Reslⁿ of voluntary wind up etc.....

Penalty :
- Co : 10K continuing failure : 100/day, max : 2L
- OID : 10K continuing failure : 100/day, max : 50K

Sec 118 minutes

Every co :
- prepare
- sign
- keep

Distinct minute books
- GM
- meeting of creditors
- BM
- Committee meetings

within 30 days

GM includes Postal ballot

क्या?
- brief report
- reslⁿ proposed
- voting result
- Scrutinizer Report
- Date of entry

IFSC Co : BM/Committee meetings ~~30 days~~ Before next meeting ✓

Sec8 Co : ~~Sec~~118

pages consecutively numbered

fair (+) correct summary of proceedings at meeting } Evidence ✓

deemed to be duly called/held ✓
proceedings duly taken place ✓
Resolutions passed ✓
all appointments [KMP/CS/auditors] valid ✓

No doc circulated at co. expense unless includes matters u/s.118

observe Secretarial Stds by ICSI (+) CG

Content : BM/Committee meetings
- directors present
- each resolution : directors dissenting

Absolute Discretion of Chairman :

Not to include matters -
- defamatory of person
- irrelevant/immaterial to proceedings
- detrimental to interests of company

Penalty -
- Co : 25K
- OID : 5K

Person guilty of tampering minutes : jail - 2yrs, fine - 25K - 1L

Signing minute book : Every page initialled ✓
last page : Dated (+) Signed

- Minutes of BM/ Committee meetings
  - ↓ Chairman of said meeting
  - or
  - Chairman of next meeting
- Minutes of GM
  - ↓ Chairman of same meeting
- Postal Ballot
  - ↓ Chairman of Board

Death/Inability
↓
Director duly authorised by Board

Place of keeping ⟶ Registered office
Preservation ⟶ permanently
Custody ⟶ CS/ director duly authorised by BOD.

Sec 119 Inspection of minute books of GM max : 3 PFYs.
↓
kept at Registered office
↓
open : business hours [≥2hrs/day]
↓
by members [no fees]

Copy : request (+) fees [specified in AOA but max 10/page]
soft copy - free of cost.
7 days → 👤 member ✓

Penalty -
Co : 25K } each default
OID : 5K }
↓
Tribunal may direct immediate inspection/copy

Sec 120 Maintenance & Inspection of docs in e-form

- Record
- Register
- minute etc....

↓
e-form : free
copy : max 10/page

allowed ✓
↓
Companies which may maintain
- listed
- ≥1000 SH/DH/OSH

Existing co? convert data from physical → e-mode within 6months

Manner : as BOD thinks fit
- Same format & requirements of Act/Rules ✓
- info required by Act/Rules adequately recorded for future ref.
- readable, retrievable & reproducible in print ✓
- capable of being dated & signed digitally
  ↓
  Not capable of being edited/altered
- updated as per Act/rules [Date recorded ✓]

People responsible ?
- MD
- CS
- Director/officer decided by BOD

→ Duties :
- protection against unauthorised access
- ensure against loss of records - damage to media
- system, hardware, software are secured
- ensure system can find out invalid/altered records
- records - accurate ✓ accessible ✓ reproduced later ✓
  non-rewritable/erasable format like PDF ✓
- at least one backup daily. - authenticated, dated & securely kept
- limit access to MD/CS etc...

Sec 121 Report on AGM ★ ये Sec 118 वाले minutes के addition में है
↓
किसको ?
Listed Public Co.

Confirmation :
meeting
→ convened
→ held
→ conducted
Act & Rules ✓

⌂ Co → MGT-15 copy of Report, 30 days of AGM → 👤 ROC
signed & dated by chairman of meeting (+) CS / 2 Directors [1 - MD]

Content :
- Date, Day, hour, venue
- Chairman appointed ✓
- No. of members attending
- Quorum ✓
- Act/Rules/Secretarial Std complied ✓
- Business transacted - Result
- adjourned ? postponed ? venue changed ? etc....

} Fair & correct summary of proceedings of the meeting

Penalty -
Co : 1L continuing failure : 500/day
max : 5L
OID : 25K continuing failure : 500/day
max : 1L

Sec 122 Applicability to OPC

Sec 98 ✗
Sec 100 - 111 ✗

Resolutions of AGM/EGM OR/SR → communicated by 👤 member to ⌂ OPC
(+)
entered in minutes book
(+)
dated + signed by member
↓
date of meeting

Board Resolution (👤 one director) → entered in minutes book
(+)
dated & signed by director
↓
date of meeting

Penalty -
CO + OID : 5K continuing : 500/day.