Skillshort

Self-Study Preparation Pack

CS EXECUTIVE

Paper 2: Company Law and Practice (CLP)

# Chapter-wise Detailed Notes

For the December 2026 examination (Wed 23 Dec 2026, 2:00–5:15 pm incl. 15 min reading) · ICSI Syllabus 2022 · Laws as amended up to 31 May 2026

100 marks · 3 hours | Part I 60 · Part II 40 | Case studies in Q1 and Q5 | Internal choice in Q4 and Q6 | Drafting of notices, resolutions and minutes

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## This subject pack has 6 parts

1 Chapter-wise notes | 2 Important topics & weightage | 3 Past papers: trends & links | 4 Mock tests + solutions | 5 Chapter practice questions | 6 Last-week plan & strategy

Prepared by Skillshort for self-study. Original explanations and questions; not an official ICSI publication. Items marked VERIFY should be checked against the latest official material.

# How to use these notes

These notes follow the **current ICSI study material** for Company Law and Practice (Syllabus 2022, as rationalised). Lessons 12 (Inspection, Inquiry and Investigation) and 17 (CSR – Concepts) are deleted from the Executive syllabus; the CSR policy and CSR Committee are now taught in the Annual Report lesson. Sections are of the **Companies Act, 2013** unless stated; SS-1 and SS-2 are the Secretarial Standards on Board and General Meetings.

## Paper at a glance

| Item | Detail |
|---|---|
| Marks / time | 100 marks, 3 hours (2:00–5:15 pm with 15 minutes' reading time) |
| Part I – Company Law: Principles and Concepts (60 marks) | Q1 case study (15 marks: five 3-mark parts), Q2 (15), Q3 (15), Q4 or Q4A (15) |
| Part II – Company Administration and Meetings (40 marks) | Q5 case study (20 marks: four 5-mark parts), Q6 or Q6A (20 marks) – includes **drafting** of notices, resolutions and minutes |
| Choice | Internal choice only: **Q4 or Q4A** and **Q6 or Q6A** |
| Applicable law | Amendments up to **31 May 2026**; ICSI study material updated to 30 November 2025 + Supplement for December 2026 |
| Pass | 40% in each paper and 50% aggregate in the group |

Recent papers (December 2024 – June 2026) were fully written answers – no OMR or MCQ section was seen VERIFY. Check the instructions printed on your question paper.

## Notes chapter to ICSI lesson map

| Notes chapter | ICSI lesson | Notes chapter | ICSI lesson |
|---|---|---|---|
| 1–9 | Lessons 1–9 (Part I) | 13 Directors | Lesson 14 |
| 10 Compromise, Arrangement and Amalgamation | Lesson 10 | 14 Board Composition and Powers | Lesson 15 |
| 11 Dormant Company | Lesson 11 | 15 Meetings of Board and Committees | Lesson 16 |
| 12 General Meetings | Lesson 13 (Part II) | 16 Annual Report | Lesson 18 |
| – | – | 17 KMP and Remuneration | Lesson 19 |

**NOTE ICSI Supplement – Dec 2026 (1-12-2025 to 31-5-2026)**

- **Ch. 1**: **New Development Bank** (BRICS) notified for s.2(11)(ii) "body corporate".
- **Ch. 2 Small company**: paid-up ≤ **₹10 cr** & turnover ≤ **₹100 cr** (Specification of Definition Details Amendment Rules 2025, **1-12-2025**; earlier ₹4 cr / ₹40 cr).
- **Ch. 4**: Transfer of **membership interest** in company **without share capital** - instrument of transfer s.56, use **Form SH-4** (Rule 11(2) SCD Rules) - MCA clarification **8-5-2026**.
- **Ch. 13 Directors**: **DIR-3 KYC Web** once every **third consecutive FY** by **30 June** (DIN holders as on 31 March); change of mobile/email/address within **30 days** with fee; DIR-3-KYC e-form replaced; eff. **31-3-2026** (G.S.R. 943(E), 31-12-2025).
- **Ch. 16 CSR**: CSR Policy Amendment Rules **2026 (27-5-2026)** - **zero coupon zero principal (ZCZP)** instruments of NPOs on **Social Stock Exchange**; new **Rule 4A**; Schedule VII item **(xiii)**.

NOTE **Already in study material (to 30-11-2025)**

- **Incorporation Amendment Rules 2025** (SPICe+ / RD-1 revisions), STK-3A for Govt companies VERIFY.
- **Board's report**: number of **POSH complaints** + **Maternity Benefit Act** compliance statement (Accounts 2nd Amendment Rules 2025).
- **ADT-4** (auditor's fraud report) e-form; AOC-4 with signed PDF of FS VERIFY.
- MCA **V3 portal** - all company e-forms web-based.
- **Compromise s.233**: fast-track merger scope widened (start-up + small; holding + unlisted subsidiaries) - Sept 2024 VERIFY.

## Answer framework (law questions)

**Provision** (section + Rule + SS para) → **Facts** (apply each condition) → **Conclusion** (valid / void, compliant / not, who approves) → Case law / MCA circular if known

**Note:** Write numbers exactly (days, %, ₹, majority) - CLP marking rewards them. Name the **form** (MGT-14, DIR-12, CHG-1, PAS-3, MGT-7...).

MEMORY TRICK **Approval ladder**

**BORST** – B Board resolution (s.179); O Ordinary resolution - simple majority (s.114(1)); R Registrar filing (MGT-14 within 30 days); S Special resolution - votes for ≥ 3 × against (s.114(2)); T Tribunal / CG (RD) approval

# Chapter 1: Introduction to Company Law

**In this chapter:** Jurisprudence of company law · Doctrine of ultra vires · Doctrine of indoor management · Doctrine of constructive notice · Corporate veil · Applicability of the Companies Act · Definitions & key concepts · MCA 21

## 1.1 Jurisprudence & applicability

- Company = **artificial person** created by law; separate entity, perpetual succession, common seal optional (s.9).
- History: Joint Stock Companies Act 1844/1850 → Companies Act 1956 → **Companies Act 2013** (470 sections, 7 Schedules; most sections in force 1-4-2014).
- **s.1(4)** applicability: companies under this Act or earlier Acts; **insurance, banking, electricity** companies & companies governed by **special Acts** - except where inconsistent with special Act; other bodies corporate notified by CG.
- Administered by **MCA**: ROC, RD, Official Liquidator; adjudication: **NCLT / NCLAT** (s.408-410); **NFRA** (s.132); **SFIO** (s.211).

## 1.2 Three doctrines

| Doctrine | Essence | Leading case |
|---|---|---|
| **Ultra vires** | Act beyond objects in MOA is **void ab initio**; cannot be ratified even by all members | Ashbury Railway Carriage v. Riche (1875) |
| **Constructive notice** | Outsiders deemed to know MOA, AOA & public documents filed with ROC | Oakbank Oil v. Crum |
| **Indoor management** | Outsider may assume internal formalities are complied with | Royal British Bank v. Turquand (1856) |

- Indoor management **does not protect**: actual/constructive **knowledge** of irregularity (Howard v. Patent Ivory), **negligence**/suspicion (Anand Bihari Lal v. Dinshaw), **forgery** (Ruben v. Great Fingall), act outside apparent authority.

## 1.3 Corporate veil - lifting

- Separate legal entity: **Salomon v. Salomon & Co. (1897)**; Lee v. Lee's Air Farming.
- **Judicial** grounds: fraud / sham (**Gilford Motor v. Horne; Jones v. Lipman**), tax evasion (**Dinshaw Maneckjee Petit**), enemy character (**Daimler v. Continental Tyre**), economic offences, agency, public policy, group as single economic unit (**LIC v. Escorts**; Vodafone).
- **Statutory**: s.7(7) false incorporation info; s.34-35 prospectus misstatement; s.39 allotment money; s.251 fraudulent strike-off; s.339 fraudulent conduct in winding up.

## 1.4 Definitions & MCA 21

- Key definitions (s.2) - see Lesson 2 table: private, public, small, OPC, holding/subsidiary, associate, KMP, officer in default, net worth, free reserves, turnover.
- **MCA 21 (V3)**: e-governance portal - web-based **e-forms**, DSC of director/CS, pre-certification by **PCS/CA/CMA** for specified forms, STP vs non-STP approval, **e-adjudication**, e-consultation, public inspection of documents (fee).
- **Body corporate s.2(11)**: includes foreign company; excludes co-operative society and other notified bodies - New Development Bank notified (Supplement) NEW.

**EXAM TIP FAQ**

- Can members ratify an act ultra vires the **directors** but intra vires the company? **Yes** - by resolution; ultra vires the **company** - **never**.
- Is AOA a public document? **Yes** - constructive notice applies to MOA & AOA.
- Does Turquand rule help a director dealing with own company? **No** - insider is presumed to know.

# Chapter 2: Legal Status & Types of Registered Companies

**In this chapter:** Corporate personality · Perpetual succession · Separate property · Transferability of shares · Capacity to sue or be sued · Private, public, small, holding, subsidiary, associate, dormant & Government companies

## 2.1 Company types at a glance

| Type | Section / key test |
|---|---|
| Private | s.2(68): restricts transfer, **≤ 200 members** (excl. employees/ex-employees; joint = 1), no public invitation |
| Public | s.2(71): not private; **subsidiary of public = public** |
| OPC | s.2(62): one person as member; nominee required; natural person **resident in India** (≥ 120 days VERIFY) |
| Small | s.2(85): private (not s.8/holding/subsidiary/special Act) with capital ≤ **₹10 cr** & turnover ≤ **₹100 cr** NEW |
| Govt company | s.2(45): **≥ 51%** paid-up held by Central/State Govt(s) |
| Listed | s.2(52): securities listed on recognised stock exchange (certain classes excluded by Rules) |
| Dormant | s.455: inactive **2 FYs**; application MSC-1 |

## 2.2 Holding, subsidiary & associate

- **Subsidiary** s.2(87): holding company (a) controls **composition of Board** or (b) exercises/controls **> one-half of total voting power** (itself or with subsidiaries).
- **Layers**: prescribed classes can't have **> 2 layers** of subsidiaries (Rules 2017; exceptions: banking, NBFC, insurance, Govt co.) VERIFY.
- **Associate** s.2(6): **significant influence** = control of **≥ 20% of total voting power** or of business decisions under agreement; includes **JV**.
- **Control** s.2(27): right to appoint majority directors or control management/policy decisions.

## 2.3 People & money definitions

- **KMP** s.2(51): CEO/MD/manager; **CS**; **WTD**; **CFO**; officer ≤ one level below directors in whole-time employment designated as KMP by Board.
- **Officer in default** s.2(60): WTD, KMP, directors aware/consenting, share transfer agents etc.
- **Financial year** s.2(41): 1 April-31 March; different FY for holding/subsidiary of foreign company with **Tribunal** approval.
- **Net worth** s.2(57), **free reserves** s.2(43) (exclude unrealised gains, revaluation), **turnover** s.2(91) (gross amount of revenue from sale of goods/services).

## 2.4 Private vs Public company

| Point | Private | Public |
|---|---|---|
| Min members | 2 (OPC: 1) | 7 |
| Max members | 200 | No limit |
| Min directors | 2 (OPC: 1) | 3 |
| Transfer | Restricted by AOA | Freely transferable |
| Name ends | "Private Limited" | "Limited" |
| Public invitation | Prohibited | Allowed (prospectus) |

**MEMORY TRICK Small company exclusions**

**PHS8** – P Public company; H Holding/subsidiary company; S Special Act company; 8 Section 8 company

- **Privileges** of small/OPC: no CFS requirement s.2(40), Board meetings 2 per year (one in each half, gap ≥ 90 days), abridged annual return, auditor rotation not applicable, signature of FS by one director.

**EXAM TIP** **Frequently asked**

- A private co. which is a subsidiary of a public co. → deemed **public** (s.2(71) proviso).
- Small company with turnover ₹90 cr and capital ₹8 cr (FY 2025-26 onwards) → **small** under new limits.
- Is a company holding 25% voting power of another its holding company? → **No**, it is an **associate**.

## 2.5 More s.2 definitions (MCQ bank)

| Clause | Term | Gist |
|---|---|---|
| 2(16) | Charge | interest/lien on property as security; incl. mortgage |
| 2(19)/(18) | CFO / CEO | appointed as such by the company |
| 2(24) | Company secretary | member of ICSI appointed to perform functions |
| 2(30) | Debenture | instrument evidencing debt (not certain instruments by RBI/ Govt) |
| 2(34) | Director | appointed to the Board |
| 2(53) | Manager | individual with substantial management of affairs (not MD) |
| 2(54) | Managing director | substantial powers of management (AOA/agreement/resolution) |
| 2(59) | Officer | director, manager, KMP, any person per whose directions Board acts |
| 2(64) | Paid-up share capital | amount credited as paid-up on shares issued |
| 2(69) | Promoter | named in prospectus/annual return, or has control, or on whose advice Board acts (not professional capacity) |
| 2(76) | Related party | director/KMP & relatives, firm, private co. where director is member/director, etc. |
| 2(77) | Relative | members of HUF, spouse, father (incl. step), mother, son, son's wife, daughter, daughter's husband, brother, sister (as per Rules) |
| 2(94) | Whole-time director | director in whole-time employment |

**WORKED EXAMPLE** **Case scenarios**

- **X Pvt Ltd** has paid-up ₹6 cr & turnover ₹80 cr; it is a subsidiary of Y Ltd. Small company? → **No** - subsidiary excluded even within limits.
- **A Ltd** holds 45% voting power of B Ltd and appoints 6 of 10 directors → B is **subsidiary** (board control).
- **Mr. R** gives loan to Z Pvt Ltd where his brother is director - is R a relative? → Yes (**brother** listed in s.2(77)) - relevance for deposit exemption.
- **One person** wants two OPCs → **not allowed** - only one OPC member/nominee at a time.

## 2.6 Government & dormant companies – status

- **Govt company s.2(45)**: ≥ **51%** paid-up held by CG / State Govt(s) or partly; includes its subsidiary; exemptions by notification (e.g., s.139(5) auditor by **CAG**; annual report placed before Parliament/State Legislature s.394-395).
- **Dormant s.455**: formed for future project / holding asset or IP, no significant accounting transaction - see Lesson 11.
- **Legal status**: corporate personality, perpetual succession, separate property (**Bacha F. Guzdar v. CIT** - shareholder no title to company's property), transferability (s.44), capacity to sue & be sued.

**COMMON MISTAKE** **Types – traps**

- **Private subsidiary of a public company** = public (s.2(71) proviso) even if AOA restricts transfer.
- Small company test uses **paid-up capital** (not authorised) & **previous year turnover**.
- **Associate** test is **20% of total voting power** (not share capital).

# Chapter 3: Memorandum & Articles of Association and its Alteration

**In this chapter:** Memorandum of Association · Articles of Association · Incorporation contracts (pre-incorporation & provisional contracts) · Incorporation process · Alteration of MOA & AOA · Conversion

## 3.1 Incorporation process (s.7)

Name reservation (SPICe+ Part A / RUN; s.4(4)) - valid **20 days** from approval VERIFY → File incorporation documents (SPICe+): MOA, AOA, declaration by professional (INC-8 merged), subscribers' & first directors' declarations, address of office → ROC registers → **Certificate of Incorporation** (CIN; conclusive evidence) → **Commencement s.10A**: declaration within **180 days** of incorporation (INC-20A) that subscribers paid value of shares; registered office verified within 30 days (s.12)

## 3.2 MOA clauses (s.4) & AOA (s.5)

**NROLC** – N Name; R Registered office (State); O Objects; L Liability; C Capital (+ nomination for OPC)

- **AOA** = internal regulations; **entrenchment** (s.5(3)): provisions alterable only on more restrictive conditions - private: all members agree; public: **special resolution**.
- Model forms: Table A (shares), B (guarantee no share capital) ... in Schedule I.

## 3.3 s.8 company & OPC

- **s.8**: objects - commerce, art, science, sports, education, research, social welfare, religion, charity, environment etc.; **profits applied to objects; no dividend**; licence by **Central Govt (RD)**; name need not have "Ltd"; can be revoked → wind up/amalgamate with another s.8.
- **OPC**: only **natural person, Indian citizen & resident**; can be member of only **one OPC**; minor cannot; no limit for conversion into public/private (post-2021 amendment) VERIFY.

## 3.4 Alterations & conversion

- **s.12** registered office within 30 days of incorporation; change notice within **15 days** (INC-22).
- **s.13** MOA alteration: **special resolution**; change of name (CG approval), change of registered office to another State (CG/RD), change of objects (public by postal ballot, unused prospectus money - exit for dissenting shareholders).
- **s.14** AOA alteration by special resolution; conversion private ↔ public; Tribunal approval for public → private (now **RD**) VERIFY.
- **s.18** conversion of one class into another; **s.17** copies to members within 7 days on request; **s.19** subsidiary can't hold shares in holding (exceptions: legal representative, trustee, existing before becoming sub.).

## 3.5 Name rules (s.4(2)-(5))

- Name **not identical/too nearly resembling** existing company or registered trade mark.
- Not constitute offence; not **undesirable** (in CG's opinion).
- Words implying Govt patronage or connection with Central/State Govt or certain words need **prior approval**.
- If wrongly registered → **RD** may direct rectification within **3 months** (s.16) after hearing; company to change in **3 months** else ROC allots new name.

## 3.6 Incidental sections (s.15-22)

- **s.15**: alteration of MOA/AOA noted in every copy.
- **s.17**: copies of MOA/AOA to members within **7 days** of request.
- **s.20**: service of documents on company - registered post, speed post, courier, electronic; on member - as above.
- **s.21**: authentication by KMP/officer authorised by Board.
- **s.22**: execution of bills of exchange/hundis by authorised person; common seal optional.

- **s.9**: effect of registration - body corporate, perpetual succession, capacity to hold property, sue & be sued.

## 3.7 Conversion paths

| From → To | Requirement |
|---|---|
| Private → Public | Special resolution; alter AOA; ROC filing (INC-27) |
| Public → Private | Special resolution + **RD/CG approval** |
| OPC → Private/Public | Increase members/directors; special resolution; alter MOA/AOA |
| Unlimited → Limited | s.18 - doesn't affect prior debts |
| s.8 → other | Conditions per Rules (CG approval) |

## 3.8 Incorporation contracts

- **Pre-incorporation contracts**: made by promoters before incorporation; company **not bound** at common law (Kelner v. Baxter); **Specific Relief Act s.15(h) & 19(e)**: company may adopt & enforce if contract **warranted by terms of incorporation** & accepted after incorporation.
- **Provisional contracts**: after incorporation but before commencement (s.10A declaration INC-20A within **180 days**).
- Promoter: fiduciary position; disclose secret profits (Erlanger v. New Sombrero Phosphate).

**EXAM TIP FAQ**

- Alteration of objects by public company that raised money via prospectus with unutilised amount → **special resolution by postal ballot** + exit offer to dissenting shareholders (s.13(8)).
- Change of name - ROC approval; new certificate (INC-24); within 30 days of SR file MGT-14.
- Shifting registered office State to State → **RD approval** (INC-23); within State, ROC jurisdiction change → RD (INC-23) VERIFY.

# Chapter 4: Shares & Share Capital

**In this chapter:** Types of capital · Issue and allotment · Prospectus · Private placement and preferential issue (ss.42, 62(1)(c)) · Share certificates · Further issue, rights and bonus (ss.62, 63) · Sweat equity and ESOPs · Preference shares (s.55) · Transfer and transmission (s.56) · Buy-back (ss.68–70) · Reduction (s.66)

## 4.1 Ways to issue securities (s.23)

- **Public company**: public offer (prospectus), **private placement**, rights/bonus issue.
- **Private company**: private placement, rights/bonus issue (no public offer).
- **Listed**: also via **GDR/ DR** (s.41) - special resolution.

## 4.2 Types of prospectus

| Type | Key point |
|---|---|
| Prospectus s.26 | Dated, signed by every director; filed with ROC on/before date of publication; issued within **90 days** of filing |
| Deemed s.25 | Offer for sale document - allotment with view to offer to public within **6 months** |
| Shelf s.31 | Prescribed classes; validity ≤ **1 year**; information memorandum for each subsequent offer |
| Red herring s.32 | No complete price/quantity; filed ≥ **3 days** before opening; differences highlighted |
| Abridged s.33 | Memorandum with salient features; must accompany application form |

## 4.3 Liability for misstatement

| Section | Nature |
|---|---|
| s.34 | **Criminal** - liable under s.447 (fraud): every person authorising issue (defence: immaterial misstatement / reasonable belief) |
| s.35 | **Civil** - compensation to persons who subscribed relying on prospectus (directors, promoters, experts); defences: withdrew consent, issued without knowledge |
| s.36 | Punishment for fraudulently inducing to invest money (s.447) |
| s.38 | Personation for acquisition of securities - s.447 |

## 4.4 Allotment (s.39)

- No allotment unless **minimum subscription** stated in prospectus received (& application money ≥ **5% of nominal** or SEBI %).
- Min subscription not received within **30 days** of issue of prospectus (or as SEBI specifies) → refund within **15 days** VERIFY; else directors liable with interest **15% p.a.** VERIFY.
- **Return of allotment** (PAS-3) within **30 days** of allotment.
- **s.40**: apply to stock exchange(s) for listing before issue; money kept in separate bank account; refund if listing permission refused.

## 4.5 Private placement (s.42 & PAS Rules)

- Offer to identified persons via **PAS-4** offer letter (serially numbered); **≤ 200 persons per FY** (excl. QIBs & employees under ESOP; each kind counted separately).
- Prior **special resolution** (for each offer; NCDs - once a year).
- Min investment size: face value **≥ ₹20,000** per person VERIFY.
- Payment **only through banking channels** (no cash); money in separate bank account.
- Allot within **60 days** of receipt; else refund within **15 days** thereafter; delay → interest **12% p.a.** from 60th day.
- **No public advertisement**; return of allotment PAS-3 within **15 days** VERIFY.

MEMORY TRICK **Private placement numbers**

**200-60-15-12** – 200 persons/FY; 60 days to allot; 15 days to refund; 12% interest

- Offer in contravention → deemed **public offer** → s.42(10) penalty (amount raised or ₹2 crore, whichever lower VERIFY).
- Fresh offer only after earlier allotments complete/withdrawn.

## 4.6 Other prospectus sections

- **s.27**: variation in terms of contract/**objects** in prospectus → **special resolution** (postal ballot) + **exit offer** to dissenting shareholders (SEBI regs).
- **s.28**: **offer for sale** by members - document = prospectus by company.
- **s.29**: public offer & prescribed classes (unlisted public; private cos. other than small - from FY end prescribed) → securities in **demat form** VERIFY.
- **s.30**: advertisement of prospectus - state contents of MOA (objects, liability, capital).
- **s.37**: suit by person affected (class action possible); **s.38** personation (fictitious names) - s.447.

WORKED EXAMPLE **Case scenarios**

- **P Ltd** made private placement to 250 persons excluding QIBs in a FY → contravention: treated as **public offer**; penalty under s.42(10); refund within 30 days VERIFY.
- Prospectus filed 1 March; issue opens 15 June → beyond **90 days** → **fresh prospectus** needed.
- Expert's statement included without his consent → expert not liable u/s 35 if he **withdrew consent** before filing.

MEMORY TRICK **Prospectus liability defences**

**IWNR** – I Immaterial misstatement; W Withdrew consent before issue; N No knowledge (issued without consent); R Reasonable belief (true)

- **s.35(2)** defences for civil liability; **s.34** defence: misstatement immaterial or reasonable grounds to believe true.

## 4.7 Share certificates & capital types

- **Capital**: authorised (nominal), issued, subscribed, called-up, **paid-up**; reserve capital (callable only on winding up, s.65).
- **s.46**: share certificate = prima facie evidence of title; **duplicate** if lost/destroyed (fraudulent issue - s.447).
- **s.56(4)** delivery: **2 months** from incorporation (subscribers) / allotment; **1 month** from receipt of transfer/transmission; debentures **6 months**; depository - immediately.
- **Dematerialisation**: public companies (Rule 9A) & private companies other than small (Rule 9B, by **30-6-2025** extended VERIFY) must issue securities **only in demat**; ISIN.

## 4.8 Preferential allotment s.62(1)(c) & Rule 13

- **Special resolution**; valuation by **registered valuer** (unlisted); explanatory statement - object, price, allottees, change in control.
- Allotment within **12 months** of SR; else fresh SR.
- Listed company → **SEBI ICDR Chapter V** (pricing, lock-in) - see Paper 5.
- Private placement (s.42): offer to **≤ 200 persons** in a FY (excluding QIBs & employees under ESOP), PAS-4 offer letter, **PAS-5** record, application money in separate bank a/c, **allot in 60 days** else refund in 15 days (12% interest after that), PAS-3 within **15 days**.

## 4.9 Kinds & rights

- **s.43**: Equity (with voting rights / with **differential rights** - DVR) and **Preference** (preferential dividend & capital repayment).
- **s.47**: equity holder - vote on every resolution, proportion to paid-up capital; preference - vote only on resolutions **directly affecting their rights**, winding up, reduction; and on all resolutions if dividend **unpaid for 2 years**.
- **s.48** variation of class rights: consent of **≥ 3/4** of issued shares of that class (writing) **or** special resolution at separate class meeting; dissenting **≥ 10%** may apply to Tribunal within 21 days.

## 4.10 Premium, discount & sweat equity

- **s.52** securities premium uses: issue fully paid **bonus**, write off **preliminary expenses**, write off **issue expenses/commission/discount** on shares/debentures, premium on **redemption** of pref./debentures, **buy-back** (s.68).

**BPWPB** – B Bonus; P Preliminary exp.; W Write-off issue exp./discount; P Premium on redemption; B Buy-back

- **s.53**: issue at **discount void** (except sweat equity; & conversion of debt under RBI scheme); penalty.
- **s.54 sweat equity**: special resolution; class already issued; for know-how/IPR/value additions; lock-in **3 yrs** VERIFY.

## 4.11 Preference shares (s.55)

- **No irredeemable** preference shares; redeem within **20 years**; infrastructure projects up to **30 years** (redeem ≥ 10% p.a. from 21st year) VERIFY.
- Redemption only out of **profits available for dividend** or **fresh issue** proceeds; only **fully paid** shares.
- Out of profits → transfer equal to nominal value to **Capital Redemption Reserve (CRR)** - usable only for **fully paid bonus**.
- Premium on redemption: from profits or **securities premium** (certain classes only from profits VERIFY).
- Unable to redeem → issue further redeemable pref. shares with consent of **3/4 in value** + Tribunal approval.

## 4.12 Transfer & transmission (s.56-58)

- Instrument of transfer (SH-4) duly stamped, delivered within **60 days** of execution; certificates delivered within **1 month** (transfer) / **2 months** of incorporation (subscribers) / **6 months** of allotment (debentures) VERIFY.
- **Transmission** (death/insolvency) - no instrument; by operation of law.
- **s.58** refusal: **private** - notice within 30 days; appeal to Tribunal within **30 days** of notice (or 60 days of no notice). **Public** - securities freely transferable; appeal within **60 days**.

## 4.13 Further issue (s.62) & bonus (s.63)

- **Rights issue** s.62(1)(a): to existing equity holders pro-rata; offer open **15-30 days**; right to renounce (unless AOA otherwise). Private cos.: shorter period if 90% members agree VERIFY.
- **ESOP** s.62(1)(b): **special resolution**.
- **Preferential/others** s.62(1)(c): **special resolution**; price by **registered valuer**.
- **Bonus** s.63 from **free reserves, securities premium, CRR**; NOT from revaluation reserve; authorised by AOA, approved in GM on Board's recommendation; no default in interest/principal of FDs/debt securities or statutory dues to employees; partly paid shares made fully paid; **can't be in lieu of dividend**; once announced, can't be withdrawn.

## 4.14 Alteration, reduction & restrictions

- **s.61** alteration (OR in GM; AOA authority): increase capital, **consolidate/divide** (consolidation changing voting % needs Tribunal), convert to stock, sub-divide, cancel unsubscribed shares. Notice to ROC in **30 days** (s.64).
- **s.66** reduction: special resolution + **Tribunal** confirmation; notice to CG, ROC, SEBI (listed), creditors - representations in **3 months**; no reduction if deposits/interest in arrears.

- **s.67**: company **can't buy own shares** (except buy-back/reduction) or give **financial assistance** for purchase of its shares - exceptions: lending company in ordinary course, **employees' trust** scheme, loans to employees (≤ 6 months' salary) VERIFY; private companies exempt (conditions) VERIFY.

## 4.15 Buy-back (s.68-70) - legal checklist

| Condition | Limit |
|---|---|
| Sources | Free reserves; securities premium; proceeds of **different** kind of issue |
| Approval | AOA + Board (≤ 10%) / special resolution (≤ 25%) |
| Equity in FY | ≤ 25% of paid-up equity |
| Debt-equity post | ≤ **2:1** (or as notified) |
| Gap | **1 year** between offers; complete within **1 year** |
| Extinguish | within **7 days** of completion |
| Fresh issue bar | **6 months** (except bonus/conversion) |

- **s.69**: CRR = nominal value of shares bought back from free reserves/premium. **s.70**: no buy-back via subsidiary/investment cos., or if default (deposits, debentures, pref. redemption, dividend, term loan) - allowed after **3 years** of default ceasing.

## 4.16 Debentures (s.71)

- May carry option to convert (wholly/partly) - **special resolution** in GM.
- **No voting rights**.
- **Debenture trustee** mandatory if offer to public or to **> 500** persons; **Debenture Redemption Reserve (DRR)** from profits available for dividend (exemptions: AIFIs, banks, NBFCs, listed companies - private placement; unlisted - **10%** of outstanding VERIFY).
- Secured debentures: charge on assets; tenure ≤ 10 years (generally) VERIFY.
- Default → Tribunal may direct redemption with interest.

**EXAM TIP Frequently asked**

- Can bonus shares be issued out of revaluation reserve? → **No** (s.63(1) proviso).
- Can a company issue shares at a discount? → **No** (void) except **sweat equity** (s.53/54).
- Preference shareholders voting when dividend unpaid **2+ years** → vote on **all** resolutions (s.47(2)).
- **s.72 nomination** - holder may nominate; nominee succeeds on death; minor nominee → guardian appointed.

**WORKED EXAMPLE Case scenarios**

- **Q Ltd** wants bonus from revaluation reserve → **not allowed**; use free reserves/securities premium/CRR.
- **R Ltd** (public) refuses to register transfer of fully paid shares - transferee can appeal to **Tribunal within 60 days**.
- **S Ltd** issues 8% preference shares redeemable after 22 years for a non-infrastructure project → **invalid** (max 20 years).
- **T Ltd** wants to give loan to employees to buy own fully paid shares → allowed up to **6 months' salary** (s.67(3)(c)) VERIFY.
- Debenture issue to 600 persons → **debenture trustee** mandatory (> 500).

## 4.17 Rights vs Bonus vs Preferential

| Point | Rights s.62(1)(a) | Bonus s.63 | Preferential s.62(1)(c) |
|---|---|---|---|
| Consideration | Payment | **Free** | Payment / non-cash |
| To whom | Existing equity holders pro-rata | Existing members | Any persons |
| Approval | Board | AOA + GM (Board recommends) | **Special resolution** |

| Point | Rights s.62(1)(a) | Bonus s.63 | Preferential s.62(1)(c) |
|---|---|---|---|
| Renunciation | Yes (unless AOA bars) | No | NA |
| Pricing | Board | NA | Registered valuer |

## 4.18 Sweat equity & ESOP

- **Sweat equity s.54 + Rule 8**: special resolution; to **directors/employees** for know-how/IPR/value addition; limit **15%** of paid-up capital p.a. or ₹5 cr (higher); overall **25%** (50% for start-ups up to 10 yrs) VERIFY; lock-in **3 years**; valuation by registered valuer.
- **ESOP s.62(1)(b) + Rule 12**: special resolution; **not** to promoters/promoter group or director holding > 10% (except start-ups up to 10 yrs); **min vesting 1 year**; can't transfer options; listed → **SEBI SBEB & SE Regulations 2021**.

## 4.19 Reduction of capital s.66

- Special resolution + **Tribunal confirmation**; notice to CG, ROC, SEBI (listed), creditors - representations in **3 months**.
- Modes: extinguish / reduce liability on unpaid shares; cancel lost capital; pay off excess capital.
- Tribunal won't sanction if accounting treatment not per AS (auditor's certificate); creditors' consent or security.
- Not reduction: forfeiture, buy-back, redemption of preference shares, surrender.

## 4.20 Stamp duty, registers & records

- **Stamp duty** on issue/transfer of securities under **Indian Stamp Act** (Finance Act 2019 amendment, w.e.f. 1-7-2020): issue **0.005%**, transfer (delivery) **0.015%**, collected by stock exchange / depository / clearing corporation VERIFY.
- Registers: **members MGT-1**, debenture holders, **SH-2 renewed/duplicate certificates**, **SH-3 sweat equity**, **SH-6 ESOP**, **SH-10 buy-back**, MBP-4 contracts, CHG-7 charges.
- Kept at **registered office** (or other place within city with SR); inspection by members free.

## 4.21 Transmission & membership interest

- **Transfer** = voluntary act (SH-4 executed by transferor & transferee, stamped, delivered within **60 days** of execution) - listed & public: only **demat** transfers (except transmission).
- **Transmission** = by operation of law (death, insolvency, succession); no instrument; documents: death certificate, succession certificate / probate / nomination (**SH-13** nominee).
- **Company without share capital**: transfer of **member's interest** by instrument → **Form SH-4** (Rule 11(2); MCA 8-5-2026) NEW.
- Refusal: private company per AOA; public company - appeal to **NCLT** within 30 days (s.58).

> MEMORY TRICK **Issue routes – "PRB–PESB"**
>
> **PRBESB** – P Public issue (prospectus); R Rights issue s.62(1)(a); B Bonus s.63; E ESOP s.62(1)(b); S Sweat equity s.54; B Buy-back s.68 (reverse)

# Chapter 5: Members & Shareholders

**In this chapter:** How to become a member · Register of members · Declaration of beneficial interest s.89 · Significant beneficial owner s.90 · Rectification of register s.59 · Rights of members · Variation of shareholders' rights s.48

## 5.1 Becoming a member s.2(55)

- **Subscribers** to MOA - deemed members on registration.
- Persons who **agree in writing** and whose name is **entered in register** of members.
- **Beneficial owner** in records of a **depository**.
- Minor: can be member through guardian **only if fully paid shares** (transfer to minor allowed - Rule).
- Cessation: transfer, forfeiture, buy-back, death (transmission), surrender, redemption.

## 5.2 Beneficial interest s.89 & SBO s.90

- **s.89**: registered owner not holding beneficial interest declares in **MGT-4**; beneficial owner in **MGT-5**; company files **MGT-6** with ROC within **30 days**.
- **s.90 SBO**: individual holding (directly/indirectly) **≥ 10%** shares, voting rights or dividend, or **significant influence / control**.
- SBO declares **BEN-1** within 30 days; company files **BEN-2** with ROC within **30 days**; register **BEN-3**; notice to identify **BEN-4**.
- Non-compliance: company may apply to **NCLT** to restrict rights; penalty up to ₹10 lakh (company) VERIFY.

## 5.3 Rectification & variation

- **s.59 rectification**: name entered/omitted without sufficient cause or default/delay → appeal to **NCLT** (or court) by aggrieved person/company.
- **s.48 variation of class rights**: written consent of holders of **≥ 3/4 of issued shares of the class** or **special resolution at separate class meeting**; provided in MOA/AOA or terms of issue.
- Dissenters holding **≥ 10%** of class may apply to **Tribunal within 21 days**; variation effective only if confirmed.

## 5.4 Shareholders' rights map

| Right | Section |
|---|---|
| Vote (one share one vote; e-voting) | s.47, 108 |
| Dividend (declared) | s.123-127 |
| Receive FS, inspect registers & minutes | s.136, 94, 119 |
| Transfer & transmission | s.56 |
| Rights issue | s.62 |
| Requisition EGM (≥ 10% capital/voting) | s.100 |
| Appoint proxy | s.105 |
| Apply to Tribunal - oppression | s.241 |
| Class action | s.245 |

**EXAM TIP FAQ – shareholders**

- Dividend once declared becomes **debt** - pay within **30 days** (s.127).
- Unpaid dividend → Unpaid Dividend A/c within 7 days of 30 days; after 7 years → **IEPF** (s.125).
- Minority squeeze-out s.236 - holders of **90%** may buy out minority.

# Chapter 6: Debt Instruments – Concepts

**In this chapter:** Issue & redemption of debentures & bonds · Creation of security · Debenture Redemption Reserve · Debenture trust deed · Conversion of debentures into shares · Overview of company deposits s.73-76A

## 6.1 Debentures s.71 & Rule 18

- Kinds: secured / unsecured; convertible (**special resolution**) / non-convertible; redeemable; registered / bearer (not allowed); **no voting rights** (s.71(2)).
- **Secured**: security on company's assets (or of subsidiary/holding/associate) ≥ **100%** of amount; created within **60 days** of allotment VERIFY.
- Tenure ≤ **10 years** (infra/long-term projects **30 years**; Govt/infra bonds longer).
- **Debenture trustee** (SEBI-registered) if offered to public or **> 500 persons**; trust deed (**SH-12**) within 60 days of allotment.

## 6.2 Debenture Redemption Reserve (Rule 18(7))

| Company | DRR |
|---|---|
| All-India FIs, banks | Not required |
| **Listed** companies (incl. NBFC/HFC) | **Not required** (post 16-8-2019) |
| **Unlisted** NBFC / HFC (private placement) | Not required |
| Other **unlisted** companies | **10%** of outstanding debentures |

- **Deposit / invest ≥ 15%** of debentures maturing during the year by **30 April** - listed companies (other than AIFIs/banks) & unlisted companies required to create DRR VERIFY; in scheduled bank deposits / Govt securities.
- DRR out of **profits available for dividend**; used only for redemption.

## 6.3 Conversion & bonds

- **Conversion** (wholly/partly) - **special resolution** at issue (s.71(1)); conversion terms in offer document.
- Optionally / compulsorily convertible (CCDs = equity for FEMA).
- **Bonds**: green bonds, infrastructure bonds, masala bonds (rupee-denominated abroad) - listed under SEBI NCS Regulations (Paper 5).

## 6.4 Who can accept?

- **s.73(2)**: from **members** - by ordinary resolution + conditions: circular to members, filed with ROC 30 days before; **Deposit Repayment Reserve ≥ 20%** of deposits maturing in next FY (by 30 April) VERIFY; deposit insurance (if prescribed); certificate of no default.
- **s.76 eligible public company**: net worth **≥ ₹100 crore** OR turnover **≥ ₹500 crore** - may accept from **public** (special resolution; **credit rating** mandatory; secured/unsecured).
- Banking, NBFC, HFCs & prescribed companies are **outside** these rules.

## 6.5 Limits (Deposits Rules 2014) VERIFY

| Company | Limit (% of paid-up capital + free reserves + securities premium) |
|---|---|
| Private co. (members) | **100%**; specified private cos. (start-ups up to 10 yrs, small, borrowing ≤ 2× capital, no default) - **no limit** VERIFY |
| Public co. (members) | **10%** (& member deposits + others) |
| Eligible co. (public) | **25%** from public (+ 10% from members) |
| Govt company | 35% |

- Tenure: **6 months to 36 months**; short-term (≥ **3 months**) up to 10% for meeting short-term needs.

## 6.6 NOT a deposit (Rule 2(1)(c) - key exemptions)

- Amount from **Central/State Govt**, banks, FIs, foreign sources (ECB rules).
- Loan from **director** (with declaration that not from borrowed funds) & **relative of director** of a private company.
- Inter-corporate loans; **share application money** pending allotment (allot within **60 days** else refund in 15 days; then becomes deposit).
- **Advance for supply** of goods/services adjusted within **365 days**; security deposit for contract performance; advances under long-term projects.
- Amount raised by issue of **secured bonds/debentures**; start-up convertible notes **≥ ₹25 lakh** in single tranche (convert within 10 yrs) VERIFY.

## 6.7 Default & consequences (s.74–76A)

- **s.74**: deposits accepted before 2013 Act - repay within 1 year (or Tribunal extension).
- **s.75**: failure to repay with intent to **defraud** → officers personally liable without limitation of liability.
- **s.76A** punishment: company fine **₹1 crore - ₹10 crore** + repayment; officers in default imprisonment up to **7 years** or fine **₹25 lakh - ₹2 crore** (or both); wilful → s.447.
- Depositors may apply to **Tribunal** for repayment orders (s.73(4)).

**EXAM TIP Exam points**

- Private co. receives ₹50 lakh from director's relative → **exempt** (private co. only).
- Advance from customer not adjusted in 365 days → becomes **deposit**.
- Return of deposits (DPT-3) annually by **30 June** (as at 31 March) VERIFY.

## 6.8 Procedure: deposits from members (s.73(2))

Ordinary resolution in GM (special resolution for eligible public co. - s.76) → Issue **circular** to members (DPT-1) with financial position, credit rating (if applicable) → File circular with ROC **≥ 30 days** before issue → Deposit **≥ 20%** of amount maturing in next FY in **Deposit Repayment Reserve** (scheduled bank) VERIFY → Accept deposits; issue receipt; keep **register of deposits** → Return of deposits **DPT-3** annually

**WORKED EXAMPLE Case scenarios**

- **K Ltd** (public, net worth ₹80 cr, turnover ₹600 cr) wants deposits from public → **eligible** (turnover ≥ ₹500 cr); needs special resolution + credit rating.
- Security deposit from dealer for distributorship ₹5 lakh → **deposit**? Exempt only if for **performance of contract** for supply of goods/services VERIFY.
- Money from **director of a public company** out of own funds with declaration → **exempt**.

# Chapter 7: Charges

**In this chapter:** Creation of charges · Registration, modification & satisfaction s.77-82 · Register of charges s.85 · Inspection s.85 · Punishment s.86 · Rectification by CG s.87 · Charge search report - purpose, drafting & issuing

## 7.1 Registration (s.77)

- **Charge** s.2(16): interest/lien on property/assets as security, includes **mortgage**.
- Company to register charge (CHG-1; CHG-9 for debentures) within **30 days** of creation, signed by company & charge-holder.
- Delay: Registrar may allow **further 30 days** with **additional fees**; beyond → additional ad valorem fees (scheme as per Rules) VERIFY.
- **Unregistered charge** → not considered by liquidator/creditor (void against them) - but **debt remains**.

## 7.2 Other provisions

- **s.78**: company fails → **charge-holder** may apply; company given 14 days to file objections VERIFY; fees recoverable from company.
- **s.79**: modification also registered as above.
- **s.80**: registration = **deemed notice** of charge to any person acquiring property.
- **s.81**: ROC keeps register of charges - open to inspection.
- **s.82**: **satisfaction** intimated within **30 days** (CHG-4) → ROC notice to holder (14 days to object) VERIFY.
- **s.83**: ROC may record satisfaction on evidence.

## 7.3 Receiver, register & rectification

- **s.84**: appointment of receiver/manager - intimate company & ROC within **30 days** (CHG-6).
- **s.85**: company keeps **register of charges** (CHG-7) at registered office + copy of instrument; open to members/creditors free.
- **s.86** punishment; **s.87**: **Central Government** may extend time/rectify omission (on sufficient cause).
- Charges on **any property** in or outside India incl. tangible/intangible.

## 7.4 Charge registration flow

Charge created (e.g., hypothecation for term loan) → Company files **CHG-1** within **30 days** (both signatures) → Delay → ROC condones up to 30 more days with **additional fees** VERIFY → ROC issues **certificate of registration** (conclusive evidence) → Company enters in **register of charges** (CHG-7) → Loan repaid → **CHG-4** within 30 days → ROC records satisfaction (memorandum of satisfaction)

**EXAM TIP Frequently asked**

- Unregistered charge: is debt void? → **No**; only the **security** is void against liquidator & creditors.
- Lender can register charge if company fails? → **Yes**, s.78 - after notice to company.
- Registration is **deemed notice** (s.80) - purchaser can't plead ignorance.

## 7.5 Charge search report

Purpose: lender / investor **due diligence** before loan, M&A, IPO → Inspect MCA21 **index of charges** + CHG forms + company's **register CHG-7** → Verify charge ID, holder, amount, assets, modification & satisfaction → PCS issues **search report** (date, company, charges subsisting, observations, disclaimer)

- Drafting tips: list each charge (ID, date of creation/modification, holder, amount, property), note **unregistered/belated** filings & pending satisfactions.

**EXAM TIP FAQ**

- Charge filing s.77: **30 days** of creation; further **30 days** with additional fee; further **60 days** with ad valorem fee VERIFY; unregistered charge **void against liquidator & creditors** (s.77(3)) - debt still valid.
- Satisfaction (CHG-4) within **30 days** of payment; ROC may register satisfaction on own (s.83).
- **s.87**: CG (RD) may condone delay / rectify omission on being satisfied of sufficient cause.

# Chapter 8: Distribution of Profits

**In this chapter:** Profit & divisible profits · Declaration & payment of dividend s.123 · Unpaid dividend account s.124 · IEPF s.125 · Right to dividend & rights/bonus held in abeyance s.126 · Secretarial Standard on Dividend (SS-3) · Dividend Distribution Policy

## 8.1 s.123 sources & conditions

- From (a) **current year profits** after depreciation (Sch II), (b) **undistributed profits** of previous years after depreciation, (c) both, (d) money provided by CG/State for guarantee.
- Transfer to reserves - **optional** (Board decides %).
- **Can't** use unrealised gains, notional gains, **revaluation**, fair value changes.
- **Interim dividend**: out of surplus in P&L / profits of current FY or preceding quarter; if **loss** up to end of quarter preceding declaration → rate ≤ **average of 3 preceding FYs**.
- Pay only in **cash** (cheque, warrant, electronic) - bonus shares are not dividend; deposit in **separate bank a/c within 5 days** of declaration.

## 8.2 Dividend out of free reserves (Rules 2014)

- 1) Rate ≤ **average rate of preceding 3 years** (not if no dividend in those years).
- 2) Amount drawn ≤ **1/10th** of (paid-up capital + free reserves) as per latest audited FS.
- 3) Drawn amount first used to **set off losses** of current year.
- 4) Balance of reserves after withdrawal ≥ **15% of paid-up capital**.

**A-10-S-15** – A Average rate; 10 1/10th limit; S Set-off losses; 15 15% residual

## 8.3 Unpaid dividend → IEPF

Declared dividend → Pay within **30 days** (s.127) → Unpaid after 30 days → **Unpaid Dividend Account** within next **7 days** (s.124) → Statement on website within 90 days → Unpaid/unclaimed **7 years** → transfer to **IEPF** (s.125) along with **shares** on which dividend unclaimed 7 consecutive years → Claimant can claim refund from IEPF Authority

## 8.4 s.126–127

- **s.126**: dividend on shares where transfer not registered → transfer to Unpaid Dividend Account (unless transferor authorises payment to transferee).
- **s.127 punishment**: dividend not paid/warrant not posted within **30 days** → every director knowingly a party: imprisonment up to **2 years** + fine ≥ **₹1,000 per day** of default; company: **simple interest 18% p.a.**
- Exceptions: operation of law, shareholder's direction not complied, dispute regarding right, lawful adjustment against sum due, failure not due to company's default.

**EXAM TIP Exam points**

- Can a company declare dividend if it has not transferred any amount to reserves? → **Yes** (transfer optional).
- Can losses of previous years be ignored? → No - past losses & depreciation must be **set off** before declaring out of current profits.
- Company in default of **deposits repayment** (s.73/74) can't declare dividend on equity while default continues (s.123(6)).

**WORKED EXAMPLE** **Worked check: dividend out of free reserves**

- Paid-up capital ₹10 cr; free reserves ₹6 cr; current year loss ₹0.5 cr; dividend rates last 3 yrs 10%, 12%, 14% (avg 12%); proposed 15%.
- Rule 1: rate ≤ average 12% → dividend ≤ **₹1.2 cr**.
- Rule 2: drawal ≤ 1/10 × (10 + 6) = **₹1.6 cr**.
- Rule 3: drawal first sets off current loss → needed 0.5 + 1.2 = 1.7 > 1.6 → dividend = 1.6 − 0.5 = **₹1.1 cr**.
- Rule 4: reserves left 6 − 1.6 = 4.4 ≥ 15% of capital (1.5) ✓.

**Note:** Maximum dividend = **₹1.1 crore (11%)**

## 8.5 Final vs interim dividend

| Point | Final | Interim |
|---|---|---|
| Declared by | Members at **AGM** (Board recommends) | **Board** |
| Revocable? | No - becomes debt | Can be revoked before payment? Not ordinarily VERIFY |
| Source | Profits of year/previous years | Profits of current year / P&L surplus |
| Rate limit | Not above Board's recommendation | Average rate test if losses (quarter) |

## 8.6 SS-3, abeyance & DDP

- **s.126**: rights / bonus / dividend in respect of shares with **pending transfer** held in **abeyance**.
- **SS-3** (Dividend) - ICSI, **recommendatory**: dividend declared only out of profits after depreciation; record date / book closure notice; payment within 30 days; interim dividend on Board approval VERIFY.
- **Dividend Distribution Policy** - **Reg 43A SEBI LODR**: **top 1,000 listed** entities by market capitalisation; disclose on website & annual report (parameters, circumstances, utilisation of retained earnings).
- **Record date** s.91: notice **7 days** before (listed - stock exchange **3 working days** VERIFY).

**COMMON MISTAKE** **Dividend traps**

- Dividend out of **capital** - never; out of **free reserves** only per Rule 3 (rate ≤ avg of 3 yrs; ≤ 1/10 of paid-up + free reserves; first set off current loss).
- Interim dividend in loss year: rate ≤ **average of preceding 3 years**.
- Dividend payable **in cash** (cheque, warrant or **electronic** mode, s.123(5)); capitalising profits is possible only via **bonus shares**.

# Chapter 9: Accounts & Auditors

**In this chapter:** Books of account s.128 · Financial statements s.129 · NFRA s.132 · Auditors - appointment, resignation, removal, qualifications & disqualifications s.139-141 · Rights, duties & liabilities s.143-147 · Audit & auditor's report · Cost audit s.148 · Secretarial audit s.204 · Internal audit s.138

## 9.1 Books & FS (s.128–129)

- Books at **registered office** (other place in India by Board resolution - ROC intimation within **7 days**); electronic form allowed (server in India, daily back-up) VERIFY.
- Preserve **8 years**; inspection by directors; branch returns.
- Duty: **MD, WTD in charge of finance, CFO** or any person charged by Board.
- **s.129**: FS give **true & fair view**, comply with **AS (s.133)**, form in **Schedule III**; **CFS** if subsidiaries/associates/JV (with AOC-1 salient features).
- **s.129A**: prescribed class of **unlisted** cos. to prepare periodical financial results (audit/limited review) VERIFY.

## 9.2 Re-opening vs voluntary revision

| Point | s.130 Re-opening | s.131 Voluntary revision |
|---|---|---|
| Initiated by | CG, IT authorities, SEBI, other regulator / any person concerned | Directors (company) |
| Order by | Court/**Tribunal** | **Tribunal** approval |
| Ground | Fraud/mismanagement; FS unreliable | FS/Board report not compliant with s.129/134 |
| Period | ≤ **8 FYs** preceding | Any of **3 preceding FYs**; once in a FY |

## 9.3 Internal audit (s.138)

- Mandatory for: **every listed** co.; **unlisted public** - paid-up ≥ ₹50 cr / turnover ≥ ₹200 cr / loans ≥ ₹100 cr / deposits ≥ ₹25 cr (preceding FY); **private** - turnover ≥ ₹200 cr / loans ≥ ₹100 cr.
- Internal auditor: CA / cost accountant / other professional decided by Board; may be employee.
- Must be appointed within 6 months of applicability VERIFY.

## 9.4 Other accounts provisions

- **s.2(13) books of account**: records of receipts & payments, sales & purchases, assets & liabilities, **cost items** (prescribed class s.148).
- **s.128(6)** penalty: MD/CFO/person responsible - fine **₹50,000 - ₹5 lakh** / imprisonment up to 1 yr VERIFY.
- **s.129(7)** contravention penalty VERIFY; **s.132 NFRA** - recommends AS/SA, monitors compliance, disciplinary powers over auditors of prescribed companies.
- **s.133**: CG prescribes AS (in consultation with NFRA) - Companies (AS) Rules 2021; Ind AS Rules 2015.
- **s.134(8)** penalty: company **₹3 lakh**, officers **₹50,000** VERIFY.

**WORKED EXAMPLE Case scenarios**

- Company with net worth ₹450 cr, turnover ₹900 cr, net profit ₹6 cr in preceding FY → **CSR applicable** (profit ≥ ₹5 cr).
- Avg net profit of 3 years ₹20 cr → CSR obligation **₹40 lakh** → no CSR Committee needed (≤ ₹50 lakh) - Board performs functions.
- Unspent ₹10 lakh on a non-ongoing project → transfer to **Schedule VII fund** within **6 months** of FY end.
- Board wants to revise FS of last 2 years voluntarily → apply to **Tribunal** (s.131); once a FY.

## 9.5 Appointment of auditor (s.139)

**First auditor** (non-Govt): Board within **30 days** of registration → Board fails → members at **EGM within 90 days** → **Subsequent**: members at first AGM → holds office till **6th AGM** (5-year term), ratification not required (post-2018)

→ Written consent + certificate of eligibility (ADT-1 filed within **15 days**) → **Govt company**: **CAG** appoints within **60 days** (first) / **180 days** of FY start (subsequent)

## 9.6 Rotation (s.139(2))

- Applies to: **listed**; unlisted public with paid-up **≥ ₹10 cr**; private with paid-up **≥ ₹50 cr**; all with public borrowings/deposits **≥ ₹50 cr** VERIFY.
- **Individual**: one term of **5 consecutive years**; **audit firm**: **two terms of 5 years**.
- **Cooling-off 5 years** for same individual/firm (incl. firms with common partner).

## 9.7 Casual vacancy & removal

- **Casual vacancy** (s.139(8)): Board fills within **30 days**; if caused by **resignation** → also approved by **GM within 3 months**; holds till next AGM. Govt co.: CAG in 30 days.
- **Removal before term** (s.140(1)): **special resolution** + prior **CG approval** (application within 30 days); auditor heard.
- **Resignation**: ADT-3 within **30 days** to company & ROC (CAG for Govt co.).
- **Not re-appointing at AGM** - special notice (s.115) required; retiring auditor may make representation.

## 9.8 Disqualifications (s.141(3))

| Who can't be auditor | Threshold |
|---|---|
| Body corporate (except LLP) | - |
| Officer/employee of company | - |
| Partner/employee of officer/employee | - |
| Self/relative/partner holding security | Relative: face value > **₹1 lakh** VERIFY |
| Indebted to company/holding/sub | > **₹5 lakh** |
| Guarantee/security for third party | > **₹1 lakh** |
| Business relationship | Prescribed (arm's length excl.) |
| Relative is director/KMP | - |
| Full-time employment elsewhere | - |
| Audits > **20 companies** | Limit |
| Convicted of fraud | within **10 years** |
| Consulting services s.144 | - |

## 9.9 Powers & duties (s.143)

- Right of **access** to books & vouchers at all times; information from officers.
- Inquire: loans & advances properly secured, book entries not prejudicial, sale of investments below cost, personal expenses charged to revenue, deposits shown as loans, shares allotted for cash actually received.
- Report on: true & fair view, info obtained, proper books, branch audit, FS agree with books, AS compliance, adverse observations, director disqualification (s.164(2)), **internal financial controls**, pending litigations, IEPF transfers... + **CARO 2020** matters.
- **Fraud s.143(12)**: involving **≥ ₹1 crore** → report to **CG** (now e-form **ADT-4** NEW); < ₹1 crore → audit committee/Board (disclosed in Board's report).

## 9.10 Prohibited services (s.144)

- **Accounting & book-keeping**; **internal audit**; design & implementation of **financial information system**; **actuarial**; **investment advisory**; **investment banking**; **outsourced financial services**; **management services**.

**AIDAIIOM** – A Accounting; I Internal audit; D Design of FIS; A Actuarial; I Investment advisory; I Investment banking; O Outsourced fin. services; M Management services

- Other services need **Board/Audit committee** approval.

- **s.145** signs report; **s.146** entitled to attend GM; **s.147** punishment; **s.148 cost audit** - cost auditor by Board (members ratify remuneration).

## 9.11 Who appoints, when, till when

| Situation | By | Time limit | Tenure |
|---|---|---|---|
| First auditor (non-Govt) | Board | 30 days of registration | Till 1st AGM |
| Board fails | Members (EGM) | 90 days | Till 1st AGM |
| Subsequent | Members at AGM | - | 5 yrs (till 6th AGM) |
| Casual vacancy | Board (GM if resignation within 3 months) | 30 days | Till next AGM |
| Govt company - first | CAG | 60 days | Till 1st AGM |
| Govt company - casual | CAG | 30 days | Till next AGM |

**WORKED EXAMPLE Case scenarios**

- CA Mr. M's wife holds shares of face value **₹90,000** in client → **eligible** (≤ ₹1 lakh) VERIFY.
- CA firm audits 22 companies including 3 OPCs/small/dormant/private (paid-up < ₹100 cr) → those excluded from limit of 20 VERIFY.
- Statutory auditor asked to do **internal audit** too → **prohibited** (s.144).
- Fraud of ₹1.2 crore detected → report to **Central Government** (ADT-4) within prescribed time; Board's reply obtained VERIFY.
- **s.140(5)**: Tribunal may order change of auditor for fraud; auditor ineligible for **5 years**.

## 9.12 NFRA s.132

- **National Financial Reporting Authority** (constituted 2018): recommends accounting & auditing standards; monitors compliance; **investigates** professional misconduct of auditors of specified companies (listed; unlisted public with paid-up ≥ ₹500 cr or turnover ≥ ₹1,000 cr or loans ≥ ₹500 cr VERIFY).
- Penalty: individual **₹1 lakh to 5× fees**; firm **₹5 lakh to 10× fees**; debarment **6 months-10 years**; appeal to **NCLAT**.
- Form **NFRA-2** annual return by auditors of such companies.

## 9.13 Cost audit s.148

- CG notifies industries (**Cost Records & Audit Rules 2014**): records if turnover ≥ **₹35 cr**; audit - regulated sectors turnover ≥ **₹50 cr** (product ≥ ₹25 cr); non-regulated ≥ **₹100 cr** (product ≥ ₹35 cr).
- **Cost auditor** (CMA in practice) appointed by Board within **180 days** of FY start (**CRA-2** to ROC within 30 days); remuneration **ratified by members**.
- Report to Board in **180 days** of FY end (**CRA-3**); company files **CRA-4** within **30 days** of receipt.

## 9.14 Secretarial audit s.204

- Mandatory: every **listed** company; public company with paid-up ≥ **₹50 cr** or turnover ≥ **₹250 cr**; company with outstanding loans from banks/PFIs ≥ **₹100 cr**.
- By **PCS**; report **MR-3** annexed to Board's report; Board explains qualifications.
- Listed entity & material unlisted subsidiaries - **Reg 24A LODR** (tenure caps for PCS from FY 2025-26 VERIFY).

# Chapter 10: Compromise, Arrangement & Amalgamations - Concepts

**In this chapter:** Introduction - compromise & arrangement s.230 · Merger & amalgamation s.232 · Fast-track merger s.233 · Cross-border merger s.234 · Approvals & objections · Concept only (oppression & class action deleted from syllabus)

## 10.1 Scheme under s.230-232

Board approves scheme → Application to **NCLT** (CAA-1) by company / creditor / member / liquidator → NCLT orders meetings (**CAA-2**) - may dispense → Notice to **CG (RD), ROC, IT, RBI, SEBI, CCI, OL**, stock exchanges - representations within **30 days** → Meetings: approval by **majority in number representing 3/4 in value** of creditors / members (present & voting) → NCLT sanction (**CAA-7**) → File order with ROC (INC-28) within **30 days**

- Objection only by holders of **≥ 10% shareholding** or **≥ 5% of total outstanding debt** (latest audited FS).

## 10.2 Key concepts

- **Compromise** = settlement where dispute exists; **arrangement** = wider (reorganisation of share capital, consolidation, division).
- **Amalgamation**: merger by absorption (A + B → A) or by formation of new company (A + B → C); **demerger** = transfer of undertaking.
- **s.230(11)/(12)**: takeover offer (unlisted) by holders of **≥ 3/4** shares.
- Valuation report by **registered valuer**; auditor's certificate on accounting treatment (AS / Ind AS 103).
- **Cross-border s.234**: Indian ↔ foreign company of notified jurisdiction with **RBI** prior approval.

## 10.3 Fast-track merger s.233

| Point | Requirement |
|---|---|
| Eligible | Two or more **small** companies; **holding & wholly-owned subsidiary**; **start-up + start-up / small**; holding (listed/unlisted) + unlisted subsidiaries (2024 Rules) VERIFY |
| Objections | Notice (CAA-9) to ROC, OL / persons affected - **30 days** |
| Members | **90% of total number of shares** VERIFY |
| Creditors | **9/10 in value** (meeting or written) |
| Approval | **Regional Director** (CG) - confirmation order CAA-12; if RD objects → NCLT |

# Chapter 11: Dormant Company

**In this chapter:** Legal framework s.455 · Prerequisites · Procedure to obtain dormant status · Benefits / exemptions · Compliance requirements · Procedure to obtain active status

## 11.1 Legal framework s.455 & Rule 3

- Company formed & registered for a **future project** or to **hold an asset / IP**, with **no significant accounting transaction**, or an **inactive company** may apply for dormant status.
- **Inactive**: not carrying business / no significant accounting transaction during **last 2 FYs**, or **not filed FS & annual returns** for last 2 FYs.
- **Significant accounting transaction** excludes: fees to ROC, payments to comply with law, allotment of shares to meet requirements, payment for office & records.

## 11.2 Procedure - dormant & active

**Special resolution** in GM (or notice to all members + consent of **3/4 in value**) → Apply in **MSC-1** with statement of affairs (certified by CA) → ROC issues **certificate MSC-2** & maintains register of dormant companies

To become active: apply **MSC-4** (with fee) → ROC issues **MSC-5** certificate of active status

- Annual **MSC-3** return of dormant company within **30 days** from end of FY (with auditor's certificate).
- ROC may strike off name if company fails to comply (s.455(6)).

## 11.3 Not eligible / benefits

| Not eligible | Benefits |
|---|---|
| Inspection / inquiry / investigation ordered or pending | Board meeting **once per half-year**, gap ≥ **90 days** |
| Prosecution pending / defaulted on deposits, loans | Min directors: public **3**, private **2**, OPC **1** |
| Outstanding public deposits / unpaid statutory dues (taxes) | No cash flow statement; rotation of auditors not applicable; **MSC-3** in place of full annual filing VERIFY |
| Listed securities; unsecured loans (without lender consent); management dispute; unpaid workers' dues | Lower compliance cost |

# Chapter 12: General Meetings

**In this chapter:** AGM · EGM · Other general meetings (class, creditors) · Types of resolutions · Notice, quorum, poll, chairman, proxy · Agenda · Process of conducting meeting · Voting - show of hands, poll, e-voting, postal ballot · Circulation of members' resolutions · Minutes · Secretarial Standard-2 · Duties of CS · Virtual meetings · Drafting of notice & minutes

## 12.1 Registers & returns

- **s.88** registers: members (MGT-1), debenture holders, other security holders; foreign register outside India allowed (if AOA).
- **s.89** declaration of beneficial interest (MGT-4/5/6) within **30 days**.
- **s.90 SBO** - significant beneficial owner holding **≥ 10%** (directly/indirectly) - declaration BEN-1; company files BEN-2.
- **s.92 annual return** (MGT-7; small/OPC: **MGT-7A**) filed within **60 days of AGM**; signed by director & CS (or PCS for listed/large).
- **s.94** registers kept at registered office (or elsewhere with special resolution where ≥ 1/10 members reside).

## 12.2 AGM vs EGM

| Point | AGM (s.96) | EGM (s.100) |
|---|---|---|
| Who calls | Board (every company except OPC) | Board / requisitionists / Tribunal |
| First | Within **9 months** of close of first FY | Any time |
| Subsequent | Within **6 months** of FY end & gap ≤ **15 months** | - |
| Extension | ROC up to **3 months** (not for first AGM) | - |
| Time/place | Business hours (9 am-6 pm), not national holiday; registered office or city | Any place in India (WOS of foreign co.: outside) |
| Business | Ordinary: FS, dividend, directors' retire, auditor | All special |

## 12.3 EGM on requisition (s.100)

- Requisition by members holding **≥ 1/10 of paid-up capital** with voting rights (or **≥ 1/10 voting power** if no share capital).
- Board must **call within 21 days** to be held within **45 days**.
- Else requisitionists may call within **3 months** of requisition; expenses reimbursed by company (deducted from defaulting directors' fees).
- **s.97/98**: Tribunal may call AGM/EGM where default/impracticable.

## 12.4 Notice & explanatory statement

- **s.101**: **21 clear days**' notice (written/electronic) to members, legal reps, auditors, directors.
- **Shorter notice**: AGM - consent of **≥ 95% of members** entitled to vote; other GM - majority in number & **≥ 95% of paid-up capital** (with voting rights) VERIFY.
- **s.102** explanatory statement for **special business** - nature of concern/interest of directors, KMP & relatives; interest ≥ **2% of paid-up capital** of other company to be disclosed.
- Ordinary business (AGM): FS & reports, dividend, appointment of directors in place of retiring, appointment & remuneration of auditors.

## 12.5 Quorum (s.103)

| Company | Members personally present |
|---|---|
| Private | **2** |
| Public ≤ 1,000 members | **5** |
| Public 1,000-5,000 | **15** |

| Company | Members personally present |
|---|---|
| Public > 5,000 | **30** |

- Not present within **half an hour** → adjourned to **same day next week**, same time & place (or as Board decides); at adjourned meeting, members present = quorum. Requisitioned meeting → **cancelled**.

## 12.6 Proxies, voting & resolutions

- **s.105 proxy**: need not be member; can't **speak**; vote only on **poll**; one proxy ≤ **50 members** & ≤ **10%** of total share capital; deposit **48 hours** before; s.8 cos. - no proxy unless AOA VERIFY.
- Voting: **show of hands** (s.107) → **e-voting** (s.108: listed / ≥ 1,000 members) → **poll** (s.109: demand by ≥ 1/10 voting power or paid-up ≥ ₹5 lakh) → **postal ballot** (s.110).
- **s.114**: ordinary = votes for > against; **special** = votes for **≥ 3 × votes against**.
- **s.115 special notice**: by members holding ≥ **1%** voting power or paid-up **≥ ₹5 lakh**; given ≥ **14 days** before meeting (e.g., removal of director/auditor).
- **s.117**: file specified resolutions (MGT-14) within **30 days**; **s.118 minutes** within **30 days** of meeting; **s.121** listed - AGM report MGT-15 within 30 days.

## 12.7 Postal ballot & e-voting

- **s.110**: items notified (Rules 22) must be by **postal ballot** for listed/other cos. with > 200 members VERIFY - e.g., alteration of objects, change of registered office outside local limits, sale of undertaking (s.180(1)(a)), giving loans/guarantees > s.186 limits, variation of class rights, buy-back, election of small shareholders' director.
- Items **not** through postal ballot: **ordinary business** & items where directors/auditors have right to be heard.
- **e-voting (s.108)** = postal ballot option; listed + ≥ 1,000 members.

## 12.8 Poll & other sections

- **s.109 poll**: ordered by chairman suo motu, or demanded by members holding ≥ **1/10 voting power** or paid-up **≥ ₹5 lakh**; conducted within **48 hours**; scrutinisers appointed.
- **s.111**: circulation of members' resolution - members with **≥ 1/10 voting power** or **≥ 100 members** holding paid-up ≥ ₹1 lakh VERIFY.
- **s.112** President/Governor representative; **s.113** body corporate representative (Board resolution).
- **s.116**: resolution at adjourned meeting deemed passed on **that date**.
- **s.119**: minute books inspection free; copy within **7 working days**.

**WORKED EXAMPLE Case scenarios**

- AGM held at 8 pm on a Sunday → invalid (outside business hours); Sunday is fine unless **national holiday**.
- Public company with 1,200 members: 12 present → quorum **not** met (need 15).
- Proxy wants to speak at the meeting → **not allowed** (s.105).
- Votes: 300 for, 120 against special resolution → 300 < 3 × 120 (360) → **fails**.

## 12.9 SS-2 (General Meetings) - key paras

- **Notice**: at least **21 clear days** (excl. date of notice & meeting); +2 days for postal service (Rule 35(6)) VERIFY; to every member, director, auditor, secretarial auditor, debenture trustee.
- **Shorter notice**: AGM - consent of **≥ 95% of members** entitled to vote; other GM - **majority in number & ≥ 95% of paid-up capital** (or voting power).
- Notice to specify day, date, time, **full address with landmark**, nature of business; explanatory statement (s.102) for special business; route map for AGM.
- **Chairman**: Board chairman; else director elected; else member elected by show of hands (poll if demanded).
- **Minutes**: within **30 days** of meeting; signed by chairman; no alteration after signing; inspection by members (s.119).

## 12.10 Resolutions & voting modes

| Type | Rule |
|---|---|
| Ordinary s.114(1) | Votes **for > against** (incl. casting vote) |
| Special s.114(2) | Specified in notice; votes for **≥ 3 × against** |
| Special notice s.115 | Members holding **1%** voting power or paid-up ≥ **₹5 lakh**; notice ≥ **14 days** before meeting; company informs members ≥ **7 days** before |
| Show of hands s.107 | Default unless poll / e-voting |
| Poll s.109 | Demand by members with **1/10 voting power** or paid-up ≥ **₹5 lakh** |
| E-voting s.108 / Rule 20 | Listed or **≥ 1,000 members**; window **≥ 3 days**, closes **5 pm** on day before meeting; cut-off date ≤ **7 days** before |
| Postal ballot s.110 / Rule 22 | Mandatory items (objects, registered office outside local limits, variation of rights, buy-back s.68, sale of undertaking s.180(1)(a), s.186(3) loans, small shareholders' director) |

## 12.11 Virtual meetings & CS duties

- **VC / OAVM** general meetings allowed by MCA circulars (General Circular 09/2024 - up to 30-9-2025; check any later extension) VERIFY; quorum counted via VC; voting by e-voting; recordings kept.
- **CS duties - before**: Board approval, notice & explanatory statement, dispatch, e-voting agency, scrutinizer appointment, attendance register, proxies register (MGT-11/12).
- **During**: verify quorum, assist chairman, record proceedings, poll/e-voting supervision.
- **After**: scrutinizer's report (within **2 working days** VERIFY), results on website & stock exchange, **MGT-14** (special resolutions) within **30 days**, minutes in **30 days**, MGT-15 (listed AGM report) within 30 days.

**WORKED EXAMPLE Drafting - notice of AGM (skeleton)**

- **NOTICE** is hereby given that the [__] Annual General Meeting of XYZ Limited will be held on [day, date] at [time] at [venue] / through VC-OAVM to transact the following business:
- **Ordinary business**: 1. Adopt audited FS & reports; 2. Declare dividend; 3. Re-appoint Mr A (DIN ___) retiring by rotation; 4. Appoint auditors & fix remuneration.
- **Special business**: 5. To consider and if thought fit, pass with or without modification(s) the following as a **Special Resolution**: "RESOLVED THAT pursuant to s.___ ..."
- Notes: proxy (lodge **48 hours** before), explanatory statement s.102, e-voting instructions, book closure / record date. By order of the Board - Company Secretary (M. No.), place, date.

**WORKED EXAMPLE Drafting - minutes (skeleton)**

- Minutes of the [__] AGM held on [date] at [time] at [venue]. **Present**: Directors, KMP, members (no.) in person / proxy; auditors / secretarial auditor.
- **Chairman**: Mr X took the chair; **quorum** present; proxies & registers available.
- **Item-wise**: resolution text; mode of voting; result (votes for / against / %); declared carried.
- **Vote of thanks**; meeting concluded at [time]. Signed by chairman within 30 days with date.

# Chapter 13: Directors

**In this chapter:** DIN requirement · Types of directors · Appointment / reappointment · Disqualifications · Vacation of office · Retirement · Resignation & removal · Loans to directors s.185 · Disclosure of interest s.184 · Duties & rights of directors

## 13.1 Board composition s.149

| Requirement | Rule |
|---|---|
| Minimum directors | Public **3**, private **2**, OPC **1** |
| Maximum | **15** (more by special resolution) |
| Resident director | ≥ 1 stayed **≥ 182 days** in FY |
| Woman director | Listed; public with paid-up ≥ ₹100 cr or turnover ≥ ₹300 cr |
| Independent directors | Listed **1/3**; public with paid-up ≥ ₹10 cr / turnover ≥ ₹100 cr / loans ≥ ₹50 cr → **2** |

- ID tenure: **5 yrs**, max **2 terms** (SR for 2nd), cooling-off 3 yrs; code: **Schedule IV**.

## 13.2 DIN, KYC & disqualifications

- **DIN** s.153-154 (DIR-3); one DIN for life.
- **Director KYC**: once in every **3 FYs** by **30 June**; update changes within **30 days** (eff. 31-3-2026) NEW VERIFY.
- **s.164(1)**: unsound mind, undischarged insolvent, convicted ≥ 6 months (≥ 7 yrs → permanently), disqualified by court, calls unpaid 6 months, RPT conviction, no DIN.
- **s.164(2)**: director of company not filing FS/AR **3 consecutive years** or failing to repay deposits/debentures 1 yr → ineligible **5 years**.

## 13.3 Directorships, duties & exit

- **s.165**: max **20** companies, of which public ≤ **10** (dormant excluded).
- **s.166 duties**: act per AoA; in good faith; due & reasonable care, skill, diligence; avoid conflict; no undue gain; not assign office (penalty ₹1-5 lakh).
- **s.167** vacation: s.164 disqualification, absent from all Board meetings for **12 months**, etc.
- **s.168** resignation - notice; effective on date of receipt/specified date; **DIR-11** optional.
- **s.169** removal by **ordinary resolution** with **special notice** (s.115) - opportunity of hearing; not for directors appointed by Tribunal.

## 13.4 Types of directors

| Type | Section |
|---|---|
| First directors | s.152(1) - subscribers if not named |
| Additional | s.161(1) - till next AGM |
| Alternate | s.161(2) - when original absent **≥ 3 months** from India |
| Casual vacancy | s.161(4) - public co.; till original term |
| Nominee | s.161(3) - by FI / Govt / agreement |
| Independent | s.149(6) + Schedule IV; databank (IICA) & proficiency test |
| Small shareholders' | s.151 - listed; 1,000 small shareholders or 1/10 may notice |
| Rotation | s.152(6) - public: **2/3 rotational**, **1/3 retire** every AGM |

## 13.5 Appointment & disclosure

- Consent **DIR-2**; appointment filed **DIR-12** within **30 days**; general meeting appoints (s.152(2)); separate resolution each director in public co. (s.162).
- **s.184**: disclosure of interest **MBP-1** at first Board meeting of FY, first meeting as director & on change; interested director not to participate (s.184(2)) if > 2% shareholding / promoter / director in other entity.

- **s.185 loans to directors**: prohibited (director, relatives, firm); allowed with **special resolution** to entities in which director interested, if used for **principal business**; exempt: MD/WTD as part of service conditions, ordinary course lending at bank rates, holding → WOS, subsidiary loans for principal business.

## 13.6 Rights & retirement

- **Rights**: receive notice & attend Board meetings, inspect books (s.128(2)), sitting fees (≤ ₹1 lakh per meeting, Rule 4), indemnity / D&O insurance, resign.
- **Retirement by rotation**: longest in office since last appointment; between same-day appointees - by **lot**; meeting adjourned if not filled.
- **Removal s.169** - ordinary resolution with special notice (see above); **s.170** register of directors & KMP.

# Chapter 14: Board Composition & Powers of the Board

**In this chapter:** Board composition s.149 · Powers of Board s.179 · Restrictions on powers s.180-183 · Board committees s.177-178 · Inter-corporate loans, investments, guarantees & security s.186 · Related party transactions s.188

## 14.1 Powers of Board s.179(3) + Rule 8

- Exercisable **only by resolution at Board meeting** (not by circulation): make **calls** on unpaid shares; authorise **buy-back** (s.68(2) within 10%); issue securities incl. debentures; **borrow**; invest funds; grant loans / give guarantee / security; approve **FS & Board's report**; diversify business; approve **amalgamation / merger / reconstruction**; **take over** a company or acquire controlling stake.
- **Rule 8**: make political contributions; appoint / remove **KMP**; appoint internal & secretarial auditors.
- Delegation (s.179(3)(d)-(f)) to committee / MD / manager / principal officer within limits.

## 14.2 Restrictions s.180 (special resolution)

| Clause | Act needing SR |
|---|---|
| 180(1)(a) | Sell / lease / dispose **undertaking** (investment > **20% of net worth** or income > **20% of total income**) or substantially the whole (**≥ 20%** of value) |
| 180(1)(b) | Invest compensation received on merger / amalgamation in other than trust securities |
| 180(1)(c) | **Borrow** where borrowings (excl. temporary loans) exceed **paid-up + free reserves + securities premium** |
| 180(1)(d) | **Remit / give time** for repayment of debt due by a director |

- **s.181** charitable funds > **5% of average net profits** of 3 FYs → prior GM approval; **s.182** political contributions - not by Govt co. / co. < 3 yrs; ≤ **7.5%** of avg net profit of 3 FYs; Board resolution; disclose in P&L VERIFY; **s.183** National Defence Fund - any amount.

## 14.3 s.186 loans & investments

**Limit =** **Higher** of 60% × (paid-up capital + free reserves + securities premium) and 100% × (free reserves + securities premium)

- Beyond limit → **special resolution** (prior); unanimous Board approval + **PFI consent** if term loan subsisting.
- Interest on loans **≥ yield of Govt security** of nearest tenor; no loan if default in repaying deposits.
- Investment through **≤ 2 layers** of investment companies (exceptions).
- **Exempt**: banks/insurance/housing finance/NBFC in ordinary course; loans to **WOS** / JV (s.186(3) SR not needed - Rule 11) VERIFY; **Register MBP-2**.

## 14.4 Related party transactions s.188 & Rule 15

- Contracts with related party for: sale/purchase of goods, property, leasing, availing/rendering services, agents, **office or place of profit**, underwriting.
- **Board consent** (interested director abstains); **ordinary resolution** of members if thresholds crossed; related parties can't vote (except where 90%+ members are relatives / holding-WOS) VERIFY.
- Thresholds: goods/services/leasing **≥ 10% of turnover**; property **≥ 10% of net worth**; office of profit > **₹2.5 lakh p.m.**; underwriting > **1% of net worth**.
- **Exempt**: **ordinary course of business** AND **arm's length** (both); disclose in Board's report **AOC-2**; register **MBP-4**.
- Listed: **Reg 23 LODR** - audit committee prior approval; material RPT > **₹1,000 cr or 10% of consolidated turnover** → shareholders.

## 14.5 Board committees

| Committee | Applicability | Composition |
|---|---|---|
| Audit s.177 | Listed; public paid-up ≥ ₹10 cr / turnover ≥ ₹100 cr / loans ≥ ₹50 cr | ≥ **3 directors**, **majority IDs**; chair financially literate |
| Nomination & Remuneration s.178 | Same class | ≥ **3 non-executive**, **≥ 1/2 IDs**; policy on remuneration |
| Stakeholders' Relationship s.178(5) | **> 1,000** security holders | Chair non-executive director |
| CSR s.135 | CSR-applicable companies (obligation > ₹50 lakh) | ≥ 3 directors incl. 1 ID (private: 2) |
| Vigil mechanism s.177(9) | Listed; deposits / loans > ₹50 cr | Through audit committee |

**EXAM TIP FAQ**

- Can a Board borrow ₹60 cr where paid-up + free reserves + SP = ₹50 cr? Needs **special resolution** u/s 180(1)(c) (temporary loans - repayable on demand / within 6 months - excluded).
- Loan ₹80 cr to subsidiary where s.186 limit ₹60 cr? Special resolution (unless WOS exemption applies) VERIFY.
- RPT at arm's length but **not** in ordinary course → s.188 approval **needed**.

# Chapter 15: Meetings of Board & its Committees (SS-1)

**In this chapter:** Frequency, convening & proceedings of Board & committee meetings s.173-174 · Agenda & meeting management · Resolution by circulation s.175 · Types of resolutions · Duties of CS before, during & after · Virtual meetings · Need & scope of Secretarial Standards · SS-1 · Drafting of notice, agenda & minutes

## 15.1 Frequency, notice & quorum

| Item | Rule |
|---|---|
| First meeting | Within **30 days** of incorporation |
| Number | ≥ **4 per year**; gap ≤ **120 days** (OPC, small, dormant, s.8 with 1 director: ≥ 1 per half-year, gap ≥ 90 days) |
| Notice s.173(3) | ≥ **7 days** in writing (hand, post, e-mail); agenda & notes ≥ **7 days** (SS-1) |
| Shorter notice | Urgent business - ≥ **1 independent director** present; else decision circulated & **ratified by ≥ 1 ID** |
| Quorum s.174 | **1/3 of total strength or 2**, whichever higher (VC counted); interested directors not counted |
| Adjourned | Same day next week, same time & place (or next working day) |

## 15.2 Resolution by circulation s.175

- Draft + papers to **all directors** (incl. e-mail); approved by **majority of directors entitled to vote**.
- If **≥ 1/3 of total directors** require, decided **at a meeting**.
- Noted at the **next Board meeting** & recorded in minutes.
- **Not** for matters needing meeting (s.179(3) items, Rule 8) - SS-1 lists them.

## 15.3 Virtual meetings & committees

- Board meetings via **VC / OAVM** permitted for **all matters** (Rule 4 restrictions omitted 15-6-2021); proper recording, roll call, confidentiality; location in India = venue.
- Committees follow same rules; quorum per terms of reference / SS-1 (≥ 2 or 1/3).
- **Directors attending** recorded; chairperson confirms identity & quorum.

## 15.4 SS-1 key paras & minutes

- SS-1 (Board Meetings) & SS-2 notified u/s **118(10)** - **mandatory** (revised versions effective **1-4-2024** VERIFY); SS-3 & SS-4 recommendatory.
- **Minutes s.118**: draft circulated within **15 days**, comments in **7 days**; entered within **30 days**; signed by chairman at same/next meeting; pages initialled; kept **permanently** at registered office.
- Contents: names of directors present, leave of absence, VC attendance, dissent recorded, interested directors abstaining.
- **Attendance register**; 8 years preservation (attendance), minutes permanent.

## 15.5 CS duties - Board meeting

**Before**: fix date with chairman, send notice + agenda + notes (7 days), ensure VC facility, circulate draft resolutions, check interest disclosures (MBP-1) → **During**: confirm quorum & leave of absence, assist chairman, record decisions & dissents → **After**: draft minutes (15 days), file **MGT-14** for specified resolutions within **30 days** (not for private cos for s.179(3) items), implement decisions, update registers

**WORKED EXAMPLE** **Drafting - Board notice, agenda & minutes**

- **Notice**: "Notice is hereby given that the [__] meeting of the Board of Directors of ABC Ltd will be held on [date] at [time] at [venue] / through VC. Agenda & notes enclosed." - CS, date.
- **Agenda**: 1. Leave of absence; 2. Confirm minutes of previous meeting; 3. Note disclosures MBP-1; 4. Approve quarterly results; 5. Approve borrowing u/s 179(3)(d); 6. Any other item with chairman's permission.
- **Minutes resolution**: "RESOLVED THAT pursuant to s.179(3)(d) of the Companies Act, 2013 and Rule 8, consent of the Board be and is hereby accorded to borrow ₹ __ from __ ... RESOLVED FURTHER THAT Mr X, Director, be authorised to sign documents."

# Chapter 16: Annual Report – Concepts

**In this chapter:** Board's report s.134 · Directors' Responsibility Statement · Annual return s.92 · Annual report contents · Secretarial Standard on Report of Board (SS-4) · CSR - policy, activities & CSR committee (relocated) · ZCZP instruments (Supplement)

## 16.1 Board's report s.134(3) + Rule 8

- Prepared by Board; signed by **chairperson** (if authorised) or **≥ 2 directors** (one MD); attached to FS laid at AGM.
- Contents: web link of **annual return**; number of **Board meetings**; **DRS**; ID declarations; remuneration policy (s.178); explanations on auditor & secretarial auditor **qualifications**; s.186 loans; **RPT AOC-2**; state of affairs; reserves; dividend; material changes after BS date; energy, technology, forex (Rule 8(3)); **risk management**; **CSR report**; board evaluation; fraud reported by auditor (s.143(12)).
- **New (2025)**: **POSH complaints** (received / disposed / pending > 90 days) + **Maternity Benefit Act compliance** statement.
- Small company / OPC: **abridged** Board's report (Rule 8A).

**MEMORY TRICK Directors' Responsibility Statement s.134(5)**

**AAPGIS** – A Applicable AS followed (with explanation of departures); A Accounting policies consistent & prudent; P Proper care - adequate records, safeguarding assets; G Going concern basis; I Internal financial controls (listed); S Systems for compliance with all laws

## 16.2 Annual return s.92 & annual report

- **MGT-7** within **60 days** of AGM (or due date of AGM); **MGT-7A** for **OPC & small** companies.
- Signed by director + CS (or PCS if no CS); **MGT-8** certificate by PCS for **listed** or paid-up ≥ **₹10 cr** / turnover ≥ **₹50 cr**.
- Placed on **website** (web link in Board's report).
- **Annual report** = FS + auditor's report + Board's report (+ CSR annexure, secretarial audit MR-3, corporate governance & BRSR for listed); FS filed **AOC-4** within **30 days** of AGM.
- **SS-4** (Report of Board) - ICSI, recommendatory - structure, disclosures, approval VERIFY.

## 16.3 CSR – policy, activities & committee s.135

- Applicable (any preceding FY): **net worth ≥ ₹500 cr** OR **turnover ≥ ₹1,000 cr** OR **net profit ≥ ₹5 cr**.
- **CSR Committee**: ≥ **3 directors**, at least **1 ID** (private / no-ID cos: 2 directors); not required if obligation ≤ **₹50 lakh** (Board discharges).
- Committee formulates **CSR policy** & **annual action plan** (projects, modalities, monitoring), recommends amount; Board approves & discloses on website.
- Obligation: **2%** of average net profits (s.198) of 3 preceding FYs (spend details beyond Executive scope).
- Implementing agencies: company itself, s.8 company / registered trust / society with **CSR-1** registration.

## 16.4 Schedule VII activities (illustrative)

| Item | Activity |
|---|---|
| (i) | Hunger, poverty, health care, sanitation, safe drinking water |
| (ii) | Education, employment-enhancing vocational skills |
| (iii)-(iv) | Gender equality, women, senior citizens; **environment**, animal welfare |
| (v)-(vi) | National heritage, art & culture; armed forces veterans |
| (vii)-(viii) | Sports; **PM's National Relief Fund / PM CARES** |
| (ix) | Incubators, R&D, IITs etc. |
| (x)-(xii) | Rural & slum development; disaster management |
| **(xiii)** | **Subscription to ZCZP instruments on Social Stock Exchange** NEW |

**NOTE ZCZP – CSR Amendment Rules 2026** NEW

- In force **27-5-2026**: **Rule 2(1)(ha)** Not for Profit Organisation (per Reg 292A ICDR); **Rule 2(1)(l)** ZCZP = security issued by NPO registered on **SSE segment**.
- **Rule 4A**: CSR may be implemented through subscription to ZCZP instruments (norms prescribed; cap **10%** of CSR obligation VERIFY).
- Objective: transparent, regulated funding for NPOs; ease of compliance for companies.

# Chapter 17: Key Managerial Personnel & their Remuneration

**In this chapter:** Appointment of KMP s.203 · MD, WTD, manager s.196 · CEO & CFO · Company Secretary - appointment, role & responsibilities s.205 · CS as KMP · Functions of CS · Officer in default · Remuneration of managerial personnel s.197 & Schedule V

## 17.1 Appointment of KMP s.203 & Rule 8/8A

- Whole-time KMP mandatory: every **listed** company & **public** company with paid-up ≥ **₹10 cr** → **MD/CEO/manager (or WTD)**, **CS**, **CFO**.
- **Rule 8A**: other companies with paid-up ≥ **₹10 cr** → whole-time **CS**.
- Appointed by **Board resolution** with terms & remuneration; vacancy filled within **6 months** (Board meeting).
- KMP (other than CS) may not hold office in > 1 company except subsidiary; may be director of others (with Board consent).
- Same person **chairperson & MD/CEO** not allowed in public company with paid-up ≥ ₹100 cr & turnover ≥ ₹1,000 cr (listed) unless AOA permits VERIFY.

## 17.2 MD / WTD / manager s.196 & Schedule V Part I

- Term **≤ 5 years** at a time; reappointment ≤ 1 year before expiry.
- Age **21-70 years** (beyond 70 - special resolution with justification).
- Not undischarged insolvent / convicted > 6 months / detained under specified Acts (Sch V Part I); **resident in India** (≥ 12 months before appointment) VERIFY.
- Approval: Board + **general meeting**; CG approval if Sch V conditions not met; file **MR-1** within **60 days**.

## 17.3 Company Secretary - functions s.205

- Report to Board on **compliance** with Act, rules & laws; ensure **Secretarial Standards** compliance; discharge prescribed duties (Rule 10): provide guidance to directors, facilitate Board & GM conduct, obtain approvals, represent before regulators, assist in corporate governance.
- CS as **KMP** & "**officer in default**" (s.2(60)) when charged with compliance by Board.
- Responsible for maintaining registers, minutes, filings & secretarial audit liaison.

## 17.4 Managerial remuneration s.197

| Category (public company) | Max % of net profit (s.198) |
|---|---|
| Total managerial remuneration | **11%** |
| One MD / WTD / manager | **5%** |
| More than one MD/WTD/manager | **10%** (all together) |
| NEDs (if MD/WTD/manager exists) | **1%** |
| NEDs (no MD/WTD/manager) | **3%** |

- Exceed limits with **special resolution** (+ lender approval if default) - CG approval removed (2018).
- Sitting fees **≤ ₹1 lakh** per meeting - outside limits; IDs: no stock options; private companies - s.197 **not applicable**.

## 17.5 Schedule V - inadequate / no profit

| Effective capital | Yearly limit |
|---|---|
| Negative or < ₹5 cr | **₹60 lakh** |
| ₹5 cr - < ₹100 cr | **₹84 lakh** |
| ₹100 cr - < ₹250 cr | **₹120 lakh** |
| ≥ ₹250 cr | **₹120 lakh + 0.01%** of excess over ₹250 cr |

- Limits can be **doubled** by **special resolution**; conditions: no default to banks/NCD holders (else prior lender approval).

**WORKED EXAMPLE** **Illustration – s.197 limit**

- Net profit (s.198) ₹20 cr; MD + WTD; NEDs exist.

**MD + WTD together** = 10% × 20 cr = **₹2 cr**; single MD max 5% = ₹1 cr

**NEDs** = 1% × 20 cr = **₹20 lakh**; overall cap 11% = **₹2.2 cr**

- Payment above ₹2.2 cr → **special resolution**; excess paid without approval → refund held in trust (s.197(9)).

# Last-Day Revision: Numbers, Days & Forms

**In this chapter:** Days & time limits · Percentages & thresholds · Forms map · Case-law one-liners · Top traps

## Days to remember

Name reservation 20 days · INC-20A 180 days · Board meeting gap 120 days · notice 7 days · GM notice 21 clear days · special notice 14 days · proxy 48 hours · MGT-14 30 days · minutes 30 days (draft 15) · DIR-12 30 days · DIR-3 KYC 30 June (every 3rd FY) · KYC change 30 days · charge 30+30+60 days · dividend paid 30 days · unpaid a/c 7 days · IEPF 7 years · AOC-4 30 days · MGT-7 60 days · MR-1 60 days · KMP vacancy 6 months · allotment PP 60 days · PAS-3 15 days · share certificate 2 months · s.48 dissent 21 days · CAA representations 30 days · MSC-3 30 days

## Percentages & limits

Small co. ₹10 cr / ₹100 cr · private 200 members · directors 3/2/1, max 15 · ID 1/3 listed · woman ₹100 cr / ₹300 cr · s.165 20/10 · SR 3× · e-voting 1,000 members · poll 1/10 or ₹5 L · quorum Board 1/3 or 2 · s.180 20% · s.181 5% · s.182 7.5% · s.186 60% / 100% · RPT 10% turnover, ₹2.5 L p.m. · s.197 11% / 5% / 10% / 1% / 3% · CSR ₹500 cr / ₹1,000 cr / ₹5 cr, 2%, committee if > ₹50 L · SBO 10% · s.230 objection 10% / 5% · s.233 90% / 9-10ths · DRR 10%, invest 15% · sweat equity 15% / 25%

## Forms map

SPICe+ INC-32 · INC-20A · INC-22 RO · INC-23 RD shift · INC-24 name · INC-27 conversion · PAS-3 allotment · PAS-4/5 PP · SH-4 transfer · SH-7 capital · SH-8/9/11 buy-back · SH-12 trust deed · MGT-6 s.89 · BEN-2 SBO · CHG-1/4/9 · MGT-7/7A/8 · MGT-14 · MGT-15 · DIR-2/3/11/12 · DIR-3 KYC Web · MBP-1/2/4 · AOC-2/4 · ADT-1/3/4 · CRA-2/4 · MR-1/MR-3 · MSC-1/3/4 · CAA-1/7/9/12 · CSR-1/2

## Case-law one-liners

- **Salomon v. Salomon** - separate legal entity; **Royal British Bank v. Turquand** - indoor management; **Ashbury v. Riche** - ultra vires void; **Gilford Motor v. Horne** - sham company veil lifted; **Daimler v. Continental Tyre** - enemy character; **Kelner v. Baxter** - pre-incorporation contract not binding; **Bacha F. Guzdar** - shareholder not owner of company's property; **LIC v. Escorts** - veil in group cases.

**COMMON MISTAKE** **Top exam traps**

- Treating private subsidiary of public co. as private - **wrong**.
- Board passing s.179(3) items by **circulation** - **invalid**.
- Counting interested directors in quorum - **wrong**.
- RPT at arm's length but outside ordinary course - approval still needed.
- Dormant company for listed / deposit-default company - **not eligible**.
- Using 3/4 majority for s.233 members - it is **90% of shares**.