

# *An Analysis on the “Law Related To Statutory Registers”*

**navneet k. arora & co.**  
COMPANY SECRETARIES

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# *Proprietor 's Profile at a Glance*

## *Navneet K. Arora & Co., Company Secretaries*

### BASIC DETAILS

- ✂ Name of the Proprietor – **CS Navneet Arora**
- ✂ Year of Passing of ICSI Final Examination – **June 1990**
- ✂ Date of becoming Associate Member of ICSI (ACS - 8421) – **3<sup>rd</sup> March 1992**
- ✂ Date of becoming Fellow Member of ICSI (FCS - 3214) – **21<sup>st</sup> July 1997**
- ✂ Date of holding Certificate of Practice (CP - 3005) – **20<sup>th</sup> November 1998**
- ✂ Experience (No. of Years) – **25 Years (15 Years in Practice)**



### EDUCATIONAL QUALIFICATION:

- ✂ Master of Commerce.
- ✂ Fellow Member of The Institute of Company Secretaries of India
- ✂ Post Graduate Diploma in Financial Management

### PROFESSIONAL ASSOCIATION / RECOGNITION / MEMBERSHIP OF CONFEDERATION BODIES:

- ✂ Member - **All India Management Association New Delhi (AIMA).**
- ✂ Professional Member - **PHD Chamber of Commerce and Industries, New Delhi.**
- ✂ Appointed as **Peer Reviewer** by ICSI to conduct peer review of Practicing Member of ICSI.
- ✂ ICSI Certified participant of **National Workshop on Diligence Report for Banks.**
- ✂ **Convener South Delhi Study Group of NIRC of the ICSI** -2011, 2012, 2013 & 2014. Also Past Governing Body Member of Kanpur Chapter of NIRC of the ICSI & Past Member of various Professional Development Committee of NIRC of the ICSI.
- ✂ Regular Participant, Speaker of Seminars / Workshop on the Professional Development Program of various Professional Management Institutes including Institute of Company Secretaries of India (ICSI), Asia Pacific Institute of Management (AIM), National Foundation for Corporate Governance (NFCG) etc.

# *An Overview on Law related to Statutory Registers*

- ❑ Statutory Register means, certain records about the Company's Directors, shareholders and meetings held. These records are known as the Statutory Register and are in addition to normal accounting records which a company is also required to be kept.
- ❑ Every Company is required to keep the following statutory registers, and to provide access to them. They must be kept at the Company's Registered Office or (register of members and register of directors' interests only) at some other place notified to Companies House. Most companies keep the statutory registers in a single bound book or loose-leaf binder, but they may be kept in any form, such as a computer record.
- ❑ The statutory registers are important. Not only is it a requirement of the Companies Act that they should be kept, and kept up to date, but the register of members, in particular, is the primary authority as to who are members of the company and how many shares they hold.

## ***Law related to Statutory Registers***

### **❖ Extract of the relevant provisions prescribed in Section 88 of the Companies Act, 2013 as under:- Register Of Members:-**

**(1)** Every company shall keep and maintain the following registers in such form and in such manner as may be prescribed, namely:—

- (a) register of members indicating separately for each class of equity and preference shares held by each member residing in or outside India;
- (b) register of debenture-holders; and
- (c) register of any other security holders.

**(2)** Every register maintained under sub-section (1) shall include an index of the names included therein.

**(3)** The register and index of beneficial owners maintained by a depository under section 11 of the Depositories Act, 1996, shall be deemed to be the corresponding register and index for the purposes of this Act.

**(4)** A company may, if so authorized by its articles, keep in any country outside India, in such manner as may be prescribed, a part of the register referred to in sub-section (1), called “foreign register” containing the names and particulars of the members, debenture holders, other security holders or beneficial owners residing outside India.

## ***Law Related To Statutory Registers***

(5) If a company does not maintain a register of members or debenture-holders or other security holders or fails to maintain them in accordance with the provisions of sub-section (1) or sub-section (2), the company and every officer of the company who is in default shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to three lakh rupees and where the failure is a continuing one, with a further fine which may extend to one thousand rupees for every day, after the first during which the failure continues.

### **❖ Relevant Rules / Procedure in the Companies (Management and Administration) Rules, 2014 as under:-**

Every company limited by shares shall, from the date of its registration, maintain a register of its members in **Form No. MGT.1**

Provided that in the case of existing companies, registered under the Companies Act, 1956, particulars shall be compiled within six months from the date of commencement of these rules.

**PENALTY : RS. 50000 WHICH MAY EXTEND UP TO 3 LAC**

In the case of a company **not having share capital**, the register of members shall contain the particulars as given in rules, in respect of each member.

Provided that in the case of existing companies, registered under the Companies Act, 1956, particulars shall be compiled within six months from the date of commencement of these rules.

## ***Law Related To Statutory Registers***

In the case of a company **not having share capital**, the register of members shall contain the following particulars, in respect of each member, namely:-

- (a) Name of the member; address (registered office address in case the member is a body corporate); e-mail address; Permanent Account Number or CIN; Unique Identification Number, if any; Father's/Mother's/Spouse's name; Occupation; Status; Nationality; in case member is a minor, name of the guardian and the date of birth of the member; name and address of nominee;
- (b) date of becoming member;
- (c) date of cessation;
- (d) amount of guarantee, if any;
- (e) any other interest if any; and
- (f) instructions, if any, given by the member with regard to sending of notices etc.

### **❑ Maintenance of the Register of members etc. under section 88:-**

Every company shall maintain the registers under clauses (a), (b) and (c) of sub-section (1) of section 88 in the following manner namely:-

**(1)** The entries in the registers maintained under section 88 shall be made within seven days after the Board of Directors or its duly constituted committee approves the allotment or transfer of shares, debentures or any other securities, as the case may be.

## ***Law Related To Statutory Registers***

**(2)** The registers shall be maintained at the registered office of the company unless a special resolution is passed in a general meeting authorizing the keeping of the register at any other place within the city, town or village in which the registered office is situated or any other place in India in which more than one-tenth of the total members entered in the register of members reside.

**(3)** Consequent upon any forfeiture, buy-back, reduction, sub-division, consolidation or cancellation of shares, issue of sweat equity shares, transmission of shares, shares issued under any scheme of arrangements, mergers, reconstitution or employees stock option scheme or any of such scheme provided under this Act or by issue of duplicate or new share certificates or new debenture or other security certificates, entry shall be made within seven days after approval by the Board or committee, in the register of members or in the respective registers, as the case may be.

**(4)** If any change occurs in the status of a member or debenture holder or any other security holder whether due to death or insolvency or change of name or due to transfer to Investor Education Protection Fund or due to any other reason, entries thereof explaining the change shall be made in the respective register.

**(5)** If any rectification is made in the register maintained under section 88 by the company pursuant to any order passed by the competent authority under the Act, the necessary reference of such order shall be indicated in the respective register.

**(6)** If any order is passed by any judicial or revenue authority or by Security and Exchange Board of India (SEBI) or Tribunal attaching the shares, debentures or other securities and giving directions for remittance of dividend or interest, the necessary reference of such order shall be indicated in the respective register.



## ***Law Related To Statutory Registers***

(7) In case of companies whose securities are listed on a stock exchange in or outside India, the particulars of any pledge, charge, lien or hypothecation created by the promoters in respect of any securities of the company held by the promoter including the names of pledgee / Pawnee and any revocation therein shall be entered in the register within fifteen days from such an event.

(8) If promoters of any listed company, which has formed a joint venture company with another company have pledged or hypothecated or created charge or lien in respect of any security of the listed company in connection with such joint venture company, the particulars of such pledge, hypothecation, charge and lien shall be entered in the register members of the listed company within fifteen days from such an event.

### **❑ Index of Names to be Included In Register:-**

Every register maintained under sub-section (1) of section 88 shall include an index of the names entered in the respective registers and the index shall, in respect of each folio, contain sufficient indication to enable the entries relating to that folio in the register to be readily found. Provided that the maintenance of index is not necessary in case the number of members is less than fifty.

### **❑ Preservation of Register Of Members Etc:-**

The register of members along with the index shall be preserved permanently and shall be kept in the custody of the company secretary of the company or any other person authorized by the Board for such purpose; and



## ***Law Related To Statutory Registers***

The register of debenture holders or any other security holders along with the index shall be preserved for a period of **Eight years** from the date of Redemption of debentures or securities, as the case may be, and shall be kept in the custody of the company secretary of the company or any other person authorized by the Board for such purpose.

The foreign register of members shall be preserved permanently, unless it is discontinued and all the entries are transferred to any other foreign register or to the principal register. Foreign register of debenture holders or any other security holders shall be preserved for a period of **eight years** from the date of redemption of such debentures or securities.

The foreign register shall be kept in the custody of the company secretary or person authorised by the Board.

A copy of the proposed **special resolution** in advance to be filed with the registrar as required in accordance with first **proviso of sub-section (1) of section 94**, shall be filed with the Registrar, at least **one day** before the date of general meeting of the company in **Form No.MGT.14**.

### **❑ Copies of The Registers:-**

Copies of the registers maintained under section 88 or entries therein shall be furnished to any member, debenture-holder, other security holder or beneficial owner of the company or any other person on payment of such fee as may be specified in the Articles of Association of the company but not exceeding Rupees **ten for each page** and such copy shall be supplied by the company within a period of **seven days** from the date of deposit of fee to the company.

## ***Law Related To Statutory Registers***

### **❑ Inspection of Registers:-**

The registers and indices maintained pursuant to section 88 shall be open for inspection during business hours, at such reasonable time on every working day as the board may decide, by any member, debenture holder, other security holder or beneficial owner without payment of fee and by any other person on payment of such fee as may be specified in the articles of association of the company but not exceeding fifty rupees for each inspection.

Explanation.- For the purposes of this rule, reasonable time of not less than two hours on every working day shall be considered by the company.

Any such member, debenture holder, security holder or beneficial owner or any other person may require a copy of any such register or entries therein on payment of such fee as may be specified in the articles of association of the company but not exceeding **ten rupees** for each page. Such copy or entries or return shall be supplied within seven days of deposit of such fee.

# ***Law Related To Statutory Registers***

## ❖ **Register Of Debenture Holders or any other Security Holders**

Every company which issues or allots debentures or any other security shall maintain a separate register of debenture holders or security holders, as the case may be, for each type of debentures or other securities in **Form No.MGT.2**.

## ❖ **Foreign Register of Members, Debenture Holders, other Security Holders or Beneficial owners Residing Outside India**

A company which has share capital or which has issued debentures or any other security may, if so authorised by its articles, keep in any country outside India, a part of the register of members or as the case may be, of debenture holders or of any other security holders or of beneficial owners, resident in that country (hereafter in this rule referred to as the "foreign register").

The company shall, within **thirty days** from the date of the opening of any foreign register, file with the Registrar notice of the situation of the office in **Form No.MGT.3** along with the fee where such register is kept; and in the event of any change in the situation of such office or of its discontinuance, shall, within thirty days from the date of such change or discontinuance, as the case may be, file notice in **Form No.MGT.3** with the Registrar of such change or discontinuance.

## *Law Related To Statutory Registers*

### ❖ Closure of register of members or debenture holders or other security holders.-

- A company closing the register of members or the register of debenture holders or the register of other security holders shall give at least **seven days** previous notice and in such manner, as may be specified by Securities and Exchange Board of India, if such company is a listed company or intends to get its securities listed, by advertisement at least once in a vernacular newspaper in the principal vernacular language of the district and having a wide circulation in the place where the registered office of the company is situated, and at least once in English language in an English newspaper circulating in that district and having wide circulation in the place where the registered office of the company is situated and publish the notice on the website as may be notified by the Central Government and on the website, if any, of the Company.
- The above mention provision shall not be applicable to a private company provided that the notice has been served on all members of the private company not less than **seven days** prior to closure of the register of members or debenture holders or other security holders.

## ***Law Related To Statutory Registers***

### **❖ Extract of the relevant provisions prescribed in Section 189 of the Companies Act, 2013 as under :- Register of Contracts or Arrangement In Which Directors are Interested**

**(1)** Every company shall keep one or more registers giving separately the particulars of all contracts or arrangements to which sub-section (2) of section 184 or section 188 applies, in such manner and containing such particulars as may be prescribed and after entering the particulars, such register or registers shall be placed before the next meeting of the Board and signed by all the directors present at the meeting.

**(2)** Every director or key managerial personnel shall, within a period of thirty days of his appointment, or relinquishment of his office, as the case may be, disclose to the company the particulars specified in sub-section (1) of section 184 relating to his concern or interest in the other associations which are required to be included in the register under that sub-section or such other information relating to himself as may be prescribed.

**(3)** The register referred to in sub-section (1) shall be kept at the registered office of the company and it shall be open for inspection at such office during business hours and extracts may be taken therefrom, and copies thereof as may be required by any member of the company shall be furnished by the company to such extent, in such manner, and on payment of such fees as may be prescribed.

## ***Law Related To Statutory Registers***

- (4) The register to be kept under this section shall also be produced at the commencement of every annual general meeting of the company and shall remain open and accessible during the continuance of the meeting to any person having the right to attend the meeting.
- (5) Nothing contained in sub-section (1) shall apply to any contract or arrangement—
- (a) for the sale, purchase or supply of any goods, materials or services if the value of such goods and materials or the cost of such services does not exceed five lakh rupees in the aggregate in any year; or
  - (b) by a banking company for the collection of bills in the ordinary course of its business.
- (6) Every director who fails to comply with the provisions of this section and the rules made thereunder shall be liable to a penalty of twenty-five thousand rupees.

### **❖ Relevant Rules / Procedure in the Companies (Management and Administration) Rules, 2014 as under:-**

Such register shall be placed before next board meeting after entering the particulars and signed by directors present at the meeting.

Register shall also be produced at every A.G.M

## ***Law Related To Statutory Registers***

Particulars not required to enter..

(a) sale ,purchase or supply of any good ,materials or services if value of such goods and materials or cost of such services does not exceed 5 lakh rupees in any year or

(b) by banking company for collection of bills in ordinary course of its business.

### **PENALTY :**

**EVERY DIRECTOR WHO FAILS TO COMPLY WITH THE PROVISIONS OF SEC.189 AND THE RULES MADE UNDER SHALL BE LIABLE TO PENALTY OF 25000 RUPEES.**

**COMPANY SECRETARIES**



## ***Law Related To Statutory Registers***

### **❖ Extract of relevant Rules / Procedure in the Companies (Management and Administration) Rules, 2014 as under:- REGISTER OF CHARGES**

Every company shall keep at its registered office a register of charges in **Form No. CHG.7** along with the copy of instrument creating the charge.

Entries required to be filed..

- (a) charges particulars which are filed with the registrar
- (b) charges specifically affecting property of the company
- (c) all floating charges on the property of the company

#### **PENALTY :**

**COMPANY SHALL BE PUNISHABLE WITH FINE WHICH SHALL BE LESS THAN ONE LAKH RUPEES BUT WHICH MAY EXTEND TO TEN LAKH RUPEES.**

**EVERY OFFICER OF THE COMPANY WHO IS IN DEFAULT SHALL BE PUNISHABLE WITH IMPRISONMENT FOR A TERM WHICH MAY EXTEND TO SIX MONTHS OR WITH FINE WHICH SHALL NOT BE LESS THAN 25000 RUPEES BUT WHICH MAY EXTEND TO ONE LAKH RUPEES OR WITH BOTH.**

## ***Law Related To Statutory Registers***

❖ **Extract of the relevant provisions prescribed in Section 118 of the Companies Act, 2013 as under:-**

### **Minutes of Proceeding of G.M, B.M, other Meetings and Resolution passed by postal ballot**

- (1) Every company shall cause minutes of the proceedings of every general meeting of any class of shareholders or creditors, and every resolution passed by postal ballot and every meeting of its Board of Directors or of every committee of the Board, to be prepared and signed in such manner as may be prescribed and kept within thirty days of the conclusion of every such meeting concerned, or passing of resolution by postal ballot in books kept for that purpose with their pages consecutively numbered.
- (2) The minutes of each meeting shall contain a fair and correct summary of the proceedings thereat.
- (3) All appointments made at any of the meetings aforesaid shall be included in the minutes of the meeting.
- (4) In the case of a meeting of the Board of Directors or of a committee of the Board, the minutes shall also contain—
  - (a) the names of the directors present at the meeting; and
  - (b) in the case of each resolution passed at the meeting, the names of the directors, if any, dissenting from, or not concurring with the resolution.
- (5) There shall not be included in the minutes, any matter which, in the opinion of the Chairman of the meeting,—

## ***Law Related To Statutory Registers***

- (a) is or could reasonably be regarded as defamatory of any person; or
- (b) is irrelevant or immaterial to the proceedings; or
- (c) is detrimental to the interests of the company.

**(6)** The Chairman shall exercise absolute discretion in regard to the inclusion or non inclusion of any matter in the minutes on the grounds specified in sub-section (5).

**(7)** The minutes kept in accordance with the provisions of this section shall be evidence of the proceedings recorded therein.

**(8)** Where the minutes have been kept in accordance with sub-section (1) then, until the contrary is proved, the meeting shall be deemed to have been duly called and held, and all proceedings thereat to have duly taken place, and the resolutions passed by postal ballot to have been duly passed and in particular, all appointments of directors, key managerial personnel, auditors or company secretary in practice, shall be deemed to be valid.

**(9)** No document purporting to be a report of the proceedings of any general meeting of a company shall be circulated or advertised at the expense of the company, unless it includes the matters required by this section to be contained in the minutes of the proceedings of such meeting.

**(10)** Every company shall observe secretarial standards with respect to general and Board meetings specified by the Institute of Company Secretaries of India constitute under section 3 of the Company Secretaries Act, 1980, and approved as such by the Central Government.

**(11)** If any default is made in complying with the provisions of this section in respect of any meeting, the company shall be liable to a penalty of twenty-five thousand rupees and every officer of the company who is in default shall be liable to a penalty of five thousand rupees.

## ***Law Related To Statutory Registers***

**(12)** If a person is found guilty of tampering with the minutes of the proceedings of meeting, he shall be punishable with imprisonment for a term which may extend to two years and with fine which shall not be less than twenty-five thousand rupees but which may extend to one lakh rupees.

### **❖ Relevant Rules / Procedure in Companies (Management and Administration) Rules, 2014as under:-**

A distinct minute book shall be maintained for each type of meeting namely:-

- (i) general meetings of the members;
- (ii) meetings of the creditors
- (iii) meetings of the Board; and
- (iv) meetings of each of the committees of the Board.

{Explanation.- For the proposes of this sub-rule, resolutions passed by postal ballot shall be recorded in the minute book of general meetings as if it has been deemed to be passed in the general meeting}

The minutes of proceedings of each meeting shall be entered in the books maintained for that purpose along with the date of such entry within **thirty days** of the conclusion of the meeting.

In case of every resolution passed by postal ballot, a brief report on the postal ballot conducted including the resolution proposed, the result of the voting thereon and the summary of the scrutinizer's report shall be entered in the minutes book of general meetings along with the date of such entry within thirty days from the date of passing of resolution.

## ***Law Related To Statutory Registers***

Every Company shall observe secretarial standards with respect to general and board meetings specified by ICSI and approved by C.G

### **PENALTY :**

**COMPANY SHALL BE LIABLE TO A PENALTY OF RUPEES 25000 RUPEES AND EVERY OFFICER WHO IS IN DEFAULT SHALL BE LIABLE TO PENALTY OF RUPEES 5000 RUPEES.**

**IF ANY PERSON TEMPER WITH THE MINUTES HE SHALL BE PUNISHABLE WITH IMPRISONMENT FOR A TERM OF 2 YRS AND WITH FINE WHICH SHALL BE NOT LESS THAN RUPEES 25000 RUPEES BUT EXTEND TO ONE LAKH RUPEES.**

## ***Law Related To Statutory Registers***

- ❖ Extract of the relevant provisions prescribed in Section 170 & 171 of the Companies Act, 2013 as under:-

### **Register of Directors and KMPs and Members' Right to Inspect (Sec 303, 304, 307)**

Single register for Directors/KMPs and their security-holdings to be kept at registered office containing particulars as may be prescribed and Details of securities in the company or its holding, subsidiary, subsidiary of company's holding company or associate companies

Filing with ROC within **30 days** from the appointment and change of every director and key managerial personnel

Register shall be open for inspection during business hours (earlier could restrict to 2 or more business hours)

Members have a right to take extracts. Copies, if requested, to be provided within 30 days, free of cost Register shall be made accessible to any person (includes proxies) attending the AGM (earlier this requirement was not there for Register u/s 303).

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  - ❑ **Accountancy, Direct And Indirect Taxation & E-filing Compliance Management Services.**





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*&*

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**navneet k. arora & co.**  
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