

- 12.1 Ministry of Corporate Affairs (MCA)
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## INTRODUCTION

The Central Government through the Ministry of Corporate Affairs is primarily concerned with administration of the Companies Act, 2013. To enable smooth functioning, the Central Government has delegated some powers to various authorities like the Regional Directors, ROCs, NCLT, NCLAT etc.

In this chapter, we will learn about few such statutory authorities including SEBI which is the regulator of the Securities Market.

We shall also study the various types of correspondence undertaken by a secretary with these authorities.

### 12.1 MINISTRY OF CORPORATE AFFAIRS (MCA)

The Central Government has delegated its powers to regulate the functioning of the Corporate sector to MCA.

#### ❑ MCA is mainly concerned with administration of the following Acts :

- i) The Companies Act, 2013
- ii) The Partnership Act, 1932
- iii) The Limited Liability partnership Act, 2008
- iv) The Competition Act, 2002
- v) Societies Registration Act, 1860

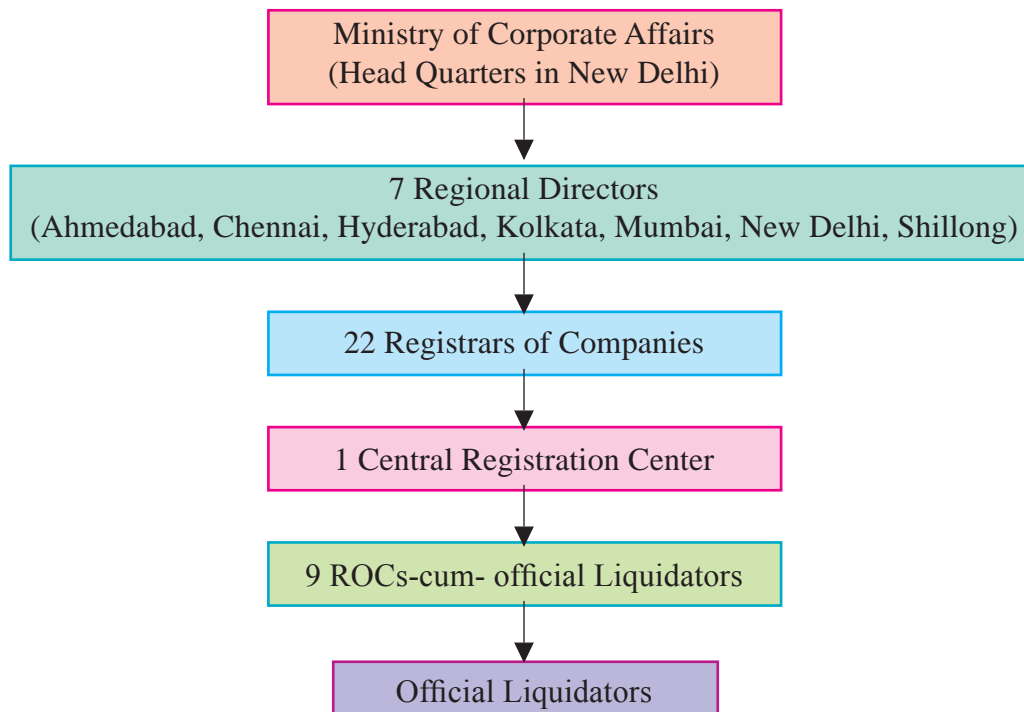
#### ❑ MCA also supervises professional bodies such as :

- i) Institute of Chartered Accountant of India (ICAI)
- ii) Institute of Company Secretaries of India (ICSI)
- iii) Institute of Cost Accountants of India

## ❑ Objectives of MCA

1. To administer the provisions of the Companies Act, 2013 and other allied laws to facilitate ease of doing business.
2. To quickly identify non-compliance of the Companies Act.
3. To encourage companies to improve Corporate Governance and adopt responsible business practices.
4. To promote fair competition.
5. To make available to the public corporate data
6. To offer various services to the stakeholders.

## Organizational set up to administer the Companies Act, 2013 (Source : [www.mca.gov.in](http://www.mca.gov.in))



- **Regional Directors (RD)** : Seven Regional Directors are in charge of 7 regions of India. They supervise the working of ROCs and Official Liquidators in their region.
- **Official Liquidators** : They are officers attached to various High Courts and help in winding up of companies based on orders issued by the Courts.

## 12.2 REGISTRAR OF COMPANIES (ROCs)

The Companies Act, 2013 has empowered the Central Government to appoint ROCs for registration of Companies and administering the Companies Act in the state over which it has jurisdiction.

ROCs are full time field officers who have wide powers and responsibilities in administering the Companies Act.

- **DUTIES OF ROCs**

The ROCs have to examine the various documents filed with it by the companies in compliance with the Companies Act 2013. If any document received by it is found to be defective or incomplete, it shall ask the Company to rectify the defect or complete the document within prescribed time / period. The ROCs have to take decisions on documents filed with it and reply within 30 days from the date of filing the documents.

On payment of prescribed fees, all the documents filed or registered with the ROC is available for inspection by the public and they can even ask for a copy of it.

ROC charges fees for filing various documents with it. The fees are charged as per rates given in Companies (Registration offices and Fees) Rules, 2014.

- **POWERS OF ROC**

Besides the powers vested in the ROC by the Companies Act 2013, the Central Government too has delegated some of its powers to the ROCs.

The Companies Act has given following powers to the ROCs :

- i) To extend the time of holding Annual General Meeting, other than the First AGM by a period not more than 3 months.
- ii) To inspect or call for books of account, other books and papers.
- iii) To seek in writing any information or explanation with regard to any document furnished to ROC.
- iv) Seek the Special Court to issue an order for seizure of books and papers of a Company if the ROC feels that such records may be destroyed, altered or falsified.
- v) To strike off (Remove) the name of a company from the Register of companies.

### **12.3 NATIONAL COMPANY LAW TRIBUNAL (NCLT)**

It is a quasi-judicial body setup in June 2016 by the Central Government to grant approvals and decide certain disputes under the provisions of the Companies Act, 2013. It handles Corporate Civil disputes.

The Tribunal operates through 'Benches' consisting of 2 members i.e.. a judicial member and a technical member. At present there are 15 benches and the Principal Bench is at New Delhi. Few more Benches are being created.

The Tribunal has to dispose off every application or petition within 3 months of receiving it. It has exclusive jurisdiction in respect of suits or proceedings which it is empowered to determine as per the Companies Act. Before passing its order, the Tribunal gives reasonable opportunity of being heard to for concerned parties to justify their case. An appeal against the order of NCLT can be made to National Company Law Appellate Tribunal (NCLAT).

- **POWERS OF NCLT**

Some of the important powers of the Tribunal are as follows :

- i) Hear and decide all proceedings related to compromise, arrangement and reconstruction of a company.

- ii) Hear and decide all winding up petitions on the ground of inability to pay its debts and on other grounds.
- iii) Hear and decide petition for extension of time for repayment of deposits.
- iv) Hear and decide cases pertaining to oppression and mismanagement of a company.
- v) Call for holding AGM or EOGM of a company.
- vi) Direct a company not to dispose off Funds of a company and to freeze the assets of a company for being used against the interest of the company.
- vii) Hear and decide grievances of rejection in transferring shares and securities.

#### 12.4 NATIONAL COMPANY LAW APPELLATE TRIBUNAL (NCLAT)

The Companies Act 2013 has empowered the Central Government to set up a NCLAT to hear appeals against the orders of NCLT or the National Financial Reporting Agency. The NCLAT was set up in June 2016. It is headed by a chairperson and has maximum 11 members comprising of Judicial and Technical members. NCLAT is also the Appellate Tribunal for hearing appeals against the orders passed by Insolvency and Bankruptcy Board of India, Competition Commission of India.

Any person aggrieved by an order of the Tribunal, may within 45 days from the date on which the copy of the order was made available, file an appeal to the Appellate Tribunal. The Appellate Tribunal may confirm, modify or set aside the order of the Tribunal.

An appeal against the order of NCLAT may be filed by the aggrieved person to the Supreme Court within 60 days of receipt of the order of NCLAT.

#### 12.5 SECURITIES AND EXCHANGE BOARD OF INDIA (SEBI)

SEBI was established in 1992 as a statutory body to regulate the Securities Market in India. Its head office is in Mumbai. It supervises and controls the operations of Stock Exchanges, Companies issuing securities and intermediaries like Underwriters, Merchant Bankers, Brokers etc. It protects the interests of investors in the securities market. The main objectives of SEBI are :

- a) To regulate the securities markets and the Stock Exchanges to ensure their proper functioning.
- b) To provide protection to all investors and safeguard their rights.
- c) To regulate the market intermediaries and develop a code of conduct for fair practices by these intermediaries.

*Market Intermediaries: Are people or organizations who act as middlemen between the capital providers and capital seekers. e.g. stock brokers, bankers to an Issue, underwriters etc.*

#### 12.6 PRECAUTIONS TO BE TAKEN BY SECRETARY WHILE CORRESPONDING WITH STATUTORY AUTHORITIES

- 1) **Prompt Reply :** Secretary should promptly reply to any letter or inquiry received from any of the statutory authorities.

- 2) **Legal aspects :** While replying to any letter received from the statutory authorities, secretary has to ensure that all legal formalities or provisions are properly followed. Where necessary, secretary should enclose required documents, proofs etc.
- 3) **Accuracy :** All information provided by secretary to the authorities should be true and accurate.
- 4) **Clarity :** While providing information or while replying to any queries, the secretary should convey the information in a precise, explicit and simple manner.
- 5) **Brevity :** Care should be taken by secretary while corresponding with the authorities to keep the letter short and brief.
- 6) **Courtesy :** Every correspondence with any statutory authority should be courteous. This creates a good impression on the reader.

## 12.7 SPECIMEN LETTERS

Now let us see few instances when a secretary has to correspond with few of the statutory authorities.

### 1. Correspondence with ROC for extension of time for holding Annual General Meeting. (AGM)

If a company cannot hold its AGM within the prescribed time limit, it has to seek an approval from the ROC for extension of time to hold the AGM. The ROC can give an extension of upto 3 months. Some of the reasons why a company may not be able to hold its AGM on time may be :

- i) Most directors are traveling and so cannot attend the AGM
- ii) Strike by employees for the last few months which has stopped all normal activities of the company
- iii) Raid by authorities e.g.. Income Tax Department
- iv) Annual Financial statements not approved / not audited / incomplete audited / due to natural calamity loss of financial data.

## 1. Letter to ROC for seeking extension of time to hold AGM

### SUNRISE LIMITED

Registered office : Moon House,  
Civil Road, Vashi, Mumbai - 400 709  
CIN : L 26942 MH 2010 PLC 000111

Phone : 022 2212 5745, 91 992 038 0555

website : [www.sunriselimited.com](http://www.sunriselimited.com),

Email : [sunrise@limited.com](mailto:sunrise@limited.com)

Ref. NO. : ROC / AGM - 110

30<sup>th</sup> July, 2018

The Registrar of Companies  
Maharashtra State,  
Marine Lines,  
Mumbai - 400 020

**Sub :** Extension of time for holding 8<sup>th</sup> Annual General Meeting.

Dear Sir,

The Companies Act, 2013, Section 96 provides that every company other than OPC shall in each year hold an Annual General Meeting. Hence as per the Act, the company must hold its 8<sup>th</sup> AGM on or before 30<sup>th</sup> Sept, 2018, for the financial year ending 31<sup>st</sup> March, 2018.

We are sorry to inform you that our employees have been on strike since 20<sup>th</sup> June, 2018. Hence we have not been able to finalize our accounts on time. Therefore, in the given circumstances we are not in a position to hold the AGM before 30<sup>th</sup> Sept, 2018.

We, therefore, request you to grant us an extension of two months for holding the AGM i.e. upto 30<sup>th</sup> Nov, 2018. We will be highly obliged if you grant us the extension.

Thanking you,

Yours faithfully,  
For Sunrise Limited

Sign  
Company Secretary

**Encl :** Copy of Annual Report of 2016-17

## 2. Letter to MCA for Ticket raising or other service related technical complaints

These days companies have to file various documents electronically with the MCA at its portal. However, many a times companies find it difficult to upload or download an e-Form or put signature on an e-document, etc. In such instances the company has to raise a ticket with MCA. Service Request Number (SRN) is generated which is to be mentioned on the challan. Raising a ticket means informing difficulty in uploading e - form.

### SUNRISE LIMITED

Registered office : Moon House,  
Civil Road, Vashi, Mumbai-400 709  
CIN : L26942MH2010 PLC 000111

Phone : 022 - 22125745  
91 - 9920380555

Website : [www. sunriselimited.com](http://www.sunriselimited.com),  
Email : [sunrise@limited.com](mailto:sunrise@limited.com)

Ref. No.: MCA/SC-III  
Web Information Manager,  
'A' wing, Shastri Bhawan Garage,  
No- 14, Dr. Rajendra Prasad Road,  
New Delhi - 110001

1<sup>st</sup> July, 2018

**Sub :** Difficulty in downloading e-form

Dear Sir,

Company needs to file form SH - 7 to intimate the Registrar of Companies about the alteration made in our Share Capital.

However, since the last two days, we are unable to download the form. The system message states 'The File is damaged and it cannot be repaired.'

We have tried our best to resolve the issue but failed. Hence we request you to look into the matter at the earliest.

Thanking you,

Yours faithfully,  
For Sunrise Limited

Sign  
Company Secretary

**Encl :** Copy of the message as appearing on website

### 3. Reply to a complaint by Investor

Investors can complain to a company on various grounds like non receipt of Dividend, Notice and Agenda of a Meeting, Annual Reports etc. A company has to reply to all such complaints received by it immediately. If not, investor may approach a Stock Exchange where the company's securities are listed or SEBI and they may issue order to the company about the same. Company has to settle the issue by giving reply to the investor and SEBI or the stock exchange.

#### **SUNRISE LIMITED**

Registered office : Moon House,  
Civil Road, Vashi, Mumbai - 400709  
CIN : L26942MH 2010PLC000111

Phone : 022 2212 4745, 91992038 0555

Website : [www.sunriselimited.com](http://www.sunriselimited.com).

Email : [sunrise@limited.com](mailto:sunrise@limited.com)

Ref. No.: IC/201

2<sup>nd</sup> October, 2018

Mr. Vaibhav Joshi  
102-A, Don Appts, Link Road  
Matunga, Mumbai - 400029

[By Registered Post A.D.]

**Sub : Non Receipt of Annual Report.**

Dear Sir,

We are in receipt of your letter dated 28<sup>th</sup> Sept; 2018 regarding non -receipt of Annual Report.

As per the Companies Act, 2013, the company had sent by post to all members the notice of 8<sup>th</sup> AGM along with the Annual Report well in advance as per the address on record in the Register of Members.

It is unfortunate that you have not received the notice and the Annual Report. Hence we are once again sending you the same to the address mentioned in your letter.

Yours faithfully,  
For Sunrise Limited

Sign  
Company Secretary

**Encl : Annual Report 2017-18**

**CC to : SEBI**



#### 4. Letter to NCLT seeking extension of time to repay Public deposits

Public Deposits are deposits accepted by a company from the public for a period of maximum 36 months. Strict actions are taken against the company for any default with regard to acceptance or repayment of Deposits. Company can request NCLT to give extension of time for repayment of deposits.

##### **SUNRISE LIMITED**

Registered office : Moon House,  
Civil Road, Vashi, Mumbai-400 709  
CIN : L26942MH2010 PLC 000111

Phone : 022 - 22125745  
91 - 9920380555

Website : www.sunriselimited.com.  
Email : sunrise@limited.co

Ref. No. NCLT/ 101E  
The National Company Law Tribunal Board,  
'B' wing, 3rd Floor, Paryavaran Bhavan,  
C.G.O. complex, Lodhi Road,  
New Delhi - 110003

1<sup>st</sup> October, 2018

##### **Sub : Extension of time to repay Public Deposit**

Dear sir,

The Company had accepted Public Deposits worth ₹ 10 lacs on 1<sup>st</sup> Jan, 2017 for a period of two years. The Deposits are to be repaid on or before 31<sup>st</sup> Dec, 2018.

However, as the company is facing severe financial problems, company is unable to repay the Deposits on the above mentioned date.

The Board held a Meeting on 29<sup>th</sup> September., 2018 and passed a resolution for seeking extension from NCLT for a period of two months to repay the Deposits. Therefore, we wish to seek an extension of two months to repay it.

Copy of the petition is attached in two sets.

We assure you that the company will repay the Deposits on or before 28<sup>th</sup> Feb, 2019.

Yours faithfully,  
For Sunrise Limited

Sign  
Company Secretary

**Encl :** i) Certified copy of Board Resolution  
ii) Petition for Extension of time  
iii) Challan for fees paid

## SUMMARY

- **Ministry of Corporate Affairs (MCA)**

It is the main authority concerned with administration of the Companies Act, 2013 and other allied Acts and Rules and Regulations. It supervises professional bodies like ICAI, ICSI etc.

- **Registrar of Companies (ROC)**

The Central Government appoints the ROC for registration of companies and administering the provisions of Companies Act in the state over which it has jurisdiction.

- **National Company Law Tribunal (NCLT)**

It is a quasi-judicial body and has exclusive jurisdiction over specific suits or matters prescribed in the Companies Act 2013.

- **National Company Law Appellate Tribunal (NCLAT)**

It hears all appeals filed by an aggrieved person against the orders passed by NCLT. If a person is unhappy with the order of NCLAT, then can file an appeal with the Supreme Court.

- **Securities and Exchange Board of India (SEBI)**

SEBI was established in 1992 as statutory body and is the regulator of the securities market in India. It supervises and controls the operations of Stock Exchanges, companies issuing securities, intermediaries like brokers, merchant bankers etc. It also protects the interest of investors.



## EXERCISE

**Q.1 A. Select the correct answer from the options given below and rewrite the statements.**

- 1) ..... is the main authority to regulate the administration of Companies Act, 2013 in India.  
a) MCA      b) Company Secretary      c) Board of Directors
- 2) The headquarters of MCA is at ..... .  
a) Mumbai      b) New Delhi      c) Pune
- 3) To administer the provisions of the Companies Act, 2013 is the objective of ..... .  
a) MCA      b) ROC      c) Directors
- 4) ..... is responsible for registering companies.  
a) ROC      b) SEBI      c) Auditors
- 5) The Certificate of Incorporation is issued by.....  
a) ROC      b) MCA      c) NCLT
- 6) .....can strike off or remove the name of a company from the Register of Companies.  
a) MCA      b)ROC      c) SEBI

- 7) Central Government exercises administrative control over ROCs through the..... .  
a) MCA      b) SEBI      c) Regional Directors
- 8) .....is the quasi judicial body set up by Central Government to grant certain approvals and decide disputes under the provisions of Companies Act.  
a) MCA      b) ROC      c) NCLT
- 9) ..... can hear appeals against the orders issued by NCLT.  
a) NCLAT      b) SEBI      c) MCA
- 10) An appeal against the order of NCLAT can be filed in the ..... .  
a) MCA      b) SEBI      c) Supreme Court
- 11) .....was established as a statutory body to regulate the securities market in India.  
a) NCLT      b) MCA      c) SEBI
- 12) .....regulates the functioning of Stock Exchange in India.  
a) SEBI      b) MCA      c) ROC

**B. Match the pairs :**

Group 'A'		Group 'B'	
a)	Administration of Companies Act, 2013	1)	SEBI
b)	ROC	2)	Hears appeals against orders of NCLT
c)	NCLAT	3)	NCLT
d)	Regulator of Securities Market	4)	Incorporation of companies
e)	Quasi-judicial body	5)	MCA
		6)	Board of directors
		7)	Companies Act 2013
		8)	Regional Director
		9)	Chennai
		10)	Liquidator

**C. Write a word or a term or a phrase which can substitute each of the following statements.**

- 1) The main authority concerned with administration of Companies Act.
- 2) Organization responsible for administering Companies Act and regulating professional bodies like ICAI, ICSI, etc.
- 3) Authority which issues Certificate of Incorporation to company.
- 4) Every company has to apply for incorporation to this authority situated in the state where its head office is to be located.
- 5) Authority that handles corporate civil disputes in India.
- 6) An appeal against the orders of NCLT is heard by this authority.

- 7) Regulator of securities market in India.
- 8) Institution that regulates functioning of stock exchanges and intermediaries in the securities market.

**D. State whether the following statements are True or False.**

- 1) MCA regulates the functioning of corporate sector as well as administers the Companies Act.
- 2) MCA has no supervisory authority over professional bodies like ICSI, ICAI, etc.
- 3) ROC is concerned with registration of companies.
- 4) On payment of fees, ROC allows the public to inspect certain documents filed with it.
- 5) NCLT has jurisdiction over proceedings on matters of disputes arising under Companies Act.
- 6) NCLAT can hear appeals against order of NCLT.
- 7) NCLAT may confirm, modify or reject the orders passed by the NCLT.
- 8) SEBI protects the interest of investors in securities market.
- 9) ROC is the regulator of securities market.

**E) Complete the sentences.**

- 1) Administration of Companies Act and other Laws related to corporate world is the responsibility of .....
- 2) Registration of companies is done by .....
- 3) The authority which handles corporate civil disputes is called as .....
- 4) The authority which hears appeals against the orders of NCLT is called as .....

**F) Select the correct option from the bracket.**

Group 'A'	Group 'B'
1) Regulator of Securities Market	-----
2) MCA	-----
3) -----	Hears appeals against orders of NCLT

(NCLAT, Administers Companies Act, SEBI)

**G) Answer in one sentence.**

- 1) Name the authority which administers Companies Act and Partnership Act.
- 2) Name the authority attached to High Court which help in winding up of Companies.

**H) Correct the underlined word and rewrite the following sentences.**

- 1) R.O.C. Supervises and controls the operations of stock exchanges in India.
- 2) An appeal can be made against the order issued by NCLT to NCLAT within 90 days.

**Q.2 Explain the following terms/concepts.**

- 1) Ministry of Corporate Affairs (MCA)
- 2) Registrar of Companies (ROC)
- 3) National Company Law Tribunal (NCLT)
- 4) National Company Law Appellate Tribunal (NCLAT)
- 5) Securities and Exchange Board of India (SEBI)

**Q.3 Answer in brief.**

- 1) State the Powers of ROC.
- 2) State the Powers of NCLT.
- 3) What are the objectives of MCA?

**Q.4 Justify the following statements.**

- 1) The MCA was set up by Central Government to fulfill certain objectives.
- 2) The Companies Act, 2013 has given certain Powers to ROC.
- 3) The Central Government has empowered NCLT with certain powers.

**Q.5 Attempt the following**

- 1) Write a letter to ROC seeking extension of time to hold the AGM.
- 2) Write a letter to MCA with regard to ticket raising.
- 3) Write a reply to a complaint by Investor.
- 4) Write a letter to NCLT seeking extension to time of repay Public Deposits.

