

Fourth Semester

Unit 5

Meetings

Meetings

A meeting is a gathering of two or more people that has been convened for the purpose of achieving a common goal through verbal interaction, such as sharing information or reaching agreement. Meetings may occur face-to-face or virtually, as mediated by communications technology, such as a telephone conference call, a skyped conference call or a videoconference. One Merriam-Webster dictionary defines a meeting as "an act or process of coming together.

Legal provisions relating to meeting

1. Regarding Member's Meetings:

(1) A notice containing all the details and signed by a person having the authority to sign like the Chairman of the Board of Directors, a director or the secretary, must be sent to each member (or his legal representative) of the company at his recorded address. It is usually signed by the secretary, if any. In addition, a notice is published by big public companies in newspapers under classified advertisement column with the heading—Company Notices. A copy of notice must also be sent to the auditor of the company. The notice shall be sent at least twenty-one days before the date of the meeting. While counting dates, the date of the notice and the date of the meeting are excluded. The Act provides that any notice or document sent to a member becomes effective after forty eight hours.

This factor also has to be taken into account. Therefore, if on the first day of a month a notice is issued, then the earliest date for the meeting will be the twenty-fourth of that month.

The Act provides for shorter notice in the following manner:

- (a) In case of an annual general meeting, if all the members agree and
- (b) In case of any other meeting if members holding 95% of the shares, in case a company has share capital or holding 95% of voting rights, in case a company does not have share capital, agree.
- (3) The notice must contain the date, time, place and agenda of the meeting. The notice is to be sent by ordinary post. A record of posting shall preferably be made in the Despatch Register. If any member wants that the notice shall be sent to him by registered post then he

has to deposit in advance excess postage money to the company. If accidentally notice is not sent to any member that does not make the meeting invalid.

(4) Together with the notice other materials are also to be sent. For example—

(a) In case of annual general meeting a copy of the Directors' Report (or Annual Report), a copy of the audited Final Accounts, Proxy Form if any, etc.

(b) In case of a statutory meeting, a copy of the Statutory Report, a copy of audited up to-date accounts, etc.

(5) The place of the meeting shall be the registered office of the company or at any other place in the city or town or village where the registered office of the company is situated. (The Act provides exemptions by the Central Government to some special companies.)

(6) The meeting cannot be held on a public holiday. According to Sec. 2(38) of the Companies Act, for public holiday, Sec. 25 of the Negotiable Instruments Act of 1881 shall apply. But, if a date which has been already fixed and notified is subsequently declared by the Government to be a public holiday (under Sec, 25 of the Negotiable Instruments Act), meeting can be held on that date.

(7) The meeting shall be held within office hours. (There is no specific bar to hold an extraordinary general meeting on a public holiday and outside office hours).

(8) The quorum for a members' meeting shall be: (a) As mentioned in the Articles of Association of the company concerned, (b) If nothing is mentioned in the Articles then (i) in case of a private company any two members and (ii) in case of a public company any five members present in person, shall make the quorum.

(9) The Act specifies the items which shall be included in the agenda of an annual general meeting. Any other item can be entered under the heading 'Special Business' and Explanatory Notes, justifying the inclusion, have to be added.

(10) The meeting shall be conducted by the Chairman (usually the Chairman of the Board of Directors) according to the provisions of the Articles of Association of the company and subject to the provisions of the Act, regarding meetings.

(11) Voting at the meeting shall be usually by show of hands unless poll is demanded.

(12) After the meeting is over, minutes have to be prepared by the secretary and get them signed by the Chairman. Copies of some resolutions have to be filed with the Registrar of Companies.

The secretary of a company has the responsibility to see that all the above rules are strictly observed. Any default may lead to invalidity of the meeting. Secs. 53 and 165 to 197 are

meant for the rules of members' meetings. A private Co. may modify the rules excepting the number of quorum.

2. Regarding Directors' Meetings:

(1) A notice in proper form for every meeting of the Board of Directors shall be given in writing to every director at his usual address. If there is any foreign director, then notice has to be given to him also when he is in India. The notice can be signed by any director. The secretary is very often authorised to sign the notice.

(2) The notice may be sent by post or by messenger. Sometimes notice is sent over the telephone if all the directors agree. No notice is necessary when a resolution is passed by circulation. At a meeting, the directors may decide what shall be the date of the next meeting and in that case no notice has to be sent.

(3) A notice must be accompanied with all relevant papers and documents which have to be considered at the meeting.

(4) The Act does not provide any specific number of days before the date of the meeting by which a notice has to be sent. Usually the notice is sent at least seven days before the date of the meeting. The Articles of Association of a company may provide the period or the directors themselves may decide it at the first meeting.

(5) The Act does not provide any rules with regard to the items to be included in the agenda of a Board meeting. Any matter related to the affairs of the company and within the powers of the Board to handle, may be included.

(6) The quorum for a Board meeting shall be, according to the Act, one-third or two whichever is bigger. When a matter in which a director is interested is discussed that director cannot participate. If by his exclusion the quorum falls, there is no fault. But if only one director remains there cannot be any meeting and such a matter is referred to the general meeting of members.

The Articles of Association of a company may provide what shall be die quorum of Board meetings or the directors themselves may decide the quorum at the first meeting of the Board, but under no circumstances the quorum can be less than what the Act provides.

(7) A chairman out of the directors is elected at the first meeting of the Board of Directors, who conduct the meetings of the Board according to provisions of the Articles of Association of the company subject to the provisions of the Act, regarding Board meetings.

(8) Minutes of every Board meeting have to be prepared and confirmed at the next meeting of the Board.

(9) Voting shall be by show of hands, each director having one vote irrespective of the number of shares held by him.

(10) The Act does not make any provision with regard to place and hours of Board meetings. Nor it mentions that Board meetings cannot be held on holidays. But a meeting automatically adjourned for want of quorum cannot be held on a public holiday.

(11) The above rules are equally applicable to meetings of a Committee or Sub-committee constituted with some directors for specific purposes.

Types of company meeting

1. Statutory Meeting:

Every public company limited by shares—and every company limited by guarantee and having a share capital—must, within a period of not less than one month and not more than six months from the date at which the company is entitled to commence business, hold a general meeting of the members which is to be called the Statutory Meeting.

In this meeting the members are to discuss a report by the Directors, known as the Statutory Report, which contains particulars relating to the formation of the company.

Private companies are exempted from holding this meeting.

Statutory Report:

The nature of business conducted at the statutory meeting involves consideration and adoption of the Statutory Report. The Statutory Report is drafted by Directors and certified as correct by at least two of them. A copy of the report must be sent to every member at least 21 days before the date of the meeting. A copy is also to be sent to the Registrar for registration.

2. Annual General Meeting:

General Meeting of a company means a meeting of its members for specified purposes.

There are two kinds of General Meetings:

(i) The Annual General Meeting and

(ii) Other General Meetings.

Extraordinary General Meeting:

Any general meeting of the company which is not an Annual General Meeting or a Statutory Meeting is called Extraordinary General Meeting. An Extraordinary General Meeting is held for dealing with some business of special or extraordinary nature and which is outside the scope of the Annual General Meeting. This meeting is also held to transact some urgent business that cannot be deferred till the next Annual General Meeting. This meeting may be

called by the Directors or requisitioned by the member's according to Sec.169 of the Companies Act, 1956. The Board of Directors can be compelled to hold.

4. Meeting of the Board of Directors:

The management of the company is vested on the Board of Directors. Therefore, the Directors are to meet frequently to decide both policy and routine matters.

5. Class Meeting:

These meetings are held by a particular class of shareholders for the purpose of effecting variation in the Articles in respect of their rights and privileges or for conversion of one class into another.

The provision for variation must be contained in the Memorandum or Articles and this variation must not be prohibited by the terms of issue of shares of that particular class. Such resolutions are to be passed by three-fourth majority of the members of that class.

Meeting of Creditors:

These meetings are called when the company proposes to make a scheme of arrangement with its creditors. The Court may order a meeting of the creditors or a class of creditors on the application of the company or of liquidator in case of a company being wound-up.

Such a meeting is held and conducted in such a manner as the Court directs. If arrangement is passed by a majority of three-fourth in value of creditors and the same is sanctioned by the Court, it is binding on all the creditors.

7. Meeting of Debenture Holders:

These meeting are called according to the rules and regulations of the Trust Deed or Debenture Bond. Such meetings are held from time to time where the interests of debenture holders are involved at the time of re-organisation, reconstruction, amalgamation or winding-up of the company. The rules regarding the appointment of Chairman, notice of the meeting, quorum etc. are contained in the Trust Deed.

8. Meeting of Creditors and Contributories:

These meetings are held when the company has gone into liquidation to ascertain the total amount due by the company to its creditors. The main purpose of these meetings is to obtain the approval of the creditors and contributories to the scheme of compromise or rearrangement to save the company from financial difficulties. Sometimes, the Court may also order for such a meeting to be held.

Duties of secretary in connection with meeting

I. Duties at the statutory meeting

The duty of the Secretary at the Statutory Meeting can be discussed in terms of his duty before the meeting, at the meeting and after the meeting.

A. Before the Meeting:

1. To draft the notice carefully according to statutory form and issue it.
2. To prepare the Statutory Report and obtain the approval of the Directors.
3. To prepare the Statutory Report and forward the same to every member of the company at least 21 days before the meeting.
4. To obtain the certificate of auditors.
5. To file a copy of the Statutory Report with the Registrar.
6. To prepare a list of members showing their names, addresses and occupations and the number of shares held by each of them.

B. At the Meeting:

1. He is to receive the members and see that no unauthorized person gets entry to the meeting.
2. He is to see that the Attendance Register of Members is properly signed by them.
3. He must see that proper Minutes are recorded.
4. He should help the Chairman to conduct the meeting.
5. If the Chairman asks, he will supply necessary information and documents.
6. He will take note of the proceedings of the meeting.
7. He is to read the notice convening the meeting and the Statutory Report.

C. After the Meeting:

1. He is to prepare the Minutes and get the minutes signed by the Chairman.
2. He is to execute the resolutions passed at the meeting.
3. He is to file a copy of resolutions to the Registrar of Companies.

Duty of the Secretary at the Annual General Meeting:

A. Before the Meeting:

1. He is to see that the Annual Accounts are prepared according to the provisions of the Act and duly audited and certified by the Auditors of the company.

2. He is to prepare the agenda in consultation with the Chairman and issue notices of the Board Meeting held just before the Annual General Meeting.
3. He is to prepare the Annual Report of the Directors in consultation with the Chairman.
4. He is to send the notice of the Annual General Meeting to all members along with necessary forms.
5. He is to prepare the Chairman's speech in consultation with the Chairman.
6. He is to receive, scrutinize, countersign and register all proxies received before the fixed time.
7. He is to close the Share Transfer Register and prepare the dividend lists and warrants.

B. At the Meeting:

1. He is to see that no unauthorized person enters the General Meeting.
He is to help the Chairman to ascertain whether a quorum is present or not.
3. He is to read the notice convening the meeting.
4. He is to help the Chairman by supplying necessary information.
5. He is to help the Chairman to conduct the meeting.
He is to take notes of the proceedings.

C. After the Meeting:

1. He is to prepare the Minutes and get it signed by the Chairman.
2. He is to execute the decisions and resolutions passed at the meeting.
3. He is to file necessary documents with the Registrar.
4. He is to incorporate the alterations, if any, made in the Memorandum or the Articles of Association passed in the meeting.