

### Introduction

In order to provide an opportunity to the members of a company to come together and review its working, the Companies Act has prescribed various kinds of meetings. Such meetings are: Statutory meeting, Annual general meeting, and extraordinary general meeting.

From the point of view of different classes of shareholders, meetings are classified as follows: Preference shareholders' meeting and Equity shareholders' meeting

#### 1. Statutory Meeting (Sec. 165)

This is the first meeting of the shareholders of a public company. This meeting is held once in the lifetime of a company.

The idea behind holding a statutory meeting is to put the members of a company in possession of all material facts pertaining to the promotion and prospects of the company at the earliest possible date.

#### Provisions:

1. Every public company must hold a meeting called the statutory meeting. It should be conducted before six months and after one month from the date of commencement of business.
2. At least 21 days before the holding of the meeting the directors must deliver to every member a report called

statutory report.

3. The statutory report must contain the following:
  - a. Particulars of total number of shares allotted.
  - b. The total amount of cash received.
  - c. Names and addresses and occupations of directors and auditors etc.
  - d. Underwriting contracts.
  - e. Arrears of calls due.
  - f. Particulars of commission and brokerage
4. The Board must also prepare a list of members showing the names, addresses, occupation etc., and must produce the same at the commencements of the statutory meetings.
5. The statutory report must be certified as correct by at least 2 directors, one of whom should be the managing director.
6. A certified copy of the statutory report must be delivered to Registrar of Companies.
7. Consequences of default in compliance of provisions:
  - a. Default in complying with provisions of Sec 165 shall make every defaulting director and officer of the company liable with fine.
  - b. Default in respect of holding statutory meeting, delivering the statutory report to Registrar of Companies may be one of the grounds for the winding up of the company.

## 2. Annual General Meeting OR Ordinary General Meeting (SEC. 166)

As per Sec. 166 (1) of the Act, every company must in each year hold, in addition to any other meeting, a general meeting as its annual general meeting and not more than 15 months shall elapse between the date of one annual general meeting and that of the next. In simple, there should be one meeting per year and as many meetings as

there are years.

### **Statutory Requirements:**

The Companies Act has imposed the following obligations on every company whether public or private as regards the annual general meetings.

#### **1. First Annual General Meeting:**

The first annual general meeting of a company may be held within a period of not more than 18 months from the date of its incorporation.

#### **2. Subsequent General Meeting:**

The gap between one meeting and the next meeting should not be of more than 15 months.

The registrar is empowered to extend, for any special reason, the time of holding such a meeting by a period not exceeding 3 months

#### **3. Notice of Annual General Meeting:**

The company must give notice of 21 days.

#### **4. During Business hours:**

Every annual general meeting must be called during business hours on a day which is not a public holiday.

#### **5. Powers of Central Government to call Annual General Meeting (Sec. 167)**

If the company fails to call an annual general meeting within the stipulated time as stated above, the central government may call or direct the calling of a general meeting of the company.

#### **6. Penalty for default:**

If default is made in holding meeting of the company in accordance with the provisions outlined above, the company and every officer of the company who is in default shall be punishable with fine which may extend to Rs. 5000

and in the case of continuing default after the first default, with a further fine which may extend up to Rs. 250 for every day during which such default continues.

**Business to be transacted in an Annual General Meeting:**

**A. Ordinary business:** Under Section 173-the ordinary business consists of the following.

1. Approval of directors' report
2. Approval of annual accounts and auditors' report.
3. Appointment of directors in the place of those retiring.
4. Appointment or reappointment of auditors and fixation of their remuneration.
5. Declaration of dividend.

**B. Special business:** Any business transacted in an annual general meeting other than the item mentioned above is considered as a special business. The examples are as follows:

1. Raising of the authorized capital
2. Alteration of the articles of association etc.

**3. Extraordinary General Meeting (Sec. 169)**

Any meeting other than statutory and annual general meeting is called an extraordinary general meeting. This meeting can be convened:

- I By the directors
  - a. On their own
  - b. On requisition from members
- II By requisitioning themselves
- III By the company law Board

**I. By the directors:**

- a. **Meeting by the directors on their own:** The directors whenever they think fit, can convene an extra-ordinary general meeting by passing a Board Resolution to that effect.

**I. Meeting by the directors on requisition from members:**  
The requisition must specify the object of the meeting. It must be duly signed by the requisitionist and deposited at the registered office of the company. The directors should move to call a meeting. Further the directors must give 21 days notice to the members. So the meeting should be conducted within 45 days from the date of the requisition. To hold the meeting there must be minimum  $1/10^{\text{th}}$  of the total voting rights on the matter of requisition.

**II. Extraordinary meeting "by requisitionists themselves" on the failure of the board to hold meeting:**

- a. In the case of a company having a share capital:  
The requisition must be signed by holders of not less than  $1/10$  of the paid up capital of the company having the right to vote on the matter of requisition.
- b. In the case of a company not having a share capital:  
The requisition must be signed by such number of members having  $1/10$  of the total voting power.

**III By the Company Law Board:**

The company law board either on its own motion or on the application of a director or a member can order a meeting to be called and held in accordance with its directions.

**Class Meetings:**

Class meeting is a meeting of the shareholders of a particular class say, the meeting of the preference shareholders. Thus it is held to transact the matters affecting the interests of the shareholders of a particular class.

Essentials of a valid meeting (Sec 171-186)

20 marks

1. Proper authority to convene the meeting:

The meeting must be properly convened as per the provisions of the Companies Act and the articles of association

of the company concerned. It must be convened by the proper authority i.e. the board of directors.

**2. Proper notice of the meeting:**

The meeting must be convened by a proper notice (that is as per the provision of the Act or the articles)

**a. Length of notice (Sec. 171)**

21 days notice must be given, that is 21 days excluding the day on which the notice is issued and the day of the meeting.

**3. Quorum for the meeting:**

The requisite quorum must be present at the meeting. Quorum is the minimum number of members required to attend a meeting and transact business validly.

**a) Quorum for a general meeting:**

Two members personally present in the case of a private company and five members in the case of a public company (other than a deemed public company Under Sec. 43A) constitute the quorum for a meeting.

**b) Quorum for a board meeting:**

The quorum for a board meeting will be  $\frac{1}{3}$  of the total strength of the directors or at least two directors whichever is higher.

**4 Proxies:**

As per the provisions of the Companies Act, a member of a company may vote at a meeting in person or by proxy.

**Meaning of proxy:**

It refers to a "person who is authorized by a member of a company to attend and vote at a meeting of a company on his behalf".

**Rule:**

1. A member of a public company can appoint more than one

proxy to attend the same meeting, but in case of a private company only one proxy can be appointed.

2. Minor cannot be appointed as a proxy.

3. **Proper person in the chair:**

5. The meeting must be presided over by a person duly elected as the chairman.

6. **Agenda of the meeting:**

Agenda literally means "things to be done". In relation to the meetings of a company it means a statement of the business to be discussed and transacted in a meeting.

7. **Motions:**

No discussion can take place at a meeting unless there is definite proposal for discussion before the meeting. Such proposal is known as motion.

8. **Sense of the meeting or methods of voting**

Ascertaining the views or opinions of the members on the matters under discussion is known as ascertaining the sense of the meeting. The sense of a meeting is ascertained through voting.

9. **Resolutions:**

It is the recorded decision of a meeting. When a motion is passed in a meeting with required majority, it becomes a resolution.

10. **Minutes of meeting:**

The minutes of a meeting are the written records of the business transacted and decisions arrived at a meeting.

**Meaning of a chairman:**

A Chairman is a person who has been designated or elected to preside over a meeting and conduct its proceedings. He is the chief authority in the conduct and control of a meeting.

### **Appointment of a Chairman :**

Generally, the promoters nominate the Chairman of a company, and so, he is named in the articles of association of the company. If not, the directors may elect one person as a chairman.

Besides a chairman, company may also have deputy chairman or vice chairman who can preside over the meetings of the company in the absence of the chairman.

Sec 175 of the Companies Act provides that unless chairman has already been designated and named in the articles of association, the members personally present at the meeting shall elect one from among themselves as the chairman of the meeting.

### **Qualifications:**

An efficient chairman must possess the following qualities:

1. He must have impressive personality and qualities of leadership.
2. He must be cautious.
3. He must be tactful to handle a difficult situation carefully.
4. He must be good-natured.
5. He must be impartial.
6. He must be firm in enforcing the rules of the meeting.
7. He must have a good knowledge of the law and practice of meetings.
8. He must have a good knowledge of the powers and authority of a chairman.

### **Duties and Responsibilities of a Chairman :**

1. He must see that the meeting is duly convened and properly constituted.
2. He must see that the minutes of the last meeting are read, confirmed and signed by him.



1. He must see that the items of business of the meeting are taken up for discussion in the order set out in the agenda unless the order is altered with the consent of the meeting.
2. He must see that the proceedings of the meeting are conducted according to the rules.
3. He must see that the motions and amendments are within the scope of the business of the meeting.
4. He must see that every motion is properly moved or proposed and is duly seconded.
5. He must act impartially in the general interest of those present at the meeting.
6. He must see that the sense of the meeting is properly ascertained on each and every notice.
7. He must declare the meeting closed when all the items of business are transacted.
8. He must see that the minutes of the business conducted at the meeting are kept and signed by him.

#### Rights and Powers of a chairman :

1. To decide a point of order raised at the meeting. (i.e., to decide whether member is speaking relevant or irrelevant to the motion)
2. To maintain order and decorum (that means chairman has the power to prevent the use of unparliamentarily language and disorderly behavior).
3. He has the power to regulate the course of the proceedings at the meeting.
4. He has the power to stop a speaker, when the time allotted to him is over.
5. When two or more members wish to speak on the same motion, the chairman has the power to decide the order of priority in which the members will be allowed to speak.

secret ballot paper or voting papers are distributed among the members present at the meeting.

Note: This method is adopted only by licensed companies.

b) **Voting by division:**

Here, to ascertain the sense of meeting, the chairman of the meeting requests the members present at meeting to divide themselves into two groups. One for the motion and the other against the motion. Here, proxies are not allowed.

c) **Voting by voice:**

Here the chairman places the motion before the meeting and calls all those who are in favour of the motion to say 'Yes'. Then he calls all those who are against the motion to say 'No'.

**Questions:**

1. What do you mean by company meeting? What are the requisites of a valid meeting?
2. What are the different kinds of meetings of the shareholders of a company? When and how are these meetings held?

**Introduction:** Once a 'motion' has been put to the members and if they opt it, it becomes a company resolution. In simple, a proposal when passed and accepted by the shareholders becomes a resolution. A 'Resolution' may thus be defined as the formal decision of a meeting or a particular proposal before it.

### Types of Resolutions

1. Ordinary Resolution (Section 189)
2. Special Resolution (Section 189)
3. Resolution requiring special notice (Section 190)

**Ordinary Resolution:** It means a resolution passed by a simple majority. A resolution is said to be passed by a simple majority when the number of votes cast in favour of it exceeds the number of votes cast, if any, against it.

Under the following circumstances an ordinary resolution is sufficient:

- a. To pass Annual accounts
- b. To declare dividends
- c. To hold election of directors
- d. To appoint auditors etc.

**Special Resolution:** A resolution amounts to a special resolution if

- (i) The intention to propose the resolution as a special resolution has been duly specified in the notice calling the General Meeting.
- (ii) The votes cast in favour of the resolution must be 3 times more than the number of the votes cast if any, against the resolution by the members. In simple it is a resolution passed by a majority of  $3/4^{\text{th}}$  members present and entitled to vote in the meeting either in person or by proxy.

**Note:** A copy of special resolution must be filed with the Registrar of Companies within 30 days of its passing.

**Under the following circumstances a special resolution is required:**

- to alter the memorandum of association of a company
- to alter the articles of association of a company
- to issue further shares to outsiders without being offered to the existing shareholders
- for creation of reserve capital
- to reduce the share capital
- to pay interest out of capital etc.

**Resolutions requiring special notice:**

A resolution requiring special notice is not an independent class of resolution. In fact, it is a kind of ordinary resolution only with difference that here the mover of the proposed resolution is required to give a special notice of 14 days to the company before moving the resolution and the company shall then immediately circulate the same to its members in the same manner as it issues notice of a meeting. In such a situation the company shall give at least 7 days notice to all the members. For example, a special notice is necessary for removing a director before the expiry of his period of office or any resolution to appoint a director in the place of director so removed.

### Differences between special resolution and ordinary resolution

Points of distinction	Ordinary Resolution	Special Resolution
1. Number of Votes	An ordinary resolution is passed by a simple majority of votes of members (50%)	A special resolution must be passed by at least 3/4 <sup>th</sup> majority of members
2. Notice	No such notice is required for an ordinary resolution	A notice about the intention to move the resolution as a special resolution must be given by the company to all the members
3. Subject matter	Ordinary resolution is generally required for ordinary matters	Special resolution is required for special matters which are of paramount importance to a company. For example, alteration of memorandum.
4. Filing with Registrar of Companies	Need not be filed with Registrar of Companies (Except in case of change in the capital clause of the memorandum).	Every special resolution has to be filed with the Registrar of Companies.

#### Questions:

1. Explain the different types of Resolutions.
2. Distinguish between Ordinary resolution and Special resolution.