

Lecture 37

Circulation of Member's Resolution

Generally, the Board of Directors prepare the agenda of the meeting to be sent to all members of the meeting. A member, by himself has very little say in deciding the agenda. However, there are provisions in the Companies Act which enable members to introduce motions at a meeting and give prior notice of their intention to do so to all other members of the company. If members having one twentieth of the total voting rights of all members having the right to vote on a resolution or if 100 members having the right to vote and holding paid-up capital of Rs1,00,000 or more, require the company to do so, the company must :-

1. Give to the members entitled to receive notice of the next annual general meeting, notice of any resolution which may be properly moved and is intended to be moved at that meeting; and
2. Circulate to members entitled to have notice of any general meeting sent to them, any statement of not more than 1,000 words with respect to the matter referred to in any proposed resolution, or any business to be dealt with at that meeting.

The expenses for this purpose must be borne by the requisitionists and must be tendered to the company. The requisition, signed by all the requisitionists, must be deposited at the registered office of the company at least 6 weeks before the meeting in the case of resolution and not less than 2 weeks before the meeting in case of any other requisition together with a reasonable sum to meet the expenses. However, where a copy of the requisition requiring notice of resolution has been deposited at the registered office of the company and an annual general meeting is called for a date six weeks or less after the requisition is deposited, the copy though not deposited within the prescribed time is deemed to have been properly deposited.

The company is required to serve the notice of resolution and/or the statement to the members as far as possible in the manner and so far as practicable at the same time as the notice of the meeting ; otherwise as soon as practicable thereafter.

However, a company need not circulate a statement if the Court, on the application either of the company or any other aggrieved person, is satisfied that the rights so conferred are being abused to secure needless publicity or for defamatory purposes. Secondly a banking company need not circulate such statement, if in the opinion of its Board of directors, the circulation will injure the interest of the company.

Registration of Resolutions and Agreements

A copy of each of the following resolutions along with the explanatory statement in case of a special business and agreements must, within 30 days after the passing or making thereof, be printed or typewritten and duly certified under the signature of an officer of the company and filed with the Registrar of Companies who shall record the same :-

1. All special resolutions
2. All resolutions which have been unanimously agreed to by all the members but which, if not so agreed, would not have been effective unless passed as special resolutions
3. All resolutions of the board of directors of a company or agreement executed by a company, relating to the appointment, re-appointment or renewal of the appointment, or variation of the terms of appointment, of a managing director
4. All resolutions or agreements which have been agreed to by all members of any class of members but which, if not so agreed, would not have been effective unless passed by a particular majority or in a particular manner and all resolutions or agreements which effectively bind all members of any class of shareholders though not agreed to by all of those members
5. All resolutions passed by a company conferring power upon its directors to sell or dispose of the whole or any part of the company's undertaking; or to borrow money beyond the limit of the paid-up share capital and free reserves of the company; or to contribute to charities beyond Rs50000 or 5 per cent of the average net profits
6. All resolutions approving the appointment of sole selling agents of the company
7. All copies of the terms and conditions of appointment of a sole selling agent or sole buying or purchasing agent
8. Resolutions for voluntary winding up of a company