Resolutions in Company General Meetings

Kinds of Resolutions in Company General Meetings

Resolutions mean decisions taken at a meeting. A motion, with or without amendments is put to vote at a meeting. Once the motion is passed, it becomes a resolution. A valid resolution can be passed at a properly convened meeting with the required quorum. There are broadly three types of resolutions :-

1. Ordinary Resolution :
An ordinary resolution is one which can be passed by a simple majority. I.e. if the votes (including the casting vote, if any, of the chairman), at a general meeting cast by members entitled to vote in its favour are more than votes cast against it. Voting may be by way of a show of hands or by a poll provided 21 days notice has been given for the meeting.

2. Special Resolution :
A special resolution is one in regard to which is passed by a 75 % majority only i.e. the number of votes cast in favour of the resolution is at least three times the number of votes cast against it, either by a show of hands or on a poll in person or by proxy. The intention to propose a resolution as a special resolution must be specifically mentioned in the notice of the general meeting. Special resolutions are needed to decide on important matters of the company. Examples where special resolutions are required are :-

v To alter the domicile clause of the memorandum from one State to another or to alter the objects clause of the memorandum.

v To alter / change the name of the company with the approval of the central government.
v To alter the articles of association

v To change the name of the company by omitting "Limited" or "Private Limited". The Central Government may allow a company with charitable objects to do so by special resolution under section 25 of the Companies Act, 1956.

3. Resolution requiring Special Notice:
There are certain matters specified in the Companies Act, 1956 which may be discussed at a general meeting only if a special notice is given regarding the proposal to discuss these matters at a meeting. A special notice enables the members to be prepared on the matter to be discussed and gives them time to indicate their views on the resolution. In case special notice of resolution is required by the Companies Act, 1956 or by the articles of a company, the intention to propose such a resolution must be notified to the company at least 14 days before the meeting. The company must within 7 days before the meeting give the notice of the proposed resolution to its members. Notice of the resolution is required to be given in the same way in which notice of a meeting is given, or if that is not practicable, the company may give notice by advertisement in a newspaper having an appropriate circulation or in any other manner allowed by the articles, not less 7 days before the meeting.

The following matters requiring Special Notice before they are discussed before that meeting :-

v To appoint at an annual general meeting appointing an auditor a person other than a retiring auditor.

v To resolve at an annual general meeting that a retiring auditor shall not be reappointed.

v To remove a director before the expiry of his period of office.

v To appoint another director in place of removed director.

Where the articles of a company provide for the giving of a special notice for a resolution, in respect of any specified matter or matters.

Please note that a resolution requiring special notice may be passed either as an ordinary resolution (Simple majority) or as a special resolution (75 % majority).

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 :-
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

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:

- All special resolutions
- 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
- 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
- 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
v 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

v All resolutions approving the appointment of sole selling agents of the company

v All copies of the terms and conditions of appointment of a sole selling agent or sole buying or purchasing agent

v Resolutions for voluntary winding up of a company

Recommended Read
- Checklist to assess if a company is compliant with the Companies Act
- Restoration of name of company struck off by registrar suo moto
Very valuable update on resolutions for students as well as professionals in job or practice, thanks for sharing.

JASMEET SINGH GROVER
its really good one

B.CHACKRAPANI WARRIER
Read fully. Thanks for sharing.

DURGA RAO
hope to see a presentation as to the practical difficulties in conducting meetings and the practice adopted.

G ADITYA
Liked it Avni....good work...and i think a very useful information u have provided in summary...and very much relevnt while attending interview too..keep it up...

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