



Companies Act 2006

2006 CHAPTER 46

PART 9

EXERCISE OF MEMBERS' RIGHTS

Effect of provisions in company's articles

145 Effect of provisions of articles as to enjoyment or exercise of members' rights

- (1) This section applies where provision is made by a company's articles enabling a member to nominate another person or persons as entitled to enjoy or exercise all or any specified rights of the member in relation to the company.
- (2) So far as is necessary to give effect to that provision, anything required or authorised by any provision of the Companies Acts to be done by or in relation to the member shall instead be done, or (as the case may be) may instead be done, by or in relation to the nominated person (or each of them) as if he were a member of the company.
- (3) This applies, in particular, to the rights conferred by—
 - (a) sections 291 and 293 (right to be sent proposed written resolution);
 - (b) section 292 (right to require circulation of written resolution);
 - (c) section 303 (right to require directors to call general meeting);
 - (d) section 310 (right to notice of general meetings);
 - (e) section 314 (right to require circulation of a statement);
 - (f) section 324 (right to appoint proxy to act at meeting);
 - (g) section 338 (right to require circulation of resolution for AGM of public company); and
 - (h) section 423 (right to be sent a copy of annual accounts and reports).
- (4) This section and any such provision as is mentioned in subsection (1)—
 - (a) do not confer rights enforceable against the company by anyone other than the member, and

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- (b) do not affect the requirements for an effective transfer or other disposition of the whole or part of a member's interest in the company.

Information rights

146 Traded companies: nomination of persons to enjoy information rights

- (1) This section applies to a company whose shares are admitted to trading on a regulated market.
- (2) A member of such a company who holds shares on behalf of another person may nominate that person to enjoy information rights.
- (3) "Information rights" means—
 - (a) the right to receive a copy of all communications that the company sends to its members generally or to any class of its members that includes the person making the nomination, and
 - (b) the rights conferred by—
 - (i) section 431 or 432 (right to require copies of accounts and reports), and
 - (ii) section 1145 (right to require hard copy version of document or information provided in another form).
- (4) The reference in subsection (3)(a) to communications that a company sends to its members generally includes the company's annual accounts and reports.

For the application of section 426 (option to provide summary financial statement) in relation to a person nominated to enjoy information rights, see subsection (5) of that section.

- (5) A company need not act on a nomination purporting to relate to certain information rights only.

147 Information rights: form in which copies to be provided

- (1) This section applies as regards the form in which copies are to be provided to a person nominated under section 146 (nomination of person to enjoy information rights).
- (2) If the person to be nominated wishes to receive hard copy communications, he must—
 - (a) request the person making the nomination to notify the company of that fact, and
 - (b) provide an address to which such copies may be sent.

This must be done before the nomination is made.

- (3) If having received such a request the person making the nomination—
 - (a) notifies the company that the nominated person wishes to receive hard copy communications, and
 - (b) provides the company with that address,the right of the nominated person is to receive hard copy communications accordingly.

- (4) This is subject to the provisions of Parts 3 and 4 of Schedule 5 (communications by company) under which the company may take steps to enable it to communicate in electronic form or by means of a website.
- (5) If no such notification is given (or no address is provided), the nominated person is taken to have agreed that documents or information may be sent or supplied to him by the company by means of a website.
- (6) That agreement—
 - (a) may be revoked by the nominated person, and
 - (b) does not affect his right under section 1145 to require a hard copy version of a document or information provided in any other form.

148 Termination or suspension of nomination

- (1) The following provisions have effect in relation to a nomination under section 146 (nomination of person to enjoy information rights).
- (2) The nomination may be terminated at the request of the member or of the nominated person.
- (3) The nomination ceases to have effect on the occurrence in relation to the member or the nominated person of any of the following—
 - (a) in the case of an individual, death or bankruptcy;
 - (b) in the case of a body corporate, dissolution or the making of an order for the winding up of the body otherwise than for the purposes of reconstruction.
- (4) In subsection (3)—
 - (a) the reference to bankruptcy includes—
 - (i) the sequestration of a person's estate, and
 - (ii) a person's estate being the subject of a protected trust deed (within the meaning of the Bankruptcy (Scotland) Act 1985 (c. 66)); and
 - (b) the reference to the making of an order for winding up is to—
 - (i) the making of such an order under the Insolvency Act 1986 (c. 45) or the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), or
 - (ii) any corresponding proceeding under the law of a country or territory outside the United Kingdom.
- (5) The effect of any nominations made by a member is suspended at any time when there are more nominated persons than the member has shares in the company.
- (6) Where—
 - (a) the member holds different classes of shares with different information rights, and
 - (b) there are more nominated persons than he has shares conferring a particular right,the effect of any nominations made by him is suspended to the extent that they confer that right.
- (7) Where the company—

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- (a) enquires of a nominated person whether he wishes to retain information rights, and
 - (b) does not receive a response within the period of 28 days beginning with the date on which the company's enquiry was sent,
- the nomination ceases to have effect at the end of that period.

Such an enquiry is not to be made of a person more than once in any twelve-month period.

- (8) The termination or suspension of a nomination means that the company is not required to act on it.

It does not prevent the company from continuing to do so, to such extent or for such period as it thinks fit.

149 Information as to possible rights in relation to voting

- (1) This section applies where a company sends a copy of a notice of a meeting to a person nominated under section 146 (nomination of person to enjoy information rights)
- (2) The copy of the notice must be accompanied by a statement that—
- (a) he may have a right under an agreement between him and the member by whom he was nominated to be appointed, or to have someone else appointed, as a proxy for the meeting, and
 - (b) if he has no such right or does not wish to exercise it, he may have a right under such an agreement to give instructions to the member as to the exercise of voting rights.
- (3) Section 325 (notice of meeting to contain statement of member's rights in relation to appointment of proxy) does not apply to the copy, and the company must either—
- (a) omit the notice required by that section, or
 - (b) include it but state that it does not apply to the nominated person.

150 Information rights: status of rights

- (1) This section has effect as regards the rights conferred by a nomination under section 146 (nomination of person to enjoy information rights).
- (2) Enjoyment by the nominated person of the rights conferred by the nomination is enforceable against the company by the member as if they were rights conferred by the company's articles.
- (3) Any enactment, and any provision of the company's articles, having effect in relation to communications with members has a corresponding effect (subject to any necessary adaptations) in relation to communications with the nominated person.
- (4) In particular—
- (a) where under any enactment, or any provision of the company's articles, the members of a company entitled to receive a document or information are determined as at a date or time before it is sent or supplied, the company need not send or supply it to a nominated person—
 - (i) whose nomination was received by the company after that date or time, or

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- (ii) if that date or time falls in a period of suspension of his nomination;
and
 - (b) where under any enactment, or any provision of the company's articles, the right of a member to receive a document or information depends on the company having a current address for him, the same applies to any person nominated by him.
- (5) The rights conferred by the nomination—
 - (a) are in addition to the rights of the member himself, and
 - (b) do not affect any rights exercisable by virtue of any such provision as is mentioned in section 145 (provisions of company's articles as to enjoyment or exercise of members' rights).
- (6) A failure to give effect to the rights conferred by the nomination does not affect the validity of anything done by or on behalf of the company.
- (7) References in this section to the rights conferred by the nomination are to—
 - (a) the rights referred to in section 146(3) (information rights), and
 - (b) where applicable, the rights conferred by section 147(3) (right to hard copy communications) and section 149 (information as to possible voting rights).

151 Information rights: power to amend

- (1) The Secretary of State may by regulations amend the provisions of sections 146 to 150 (information rights) so as to—
 - (a) extend or restrict the classes of companies to which section 146 applies,
 - (b) make other provision as to the circumstances in which a nomination may be made under that section, or
 - (c) extend or restrict the rights conferred by such a nomination.
- (2) The regulations may make such consequential modifications of any other provisions of this Part, or of any other enactment, as appear to the Secretary of State to be necessary.
- (3) Regulations under this section are subject to affirmative resolution procedure.

Exercise of rights where shares held on behalf of others

152 Exercise of rights where shares held on behalf of others: exercise in different ways

- (1) Where a member holds shares in a company on behalf of more than one person—
 - (a) rights attached to the shares, and
 - (b) rights under any enactment exercisable by virtue of holding the shares,need not all be exercised, and if exercised, need not all be exercised in the same way.
- (2) A member who exercises such rights but does not exercise all his rights, must inform the company to what extent he is exercising the rights.
- (3) A member who exercises such rights in different ways must inform the company of the ways in which he is exercising them and to what extent they are exercised in each way.
- (4) If a member exercises such rights without informing the company—

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- (a) that he is not exercising all his rights, or
 - (b) that he is exercising his rights in different ways,
- the company is entitled to assume that he is exercising all his rights and is exercising them in the same way.

153 Exercise of rights where shares held on behalf of others: members' requests

- (1) This section applies for the purposes of—
- (a) section 314 (power to require circulation of statement),
 - (b) section 338 (public companies: power to require circulation of resolution for AGM),
 - (c) section 342 (power to require independent report on poll), and
 - (d) section 527 (power to require website publication of audit concerns).
- (2) A company is required to act under any of those sections if it receives a request in relation to which the following conditions are met—
- (a) it is made by at least 100 persons;
 - (b) it is authenticated by all the persons making it;
 - (c) in the case of any of those persons who is not a member of the company, it is accompanied by a statement—
 - (i) of the full name and address of a person (“the member”) who is a member of the company and holds shares on behalf of that person,
 - (ii) that the member is holding those shares on behalf of that person in the course of a business,
 - (iii) of the number of shares in the company that the member holds on behalf of that person,
 - (iv) of the total amount paid up on those shares,
 - (v) that those shares are not held on behalf of anyone else or, if they are, that the other person or persons are not among the other persons making the request,
 - (vi) that some or all of those shares confer voting rights that are relevant for the purposes of making a request under the section in question, and
 - (vii) that the person has the right to instruct the member how to exercise those rights;
 - (d) in the case of any of those persons who is a member of the company, it is accompanied by a statement—
 - (i) that he holds shares otherwise than on behalf of another person, or
 - (ii) that he holds shares on behalf of one or more other persons but those persons are not among the other persons making the request;
 - (e) it is accompanied by such evidence as the company may reasonably require of the matters mentioned in paragraph (c) and (d);
 - (f) the total amount of the sums paid up on—
 - (i) shares held as mentioned in paragraph (c), and
 - (ii) shares held as mentioned in paragraph (d),
 divided by the number of persons making the request, is not less than £100;
 - (g) the request complies with any other requirements of the section in question as to contents, timing and otherwise.