



# Companies Act 1985

## 1985 CHAPTER 6

### PART XI

#### COMPANY ADMINISTRATION AND PROCEDURE

#### CHAPTER IV

#### MEETINGS AND RESOLUTIONS

##### *Meetings*

#### **366 Annual general meeting.**

- (1) Every company shall in each year hold a general meeting as its annual general meeting in addition to any other meetings in that year, and shall specify the meeting as such in the notices calling it.
- (2) However, so long as a company holds its first annual general meeting within 18 months of its incorporation, it need not hold it in the year of its incorporation or in the following year.
- (3) Not more than 15 months shall elapse between the date of one annual general meeting of a company and that of the next.
- (4) If default is made in holding a meeting in accordance with this section, the company and every officer of it who is in default is liable to a fine.

#### **[<sup>F1</sup>366A Election by private company to dispense with annual general meetings.**

- (1) A private company may elect (by elective resolution in accordance with section 379A) to dispense with the holding of annual general meetings.

*Status: Point in time view as at 16/02/2001.*

*Changes to legislation: There are currently no known outstanding effects for the Companies Act 1985, Cross Heading: Meetings. (See end of Document for details)*

- (2) An election has effect for the year in which it is made and subsequent years, but does not affect any liability already incurred by reason of default in holding an annual general meeting.
- (3) In any year in which an annual general meeting would be required to be held but for the election, and in which no such meeting has been held, any member of the company may, by notice to the company not later than three months before the end of the year, require the holding of an annual general meeting in that year.
- [ The power of a member under subsection (3) to require the holding of an annual
- <sup>F2</sup>(3A) general meeting is exercisable not only by the giving of a notice but also by the transmission to the company at such address as may for the time being be specified for the purpose by or on behalf of the company of an electronic communication containing the requirement.]
- (4) If such a notice is given [<sup>F3</sup>or electronic communication is transmitted], the provisions of section 366(1) and (4) apply with respect to the calling of the meeting and the consequences of default.
- (5) If the election ceases to have effect, the company is not obliged under section 366 to hold an annual general meeting in that year if, when the election ceases to have effect, less than three months of the year remains.

This does not affect any obligation of the company to hold an annual general meeting in that year in pursuance of a notice given [<sup>F4</sup>or electronic communication transmitted] under subsection (3).]

- <sup>F5</sup>(5A) In this section, “address” includes any number or address used for the purposes of electronic communications.]

#### Textual Amendments

- F1** S. 366A inserted (subject to the transitional and savings provisions in S.I. 1990/355, arts. 4, 10, **Sch. 4**) by Companies Act 1989 (c. 40, SIF 27), **ss. 115(2)**, 213(2)
- F2** S. 366A(3A) inserted (22.12.2000) by S.I. 2000/3373, **art. 17(1)(2)**
- F3** Words in s. 366A(4) inserted (22.12.2000) by S.I. 2000/3373, **art. 17(1)(3)**
- F4** Words in s. 366A(5) inserted (22.12.2000) by S.I. 2000/3373, **art. 17(1)(4)**
- F5** S. 366(5A) inserted (22.12.2000) by S.I. 2000/3373, **art. 17(1)(5)**

### 367 Secretary of State’s power to call meeting in default.

- (1) If default is made in holding a meeting in accordance with section 366, the Secretary of State may, on the application of any member of the company, call, or direct the calling of, a general meeting of the company and give such ancillary or consequential directions as he thinks expedient, including directions modifying or supplementing, in relation to the calling, holding and conduct of the meeting, the operation of the company’s articles.
- (2) The directions that may be given under subsection (1) include a direction that one member of the company present in person or by proxy shall be deemed to constitute a meeting.
- (3) If default is made in complying with directions of the Secretary of State under subsection (1), the company and every officer of it who is in default is liable to a fine.

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- (4) A general meeting held under this section shall, subject to any directions of the Secretary of State, be deemed to be an annual general meeting of the company; but, where a meeting so held is not held in the year in which the default in holding the company's annual general meeting occurred, the meeting so held shall not be treated as the annual general meeting for the year in which it is held unless at that meeting the company resolves that it be so treated.
- (5) Where a company so resolves, a copy of the resolution shall, within 15 days after its passing, be forwarded to the registrar of companies and recorded by him; and if default is made in complying with this subsection, the company and every officer of it who is in default is liable to a fine and, for continued contravention, to a daily default fine.

### **368 Extraordinary general meeting on members' requisition.**

- (1) The directors of a company shall, on a members' requisition, forthwith proceed duly to convene an extraordinary general meeting of the company.

This applies notwithstanding anything in the company's articles.

- (2) A member's requisition is a requisition of —
  - (a) members of the company holding at the date of the deposit of the requisition not less than one-tenth of such of the paid-up capital of the company as at that date carries the right of voting at general meetings of the company; or
  - (b) in the case of a company not having a share capital, members of it representing not less than one-tenth of the total voting rights of all the members having at the date of deposit of the requisition a right to vote at general meetings.
- (3) The requisition must state the objects of the meeting, and must be signed by the requisitionists and deposited at the registered office of the company, and may consist of several documents in like form each signed by one or more requisitionists.
- (4) If the directors do not within 21 days from the date of the deposit of the requisition proceed duly to convene a meeting, the requisitionists, or any of them representing more than one half of the total voting rights of all of them, may themselves convene a meeting, but any meeting so convened shall not be held after the expiration of 3 months from that date.
- (5) A meeting convened under this section by requisitionists shall be convened in the same manner, as nearly as possible, as that in which meetings are to be convened by directors.
- (6) Any reasonable expenses incurred by the requisitionists by reason of the failure of the directors duly to convene a meeting shall be repaid to the requisitionists by the company, and any sum so repaid shall be retained by the company out of any sums due or to become due from the company by way of fees or other remuneration in respect of their services to such of the directors as were in default.
- (7) In the case of a meeting at which a resolution is to be proposed as a special resolution, the directors are deemed not to have duly convened the meeting if they do not give the notice required for special resolutions by section 378(2).
- <sup>F6</sup>(8) The directors are deemed not to have duly convened a meeting if they convene a meeting for a date more than 28 days after the date of the notice convening the meeting.]

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### Textual Amendments

**F6** S. 368(8) added by Companies Act 1989 (c. 40, SIF 27), ss. 145, 213(2), Sch. 19 para. 9

## 369 Length of notice for calling meetings.

- (1) A provision of a company's articles is void in so far as it provides for the calling of a meeting of the company (other than an adjourned meeting) by a shorter notice than—
  - (a) in the case of the annual general meeting, 21 days' notice in writing; and
  - (b) in the case of a meeting other than an annual general meeting or a meeting for the passing of a special resolution—
    - (i) 7 days' notice in writing in the case of an unlimited company, and
    - (ii) otherwise, 14 days' notice in writing.
- (2) Save in so far as the articles of a company make other provision in that behalf (not being a provision avoided by subsection (1)), a meeting of the company (other than an adjourned meeting) may be called—
  - (a) in the case of the annual general meeting, by 21 days' notice in writing; and
  - (b) in the case of a meeting other than an annual general meeting or a meeting for the passing of a special resolution—
    - (i) by 7 days' notice in writing in the case of an unlimited company, and
    - (ii) otherwise, 14 days' notice in writing.
- (3) Notwithstanding that a meeting is called by shorter notice than that specified in subsection (2) or in the company's articles (as the case may be), it is deemed to have been duly called if it is so agreed—
  - (a) in the case of a meeting called as the annual general meeting, by all the members entitled to attend and vote at it; and
  - (b) otherwise, by the requisite majority.
- (4) The requisite majority for this purpose is a majority in number of the members having a right to attend and vote at the meeting, being a majority—
  - (a) together holding not less than 95 per cent. in nominal value of the shares given a right to attend and vote at the meeting; or
  - (b) in the case of a company not having a share capital, together representing not less than 95 per cent. of the total voting rights at that meeting of all the members.

[<sup>F7</sup>A private company may elect (by elective resolution in accordance with section 379A) that the above provisions shall have effect in relation to the company as if for the references to 95 per cent. there were substituted references to such lesser percentage, but not less than 90 per cent. as may be specified in the resolution or subsequently determined by the company in general meeting.]

[<sup>F8</sup>(4A) For the purposes of this section the cases in which notice in writing of a meeting is to be taken as given to a person include any case in which notice of the meeting is sent using electronic communications to such address as may for the time being be notified by that person to the company for that purpose.

<sup>F8</sup>(4B) For the purposes of this section a notice in writing of a meeting is also to be treated as given to a person where—

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- (a) the company and that person have agreed that notices of meetings required to be given to that person may instead be accessed by him on a web site;
  - (b) the meeting is a meeting to which that agreement applies;
  - (c) that person is notified, in a manner for the time being agreed between him and the company for the purpose, of—
    - (i) the publication of the notice on a web site;
    - (ii) the address of that web site; and
    - (iii) the place on that web site where the notice may be accessed, and how it may be accessed;
- and
- (d) the notice continues to be published on that web site throughout the period beginning with the giving of that notification and ending with the conclusion of the meeting;

and for the purposes of this section a notice treated in accordance with this subsection as given to any person is to be treated as so given at the time of the notification mentioned in paragraph (c).

<sup>F8</sup>(4C) A notification given for the purposes of subsection (4B)(c) must—

- (a) state that it concerns a notice of a company meeting served in accordance with this Act,
- (b) specify the place, date and time of the meeting, and
- (c) state whether the meeting is to be an annual or extraordinary general meeting.

<sup>F8</sup>(4D) Nothing in subsection (4B) shall invalidate the proceedings of a meeting where—

- (a) any notice that is required to be published as mentioned in paragraph (d) of that subsection is published for a part, but not all, of the period mentioned in that paragraph; and
- (b) the failure to publish that notice throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the company to prevent or avoid.

<sup>F8</sup>(4E) A company may, notwithstanding any provision to the contrary in a company's articles, take advantage of any of subsections (4A) to (4D).

<sup>F8</sup>(4F) In so far as the articles of the company do not provide for notices and notifications to be served using electronic communications, the provisions of Table A (as for the time being in force) as to such service shall apply.

<sup>F8</sup>(4G) In this section, “address” includes any number or address used for the purposes of electronic communications.]

#### Textual Amendments

- F7** Paragraph inserted (subject to the transitional and saving provisions in S.I. 1990/355, arts. 4, 10, Sch. 4) by Companies Act 1989 (c. 40, SIF 27), ss. 115(3), 213(2)
- F8** S. 369(4A)-(4G) inserted (22.12.2000) by S.I. 2000/3373, art. 18

### 370 General provisions as to meetings and votes.

- (1) The following provisions have effect in so far as the articles of the company do not make other provision in that behalf.

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- (2) Notice of the meeting of a company shall be served on every member of it in the manner in which notices are required to be served by Table A (as for the time being in force).
- (3) Two or more members holding not less than one-tenth of the issued share capital or, if the company does not have a share capital, not less than 5 per cent. in number of the members of the company may call a meeting.
- (4) Two members personally present are a quorum.
- (5) Any member elected by the members present at a meeting may be chairman of it.
- (6) In the case of a company originally having a share capital, every member has one vote in respect of each share or each £10 of stock held by him; and in any other case every member has one vote.

### [<sup>F9</sup>370A Quorum at meetings of the sole member

Notwithstanding any provision to the contrary in the articles of a private company limited by shares or by guarantee having only one member, one member present in person or by proxy shall be a quorum.]

#### Textual Amendments

**F9** S. 370A inserted (15.7.1992) by S.I. 1992/1699, reg. 2, Sch. para.5.

### 371 Power of court to order meeting.

- (1) If for any reason it is impracticable to call a meeting of a company in any manner in which meetings of that company may be called, or to conduct the meeting in manner prescribed by the articles or this Act, the court may, either of its own motion or on the application—
  - (a) of any director of the company, or
  - (b) of any member of the company who would be entitled to vote at the meeting,
 order a meeting to be called, held and conducted in any manner the court thinks fit.
- (2) Where such an order is made, the court may give such ancillary or consequential directions as it thinks expedient; and these may include a direction that one member of the company present in person or by proxy be deemed to constitute a meeting.
- (3) A meeting called, held and conducted in accordance with an order under subsection (1) is deemed for all purposes a meeting of the company duly called, held and conducted.

### 372 Proxies.

- (1) Any member of a company entitled to attend and vote at a meeting of it is entitled to appoint another person (whether a member or not) as his proxy to attend and vote instead of him; and in the case of a private company a proxy appointed to attend and vote instead of a member has also the same right as the member to speak at the meeting.
- (2) But, unless the articles otherwise provide—

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- (a) subsection (1) does not apply in the case of a company not having a share capital; and
  - (b) a member of a private company is not entitled to appoint more than one proxy to attend on the same occasion; and
  - (c) a proxy is not entitled to vote except on a poll.
- [<sup>F10</sup>(2A) The appointment of a proxy may, notwithstanding any provision to the contrary in a company’s articles, be contained in an electronic communication sent to such address as may be notified by or on behalf of the company for that purpose.
- <sup>F10</sup>(2B) In so far as the articles of the company do not make other provision in that behalf, the appointment of a proxy may be contained in an electronic communication in accordance with the provisions of Table A (as for the time being in force).]
- (3) In the case of a company having a share capital, in every notice calling a meeting of the company there shall appear with reasonable prominence a statement that a member entitled to attend and vote is entitled to appoint a proxy or, where that is allowed, one or more proxies to attend and vote instead of him, and that a proxy need not also be a member.
  - (4) If default is made in complying with subsection (3) as respects any meeting, every officer of the company who is in default is liable to a fine.
  - (5) A provision contained in a company’s articles is void in so far as it would have the effect of requiring [<sup>F11</sup>the appointment of a proxy or any] document necessary to show the validity of, or otherwise relating to, the appointment of a proxy, to be received by the company or any other person more than 48 hours before a meeting or adjourned meeting in order that the appointment may be effective.
  - (6) If for the purpose of any meeting of a company invitations to appoint as proxy a person or one of a number of persons specified in the invitations are issued at the company’s expense to some only of the members entitled to be sent a notice of the meeting and to vote at it by proxy, then every officer of the company who knowingly and wilfully authorises or permits their issue in that manner is liable to a fine.
- However, an officer is not so liable by reason only of the issue to a member at his request <sup>F12</sup> . . . of a form of appointment naming the proxy, or of a list of persons willing to act as proxy, if the form or list is available on request <sup>F12</sup> . . . to every member entitled to vote at the meeting by proxy.
- [<sup>F13</sup>(6A) In this section, “address” includes any number or address used for the purposes of electronic communications.]
- (7) This section applies to meetings of any class of members of a company as it applies to general meetings of the company.

#### Textual Amendments

**F10** S. 372(2A)(2B) inserted (22.12.2000) by S.I. 2000/3373, art. 19(1)(2)

**F11** Words in s. 372(5) substituted (22.12.2000) by S.I. 2000/3373, art. 19(1)(3)

**F12** Words in s. 272(6) deleted (22.12.2000) by virtue of S.I. 2000/3373, art. 19(1)(4)

**F13** S. 372(6A) inserted (22.12.2000) by S.I. 2000/3373, art. 19(1)(5)

*Status: Point in time view as at 16/02/2001.*

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### **373 Right to demand a poll.**

- (1) A provision contained in a company's articles is void in so far as it would have the effect either—
- (a) of excluding the right to demand a poll at a general meeting on any question other than the election of the chairman of the meeting or the adjournment of the meeting; or
  - (b) of making ineffective a demand for a poll on any such question which is made either—
    - (i) by not less than 5 members having the right to vote at the meeting; or
    - (ii) by a member or members representing not less than one-tenth of the total voting rights of all the members having the right to vote at the meeting; or
    - (iii) by a member or members holding shares in the company conferring a right to vote at the meeting, being shares on which an aggregate sum has been paid up equal to not less than one-tenth of the total sum paid up on all the shares conferring that right.
- (2) [<sup>F14</sup>The appointment of] a proxy to vote at a meeting of a company is deemed also to confer authority to demand or join in demanding a poll; and for the purposes of subsection (1) a demand by a person as proxy for a member is the same as a demand by the member.

#### **Textual Amendments**

**F14** Words in s. 373(2) substituted (22.12.2000) by S.I. 2000/3373, art. 20

### **374 Voting on a poll.**

On a poll taken at a meeting of a company or a meeting of any class of members of a company, a member entitled to more than one vote need not, if he votes, use all his votes or cast all the votes he uses in the same way.

### **375 Representation of corporations at meetings.**

- (1) A corporation, whether or not a company within the meaning of this Act, may—
- (a) if it is a member of another corporation, being such a company, by resolution of its directors or other governing body authorise such person as it thinks fit to act as its representative at any meeting of the company or at any meeting of any class of members of the company;
  - (b) if it is a creditor (including a holder of debentures) of another corporation, being such a company, by resolution of its directors or other governing body authorise such person as it thinks fit to act as its representative at any meeting of creditors of the company held in pursuance of this Act or of rules made under it, or in pursuance of the provisions contained in any debenture or trust deed, as the case may be.
- (2) A person so authorised is entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual shareholder, creditor or debenture-holder of the other company.



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