



Companies Act 1985

1985 CHAPTER 6

PART XI

COMPANY ADMINISTRATION AND PROCEDURE

CHAPTER IV

MEETINGS AND RESOLUTIONS

Resolutions

376 Circulation of members' resolutions.

- (1) Subject to the section next following, it is the duty of a company, on the requisition in writing of such number of members as is specified below and (unless the company otherwise resolves) at the expense of the requisitionists—
 - (a) to give to members of the company entitled to receive notice of the next annual general meeting notice of any resolution which may properly be moved and is intended to be moved at that meeting;
 - (b) to 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 the business to be dealt with at that meeting.
- (2) The number of members necessary for a requisition under subsection (1) is—
 - (a) any number representing not less than one-twentieth of the total voting rights of all the members having at the date of the requisition a right to vote at the meeting to which the requisition relates; or
 - (b) not less than 100 members holding shares in the company on which there has been paid up an average sum, per member, of not less than £100.
- (3) Notice of any such resolution shall be given, and any such statement shall be circulated, to members of the company entitled to have notice of the meeting sent to

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- them, by serving a copy of the resolution or statement on each such member in any manner permitted for service of notice of the meeting.
- (4) Notice of any such resolution shall be given to any other member of the company by giving notice of the general effect of the resolution in any manner permitted for giving him notice of meetings of the company.
 - (5) For compliance with subsections (3) and (4), the copy must be served, or notice of the effect of the resolution be given (as the case may be), in the same manner and (so far as practicable) at the same time as notice of the meeting; and, where it is not practicable for it to be served or given at the same time, it must be served or given as soon as practicable thereafter.
 - (6) The business which may be dealt with at an annual general meeting includes any resolution of which notice is given in accordance with this section; and for purposes of this subsection notice is deemed to have been so given notwithstanding the accidental omission, in giving it, of one or more members. This has effect notwithstanding anything in the company's articles.
 - (7) In the event of default in complying with this section, every officer of the company who is in default is liable to a fine.

Modifications etc. (not altering text)

C1 S. 376(7) applied (26.11.2001) by S.I. 2001/3755, reg. 16(7) (with regs. 39, 45)

377 In certain cases, compliance with s. 376 not required.

- (1) A company is not bound under section 376 to give notice of a resolution or to circulate a statement unless—
 - (a) a copy of the requisition signed by the requisitionists (or two or more copies which between them contain for signatures of all the requisitionists) is deposited at the registered office of the company—
 - (i) in the case of a requisition requiring notice of a resolution, not less than 6 weeks before the meeting, and
 - (ii) otherwise, not less than one week before the meeting; and
 - (b) there is deposited or tendered with the requisition a sum reasonably sufficient to meet the company's expenses in giving effect to it.
- (2) But it, after a copy of a requisition requiring notice of a resolution has been deposited at the company's registered office, an annual general meeting is called for a date 6 weeks or less after the copy has been deposited, the copy (though not deposited within the time required by subsection (1)) is deemed properly deposited for the purposes of that subsection.
- (3) The company is also not bound under section 376 to circulate a statement if, on the application either of the company or of any other person who claims to be aggrieved, the court is satisfied that the rights conferred by that section are being abused to secure needless publicity for defamatory matter; and the court may order the company's costs on such an application to be paid in whole or in part by the requisitionists, notwithstanding that they are not parties to the application.

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378 Extraordinary and special resolutions.

- (1) A resolution is an extraordinary resolution when it has been passed by a majority of not less than three-fourths of such members as (being entitled to do so) vote in person or, where proxies are allowed, by proxy, at a general meeting of which notice specifying the intention to propose the resolution as an extraordinary resolution has been duly given.
- (2) A resolution is a special resolution when it has been passed by such a majority as is required for the passing of an extraordinary resolution and at a general meeting of which not less than 21 days' notice, specifying the intention to propose the resolution as a special resolution, has been duly given.
- (3) If it is so agreed by a majority in number of the members having the right to attend and vote at such a meeting, being a majority—
 - (a) together holding not less than 95 per cent. in nominal value of the shares giving that right; 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,

a resolution may be proposed and passed as a special resolution at a meeting of which less than 21 days' notice has been given.

[^{F1}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.]

- (4) At any meeting at which an extraordinary resolution or a special resolution is submitted to be passed, a declaration by the chairman that the resolution is carried is, unless a poll is demanded, conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- (5) In computing the majority on a poll demanded on the question that an extraordinary resolution or a special resolution be passed, reference is to be had to the number of votes cast for and against the resolution.
- (6) For purposes of this section, notice of a meeting is deemed duly given, and the meeting duly held, when the notice is given and the meeting held in the manner provided by this Act or the company's articles.

Textual Amendments

- F1** 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)

Modifications etc. (not altering text)

- C2** [S. 378\(3\)](#) excluded (1.12.2001) by [2000 c. 8](#), [s. 366\(4\)\(a\)](#); [S.I. 2001/3538](#), [art. 2\(1\)](#)

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379 Resolution requiring special notice.

- (1) Where by any provision of this Act special notice is required of a resolution, the resolution is not effective unless notice of the intention to move it has been given to the company at least 28 days before the meeting at which it is moved.
- (2) The company shall give its members notice of any such resolution at the same time and in the same manner as it gives notice of the meeting or, if that is not practicable, shall give them notice either by advertisement in a newspaper having an appropriate circulation or in any other mode allowed by the company's articles, at least 21 days before the meeting.
- (3) If, after notice of the intention to move such a resolution has been given to the company, a meeting is called for a date 28 days or less after the notice has been given, the notice is deemed properly given, though not given within the time required.

[^{F2}379A Elective resolution of private company.

- (1) An election by a private company for the purposes of—
 - (a) section 80A (election as to duration of authority to allot shares),
 - (b) section 252 (election to dispense with laying of accounts and reports before general meeting),
 - (c) section 366A (election to dispense with holding of annual general meeting),
 - (d) section 369(4) or 378(3) (election as to majority required to authorise short notice of meeting), or
 - (e) section 386 (election to dispense with appointment of auditors annually),
 shall be made by resolution of the company in general meeting in accordance with this section.

Such a resolution is referred to in this Act as an “elective resolution”.

- (2) An elective resolution is not effective unless—
 - (a) at least 21 days' notice in writing is given of the meeting, stating that an elective resolution is to be proposed and stating the terms of the resolution, and
 - (b) the resolution is agreed to at the meeting, in person or by proxy, by all the members entitled to attend and vote at the meeting.

[An elective resolution is effective notwithstanding the fact that less than 21 days' ^{F3}(2A) notice in writing of the meeting is given if all the members entitled to attend and vote at the meeting so agree.]

- (3) The company may revoke an elective resolution by passing an ordinary resolution to that effect.
- (4) An elective resolution shall cease to have effect if the company is re-registered as a public company.
- (5) An elective resolution may be passed or revoked in accordance with this section, and the provisions referred to in subsection (1) have effect, notwithstanding any contrary provision in the company's articles of association.]

Textual Amendments

F2 S. 379A inserted by [Companies Act 1989 \(c. 40, SIF 27\)](#), **ss. 116(2), 213(2)**

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F3 S. 379A(2A) inserted (19.6.1996) by S.I. 1996/1471, art. 2

380 Registration, etc. of resolutions and agreements.

- (1) A copy of every resolution or agreement to which this section applies shall, within 15 days after it is passed or made, be forwarded to the registrar of companies and recorded by him; and it must be either a printed copy or else a copy in some other form approved by the registrar.
- (2) Where articles have been registered, a copy of every such resolution or agreement for the time being in force shall be embodied in or annexed to every copy of the articles issued after the passing of the resolution or the making of the agreement.
- (3) Where articles have not been registered, a printed copy of every such resolution or agreement shall be forwarded to any member at his request on payment of 5 pence or such less sum as the company may direct.
- (4) This section applies to—
 - (a) special resolutions;
 - (b) extraordinary resolutions;
 - [^{F4}(b) an elective resolution or a resolution revoking such a resolution;]
 - (c) resolutions or agreements which have been agreed to by all the members of a company but which, if not so agreed to, would not have been effective for their purpose unless (as the case may be) they had been passed as special resolutions or as extraordinary resolutions;
 - (d) resolutions or agreements which have been agreed to by all the members of some class of shareholders but which, if not so agreed to, would not have been effective for their purpose unless they had been passed by some particular majority or otherwise in some particular manner, and all resolutions or agreements which effectively bind all the members of any class of shareholders though not agreed to by all those members;
 - (e) a resolution passed by the directors of a company in compliance with a direction under section 31(2) (change of name on Secretary of State's direction);
 - (f) a resolution of a company to give, vary, revoke or renew an authority to the directors for the purposes of section 80 (allotment of relevant securities);
 - (g) a resolution of the directors passed under section 147(2) (alteration of memorandum on company ceasing to be a public company, following acquisition of its own shares);
 - (h) a resolution conferring, varying, revoking or renewing authority under section 166 (market purchase of company's own shares);
 - (j) a resolution for voluntary winding up, passed under [^{F5}section 84(1)(a) of the Insolvency Act];
 - (k) a resolution passed by the directors of an old public company, under section 2(1) of the Consequential Provisions Act, that the company should be re-registered as a public company.
 - [^{F6}(l) a resolution of the directors passed by virtue of regulation 16(2) of the Uncertificated Securities Regulations 1995 (which allow title to a company's shares to be evidenced and transferred without written instrument); and

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- ^{F6}(m) a resolution of a company passed by virtue of regulation 16(6) of the Uncertificated Securities Regulations 1995 (which prevents or reverses a resolution of the directors under regulation 16(2) of those Regulations).]
- (5) If a company fails to comply with subsection (1), 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.
- (6) If a company fails to comply with subsection (2) or (3), the company and every officer of it who is in default is liable to a fine.
- (7) For purposes of subsections (5) and (6), a liquidator of a company is deemed an officer of it.

Textual Amendments

- F4** S. 380(4)(bb) inserted by Companies Act 1989 (c. 40, SIF 27), **ss. 116(3)**, 213(2)
- F5** Words substituted by Insolvency Act 1986 (c. 45, SIF 66), s. 439(1), **Sch. 13 Pt. I**
- F6** S. 380(4)(l)(m) inserted (19.12.1995) by S.I. 1995/3272, **reg. 40(3)** (which insertion fell by reason of revocation of S.I. 1995/3272, by S.I. 2001/3755, **reg. 52(3)** (with **regs. 39, 45**))

Modifications etc. (not altering text)

- C3** S. 380 applied (E.W.) (1.9.1992) by Charities Act 1992 (c. 41), **s. 5(2)**; S.I. 1992/1900, art. 2(1), **Sch. 1**.
 S. 380 applied (E.W.) (1.8.1993) by 1993 c. 10, **ss. 7(2)**, 99(1)
- C4** S. 380(6) extended (12.2.1992) by S.I. 1992/225, **regs. 77(2)**, 89(4).

381 Resolution passed at adjourned meeting.

Where a resolution is passed at an adjourned meeting of—

- (a) a company;
- (b) the holders of any class of shares in a company;
- (c) the directors of a company;

the resolution is for all purposes to be treated as having been passed on the date on which it was in fact passed, and is not to be deemed passed on any earlier date.

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