



Companies Act 1989

1989 CHAPTER 40

PART V

OTHER AMENDMENTS OF COMPANY LAW

De-regulation of private companies

113 Written resolutions of private companies

- (1) Chapter IV of Part XI of the Companies Act 1985 (meetings and resolutions) is amended as follows.
- (2) After section 381 insert—

“Written resolutions of private companies

381A Written resolutions of private companies

- (1) Anything which in the case of a private company may be done—
 - (a) by resolution of the company in general meeting, or
 - (b) by resolution of a meeting of any class of members of the company, may be done, without a meeting and without any previous notice being required, by resolution in writing signed by or on behalf of all the members of the company who at the date of the resolution would be entitled to attend and vote at such meeting.
- (2) The signatures need not be on a single document provided each is on a document which accurately states the terms of the resolution.
- (3) The date of the resolution means when the resolution is signed by or on behalf of the last member to sign.
- (4) A resolution agreed to in accordance with this section has effect as if passed—

Status: This is the original version (as it was originally enacted).

- (a) by the company in general meeting, or
 - (b) by a meeting of the relevant class of members of the company,
- as the case may be; and any reference in any enactment to a meeting at which a resolution is passed or to members voting in favour of a resolution shall be construed accordingly.
- (5) Any reference in any enactment to the date of passing of a resolution is, in relation to a resolution agreed to in accordance with this section, a reference to the date of the resolution, unless section 381B(4) applies in which case it shall be construed as a reference to the date from which the resolution has effect.
 - (6) A resolution may be agreed to in accordance with this section which would otherwise be required to be passed as a special, extraordinary or elective resolution; and any reference in any enactment to a special, extraordinary or elective resolution includes such a resolution.
 - (7) This section has effect subject to the exceptions specified in Part I of Schedule 15A; and in relation to certain descriptions of resolution under this section the procedural requirements of this Act have effect with the adaptations specified in Part II of that Schedule.

381B Rights of auditors in relation to written resolution

- (1) A copy of any written resolution proposed to be agreed to in accordance with section 381A shall be sent to the company's auditors.
- (2) If the resolution concerns the auditors as auditors, they may within seven days from the day on which they receive the copy give notice to the company stating their opinion that the resolution should be considered by the company in general meeting or, as the case may be, by a meeting of the relevant class of members of the company.
- (3) A written resolution shall not have effect unless—
 - (a) the auditors notify the company that in their opinion the resolution—
 - (i) does not concern them as auditors, or
 - (ii) does so concern them but need not be considered by the company in general meeting or, as the case may be, by a meeting of the relevant class of members of the company, or
 - (b) the period for giving a notice under subsection (2) expires without any notice having been given in accordance with that subsection.
- (4) A written resolution previously agreed to in accordance with section 381A shall not have effect until that notification is given or, as the case may be, that period expires.

381C Written resolutions: supplementary provisions

- (1) Sections 381A and 381B have effect notwithstanding any provision of the company's memorandum or articles.
- (2) Nothing in those sections affects any enactment or rule of law as to—
 - (a) things done otherwise than by passing a resolution, or

- (b) cases in which a resolution is treated as having been passed, or a person is precluded from alleging that a resolution has not been duly passed.”.
- (3) After section 382 insert—

“382A Recording of written resolutions

- (1) Where a written resolution is agreed to in accordance with section 381A which has effect as if agreed by the company in general meeting, the company shall cause a record of the resolution (and of the signatures) to be entered in a book in the same way as minutes of proceedings of a general meeting of the company.
- (2) Any such record, if purporting to be signed by a director of the company or by the company secretary, is evidence of the proceedings in agreeing to the resolution; and where a record is made in accordance with this section, then, until the contrary is proved, the requirements of this Act with respect to those proceedings shall be deemed to be complied with.
- (3) Section 382(5) (penalties) applies in relation to a failure to comply with subsection (1) above as it applies in relation to a failure to comply with subsection (1) of that section; and section 383 (inspection of minute books) applies in relation to a record made in accordance with this section as it applies in relation to the minutes of a general meeting.”.