

PRINCIPLES AND PROCEDURES OF MEETING :

THE GUIDELINES FOR VALID MEETING

FARIHAH IDRIS
SITI NURBAYA MAT ROFA

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Principles and Procedures of Meeting : The Guidelines for Valid Meeting / Farihah Idris and Siti Nurbaya Mat Rofa



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PRINCIPLES AND PROCEDURES OF MEETING:

The Guidelines for Valid Meeting

First Edition 2023

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PREFACE

This book: **Principles and Procedures of meeting : The Guidelines for Valid Meeting** is about one of the most exciting knowledge on how to conduct and handle effective proceeding of meeting. It is dedicated to executive officers, secretaries, customer services personnel and students who want to enhance knowledge of handling valid of meeting.

In the first edition, this book describes in detail about meeting, types of meeting and characteristic to ensure valid of meeting. Then it is covers about company secretaries' function to provide administrative support and guidance to company directors. Company secretaries provide guidance to company directors about how organisations should be directed, managed or controlled. Besides that, other topic will explain proceedings of the Meeting in detail. Generally, briefly elaborate shareholder's the right such as to attend, participate and speak at a meeting and to vote by way of a show of hands on every resolution of the company, as well as the right to one vote for each share by way of a poll.

It is also teaching the readers how to Prepare of Minutes of Meeting that is contained the true and fair summary of the proceedings of the meeting. Minutes should be prepared as per the provisions of the Companies Act 2013. And in the final chapter of this book readers shall be exposed in detail on The Societies Act 1966 (Malay: Akta Pertubuhan 1966), is a Malaysian Law which enacted relating to registration of societies.

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CHAPTER 1 : INTRODUCTION OF MEETINGS

1.0 WHAT IS MEETING?

DEFINITION OF MEETING

- According to Sharp V. Dawes 1876. A meeting is defined "The coming together of more than one person for any lawful purpose". A meeting also defined as an assembly of people for lawful purpose or coming together of at least two peoples for any lawful purpose.
- Meeting means a gathering or assembly of persons convened for conducting a business for example relating to the affairs of the bankrupt. Such meetings include Statutory Meeting, Annual General Meeting, Class Meeting and Extraordinary General Meeting.

    - **Public Meeting** which consider matters of public concern and to which all members of the public have access.
    - **Private Meeting** which are attended by people who have a specific right or specific capacity to attend of particular meeting.

- Why meeting is important? It is because of the fact that the company is an artificial person so it cannot do any act by itself. It must act through some human intermediary. In absence of any human, no meeting is possible.

- Unlawful Assembly:
  The offense of assembling with a certain minimum number of others for the purpose of engaging in a riot or other unlawful conduct that threatens public safety, peace or order.



CHARACTERISTICS OF MEETING

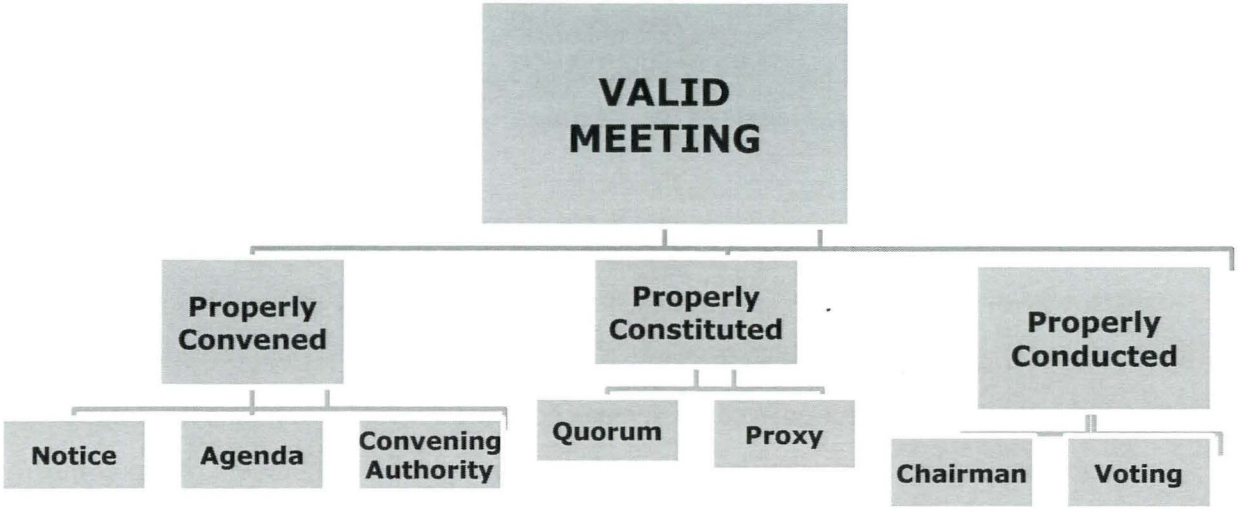
- A meeting has the following characteristics:
    a. a lawful purpose
    b. a process of communication and interaction between attendees of the meeting
    c. conducted by a chairman
    d. a collective decision on each resolution
    e. a proceeding (minutes) of the meeting

MEETINGS OF MEMBERS AT TWO OR MORE VENEUS

- However, due to modern technology, it is not necessary for all the persons attending the meeting to be together in the same room.
- Subject to the constitution, a company may convene a meeting of members at more than one venue using any technology or method that enables the members of the company to participate and to exercise the members' right to speak and vote at the meeting.
- The main venue of the meeting shall be in Malaysia and the chairperson shall be present at that main venue of the meeting.



1.2. REQUISITES OF A VALID MEETING



There are various requisites of a valid meeting. For every meeting in order to be valid, it must be:

- **Properly convened**
- **Properly constituted**
- **Properly conducted**

- **Properly convened** means convened by the proper authority and with proper notice of meeting and agenda send out. The proper authority to convene the meeting is the board of directors, shareholders or company law board. A proper and adequate notice and agenda must be given to all those who are entitled to attended the meeting.
- For a meeting to be **properly and legally constituted** there must be proper quorum and proxy can be appointed to represent members who cannot attend the meeting, a proper person in the chair and proper compliance with the relevant provisions of the Articles of Association and the Act.
- **Properly conducted** by appointed chairman and proper rules for ascertaining sense of the meeting should be there. The rules for discussion and order in debate must be observed. The proceedings should also be recorded properly.

1.2.1. PROPERLY CONVENED

1.2.1.1 NOTICE

What is notice of meeting?

- Notice of meeting is any form or method of communication used by the convener to summon to the meeting all persons who are entitled to attend.
- The agenda is the necessary part of the notice and it either accompanies the notice and the notice must be issued by the convener or authorized to do so by the regulation governing meeting concern.

Method may be used as notice such as:

- Verbal notice
- Press advertisement
- Bill posting
- Handbills distribute door to door
- Notice board
- Broadcasting

Contents for notice of meeting generally as follows:

- Place of meeting
- Date, day and time of meeting
- Business to be transacted
- Detail any special business to be transacted
- Kind of meeting (AGM, EGM)
- Name of the company
- Date of notice
- Signature of the person convening the meeting (secretary)

Service of Notice

- Notice must be given to any member entitle to receive it personally or by sending it by post to his registered address or if he has no registered address in Malaysia to the address (if any) within Malaysia supplied by him to the company.
- When notice is sent by post, it is deemed to be effected by properly addressing, prepaying and posting the letter containing the notice and to have been effected on the day after the date of posting.
- Clear day is excluding the day of service of the notice and the day on which of the meeting are to be held.

Period of notice

- Period of notice is depending on meeting itself:
  - **21 days** (special business/special resolution)

    AGM of a public company not less than 21 days or such a longer period as is provided in the articles
  - **14 days** (ordinary business/company/class meeting)
  - **7 days** (board meeting)
- The length of notice required is usually provided in the rules; if not should be reasonable period.

1.2.1.2 AGENDA

What is agenda of meeting?

- Agenda is lists of items to be discussed at a meeting.
- An agenda may take various forms according to the requirement and kind of meeting.

  Types of agenda:
  - A skeleton (outline & heading to be discussed)
  - A detail form of agenda (complete sentence & heading)
  - The chairman's copy of the agenda (complete sentence and heading and wide margin on left to annotate)

- Arrangement of agenda must be properly arranged based on priority
  i. Apologies for absence
  ii. Minutes of previous meeting
  iii. Report (chairman, treasurer)
  iv. Any other business
  v. Unfinished business
  vi. Date of next meeting
  vii. Adjournment

Functions of agenda

a. Provides a program that is scheduled in a suitable way to facilitate the consideration of each item and the transaction of business in an orderly manner to be completed within appropriate time.
b. Enables the business to be arranged in a logical flow which promotes efficiency and harmony in a meeting.
c. Provides a restraint on members from raising matters which are to be discussed at a later heading or which are irrelevant.
d. Provides a basis on which to write the minutes of meeting.

1.2.1.3 CONVENING AUTHORITY

Who is convening authority?

The following persons who are entitled or authorized to summon a meeting can give a valid notice of meeting:

a. Board of directors (secretary will only send out notice of meeting based on their instruction and their order)
b. Any director may summon a meeting of directors
c. 2 or more members holding more than 10% of the issued share capital may call for Extraordinary General Meeting (EGM)
d. The court

1.2.2 PROPERLY CONSTITUTED

- For a meeting to be properly and legally constituted, there must be a proper quorum, a proper person in the chair and a proper compliance with the relevant provisions of the Articles of Association and the Act.
- Meeting should be muster a quorum when due is to start.
- Quorum is a minimum number of persons entitled to be present at a meeting.
- Any business transacted at a meeting without a quorum is invalid.
- Representation of member's absent is called as proxy.
- All members entitled to attend and vote in the meeting.
- If the company is having a share capital or not having a share capital, every member entitled to have one vote at the meeting.

1.2.3 PROPERLY CONDUCTED

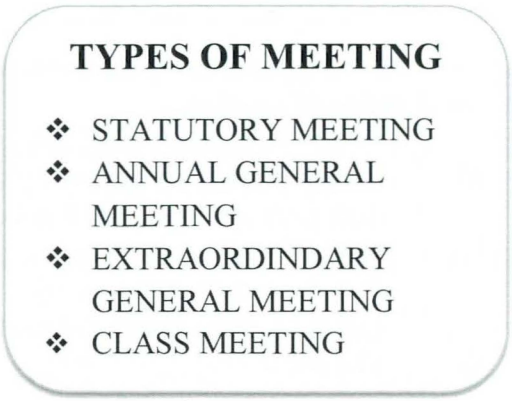
- A properly conducted is meeting held in accordance with the rules governing of meeting.
- Chairman is the person who has been designated or elected to preside over and conduct the proceedings of a meeting. He is the chief authority in the conduct and control of the meeting.
- Method of making resolution is conducted properly by voting process such as poll, ballot, show of hands or voice.

1.3 TYPES OF MEETING

- There are several types of meeting included;

SHARE HOLDERS MEETING:

i. Statutory Meetings
ii. Annual General Meeting
iii. Extraordinary General Meeting
iv. Class Meetings



1.3.1 STATUTORY MEETING

- The first meeting of the shareholders of a public company is called as the statutory meeting.
- It is held once in the entire life of company incorporated as a public company. (Limited Co.)
- A public company with a share capital is required to hold a statutory meeting within a period of not less than one month and not more than three months after commence business.
- A statutory report certified by at least two directors must be circulated to all the members of the company at least seven days before the date on which the statutory meeting is to be held.
- Failure to hold the statutory meeting or lodge the statutory report is a ground upon which a petition to wind up company.

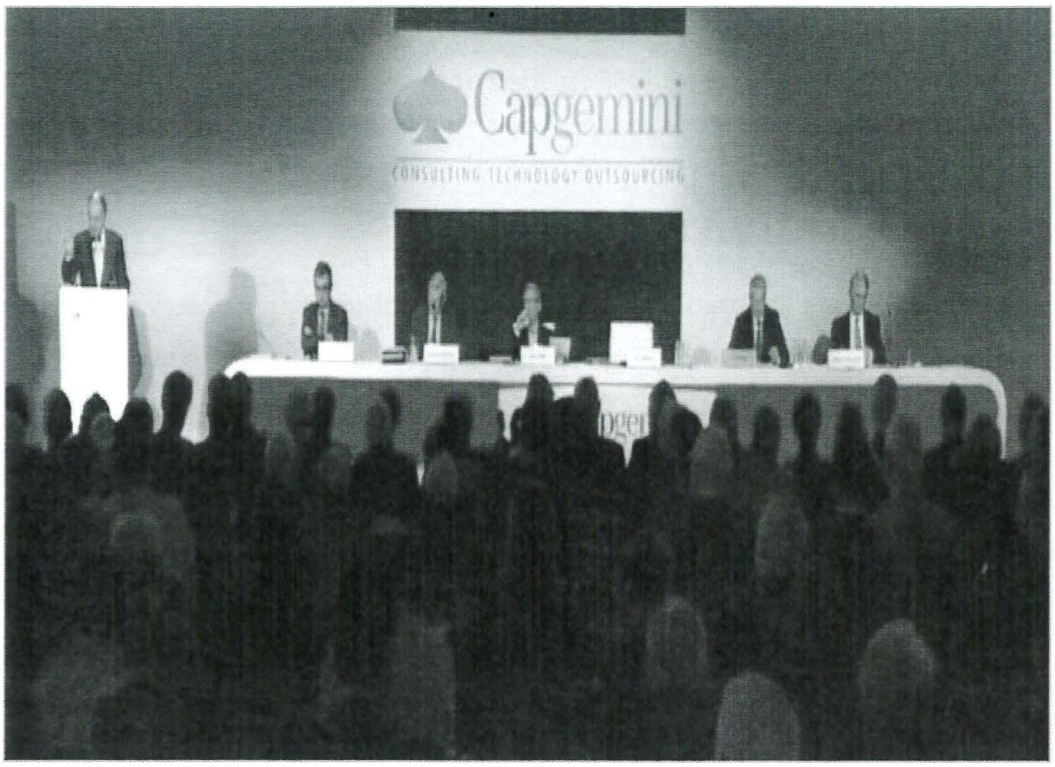
Purpose of Statutory Meeting

- The main objective of the statutory meeting is to make the members familiar with the matters regarding the promotion and formation of the company. The shareholders receive particulars related to shares taken up, moneys received, contracts entered into, preliminary expenses incurred, etc.
- To enable the members, as early as possible to know the progress of the company since its incorporation and also its present position and future prospects.
- To provide an opportunity to the members to discuss finances of the company.

- To provide an opportunity to the members to discuss any matter arising out of the statutory report or relating to the formation of the company.
- To help members to low one another.

1.3.2. ANNUAL GENERAL MEETING (AGM)

- Every public company shall hold an annual general meeting in every calendar year in addition to any other meetings held during that period.
- The first annual general meeting of a company must be held within 18 months from the date of its incorporation and then no meeting will be necessary for the year of incorporation and the following year. The subsequent of annual general meeting must be held within 15 months from the date of the proceeding previous annual general meeting.
- For example, if a company is incorporated in January 1960, its first annual general meeting should be held within eighteen months, i.e., up to June 1961 and then no meeting will be necessary either for 1960 or 1961. Therefore, one annual general meeting must be held every year.
- A public company must hold an AGM within 6 months of the company's financial year end. These are only opportunity that a member has to meet and query the directors on matters pertaining to the running of company.
- Notice in writing of not less than 21 days before the annual general meeting or such longer period as is provided in the articles must be sent to the attendees.



1.3.2.1 IMPORTANCE OF AGM

- An annual general meeting is the yearly gathering of a company's interested shareholders. At an annual general meeting, directors of the company present the company's financial performance and shareholders vote on the issues at hand.
- AGM is an important institution for the protection of the shareholders of a company. The ultimate control and destiny of a company should be in the hands of its shareholders. Thus, shareholders should meet together at least once in a year to review the working of the company.
- Business of meeting (AGM):
    - The laying of audited financial statements and the reports of the directors and auditors
    - Declaration of dividend as recommended by director
    - The election of directors in place of those retiring
    - The appointment and the fixing fee of directors
    - Any resolution or other business of which notice is given in accordance with this act or the constitution.
    - The appointment and fixing the remuneration of auditors





1.3.3. EXTRAORDINARY GENERAL MEETING

- An extraordinary general meeting (EGM) is a shareholder meeting called other than a company's scheduled annual general meeting (AGM). An EGM is also called a special general meeting or emergency general meeting.
- The extraordinary general meeting is utilized to deal with urgent matters that come up between annual shareholders' meetings. EGMs are often considered for emergency measures such as resolving an immediate legal matter or the removal of directors.
- An extraordinary general meeting also becomes necessary on requisition, such a request may either be made by company members and shareholders who either possess sufficient portions of the company's share capital or voting rights.
- The requisition must be signed by the holders for at least one-tenth (10%) paid-up capital having the right to vote on the matter of requisition.

- EGM are general meetings of companies other than AGM which are convened to transact special business which are too urgent and cannot be wait until next AGM.
- EGM may be called by:
    - directors
    - two or more members holding not less than 10% of issued share capital
- The directors must convene the EGM to be held within two months after the receipt of the requisition by the members, IF FAILING; the requisitionists may convene the meeting themselves.
- The notice of the EGM must be sent not later than 21 days to all members.
-

Purpose of Extraordinary General Meeting

- Change in Article of Association.
- Reduction or reorganization of share capital
- Issue of debentures
- Removal of director
- Removal of auditor



DIFFERENCE BETWEEN AGM AND EGM

PARTICULAR	AGM	EGM
It is compulsory?	Yes it is held annually	No
What is discussed?	Ordinary business matters and special business matters Report include annual reports consisting various financial performance reports containing information regarding the company's performance and strategy are presented	Special business matters directly concerning company's management
Who can call the meeting?	Two or more members who collectively owns at least 10% of the company's share capital when combine	If the company does not have share capital, two or more members can call for EGM only if they collectively own at least 105 of all voting rights

1.3.4. CLASS MEETING

- A class meeting is a meeting of certain group of shareholders or members of the company with rights that are specific to that group. If the decision that is being discussed relates to all of the shareholders or members of the company, then a general meeting will need to be held.
- The share capital of companies can and often, is divided into more than one class of shares.
- It may necessary to call a meeting only of a certain class of members and not a general meeting of all members of the company.
- Class meetings are meetings held for holders of a class of shares for companies that issues different classes of shares.
- Class meetings may be held for situations concerning variation of rights and privileges attached to the class of shares.

Test your understanding



EXERCISE

1. Discuss **THREE (3)** requisitions of a valid meeting.

2. List **FIVE (5)** characteristics of meeting.

3. Differentiate between Annual General Meeting and Extraordinary General Meeting.



CHAPTER 2 : COMPANY SECRETARY

2.0 WHAT IS A SECRETARY

DEFINITION OF SECRETARY:

- The word of secretary is derived from the Latin word *secernere*, "*to set apart*," meaning the eventual connotation of something private or confidential, as with the English word *secret.*
- A person who in charge of the records, correspondence, minutes of meetings and related affairs of an organization, company or association.
- Office secretaries generally work directly for organization or office management, and depending on their experience may also supervise other clerical staff.

2.1 WHAT IS A COMPANY SECRETARY?

DEFINITION OF COMPANY SECRETARY

- Company secretary is an officer appointed by the directors of a firm and responsible for ensuring that firm's legal obligations under the corporate legislation are complied with.
- The company secretary is responsible for the efficient administration of a company, particularly with regard to ensuring compliance with statutory and regulatory requirements and for ensuring that decisions of the Board of Directors are implemented.
- Despite the name, the role is not a clerical or secretarial one in the usual sense. It ensures that an organization complies with relevant legislation and regulation, and keeps board members informed of their legal responsibilities.
- Company secretaries are the company's named representative on legal documents and it is their responsibility to ensure that the company and its directors operate within the law.
- It is also their responsibility to register and communicate with shareholders, to ensure that dividends are paid and to maintain company records, such as lists of directors and shareholders and annual accounts.

CASES

Barnett Hoarse & Co v The South London Tramways co (1887)

A secretary of a company as "**mere servant**"; his position was that "he is to do what he is told, and no person can assume that he has any authority to present anything at all such as:

- scope of the position, duties, powers and liabilities
- the secretary of a company has no general authority to make representations to induce persons to take shares in a company.

Newlands v. National Employer's Accident Assoc. (1885)

The secretary of a company has no general authority to make representations to induce persons to take shares in a company; and the person who is induced to take shares in such a company by a fraudulent misrepresentation, not authorized by or known to the officers of the company,

He is not entitled to maintain an action against the company for the recession of the contract or for damages for such misrepresentation.

Other case related to Company Secretary;

i. George White Church Ltd. V Cavanagh
ii. Panorama Development (Guildfor0 Ltd V Fidelis Furnishing Fabrics Ltd (1971)



2.2 DIFFERENCE BETWEEN SECRETARY & COMPANY SECRETARY

PARTICULAR	SECRETARY	COMPANY SECRETARY
Definition	A person who performs administrative duties, personal task for supervisor	A company secretary is responsible for administration of a certain company with compliance the statutory and regulation requirement
Duties	Report to supervisor	Assist and advice company to follow regulations
Scope of work	Be a secretary only for his/her supervisor (1 or at least 2 persons) Involve in clerical and administration for supervisor	Can be a company secretary for many company depend on situation Involve Regulation & Statutory of the company
Appointment	Appointed by letters from supervisor or Human Resource (HR) manager.	Appointed by company under statutory agreement between company and company secretary
Specialties	Do task a clerical work and Office Administration Field for intermediate boss/supervisor only	As representative on legal documents and responsible to ensure company's and director operate according to the law and regulation. In charge of Registration, constitution of company, declaration of dividend to shareholders and winding up of company
Qualification	Normal qualification (SPM, Diploma, Degree in certain program)	Company's Secretary Bodies (MIA, MAICSA,MICPA)

2.3 COMPANY SECRETARY IN MALAYSIA:

- A company secretary must be a member of professional body recognized by the Minister of Domestic Trade and Consumer Affairs; or

  membership in the following professional bodies has been approved and accepted by the Minister as qualifications to act as company secretary of a company.

  The professional bodies are:

  - The Malaysian Institute of Chartered Secretaries and Administrators (MAICSA)
  - The Malaysian Institute of Accountant (MIA)
  - The Malaysian Institute of Certified Public Accountants (MICPA)
  - The Malaysian Bar
  - The Sabah Law Association
  - The Advocates' Association of Sarawak
  - The Malaysian Association of Company Secretary

QUALIFICATION OF COMPANY SECRETARY

Natural person
The natural person aret oact as single entity for legal purpose that are not an association, joint venture or joint stock company

Full of age
The reference to full age means 18 years of age (Age of majority Act)

A citizen or permanent resident of Malaysia
Only place of residence in Malaysia

A member of a professional body
Has certified and recognised by professional body (MIA,MAICSA and etc)

Licensed by Companies Commission of Malaysia
Has license Company secretary

Has experience in order to qualify for the applicant of Company Secretary
Working experience to company law matter or company secretarial practice and minimum period of working experience is dependent on the qualification (minimum SPM)

2.4 PROCEDURE OF APPOINTMENT OF COMPANY SECRETARY

- The company secretary should therefore be appointed and approved by the BOD's meeting or if the company's articles allow.
- The company secretary must execute Form 48F to make declaration that he or she is qualified and consent to act as company secretary.
- Company secretary shall be present at the registered office of the company and the office shall not be left vacant for more than one month at any time.
- The CCM must be notified of all appointments of company secretary, including joint secretaries by lodging Form 49 together with certified copy of resolution within one month from the date of appointment and the register of directors, managers and secretaries must similarly be updated.

2.5 RESIGNATION OR REMOVAL OF COMPANY SECRETARY

- The company secretary may resign by tendering a resignation letter or be removed at any time by the BOD's.
- A resolution may be passed by the board to dismiss or remove the company secretary and notify the CCM by filling Form 49 within one (1) month from the effective date of removal.
- If none of the directors of the company can be communicated with at the last known residential address, the secretary may notify the Registrar of that fact and of his intention to resign from the office.
- Reasonable grounds for removal include disclosing confidential information, bribery, fraud, gross misconduct or serious negligence in carrying out the duties as a company secretary.

2.6 DISQUALIFICATION OF COMPANY SECRETARY

- An undischarged bankrupt.
- Convicted of any of the following offences:
  - connected with the promotion, formation or management of a corporation.
  - involving fraud or dishonesty where punishment is imprisonment for three months or more.
  - any offence involving dishonesty and lack of reasonable diligence in the discharge of his duties. insider trading.
- proper company accounts are not kept.
- No longer a member of a professional body prescribed by the Minister under CA section 238
- No longer holding a license to act as company secretary issued by the Registrar of Companies.

DUTIES OF COMPANY SECRETARY

Maintain of the company's registered office

Lodge of returns with the Register of the particular of directors, managers and secretaries

Lodgment of the company annual return with Registrar

Carry out function of the Chief Administrative Officer of the company

To ensure the necessary registers are established and properly maintain

To ensure all returns (dividend) are prepared and filed

To organize and attend meetings of the shareholders and directors

To be conversant with meeting procedures

To ensure the company's book of account are kept and annual accounts and reports are prepared

To supervise the company's share capital

To supervise the preparation of tax returns

To attend to the company's insurance requirement

To be conversant with statutory requirements

2.7 CODE OF ETHICS

The code was formulated to raise the standard of corporate governance and to inculcate good corporate behavior to achieve the following objectives:

- To instill professionalism among company secretaries within the tenets of morality, efficiency and administrative effectiveness; and
- To uphold the spirit of social responsibilities and accountability in line with the legislations, regulations and guidelines governing a company.

3.2 CODE OF CONDUCT

A company secretary should always observe the following Code of Conduct in the performance of his duties:

- Strive for professional competency and at all times exhibit a high degree of skill and proficiency in the performance of the duties of his office.
- At all times exercise the utmost good faith and act both responsibly and honestly with reasonable care and due diligence in the exercise of his powers and the discharge of the duties of his office.
- At all times strive to assist the company towards its proper objectives within the tenets of moral responsibility, efficiency and administrative effectiveness.
- Have a clear understanding of the aims and objectives of the company, and of the powers and restrictions as provided in the Memorandum and Articles of Association of the company.
- Be knowledgeable of law meetings, meeting procedures, particularly quorum procedures, voting procedures, proxy provisions and be responsible for the proper administration meetings.
- Adopt an objective and positive attitude and give full cooperation when dealing with governmental authorities and regulatory bodies.

Test your understanding



EXERCISE

Indicate **TRUE** or **FALSE**

1. Company secretary is a body which responsible for the efficient administration of a company, particularly with regard to ensuring compliance with statutory and regulatory requirements and for ensuring that decisions of the Board of Directors are implemented.

2. Company secretary has to ensure that bonus is paid and to maintain company's statement records.

List **FOUR (4)** differences between a secretary and a company secretary.

_____

_____

_____

_____

Explain **SIX (6)** duties of company secretary.

_____

_____

_____

_____

_____

_____

List **THREE (3)** disqualification of company secretary.

_____

_____

_____

_____

_____

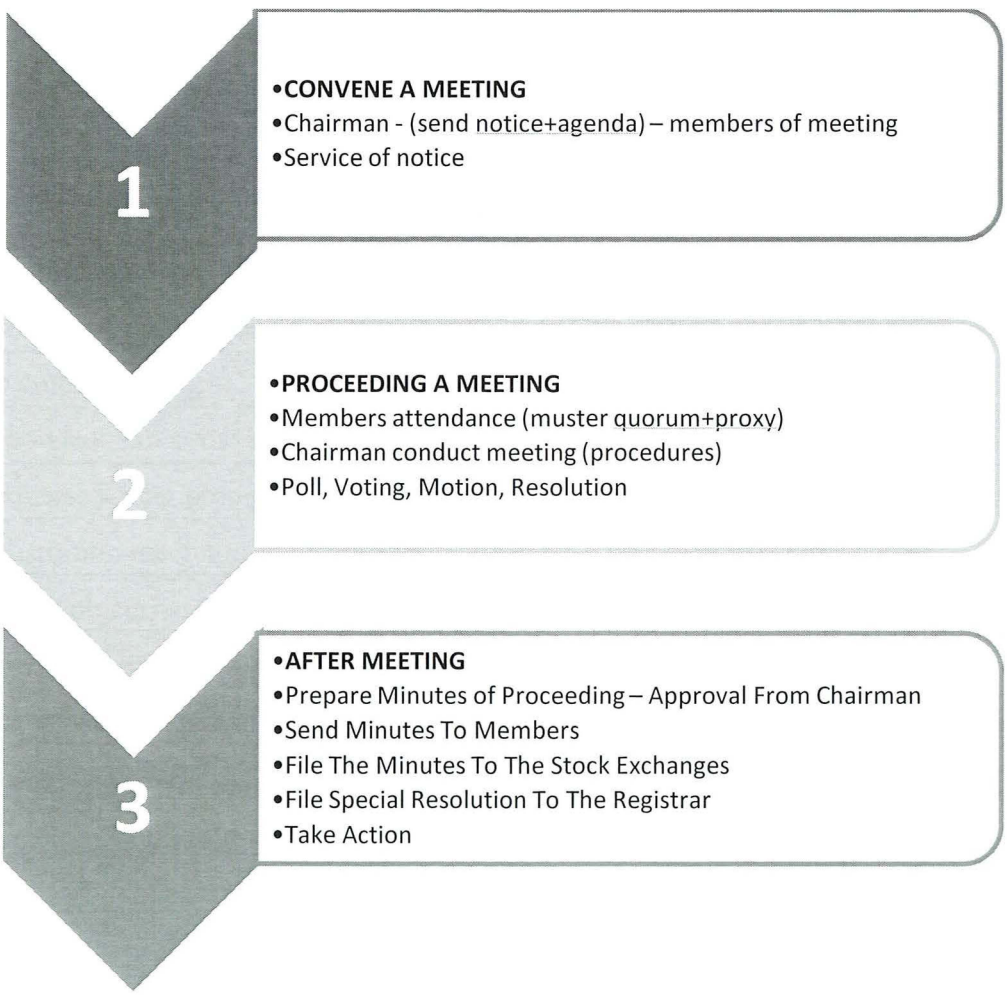
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CHAPTER 3 : PROCEEDING OF MEETING

3.0 MEETING AND PROCEEDING

- Formal or informal deliberative assembly of individuals called to debate certain issues and problems, and to take decisions.
- A meeting is typically headed by a chairperson and its deliberations are recorded in a written form called minutes.
- Such meetings must have a minimum number of members (called quorum) present to make the legally operative.
- Decisions (called resolutions) are made on the basis of number of votes the assenting and dissenting parties can muster.

3.1 PROCEEDING OF MEETING



3.2 NOTICE OF MEETING

- The word 'notice' means and connotes giving of information or summons should be issued to all those who have right to participate in the meeting.
- It is a method of communication adopted by the convener to summon to the meeting all persons who are entitled to attend.
- Notices must be issued by the convener or authorized to do so by the regulation governing meeting concern.

3.2.1 GENERAL PRINCIPLES OF NOTICE

- Every person entitled to attend the meeting must be summoned, unless he is beyond reasonable summoning distance or is too ill to attend.
- The notice must be frank, clear and free from trickiness, and if any special business is to be transacted, this must be clearly stated.
- Notice must be given to all persons entitled to attend the meeting
- Failure of send notice might affect the validity of meeting R Vs. Shrewsbury (1735)

3.2.2 PERIOD OF NOTICE

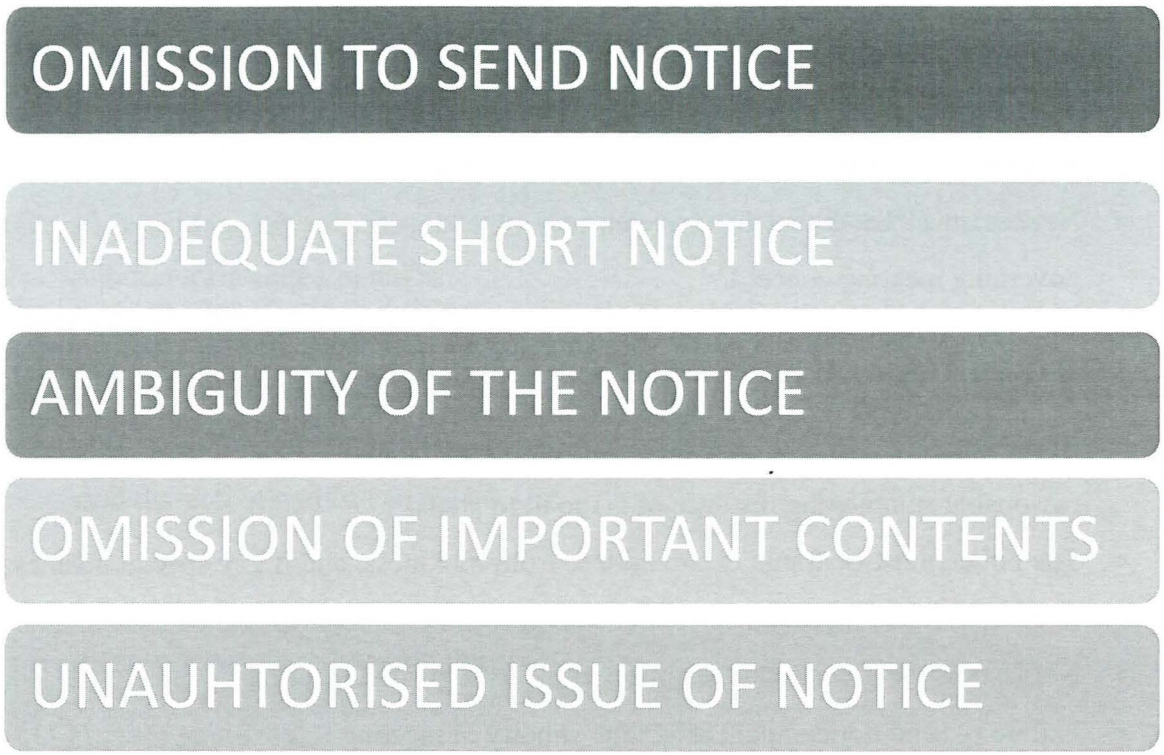


- Period of notice is depending on meeting itself.
- 21 days (special business/special resolution)
- AGM of a public company not less than 21 days or such a longer period as is provided in the articles.
- 14 days (ordinary business/company/class meeting)
- 7 days (board meeting).
- The length of notice required is usually provided for in the rules; if not should be reasonable period.

3.2.3 CONTENTS OF NOTICE

- Place of meeting
- Date, day and time of meeting
- Business to be transacted
- Detail any special business to be transacted
- Kind of meeting (AGM, EGM)
- Name of the company
- Date of notice
- Signature of the person convening the meeting (secretary)

3.3 FAILURE OF CONVENE NOTICE



- **OMISSION TO SEND NOTICE**
  To every person entitled to attend where there are no grounds for excusing the omission

- **INADEQUATE SHORT NOTICE**
  Where no provision is made for excusing the inadequacy

- **AMBIGUITY OF THE NOTICE**
  A notice must be free from anything calculated to confuse or mislead (Kaye V. Croydon Tramways (1898)

- **OMISSION OF IMPORTANT CONTENTS**
  Omission of important contents such as the failure to mention that special business is to be transacted

- **UNAUHTORISED ISSUE OF NOTICE**
  The issue of notice by the secretary without the authority of the convening body is inadequate and the meeting rendered invalid. Hooper V. Kerr (1900)

3.4 CHAIRMAN

- The chairman of a limited company is appointed in accordance with that company's Articles of Association.
- The chairman of the board (if any) shall preside as a chairperson at every general meeting of the company.
- If there is no such chairman, or he is not present within 15 minutes after the time appointed for the holding of meeting, or he is unwilling to act, the members present shall elect one of the members to chair the meeting
- The basic role of the chairman is to preside at the meeting and to control the superintend the conduct of the meeting, to ensure the meeting is in order, the business at a meeting is conducted in the order as given in the agenda, to enable every participant gets reasonable opportunity to speak and to ensure those present to fulfill the function and purpose of the meeting in an orderly and lawful.



3.4.1 QUALITIES OF CHAIRMAN

- **HAVE PERSONALITY**

  The good Chairperson gives strength and support to others while being resilient themselves. This requires a strong personality. Even the most experienced and effective Boards can face challenging times and the ability of the Chairperson to deal with these situations and to bounce back is essential to a company recovering and moving on.

- **IMPARTIALITY**

  Someone who is impartial is not directly involved in a particular situation, and is therefore able to give a fair opinion or decision about it. Impartiality is a principle of justice holding that decisions should be based on objective criteria.

- **STRENGTH OF CHARACTER**

  Courteous and yet have the strength of character to be firm when ruling on point of order and enforcing the rules of the meeting.

- **RESOURCEFULNESS**

  Understand the wider industry and prepare the Company for all eventualities. Experienced Chairperson can quickly identity opportunities and potential risks facing their organization. They can engage with their Boards of Directors at an early stage to discuss potential courses of action.

- **ABILITY TO MAINTAIN DISCIPLINE**

  Have a good self- discipline and have ability to set a good example of leadership by showing good example and own punctuality and regular attendance at meeting.

- **CLARITY OF SPEECH**

  One of the exceptional Chairperson's secrets of success is effective communication with all stakeholders. Through effective communication, the Chairperson gains the confidence of their Board of Directors and provides clarity in the boardroom. The Chairperson's ability at communicating Company strategy to external stakeholders and giving stakeholders confidence in the Company's future direction will help keep external pressures at bay.

3.4.2 POWER OF CHAIRMAN

- **TO MAINTAIN ORDER**

  A chairman must use hid discretion in dealing with emergencies as the arise. Whenever the chairman finds that disorder has set in and decorum is lost he can take measures to restore order.

- **TO DECIDE POINTS OF ORDER**

  Give and maintain his ruling on any point of procedures. Any participant may raise 'points of order' or objections to the saying of other speakers as they are irrelevant, wrong, malicious, out of the scope of the meetings etc. and draw the attention of the chairman. It is within the powers of the chairman to allow or disallow a point of order. But once he gives his ruling, it is final.

- **TO USE A CASTING VOTE**

  The chairman is normally a member of the organization and so has the right to cast his deliberative votes. But, in addition, he may have right of 'casting vote'. If he has that right, then he has the power to exercise casting vote when occasion arises. It is an equality of votes, and if the rules confer this power.

- **TO ORDER THE REMOVAL OF DISORDERLY PERSON**

  Where necessary, reasonable force may be used to effect the removal if the person concerned has fail to withdraw after being requested to do so by the chairman.

- **TO ADJOURN THE MEETING**

  Use the power of chairman to adjourn meeting when it necessary. The chairman has the power to adjourn a meeting in order to cool down the temper of the parti-cipants or when much time has passed and the participants seem to be tired or when adjournment is demanded by members themselves. If, however, there is want of quorum at the very beginning the meeting is automatically adjourned (in case of an extra-ordinary meeting, it ends) and it is the duty of the chairman to see that the meeting is not held.

3.4.3 DUTIES OF CHAIRMAN

- **NOTICE**
  Before the meeting commences he ought to satisfy himself that it has been properly convened

- **CONSTITUTION**
  He must also ensure that the meeting is properly constituted

- **CONDUCT**
  During conduct meeting he must to ensure the proceeding are conducted strictly in accordance with the rules which govern the meeting

- **PRESERVATION OF ORDER**
  He has a duty to preserve order and have power to order the withdrawal of offender

- **ORDER OF BUSINESS**
  He must ensure that business is dealt with in the order set out in the agenda

- **DISCUSSION**
  He has a duty to allow reasonable time for discussion – give equal opportunity to those who wish to speak.

- **SENSE OF MEETING**
  He must ensure that sense of the meeting is properly ascertained with regard to any question which is properly before the meeting.

3. 5 QUORUM

Quorum can be defined as the minimum number of persons (who are entitled to attend the meeting) required being present to constitute a meeting to validly transact the business of the meeting. Without quorum, a meeting is not properly constituted and cannot transact business validly.

ABSENCE OF QUORUM

The requisite quorum prescribed by the articles or law must be present to ensure the validity of the meeting. Absence or inadequacy of the quorum may arise in the following event:

FAILURE TO MUSTER QUORUM

- Until a quorum is present, legally no meeting.
- If the prescribed quorum is not present when the meeting is due to start, the meeting should be formally adjourned because legally, there is no meeting.

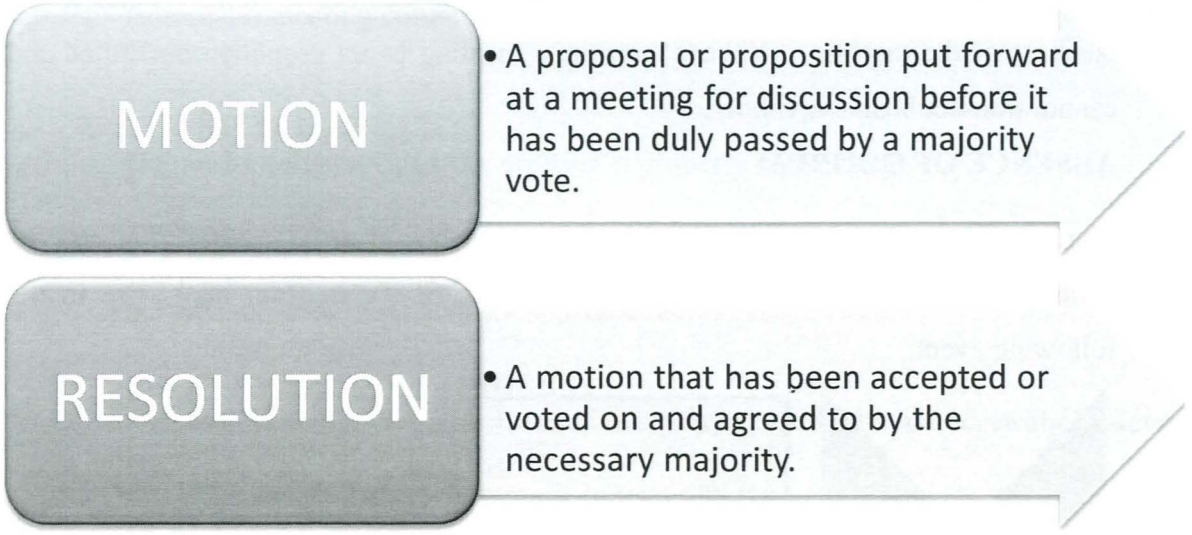
FAILURE TO MAINTAIN QUORUM

- The quorum must be present for the whole meeting and any resolution passed after the quorum ceased to exist is invalid
- If a quorum is not maintained during the meeting, any person present is to draw the chairman's attention to that matter.
- The chairman should reqauire a count to be taken and if confirm that therequisite quorum is not present, it would advisable for the chairman to adjourn the meeting.

INCOMPETENT QUORUM

- Only person competent to take part in the business of a meeting (entitled to vote) will be included, that is a quorum must be a 'disinterested' one.
- A person who is denied the right vote at a meeting is unable to form a part of a quourm of a meeting.

3.6 MOTIONS AND RESOLUTIONS



3.6.1 ACCEPTANCE OF MOTION

After a motion has been put to the vote and agreed it becomes a resolution

The resolution is the acceptance of the motion.

3.6.2 FORM OF MOTION

A motion must have the following form:

- A motion must be in the form required by the rules governing the meeting.
- It must be within the scope of the notice convening the meeting and relevant to the business for which the meeting was called.
- It must be moved by a person who is qualified to do so.
- It must be proposed at the meeting and if required by the rules, seconded.
- It must be set out in definite terms and free from any ambiguity.
- It should be in a positive and affirmative form.
- A motion and if it is carried, the resulting resolution would begin with the word. 'That_____'
    - That the question be not now put.
    - That the debate be adjourned.
    - That the meeting be adjourned

3.7 RESOLUTION

DIRECTORS'/BOARD RESOLUTION

- Requires simple majority
- Chairman will be given a second (casting vote) to resolve cases of equality of votes

MEMBERS' RESOLUTION

1. Ordinary Resolutions

- All resolutions to be passed by members in general meetings
- Passed by a simple majority of those present and voting (50%)
- Used for al routine business at meeting
- The most commone form of resolution
- Notice of meeting of 14 days has been given
- Voted on a show of hands or by a poll
- Voted by shareholder or by proxy

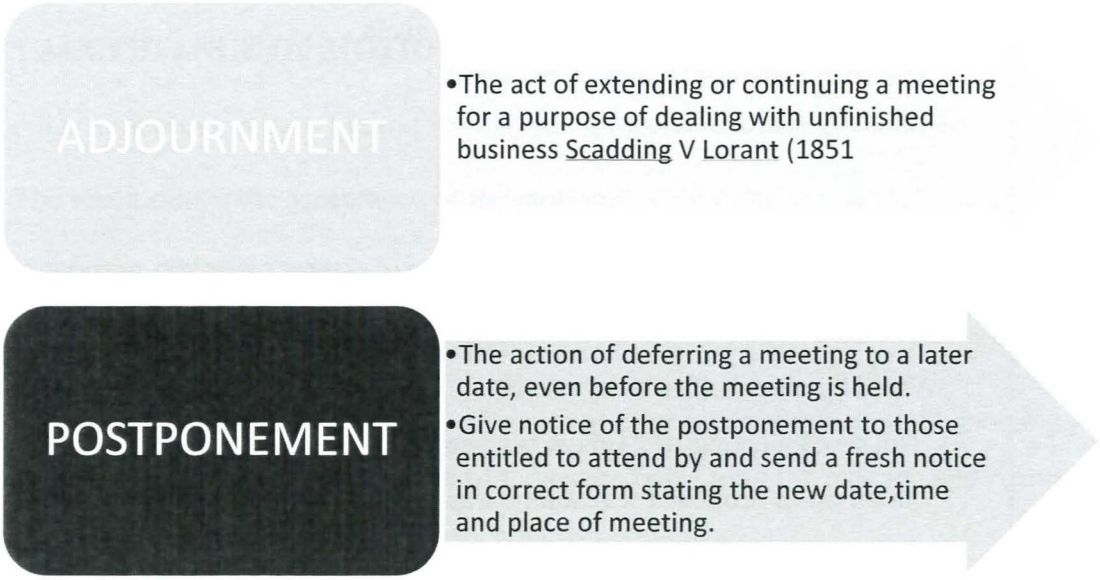
2. Special Resolutions

- Passed by a majority vote of more than 3/4 or 75% of those who attended
- Voted by shareholder or by proxy
- Notice of meeting of 21 days has been given
- intention to propose the resolution as special resolutions is specified in the notice of meeting
- Every special resolution passed must be registered by CCM
- The CA 1965 requires the following matters for the passing of special resolution:
    a. Change of company's name
    b. To alter or delete any clause in MOA and AOA
    c. To alter any restriction on the rights to transfers shares
    d. To change objects of the company
    e. Matters regarding winding up the company

3.8 AMMENDMENTS ·

- A change or addition to legal documents which when properly signed has the
- same legal power as the original documents.
- A proposal to alter a motion submitted to a meeting.
- By adding, inserting or deleting words of the original motion
- By substituting words, phrases or complete sentences for others in the original motion
- By any combination of the above forms of alterations

3.9 ADJOURNMENT VS POSTPONEMENT



3.10 PROXY

Proxy can be defined as a person appoint by a member to attend a meeting and vote on behalf of the appointer

OR

A person authorized in such a document to act for the appointer to attend a meeting and to vote on behalf of the appointer

TYPE OF PROXY

1. **Two-way Proxy**
   The form of proxy which enables the appointer to vote 'for' or 'against' a motion through his proxy.

2. **Open Proxy**
   The form of proxy that does not need the appointer to indicate the voting instruction as opposed to two way proxy.

3. **Special Proxy**
   The one meeting proxy which give specific voting instruction on the various resolutions. The proxy appointed is to attend only the meeting.

4. **General Proxy**
   The proxy is given the power to vote upon any proposals the way he thinks fit and no voting instruction is given or to vote at any meeting on any matter.

REVOCATION OF PROXY

- Death or insanity of the appointer
- Attendance of the appointer at the meeting and exercising his voting rights at the meeting personally
- Notice of revocation served within the specified time limit
- Appointment of new proxy by depositing a new proxy form
- Transfer of the share in respect of which receipt by the company of notice to that effect before meeting

3.11 CORPORATE REPRESENTATIVE

An authorized representative appointed by a corporate member by a resolution of the board of the corporation to attend all meetings or a particular meeting.

3.12 VOTING

- If members at a general meeting want to make a decision about a matter, a motion or an amendment,
- It is usual for each member to cast a vote generally "in favor" (for) or "against."
- There are various ways in which votes can be taken at a meeting. The most common methods are:
- Voting by show of hands or by poll (that is, a vote in writing)

3.12.1 TYPES OF VOTING

VOTING BY POLL

A "poll" is a method of voting in writing on a motion (and any amendments) at a meeting.

VOTING BY SHOW OF HANDS

Chairperson requests those voting in favor of the motion to raise a hand. The procedure is repeated for those voting against the motion.

VOTING BY VOICES

Chairperson says, "All those in favor of the motion say 'Aye'" (or 'Yes'). After noting the volume of sound, chairperson continues "Those against say 'No'."
Voting by applause is similar, except that members clap instead of saying "Aye" or "No." Voting by applause is usually for a vote of thanks.

VOTING BY ACCLAMATION

Voting by acclamation is used when the voting is unanimous or nearly so and usually effected by clapping. It us generally utilized when passing votes of thanks, appreciation and congratulation.

VOTING BY DIVISION

Chairperson places the motion before the meeting, saying "All those in favor, the

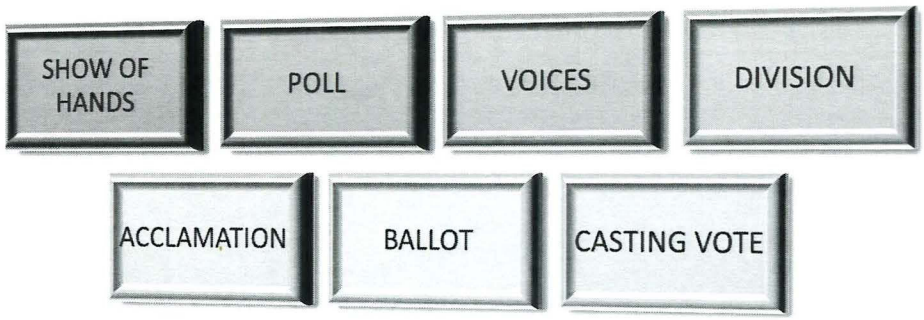
'Ayes', will pass to the right of the chairperson; those against, the 'No's', will pass to the left of the chairperson." In other words, the vote is cast by the members being counted by tellers as they divide and proceed to their respective side.

VOTING BY BALLOT

A ballot is a method of secret voting and used when secrecy is desired such as in electing officials.

CASTING VOTE

A second vote given to the chairman to resolve the situation where there is an equality of votes (whether on show of hands or on a poll



3.13 IRREGULARITIES

- A defect, failure or mistake in a legal proceeding or lawsuit.
- Members wishing to challenge the validity of a minutes/notice must act with promptness.
- Lawfulness of a decision taken by a meeting may not be questioned of the only factor alleged to make it unlawful is a mere informality or irregularity and the intention of the members is clear.
- If any irregularity could be cured by issuing another notice/minutes.

3.14 ATTENDANCE

The person or number that present at the meeting.

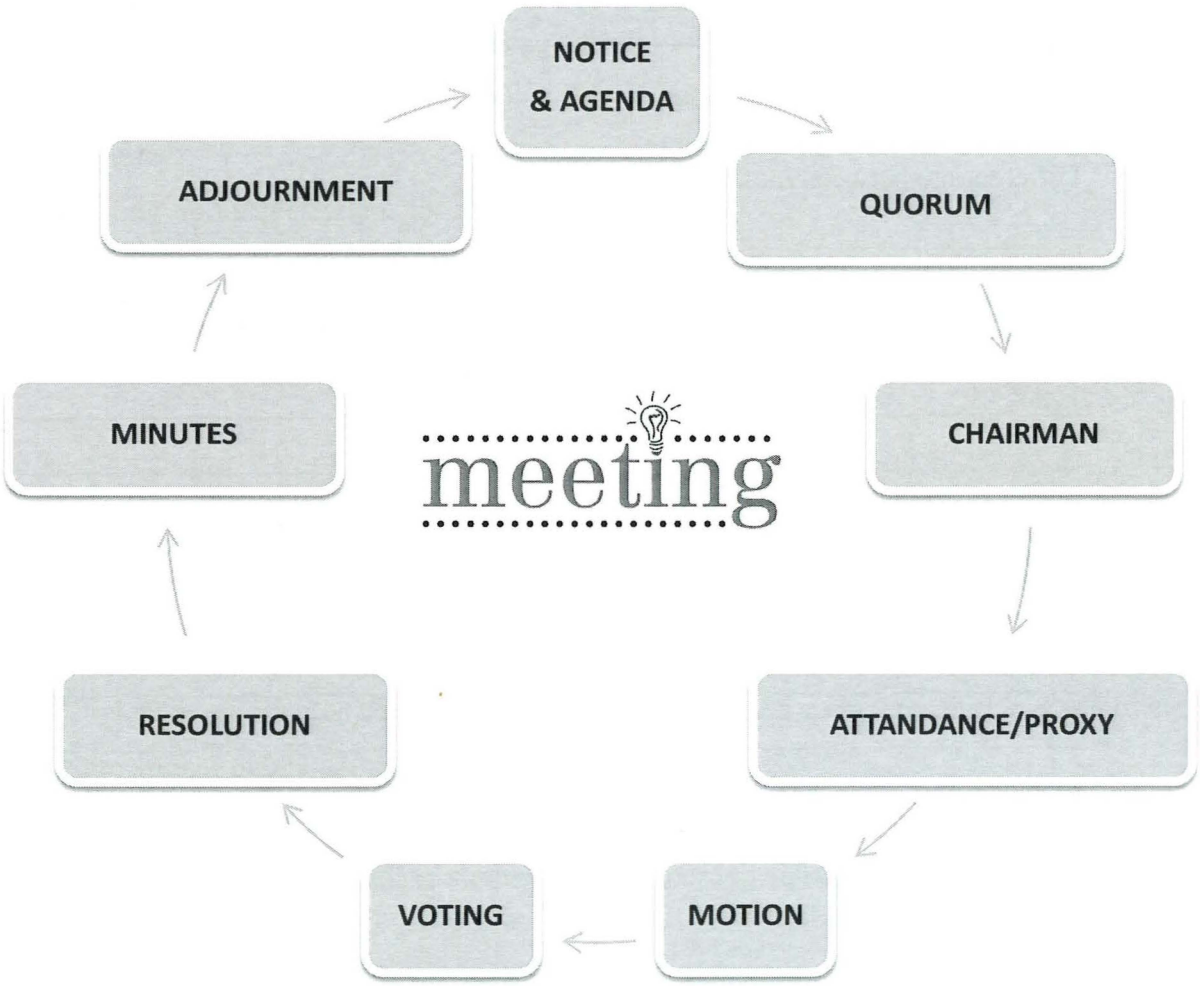
3.15 MINUTES

An official record of proceeding of a meeting, convention and conference.

OR

Written records of the resolutions and business transacted at a meeting.

PROCEEDING OF MEETING



Test your understanding



EXERCISE

List **THREE (3)** factors consider of absence of quorum

_____

_____

_____

Differentiate between motions and resolutions.

_____

_____

_____

_____

_____

List **FOUR (4)** types of vote.

_____

_____

_____

_____

_____



CHAPTER 4 : SHAREHOLDERS' RIGHT

4.0 WHAT IS SHAREHOLDERS' RIGHT?

The law provides the shareholders with several basic rights. Relating to general meetings, shareholders have the right as listed below:

- To attend, speak and vote at general meetings
- To requisition the company to convene a general meeting
- To place item on the general meeting agenda
- To appoint up to two proxies when the shareholder is unable to attend the general meeting.
- Voting rights in elections for the board of directors
- Distribution rights
- Rights to receive information
- If the share are divided into more than one class, class rights

4.2. DUTIES OF CONTROLLING MEMBERS

- Company made up of members and board of directors.
- Members power including residuary powers of appointing directors, declaring dividends, altering objects clause and articles by passing special resolution & removing directors of public companies.
- Decision made by members is the decision of the company.
- Ordinary resolution requires simple majority more than half attending & voting for the resolution.
- Special resolution requires ¾ supports from those present at meeting.
- Majority shareholders normally are the controlling members of the company.
- They usually become the directors of the company too.
- As directors, they owe the company a fiduciary duty and as shareholders, they have interest in the shares that they owned.
- Shareholders have a duty to exercise their votes bona fide for the benefit of the company as a whole, when they exercise their voting rights they would exercise it in their own self-interest, which may even be contrary to the interest of the company as a whole
- Director who is shareholder may exercise his voting right at a shareholders' meeting to ratify his actions as a director which are in breach of duty.

4.3 CONCEPT IN MAJORITY CONTROL RULE

- Majority rule is a decision rule that selects alternatives which have a majority which is more than half of the votes.
- It is the binary decision rule used most often in influential decision-making bodies, including the legislatures of democratic nations.
- Majority rule processes are made by voting with a majority determining the position of the entire group. This approach has the advantage of being able to produce a prompt and clear decision.
- Unfortunately, majority rule processes provide only limited incentives for the parties to compromise or to find a way for dealing with issues that serve the interests of all participants.
- Instead, the incentive is to compromise only enough to build a majority coalition. Once a winning coalition has been achieved, the parties are largely free to ignore the interests of other participants.

4.4 RULES IN FOSS V HARBOTTLE

Case Foss v Harbottle (1843) - 2 shareholders of Victoria Park Co. (on behalf of themselves and all other shareholders) attempted to sue the directors who were alleged to have mismanaged the company and defrauded it of its property. The action was dismissed on procedural ground and 2 propositions were laid down.

1. THE PROPER PLAINTIFF RULE

In recognition of the company being a separate legal entity from its members, any wrong done to the company is suffered by the company. The company must be the proper plaintiff to seek legal remedy against the wrongdoers.

2. THE INTERNAL MANAGEMENT RULE

Where certain matters may be ratified by an ordinary resolution passed by the members in the general meeting, the court is normally reluctant to interfere with the internal irregularities of a company. Where the majority does not wish the company to sue, the court will not generally permit the minority to sue on its behalf.

The decision of this case has certain advantages:

- As the action would be taken by the company, it can avoid multiple suits by the members.
- Since the majority can pass a resolution to ratify the matter, it would be wasting the court's time to hear the case.
- An action by the company will be able to eliminate the trouble actions by troublesome minority shareholders who may try to harass the company.

As a company is the 'proper plaintiff', legal actions can only be taken by the company. The company, however, has no physical existence. Legal actions brought about by the company depend on the articles of association, which may specify a particular person. Usually nothing is specified thus the right to initiate legal action lies in hands of:

1) The party upon whom the function of management is vested usually the board of directors
2) If the board refuse – the general meeting may do so
3) If the company is in liquidation, the liquidator
4) Individuals acting on behalf of the company – which would be risky if it is commenced without authority of the company
5) The effect of the rule is unfair to the minority shareholders
6) The directors of the company may not allow them to take legal action, as the directors themselves may be the wrongdoers.
7) The minority would then be at the mercy of the majority who may go unpunished

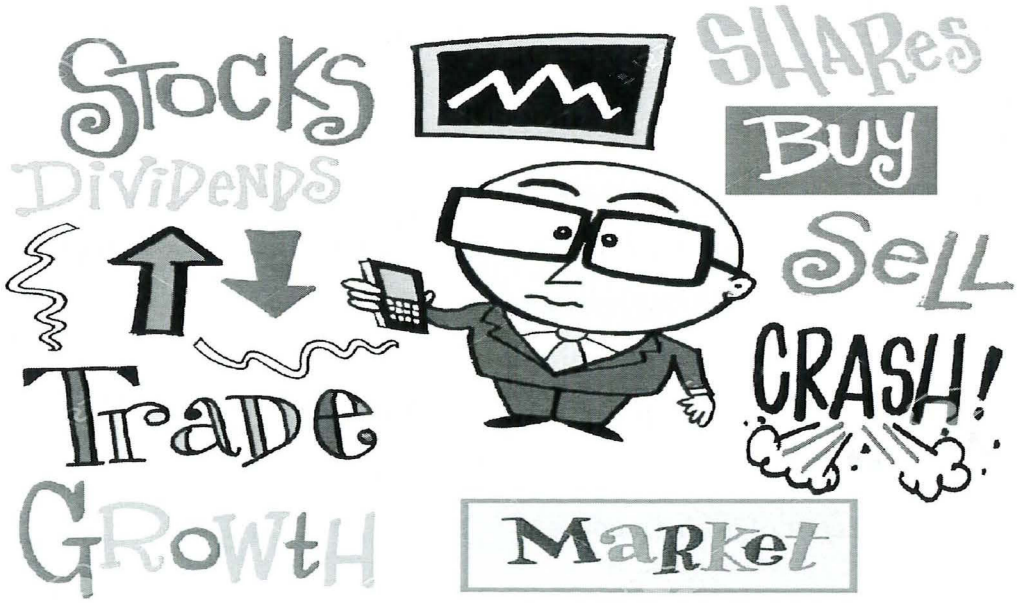
As a result of the unsatisfactory effect of the rule, the common law allows several exceptions to the rule in Foss v Harbottle.

A minority member can bring an action against the company or its controller where:

1) The act of the company is ultra vires or illegal
2) The act of the company requires a special majority
3) A member's personal rights are infringed
4) The majority perpetrate a fraud on the minority
5) The interest of justice requires

PROCEDURE IN MINORITY MEMBER'S ACTIONS

- Where the action is brought by a shareholder in respect of an ultra vires
- act or an infringement of his personal rights, the shareholder may take personal action.
- Where the action is brought by a shareholder not only in respect of his
- own personal rights, but the personal rights of a group of members (such as a class of shareholders) the shareholders may bring a representative action.
- A representative action is where the shareholders have a common interest and it will prevent duplicity of actions in respect to the same issue.
- A personal or representative action is brought against the company.
- It generally seeks an injunction restrain a breach of the articles or a declaration that the actions contemplated by the company was invalid.
- Where the minority shareholder seeks to remedy wrongs to the company, he may bring a derivative action in a representative capacity on behalf of himself and all other shareholders, except the controllers who are made defendants.



4.5 EXCEPTIONS TO FOSS V HARBOTTLE RULES

1) WHERE THE ACT IS ULTRA VIRES OR ILLEGAL

a. When the majority shareholders may make a decision for a company, it must be within the company's powers and does not contravene the general law
b. They may not approve an ultra vires contract as in Ashbury Railway Carriage or pass a resolution to pay dividends out of capital as in Flitcroft's Case
c. An individual shareholder may bring an action at common law if the company was acting or intending to enter into an ultra vires or illegal transaction
d. **Exampe of cases: Parke v Daily News**

2) WHERE THE ACT REQUIRES SPECIAL MAJORITY

a. Certain transactions that a company does may require certain procedures be complied with
b. Either Companies Act may require the passing of a special resolution or the article may specify a particular procedure
c. The requirement of a particular procedure has not been complied with an individual shareholder may bring action to restrain them
d. The majority cannot ratify a transaction that has not complied with the required procedures
e. **Exampe of cases: Baillie v Oriental Telephone Co.**

3) WHERE MEMBER'S PERSONAL RIGHTS ARE INFRINGED

a. Where an individual member's rights have been infringed they may bring an action against the company
b. These membership rights arise from the Act, articles or separate shareholders' agreement
c. **Exampe of cases: Edward v Halliwell**

4) WHERE THERE IS FRAUD ON THE MINORITY

a. This exception has been considered as the true exception to the rule as the other exceptions may be commenced as personal actions or where the statute provides for the necessary actions in case of a contravention
b. 2 elements must be satisfied before a member can bring an action to enforce the company's rights:

✓ Fraud on the minority
✓ The wrongdoer is in control

▶ **Fraud on the minority**

- Includes abuse on misuse of power whereby the majority obtains an unfair in at the expense of the minority
- Minority may refer to the company itself

- Where the company is the injured party the action is derivative in nature
- Fraud on minority covers a wide range of actions and transactions

▶ **<u>The wrongdoer is in control</u>**

- The minority member who uses the exception of fraud on the minority must also establish this second element that the wrongdoer is in control and the wrongdoer prevents action from being brought under the company's name
- Wrongdoer control exist if the wrongdoer has a majority of the votes or the majority has approved a fraud on the minority where they obtain some benefit or the company suffered some loss or detriment and where the company has shown that it was unwilling to sue

5) WHERE THE INTERESTS OF JUSTICE REQUIRE

a. This exception is of little value today because of the statutory remedies given to minority shareholders
b. Court of Appeal in **Prudential Assurance** was doubtful that in the interest of justice should be considered as an exception
c. The court was of the opinion because this exception could be used the plaintiff needs to establish a prima facie case:
   - ▶ that the company is entitled to the relief
   - ▶ that the action falls within the proper boundaries of the exception to the rule in Foss v Harbottle

d. **Example of cases: 1. Prudential Assurance Co. Ltd.,**
2. Ting Chong Ma

Test your understanding



EXERCISE

1. The law provides the shareholders with several basic rights. Identify shareholder's right in a company.

2. Discuss the exceptions to Foss v Harbottle Rules.

3. Explain briefly the concept in majority control rules.



CHAPTER 5 : MINUTES WRITING

5.0? WHAT IS MINUTES OF MEETING

An official record of proceeding of a meeting, convention and conference.

OR

Written records of the resolutions and business transacted at a meeting.

OR

The notes recounting the transaction occurring at a meeting or official proceeding.

5.1 WHAT IS RESOLUTION?

The acceptance of the motion after it has been put to the vote and agreed to by the necessary majority.

5.2 TECHNIQUES IN WRITING MINUTES

Content of Minutes

- Minutes being a written record of the business transacted at a meeting should be:-
- Accurate account of the proceeding at the meeting
- A correct record of those present
- A correct record of the important things which occurred, including everything agreed upon and the transaction of all business for which the meeting was convened.
- Only who attend the meeting proposed and seconded a motion and the number of votes cast for and against should be RECORDED

Writing prompts

- One option for beginning your minutes of continuous writing is to start by responding to a writing prompt.
- This prompt offers writer a starting point so that they are not left with complete writer's block.
- Writing prompt may give you a question to answer, ask you to write a specific personal experience, or provide you words or ideas to include in your writing.

Rules for writing

- The rules to minutes writing are simple. Do not make judgment about your writing.
- Do not stop to think about what you wish to write. Simply write down what ideas come to mind.
- There is no need to worry about grammar, spelling and punctuation. Just get your idea down on paper.

Writing environment

- Remove all distraction during your minutes of writing.
- Turn your cell phone or other electronics off or keep them out of ranch.
- Separate yourself from other people.
- Move to a place in the room where you can focus.
- You may need to sit in a desk, at a table, on the floor.
- Find what works best for you.
- Some writers prefer a comfortable spot.
- Maintain a quiet environment for the minutes of writing.
- Make the most of your short minutes of writing by creating an environment that is clearly focused on the task at hand.

Mode of writing

- There are two options for writing on this particular style. You may write by hand on paper in cursive or print handwriting.
- The other mode of writing to choose from is to type on a computer by creating a Word document.
- If you select the computer route, make sure to save your work and print your writing.

DRAFT OF MINUTES MEETING

Minutes for [Organization Name]

Call to Order
A [meeting type] meeting of [organization name] was held on [date] at [location]. It began at [time] and was presided over by [chairman's name], with [secretary's name] as secretary.

Attendees
Voting members in attendance included [list voting members here]

Guests in attendance included [list guests here]

Members not in attendance included [list members who did not attend]

Approval of Minutes
A motion to approve the minutes of the previous [date] meeting was made by [name] and seconded by [name].

Officers' Reports
[Report name] was presented by [name of presenter].

[Report name] was presented by [name of presenter].

Other Reports
[Report name] was presented by [name of presenter]. The following resolution was adopted: [resolution]

Main Motions
Motion: Moved by [name] and seconded that [state the motion here]. The motion [carried or failed] with [number of yea's] in favor and [number of nay's] against.

Motion: Moved by [name] and seconded that [state the motion here]. The motion [carried or failed] with [number of yea's] in favor and [number of nay's] against.

Motion: Moved by [name] and seconded that [state the motion here]. The motion [carried or failed] with [number of yea's] in favor and [number of nay's] against.

Announcements

Adjournment
[Name of mover] moved that the meeting be adjourned, and this was agreed upon at [time of adjournment].

Secretary
[Organization Name]

Date of Approval

Figure: 1

DRAFT OF MINUTES MEETING

Agenda and Minutes Template: *The following is the suggested format for all agendas and minutes. In order to ensure clarity, agendas and minutes should be typed.*

Club Name

Day, Date, Time and Location of Meeting

Committee of the Whole: (Any announcements from the committee of the whole, if applicable).

Call to Order- Time meeting began.

I. **Roll Call**

a) Names of Attendees (as well as position they hold, if applicable).

II. **Approval of the Agenda -** List who approved the agenda and who seconded the motion. (M/S/C: last name of both people who approved agenda).

III. **Approval of the Minutes -** List who approved the minutes and who seconded the motion. (M/S/C: last name of both people who approved the minutes)

*****Note: Advisor Signature Required on Minutes*****

IV. **Officer Reports**
- a. ICC Representative - Name of ICC Representative and their report.
- b. Secretary – Name of Secretary and their report.
- c. Vice President - Name of Vice President and their report.
- d. President - Name of President and their report.

V. **Advisor Report:**
- a. Advisor Name and Advisor Report.

VI. **Club Member Reports**
- a. List all people who presented reports and/or announcements. List their name and what they discussed.

VII. **Information/Discussion Items**
- a. Information/discussion items that you will present.

IX. **Action Items**
- a. Any items you are going to vote on and/or approve. Please record if the item was approved or not.

X. **Announcements**
- a. Any announcements from Club Members.

XI. **Adjournment-** Time when the meeting ended.

Advisor Signature: _____

Figure: 2

DRAFT OF RESOLUTIONS

BOARD RESOLUTION OF [YOUR COMPANY NAME]
APPROVING THE [20XX-XX] BUDGET

DULY PASSED ON [DATE]

APPROVAL OF BUDGET

WHEREAS, the [20XX-XX] budget of [YOUR COMPANY NAME] has been recommended for adoption by the President and Chief Financial Officer, be it therefore

RESOLVED, that the [20XX-XX] budget of the [YOUR COMPANY NAME] presented as schedule A to this board resolution, is hereby approved and shall be allocated.

RESOLVED, that the officers of this corporation are, and each acting alone is, hereby authorized to do and perform any and all such acts, including execution of any and all documents and certificates, as such officers shall deem necessary or advisable, to carry out the purposes and intent of the foregoing resolutions.

RESOLVED FURTHER, that any actions taken by such officers prior to the date of the foregoing resolutions adopted hereby that are within the authority conferred thereby are hereby ratified, confirmed and approved as the acts and deeds of this corporation.

It is hereby certified by the undersigned that the foregoing resolution was duly passed by the Board of Directors of the above-named Company on the [DAY] day of [MONTH, YEAR], in accordance with the Memorandum or By-Laws and Articles of Incorporation of the Company and the laws and by-laws governing the Company and that the said resolution has been duly recorded in the Minute Book and is in full force and effect.

[DIRECTOR]

[DIRECTOR]

[DIRECTOR]

Figure: 3

DRAFT OF RESOLUTIONS

SHAREHOLDERS RESOLUTION OF [YOUR COMPANY NAME]

The undersigned, being all the shareholders of [YOUR COMPANY NAME], hereby sign the following annual resolutions

RESOLVED THAT:

1. These resolutions are in place of an annual meeting of shareholders of the company.
2. The financial statements of the company for the fiscal year ended [MONTH AND DAY], prepared by [ACCOUNTANTS' NAME], Chartered Accountants, under their comments dated [DATE], are received.

OR

3. The financial statements of the company for the fiscal year ended [MONTH AND DAY], prepared by [AUDITORS' NAMES], under their audit report dated [DATE], are approved.
4. [DIRECTORS NAMES] are continued as directors of the company.
5. No auditor be appointed for the current fiscal year of the company.

OR

6. [AUDITOR NAMES] are appointed the auditors of the company for the current fiscal year.
7. The acts of the Board of Directors since the last annual meeting of shareholders are approved and ratified.
8. [DIRECTOR NAME] is elected as a director of the company.
9. By-Law No. [NUMBER] passed by the Board of Directors of the company is confirmed.
10. The application to amend the Articles of Incompany [OR LETTERS PATENT] of the company in the draft form appended as Schedule A to these resolutions is approved.
11. The proposed sale by the company of substantially all its assets to [PURCHASER NAME] in accordance with the draft agreement of purchase and sale appended as Schedule A to these resolutions is approved.
12. [DIRECTOR NAME] is removed as a director of the company.

Dated: [DATE]

_____
[SHAREHOLDER NAME]

_____
[SHAREHOLDER NAME]

Figure: 4

5.3 WHAT IS MINUTE BOOK?

Minute book is a binder or bound book containing permanent and detailed records of the deliberations and resolutions adopted at a firm's official meetings.

All incorporated or registered firms are required by law to maintain an up-to-date minute book which should be accessible to all members of the firm at the firm's registered office or legal address. It is essential to keep a history of all important decisions that are made in the company and to demonstrate that the company is acting as a corporation.

The minute book is divided into following sections and an accompanying list of sample documents for each section is given as an example:

Section
Certificate of Incorporation
Corporate Data
Notice Concerning Board of Directors
Notice of Address of the Head Office
By-laws
Resolutions/Minutes
Directors
Shareholders
Transfers
Shareholders Agreements
Share Certificates

Sample Documents
Articles of Incorporation
Company overview
Annual report
By-laws passed by the company
Resolutions made and Minutes of meetings
Director register
Shareholder Register
Share transfer register
Contracts between shareholders
Share certificates issued by the company

EXAMPLE OF MINUTE BOOK



GENERAL.

"Clarke Market Review"—Published twice per Term. Students' Union Magazine; also contains official School Notices. Obtainable at Porters' Lodge.
Editor—Mr. W. A. ROBSON.
Business Manager—Mr. W. E. GREEN.

Dunford House (Midhurst, Sussex)—School Holiday Residence. Apply to Miss Jones, Room 65 at the School.

Entertainments Committee—Includes Dance Club, Dinner Committee, Choral Society, and Dramatic Society. See Entertainments Notice Board.
Secretary—Mr. R. H. KASTELL.

International Society—Includes a Study Circle (dealing with international problems), and an International Relationships Committee (to promote social intercourse with foreign students).
Secretary—Miss E. WINTER.

Library (Union)—Books can be obtained, by those entitled, only on presentation of Union Membership Card.

Literary Society—
Secretary—Miss G. M'KEIGHAN.

UNION MEETINGS.

Union Meetings are held in the School Hall on Wednesdays at 8.15 p.m. prompt. Discussion takes place at all Meetings.

1920.		
October	6	Freshers' Meeting.
,,	13	Professor Soddy, F.R.S., Honorary President. "The Repercussion of Physical Science upon Economics and Politics."
,,	20	Business Meeting.
,,	27	Parliament.
November	3	Dr. A. Wolf—"Things that Matter."
,,	10	Debate.
,,	17	Parliament.
,,	24	Speaker.
December	1	Debate.
,,	8	Union Dinner.
,,	15	Viscount Haldane, O.M., K.T.

SCHOOL TERMS.

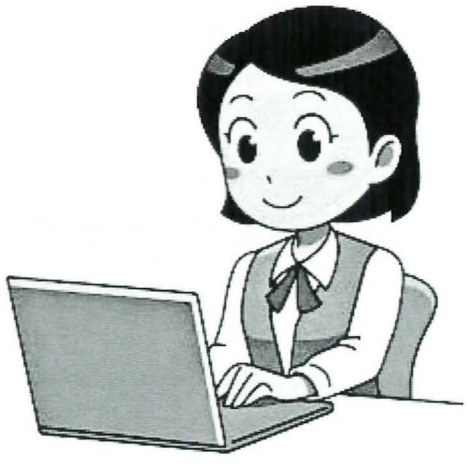
Michaelmas: 4th October—17th December, 1920.
Lent: 10th January—18th March, 1921.
Summer: 25th April—27th June, 1921.

Figure: 1

5.4 IMPORTANCE OF KEEPING MINUTES PROPERLY

Minutes are a record of the meeting for those that were at the meeting and they are an important source of information for those who were not there. It's best to transcribe the official minutes immediately after the meeting, when events are still fresh in your mind. There are many reasons and importance for keeping minutes of your meetings such as:

- Memories are unreliable. It is useful to have a written record of the meeting, including actions and decisions. The minutes are a good reference for attendees and serve to refresh memories.
- The minutes are a communication tool for sharing the outcomes of the meeting with people who were not able to attend.
- The minutes provide a record of decisions made and who is responsible for taking action.
- Good meeting minutes help drive a plan of action for your leadership team and employees.
- Increase productivity of the company and make the next meeting better.



Test your understanding



EXERCISE

1. Differentiate between minutes of meeting and resolution.

2. Discuss the importance of keeping minutes properly.

3. Draft a complete minutes of meeting.



CHAPTER 6 : SOCIETIES ACT 1966

INTERPRETATION

Assistant Registrar	• Any officer appointed as an assistant registrar of societies under section 3
Benefit	• Payment made by a mutual benefit society for the relief or maintenance of the members or subscribers or on birth or death in accordance with the rules of the mutual benefit society
Local Society	• Any society organized and established in Malaysia or having its headquarters or chief place of business in Malaysia and includes any society deemed to be established in Malaysia
Minister	• Minister for the time being charged with responsibility for the registration of societies

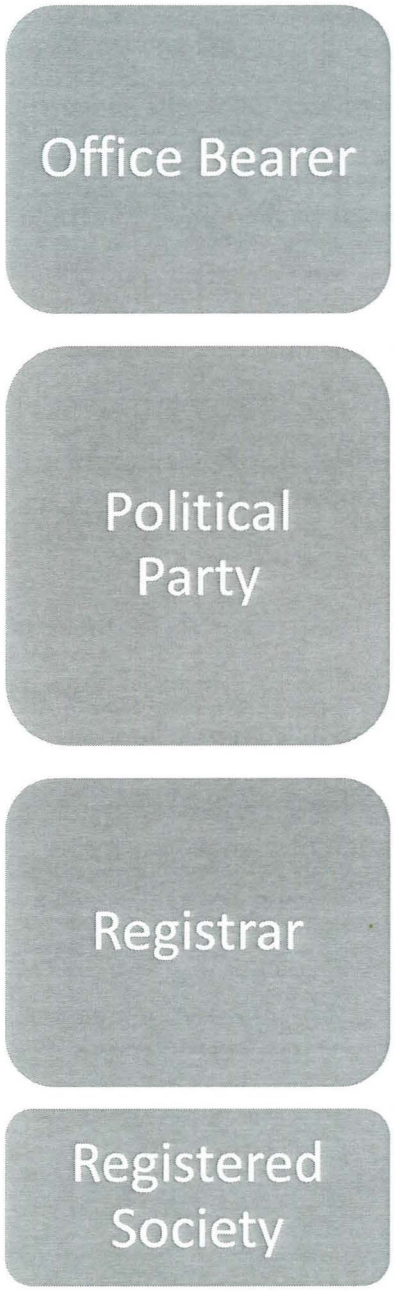
MUTUAL BENEFIT SOCIETY

- Any society which by its object and rules either as the principal object or an ancillary object makes provisions by voluntary subscriptions of the members thereof or subscribers thereto with or without the aid of donations for:

    a. the relief or maintenance of the members or subscribers their husband, wives, children, fathers, mothers, brothers, sisters, nephews, nieces or wards, during sickness or other infirmity, whether bodily or mental, in old age or in widowhood or for the relief or maintenance of the orphan children of members or subscribers during minority; or

    b. the payment of money on the birth of a members' or subscriber's child or on the death of a member or subscriber or of the child, husband, wife parent or grandparent of a member or subscriber or on the death of any other person or for the funeral expenses of the member or subscriber or of the widow of a deceased member or subscriber; or

c. the relief or maintenance of the members or subscribers when unemployed or when in distressed circumstances.



- Any person who is the president or vice president or secretary or treasurer or member of the commitee

- Any society which by any of its objects or rules makes provisions for the society to participate through its candidates in elections to the Dewan Rakyat or to Dewan Negeri or makes provision for it to seek the appointment or election of a person proposed or supported by it to the Dewan Negara

- Registrar of Societies appointed under section 3 and includes any Deputy Registrar of Societies appointed under the same section

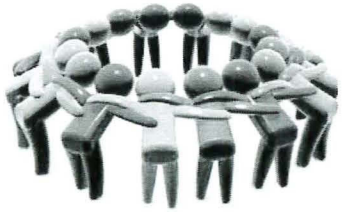
- Any society for the time being registered under section 7

SOCIETY

- Society includes any club, company, partnership or association of seven or more persons whatever its nature or object, whether temporary or permanent, but does not include;
    a. any company registered under the provisions of any written law relating to companies for the time being in force in Malaysia;
    b. any company or association constituted under any written law;
    c. any trade union registered or required to be registered under the provisions of any written law relating to trade unions for the time being in force in Malaysia;
    d. any company, association or partnership formed for the sole purpose of carrying on any lawful business that has for its object the acquisition of gain by the company, association or partnership or by the individual members;
    e. any co-operative society registered as such under any written law;
    f. any organization or association in respect of which there is for the time being in force a certificate (which may be granted, refused or cancelled at his discretion) by a person 10 Laws of Malaysia ACT 335 or authority appointed under the provisions of the written law for the time being in force relating to the registration of schools that such organization or association forms part of the curriculum of a school; or
    g. any school, management committee of a school, parents' association or parent-teachers' association registered or exempted from registration under any law for the time being in force regulating schools

SUBSCRIPTION

- ❖ Subscription means a subscription paid by a member or subscriber to a mutual benefit society and where a mutual benefit society **OR**
- ❖ The subscription paid by the member or subscriber for the purpose of obtaining the benefits provided by the rules of the society



REGISTERED SOCIETIES TO ACT IN FULFILMENT OF THE

It shall be the duty of every registered society in carrying out its activities and conducting its affairs to ensure that they are accord with and conducive to the fulfillment and adherence to the provision of the Federal Constitution and the State Constitution and where any of the activities or affairs of any society is in any manner violative of or derogatory to or militates against or show disregard for:

a. The system of democratic government headed by a constitutional sovereign of Malaysia and in the States, by the respective constitutional Rulers or Yang di-Pertua Negeri; or
b. The position of Islam as the religion of Malaysia with other religions being practiced in peace and harmony; or
c. The use of the National Language for official purposes; or
d. The position of the Malays and of the natives of the States of Sabah and Sarawak; or
e. The legitimate interests of the other communities.

As provided under the Federal Constitution or any of the State Constitution, the Registrar may cancel the registration of the society after giving the society an opportunity to make representations to him.

APPOINTMENT OF REGISTRAR, DEPUTY REGISTRAR AND OTHER

a. The Yang di-Pertuan Agong may appoint a Registrar of Societies and such number of Deputy Registrars as he may consider necessary for the purposes of this Act.
b. The Minister may appoint such number of Assistant Registrar and such other officers as he may consider necessary for the proper administration of this Act.
c. The Deputy Registrar, Assistant Registrars and other officers appointed shall be under the direction and control of the Registrar.
d. All officers appointed under subsections shall be deemed to be public servants for the purposes of the Penal Code [Act 574].
e. No suit shall lie against any public officer for anything done or omitted to be done by him in good faith without negligence and in intended of any power or performance of any duty conferred or imposed on him by this Act.

POWER OF REGISTRAR

a. The powers, duties and functions conferred on the Registrar by this Act and any regulations made thereunder.
b. The Registrar shall have and may exercise all such powers, discharge all such duties
c. Perform all such functions as may be necessary for the purpose of giving effect to and carrying out the provisions of this Act.

POWER OF DELEGATION

a. The Registrar may, in writing, delegate any of the powers conferred on him under this Act, except the power of delegation under this section, to any Assistant Registrar appointed under Section 3.

b. A delegation may be made subject to such restrictions and limitations as may be prescribed by the Registrar in the instrument of delegation.

c. The power of delegation shall be exercised by the Registrar personally.

SOCIETIES DEEMED TO BE ESTABLISHED IN MALAYSIA

- A society shall be deemed to be established in Malaysia although it is organized and has its head-quarters or chief place of business outside Malaysia, if any of its office-bearers or members resides in Malaysia or is present therein, or if any person in Malaysia manages or assists in the management of such society or solicits or collects money or subscription in its behalf.
- No society shall be deemed to be so established if:
    - it is organized and is operating wholly outside Malaysia.
    - no office, place of business or place of meeting is maintained or used in Malaysia by such society or by any person in its behalf.
    - no register of all or any of the members of such society is kept in Malaysia.
    - no subscriptions are collected or solicited in Malaysia by the society or by any person in its behalf.

POWER OF MINISTER TO DECLARE SOCIETY UNLAWFUL

- It shall be lawful for the Minister in his absolute discretion by order to declare unlawful any society or branch or class or description of any societies which in his opinion, is or is being used for purposes prejudicial to or incompatible with the interest of the security of Malaysia or any part thereof, public order or morality.
- An order made under this section shall be published in the Gazette and shall operate to cancel immediately the registration of any such society or societies, if already registered under this Act; and no society against which an order made under this section applies shall be so registered.
- The provisions of section 17 shall apply in respect of a local society affected by the order made under this section.

APPLICATION FOR REGISTRATION

- Every local society other than that in respect of which an order made under section 5 is in force shall, in the manner prescribed make application to the Registrar for registration under this Act.
- Until a local society is registered under this Act, no person shall, without a written permission of the Registrar, organize or take part in any activity of or on behalf of the society, except only to apply to, or correspond with the Registrar.
- Any person committing a breach shall be guilty of an offence and shall on conviction be liable to a fine not exceeding *five thousand ringgit, and where the breach is a continuing one to a fine not exceeding **five hundred ringgit for every day after the first day during which the breach continues.

REGISTRATION AND REFUSAL TO REGISTER

- The Registrar may refuse to register a local society if:-

(a) he is satisfied that such a society is a branch of any society whose registration has been cancelled under paragraph 13(1)

(b) he is not satisfied that such local society has complied with the provisions of this Act and of the regulations made thereunder; or

(c) a dispute exists among the members of such local society as to the persons who are to be office-bearers or to hold or to administer any property of the society until the dispute is decided by a Court or by arbitration or by agreement between the members or otherwise.

➢ The Registrar shall refuse to register a local society where:-

(a) it appears to him that such local society is unlawful under the provisions of this Act or any other written law or is likely to be used for unlawful purposes or any purpose prejudicial to or incompatible with peace, welfare, security, public order, good order or morality in Malaysia;

(b) the society has been declared by the Minister to be unlawful under section 5;

(c) the Registrar is satisfied that the society does not exist;

(d) the name under which the society is to be registered:-

(i) appears to the Registrar to mislead or be calculated to mislead members of the public as to the true character or purpose of the society or so nearly resembles the name of such other society as is likely to deceive the members of the public or members of either society;

(ii) is identical to that of any other existing local society; or

(iii) is, in the opinion of the Registrar, undesirable;

DISQUALIFICATION APPLICABLES TO OFFICE-BEARERS, ADVISERS AND EMPLOYEES OF REGISTERED SOCIETY.

9A. (1) Subject to subsection (2) and (4), a person shall be disqualified from being and shall not become or remain an office-bearer, adviser or employees of a registered society if:

- He has been convicted of any offence against this Act
- He has been convicted of any offence under any other law and sentenced to a fine of not less than two thousand ringgit or to imprisonment for a term of not less than one year
- In force against him any order of detention, restriction, supervision, restricted residence, banishment, or deportation under any law relating to the security of, or any public order in Malaysia
- He is an undercharged bankrupt
- He is and has been found or declared to be unsound mind.

Test your understanding



EXERCISE

1. List **FOUR (4)** situation whereby no society shall be deemed to be so established.

2. Explain how a person shall be disqualified from being as an office-bearer.

3. Compare power of registrar and power of delegation.



LAW & PROCEDURES OF MEETING

GROUP PRESENTATION MOCK MEETING

ITEM	REMARKS	MARK
PREPARATION • TIME PREPAREDNESS • VISUAL AIDS (PRESENTATION) • SUPPORTING MATERIAL(DOCUMENTS)		/5 /5 /5
RULES & PROCEDURE • DURATION OF MEETING (NOTICE AND ACTUAL MEETING) • MEETING ARRANGEMENT • MEETING FLOW		/5 /5 /5
TEAMWORK • LEADERSHIP • DELEGATION OF TASK		/5 /5
CREATIVITY • NEW IDEAS • INNOVATION • DEMONSTRATION		/5 /5 /5
COMMUNICATION • VERBAL (VOICE) • NON VERBAL EYE CONTACT) (GESTURE)		/5 /5
KNOWLEDGE • SUBJECT KNOWLEDGE ▪ MEETING PROCEDURED ▪ POWER & DELEGATION ROLE • GENERAL KNOWLEDGE ▪ CURRENT ISSUE ▪ BUSINESS ISSUE		/5 /5 /5 /5
TIME MANAGEMENT • TIME ALLOCATION • PUNCTUALITY • ATTENDANCE		/5 /5 /5
TOTAL		**/100**

NAME OF MEETING:	
COMPANY'S NAME	
BUSINESS CORE OF COMPANY	
MEETING INFORMATION	DATE: TIME START: VENUE:
TOTAL OF SHAREHOLDER & PROXY	
QUORUM PRESENT	
TOTAL ABSENT OF QUORUM	
MOTION (PROPOSER'S NAME) (SECONDER'S NAME) PERCENTAGE OF VOTING (%)	
RESOLUTION	
TIME OF ADJOURNMENT	
COMPANY SECRETARY'S NAME	
AUDITOR'S NAME	

MOCK MEETING INDIVIDUAL'S ASSESMENT FORM

NAME:

MATRIX NO.

ITEM	DETAILS
NAME OF MEETING	
POSITION	

TASK SUMMARY
(what I have done)

INDIVIDUAL'S LEARNING OUTCOMES
(what I have learnt from AGM/EGM mock meeting)

TOTAL MARKS	**/100**

CHECK LIST FOR MEETING

BEFORE			
NO	**PARTICULAR**	**TICK**	**REMARKS**
1	Prepare Backgroud (Backdrop)		
2	Prepare Agenda		
3	Prepare Notice Of Meeting		
4	Prepare List Of Shareholder		
5	Prepare List Of Director		
6	Notice & Agenda Send Out (Date Of Notice & Date Of Meeting)		
7	Prepare meeting room		
8	(LCD, Computer, Sound System, Microphone)		
9	Documentation (Folder/ meeting documents)		
10	Meeting arrangement (sitting arrangement)		
11	Air Ventilation / Air Conditioner		
DURING			
1	List of Attendance (Shareholder) (Proxy) (Director)		
2	Set up Documentation Arrangement (Previous Minutes) (Presentation Slides) (Any document are related)		
3	Voting Papers		
4	Meal & Beverages		
5	Decoration meeting room (Set up backdrop) (Tables & Chairs)		
AFTER			
1	Prepare Minutes of Meeting		
2	Post out Minutes of Meeting		
3	Prepare Book of Meeting		
NOTES			

TUTORIAL EXERCISE
CHAPTER 1

Name : _____
Class : _____
Matrix No : _____

1. Define meeting. (2 marks)

2. Explain any **TWO (2)** the requisition of a valid meeting. (10 marks)

3. List **FIVE (5)** items that should be included in notice of meeting. (5 marks)

4. List **FOUR (4)** characteristics of a meeting. (4 marks)

5. Differentiate **FIVE (5)** features of Annual General Meeting and Extra Ordinary General Meeting

(20 marks)

TUTORIAL EXERCISE
CHAPTER 2

Name : _____
Class : _____
Matrix No : _____

1. State **THREE (3)** conditions on which a person is disqualified from becoming as a company secretary. (2 marks)

2. Explain **FIVE (5)** duties of a company secretary at board meetings. (10 marks)

3. Briefly explain the appointment of a company secretary. (8 marks)

4. Explain **FIVE (5)** differences between a company secretary and secretary. (10 marks)

5. List **FIVE (5)** examples of professional bodies in Malaysia. (5 marks)

TUTORIAL EXERCISE
CHAPTER 3

Name : _____
Class : _____
Matrix No : _____

1. Explain the following terms below: (10 marks)

   i. Proxies

   _____
   _____

   ii. Corporate Representative

   _____
   _____

   iii. Resolution

   _____
   _____

   iv. Motion

   _____
   _____

   v. Quorum

   _____
   _____

2. Explain **FIVE (5)** differences between Ordinary Resolution and Special Resolution.

   (10 marks)

3. Differentiate between adjournment and postponement. (4 marks)

4. Explain **THREE (3)** types absence of quorum. (9 marks)

5. Explain **FOUR (4)** types of proxy. (8 marks)

TUTORIAL EXERCISE
CHAPTER 4

Name : _____
Class : _____
Matrix No : _____

1. Discuss **TWO (2)** propositions laid down in the Rule in Foss v Harbottle case. (10 marks)

2. Explain **FIVE (5)** exceptions in Foss v Harbottel case. (10 marks)

3. List **FIVE (5)** shareholder's right. (5 marks)

4. Explain **FIVE (5)** concept in Majority Control Rule. (10 marks)

5. Explain duties of controlling members. (8 marks)

TUTORIAL EXERCISE
CHAPTER 5

Name : _____
Class : _____
Matrix No : _____

1. Define minutes of meeting. (2 marks)

2. List **FIVE (5)** items to be included in minutes of meeting. (5 marks)

3. Explain **FIVE (5)** importance of keeping minutes properly. (10 marks)

TUTORIAL EXERCISE
CHAPTER 6

Name : _____
Class : _____
Matrix No : _____

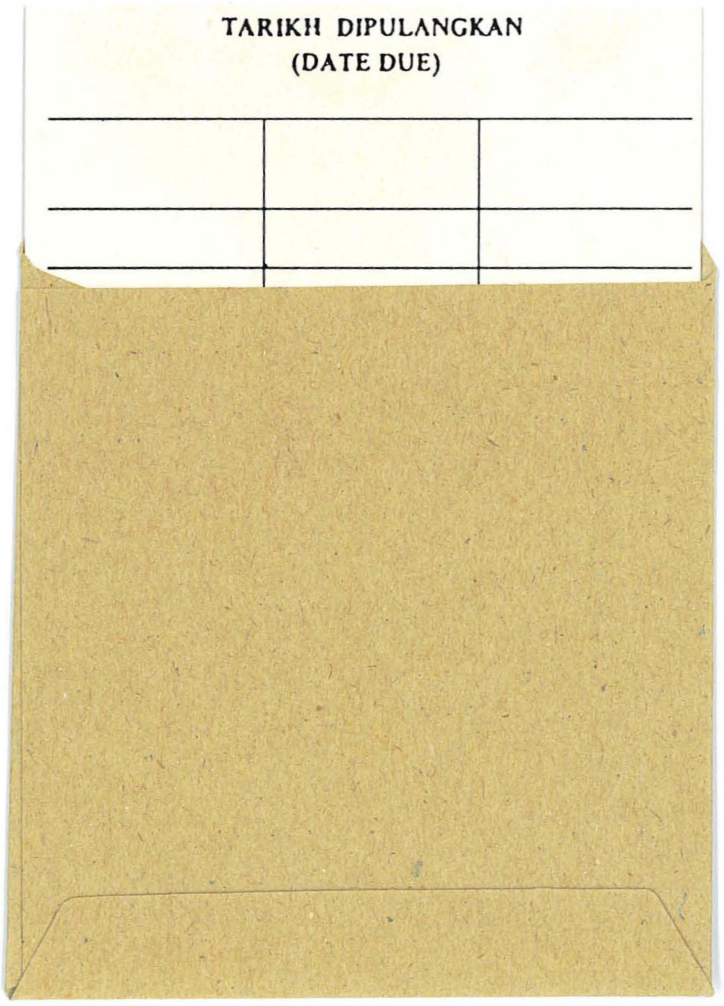
6. Differentiate between benefit and mutual benefit society. (6 marks)

7. List **FIVE (5)** examples of office bearer. (5 marks)

8. Discuss **FIVE (5)** disqualifications applicable to office bearers, advisers and employees of registered societies.
(10 marks)

9. Discuss **FIVE (5)** conditions where the Registrar may refuse to register a local society.

(10 marks)


TARIKH DIPULANGKAN
(DATE DUE)

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