



KEMENTERIAN PENDIDIKAN TINGGI

POLITEKNIK
MALAYSIA
TUANKU SYED SIRAJUDDIN



DPK40163
PRINCIPLES OF MEETING

SIMPLE NOTES & EXERCISES

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2023
JABATAN PERDAGANGAN

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Finally, we would like to thank you, our cherished readers. To get the knowledge told give us immense satisfaction.

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PREFACE

This first edition of DPK40163-Principles of Meeting (Simple Notes & Exercises) serves to provides its readers with updated material, easy to read and suited for revision of the subject DPK40163-Principles of Meeting. This manual has been written in order to give a simple guidelines for the students to understand more on this syllabus.

It is our belief that with diligent study aided by this book, the readers will gain the required knowledge and understanding to succeed in his or her examination or studies and ultimately be equipped to succeed in life.

Hopefully this manual will benefited to all students especially those who are in semester 4 Diploma in Secretarial Science and those who want to know about Procedures of Meeting.

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ABSTRACT

DPK40163-Principles of Meeting(Simple Notes & Exercises) is one of the manual that can be used as a reference by Semester 4 Diploma of Secretarial Science. This manual has been written in order to give a simple guidelines for the students to understand more on this course. This manual consists of:

- Ø Introduction of Meeting
- Ø Company Secretary
- Ø Proceedings of Meetings
- Ø Minutes Writing
- Ø Association and Society Meetings

We hope that this manual will help students with the knowledge and skills of handling meetings and fully understand principles and practices of meeting and the concept of company secretary and association society meetings according to the current law and to provide students with the important practices that involved in the meeting.

Besides that, the students can fully determine the correct techniques in writing minutes. Moreover, they can do some exercises provided in this manual as their preparation for the final examination.

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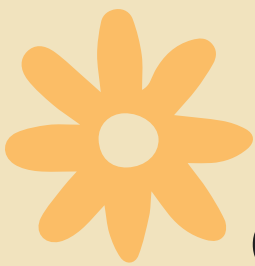


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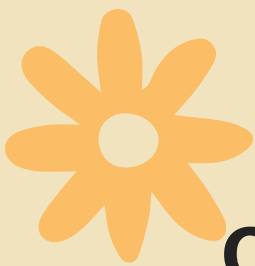


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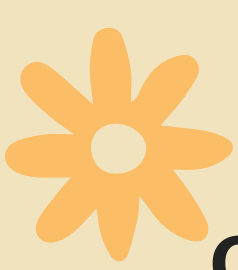


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LEARNING OUTCOMES

#1

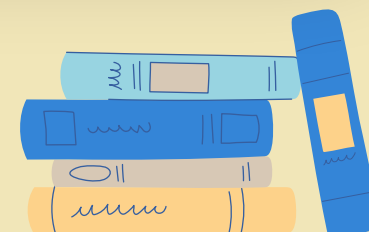
Apply the knowledge of handling a meeting according to the principles and practices in different types of meeting

#2

Display a high degree of professionalism and ethics in handling a meeting according to its rules and regulations.

#3

Manage meeting documents using secretarial skills in handling various types of meeting





CHAPTER 1

INTRODUCTION OF MEETINGS

Learning Objectives

At the end of this topic, students should be able to:

- Examine the principles of meetings
- Expose the types of meetings

1.1. DEFINITION OF MEETING

SHARP V DAWES (1876)


"the word meeting prima facie means a coming together of more than one person"

'an assembly of people for a lawful purpose'




'the coming together of more than one person for any lawful purpose'



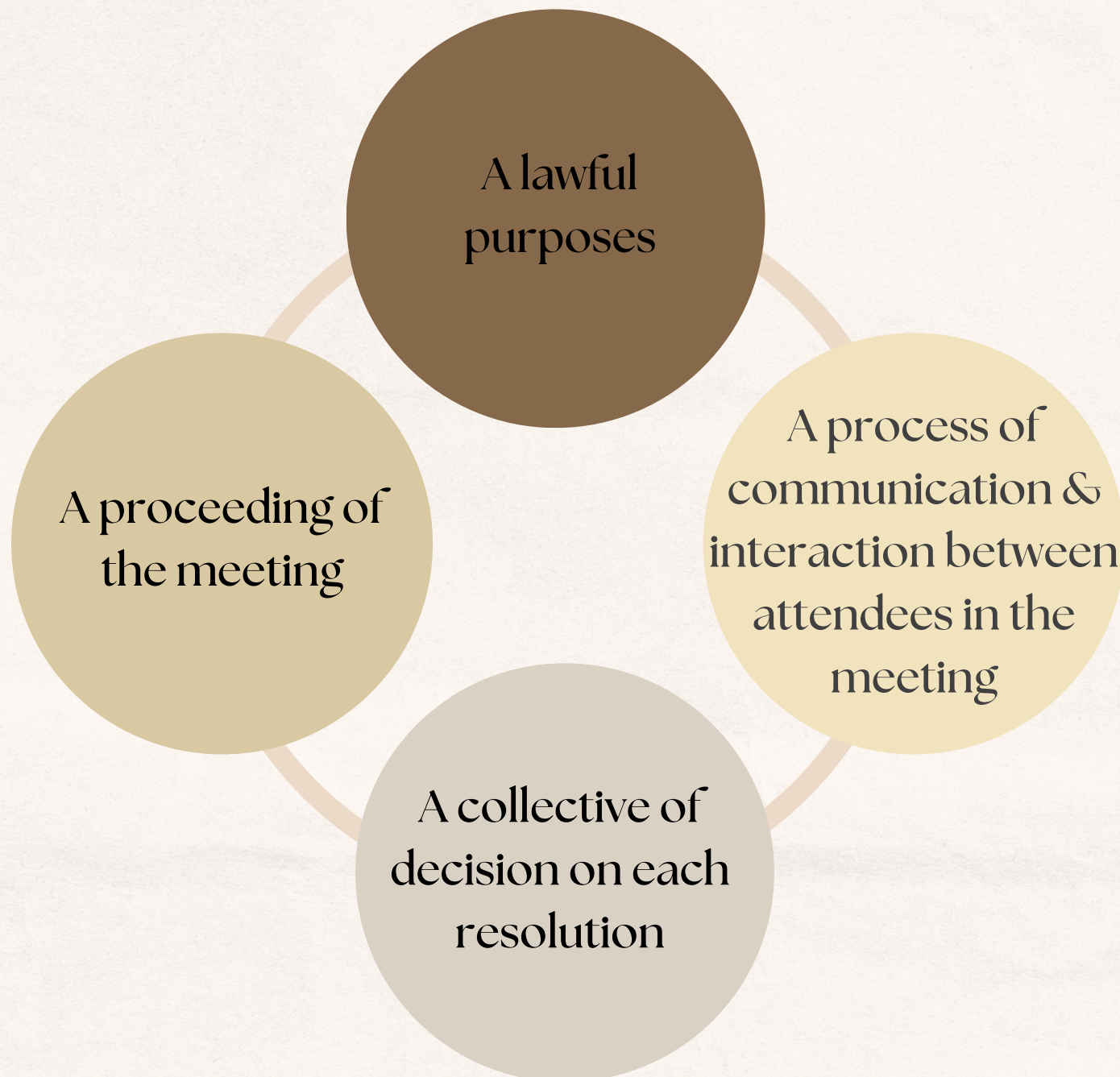
 Meetings play a vital role in the life of a company as decisions are made which would affect its administration, businesses, directions, management and personnel.


 A valid meeting is one which has been properly convened and constituted and in which there is a chairman and from which no persons who are entitled to attend are excluded.

 The provisions relating to meetings in CA2016 can be found in Division 5, Part III (s. 290-344).

1.2.

CHARACTERISTICS OF MEETING





1.3. Section 327 of CA2016

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 their member's right to speak and vote at the meeting

Due to modern technology it is not necessary for all the persons attending the meeting to be together in the same room

Provided that there are adequate audio-visual links to enable everyone attending to debate and vote on matters affecting the company

1.4. EXCEPTION (ONE MAN MEETING)

SECTION 328 (1)

- In the case of a company having only **ONE** member, **ONE** member personally present at a meeting shall constitute a quorum

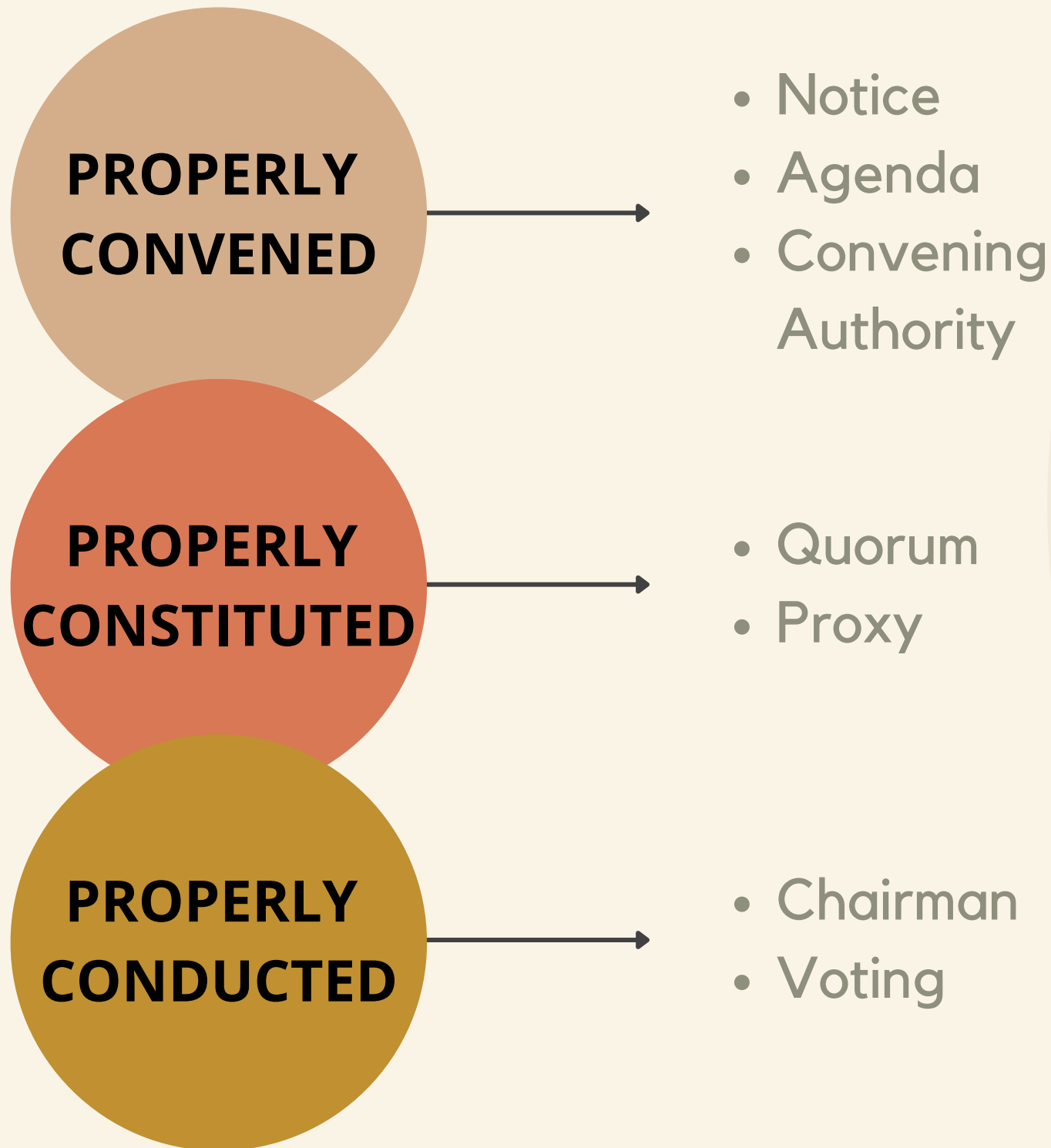
SOLE MEMBER - SECTION 344

- If the sole member of a company takes any decision-maybe taken by the company in meeting of members
- Has effect as if agreed by the company in meeting of members

He shall provide the company with details of that decision, unless that decision is taken by way of a written resolution.

1.5.

REQUISITES OF A VALID MEETING



1.6.

CONVENING A MEETING

- There are certain basic requisites that have to be adhered to, in order to ensure the validity of a meeting and that the decision(s) taken at the meeting is not subsequently nullified.
- A meeting should be properly convened to ensure the validity of the meeting held and resolutions passed is not to be void. In accordance to the Companies Act 2016, a meeting may be convened by the following:



Board of Directors

Section 310 (a)

- It does so by passing a Director's Resolution



Any Member

Section 310 (b)

- Any member holding at least 10% of the issued share capital may require the director to convene an EGM
- For a company without share capital, an EGM may be convened by at least 5% of its members



The Directors when requested by members

Section 311

- Members representing at least 10% of the paid up capital of the company may require the director to convene an EGM
- For a company without share capital, an EGM may be convened by members holding at least 5% of the total voting rights



By Court Order

Section 314

- When it is impracticable or impossible to convene an EGM as prescribed by the company's constitution or the CA 2016
- Re El Sombrero (1958)
- Phuar Kong Seng v Lim Hua (2005)

CONVENING A MEETING

It is the duty of the directors to take action when a request is made by members who fulfill the shareholding or membership requirements that are:



Sect. 316(1)-a notice of at least 14 days or any longer period specified in constitutions (meeting of a private company)



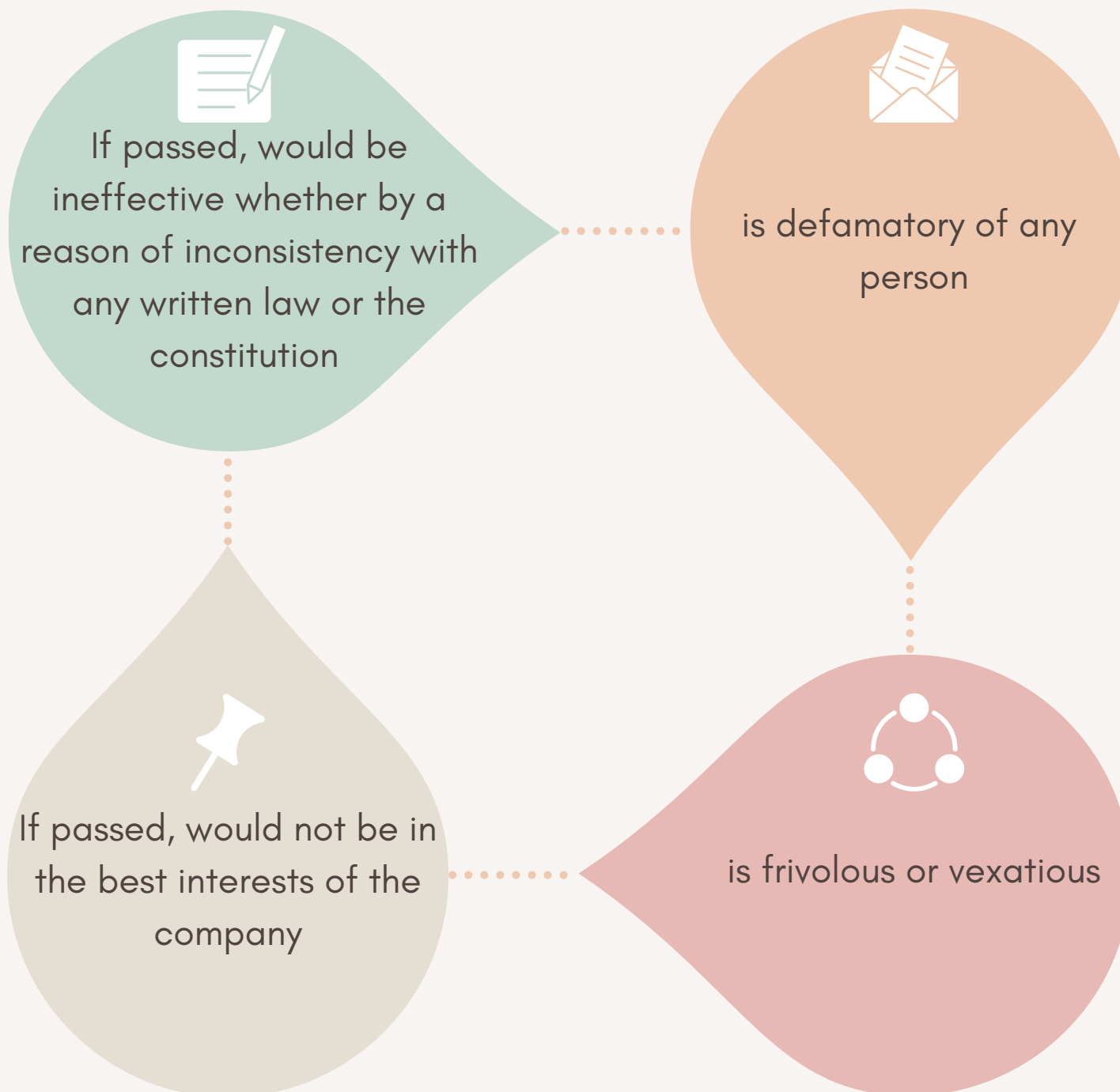
Sect. 316 (2)A notice to call an AGM at least 21 days or any longer period specified in constitutions shall be called

Differences between Section 310 (b) & Section 311

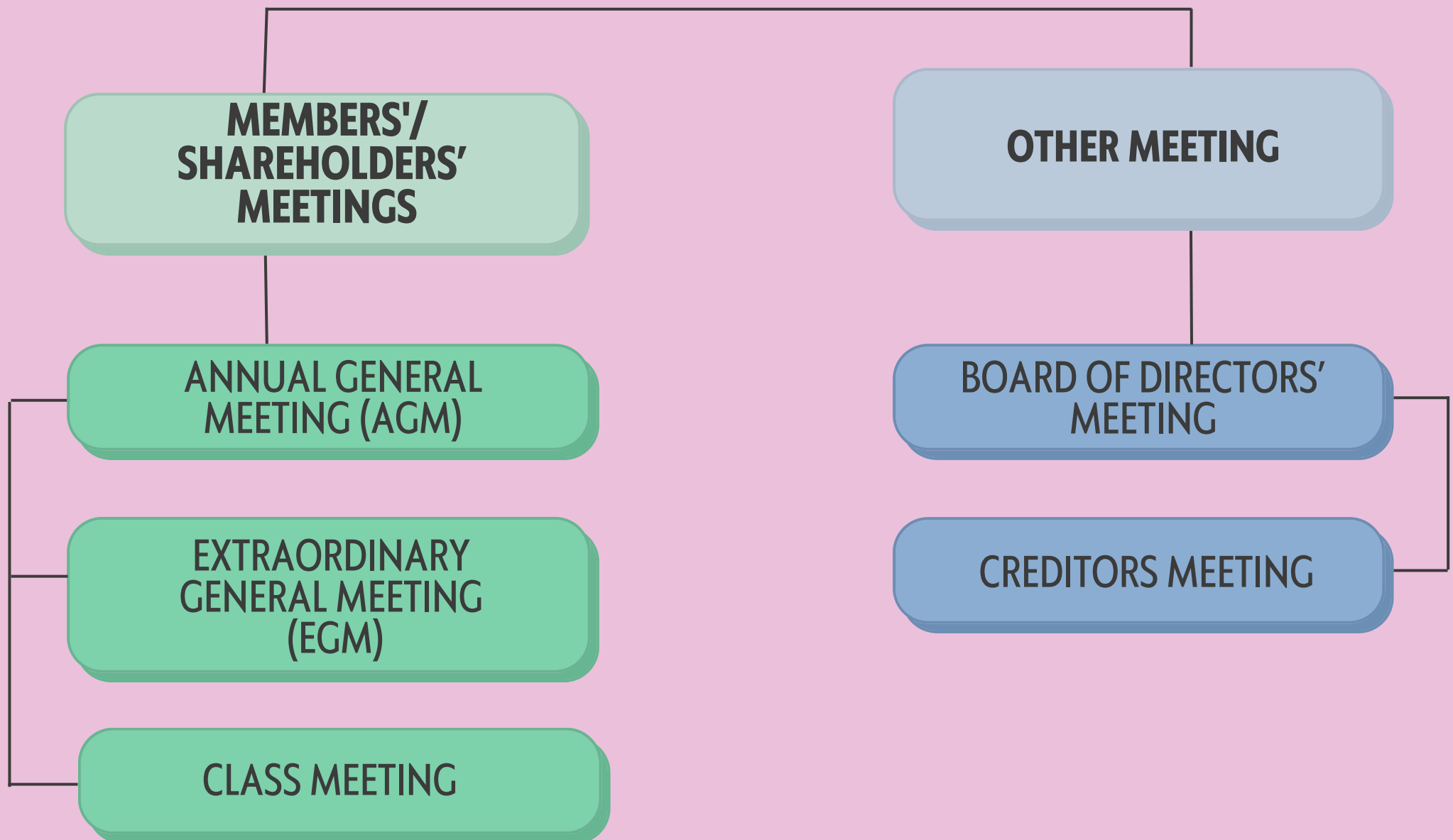
	SECTION 310 (b)	SECTION 311
REQUIREMENTS	Company with share capital: $\geq 10\%$ of issued capital	Company with share capital: $\geq 10\%$ of paid up capital
	Company with no share capital: ≥ 5 per centum of the members	Company with no share capital: $\geq 5\%$ voting rights
Preparation of meetings	Members	Company, failing which members
Expenses	Members	Company


CONVENING A MEETING

- As provided also by the Act, members may convene a meeting at the company's expense if they had made a request to the directors to convene a meeting under **Section 311 (5)** and if the directors have failed to do so.
- However, to do so, the resolution to be moved at a meeting should not be a resolution that:



1.7. TYPES OF COMPANY MEETINGS






Every Public Company shall hold an AGM in every calendar year

It need not required to have the AGM in the year of its incorporation or the following year, if the company has had its first AGM within 18 months of its incorporation
[Section 340 (3)]

It should be held within 6 months of the company's financial year end
[Section 340 (2)]


ANNUAL GENERAL MEETING



Subsequent AGMs, must be held not more than 15 months after the last AGM

If a company is not able to hold its AGM within the prescribed time due to any special reason, the company may apply to ROC for an extension time
[Section 340 (4)]

An AGM for a public company, a notice of at least 21 days should be given to the members prior to the meeting [Section 316]
As for any other case, a notice of at least 14 days should be served.







ANNUAL GENERAL MEETING




- The Board of Directors convenes the AGM by passing a directors' resolution
- The company secretary will then prepare the meeting needs and send notices to the members



If the company fails to hold its AGM within the time prescribed, the company itself and every officer of the company shall be guilty of an offence under the Act [Section 340 (6)]



- Failing to convene the AGM, based on the application of any member, the court may order the general meeting to be called [Section 340 (5)]
 - Section 248 requires that any financial statement prepared by directors should be audited before it is sent to every member.
- 

ANNUAL GENERAL MEETING

Figure 1.1

2021 FY

2022 FY

01/07/2021
Last AGM

01/01/2022-
30/06/2022
(subsequent AGM)

30/09/2022
(final date for
subsequent AGM)

Last AGM-1st July 2021

6 months

15 months

Subsequent AGM must be held within 6 months of the company's financial year and not later than 15 months from the last AGM (on or before 30th Sept 2022)

ANNUAL GENERAL MEETING

Figure 1.2

2022
Financial Year

Business commences
1/01/2022

AGM 1
10/06/2022

2023
Financial Year

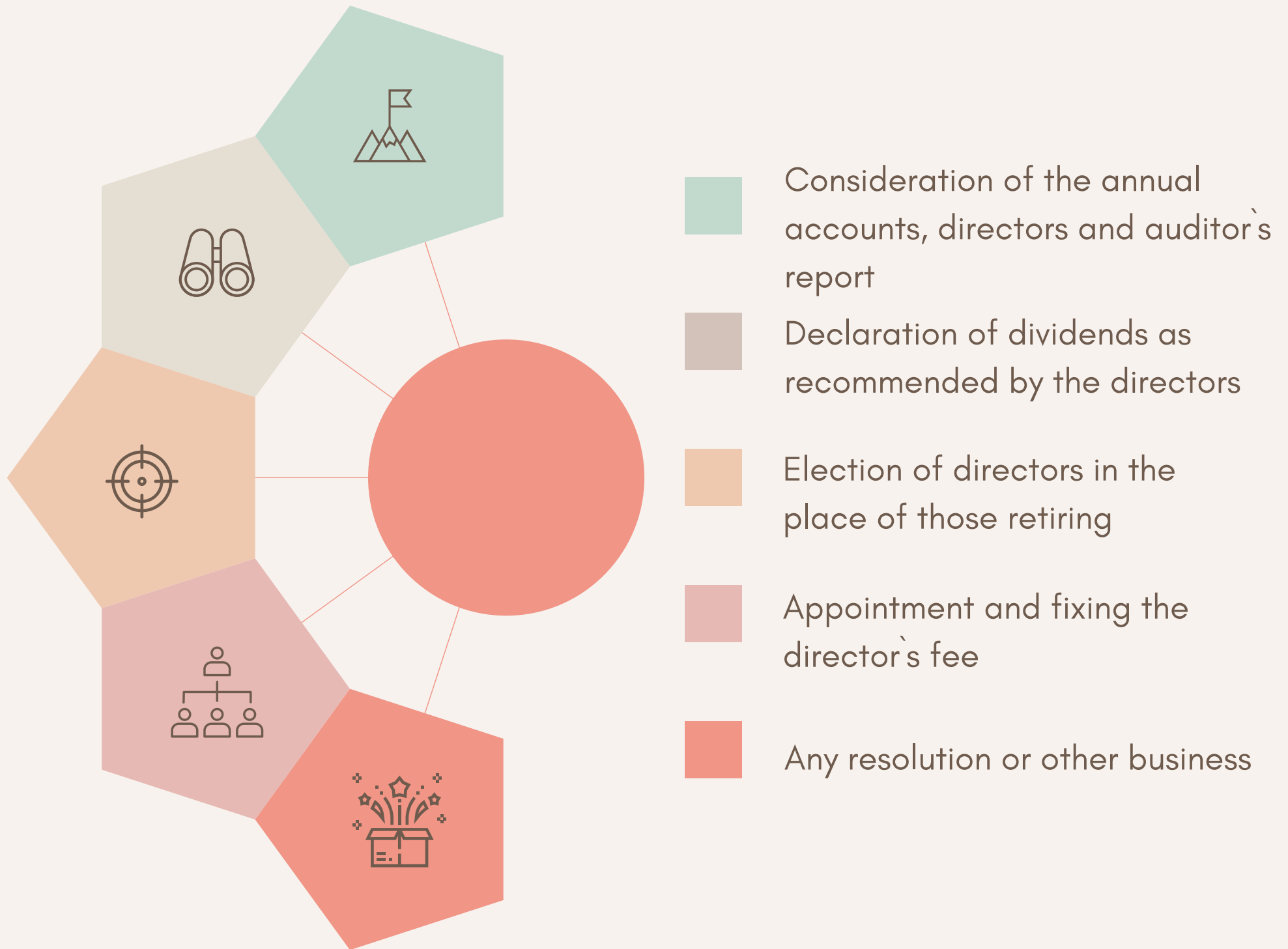
AGM 2
(2023)

AGM 2 need not be held in 2022;
instead can be held the following
year in 2023

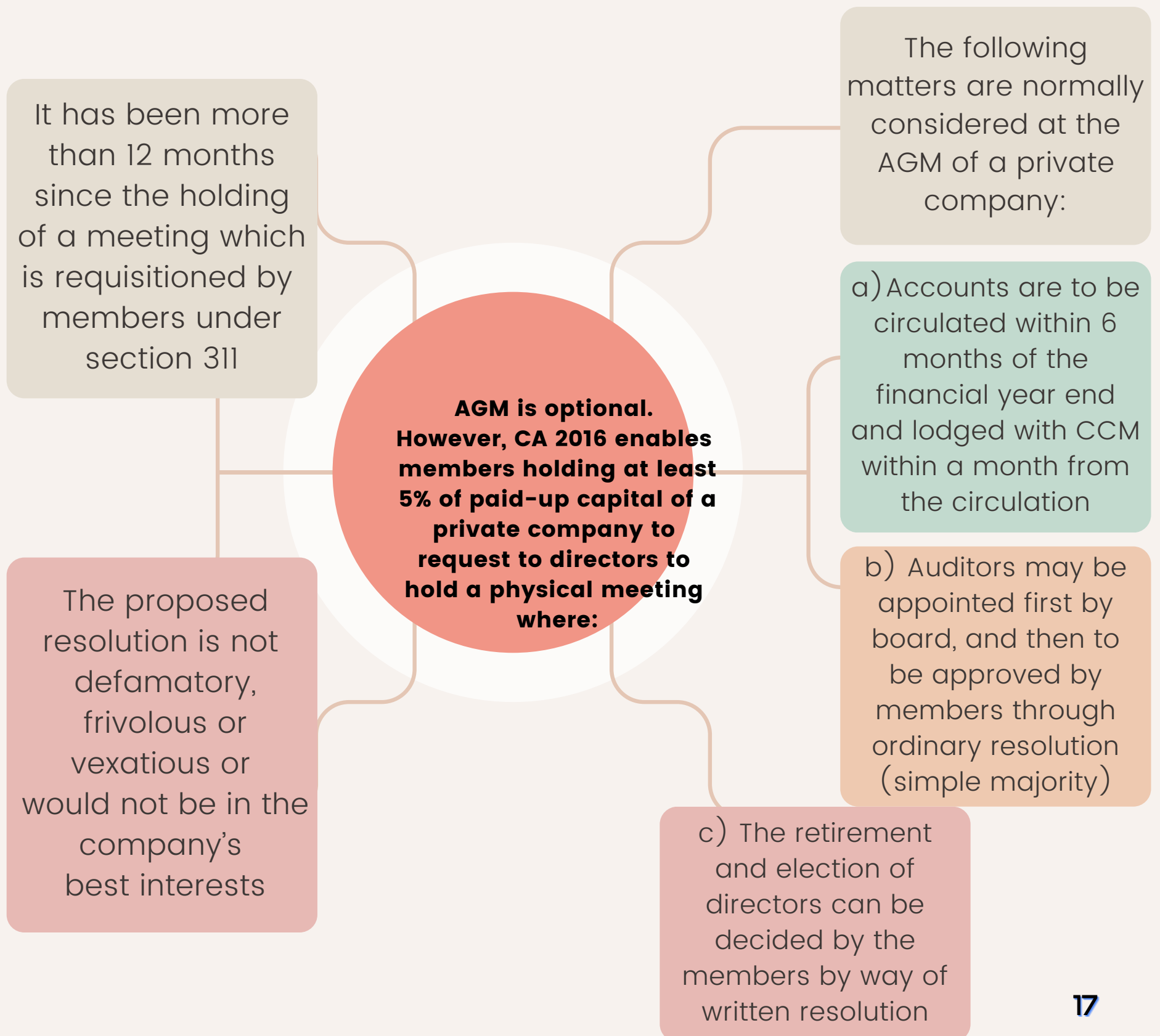
18 months

AGM 1st is held within 18
months of commencing
business-10th June 2022

ANNUAL GENERAL MEETING (PUBLIC COMPANIES)



ANNUAL GENERAL MEETING (PRIVATE COMPANIES - s.316)



EXTRAORDINARY GENERAL MEETING (EGM)



The EGM may be called by:-

- The directors
- Two or more members holding not less than 10% of the issued share capital of the company
- If co. does not have a share capital, not less than 5% of the members
- By court order

Other purposes of an EGM:

- In some business environment when events necessitate substantial change or a major threat, the management may want a shareholder mandate for a particular strategic move, such as for a merger or acquisition
- Other major issues that might threaten shareholders' value may also lead to an EGM, such as whistle-blower disclosing information that might undermine shareholders' confidence in the BOD

01

- Held to transact special business which are too urgent to wait until the next AGM
- In relation to section 311, the directors shall:
 - (a) call for the meeting within 14 days from the date of the requisition
 - (b) hold the meeting on a date not more than 28 days after the date of the notice to convene the meeting

02

The directors must convene an EGM if they are requisitioned to do so by the members

03

04

Each business transacted at a general meeting is a special business

05



CLASS MEETING

(S.339 CA 2016)

Meetings that are held by holders of a certain/particular class of shares such as preference shareholders.

1



2



Thus class meetings are meetings of the holders of a class of shares of the company when it is proposed to vary the rights of that particular class of shares.

3



5

The constitution of company or any agreement will set out of the details of how class meeting is to be conducted.

The meetings are held to pass resolutions which will bind only the members of the class concerned, and only members of that class can attend and vote.

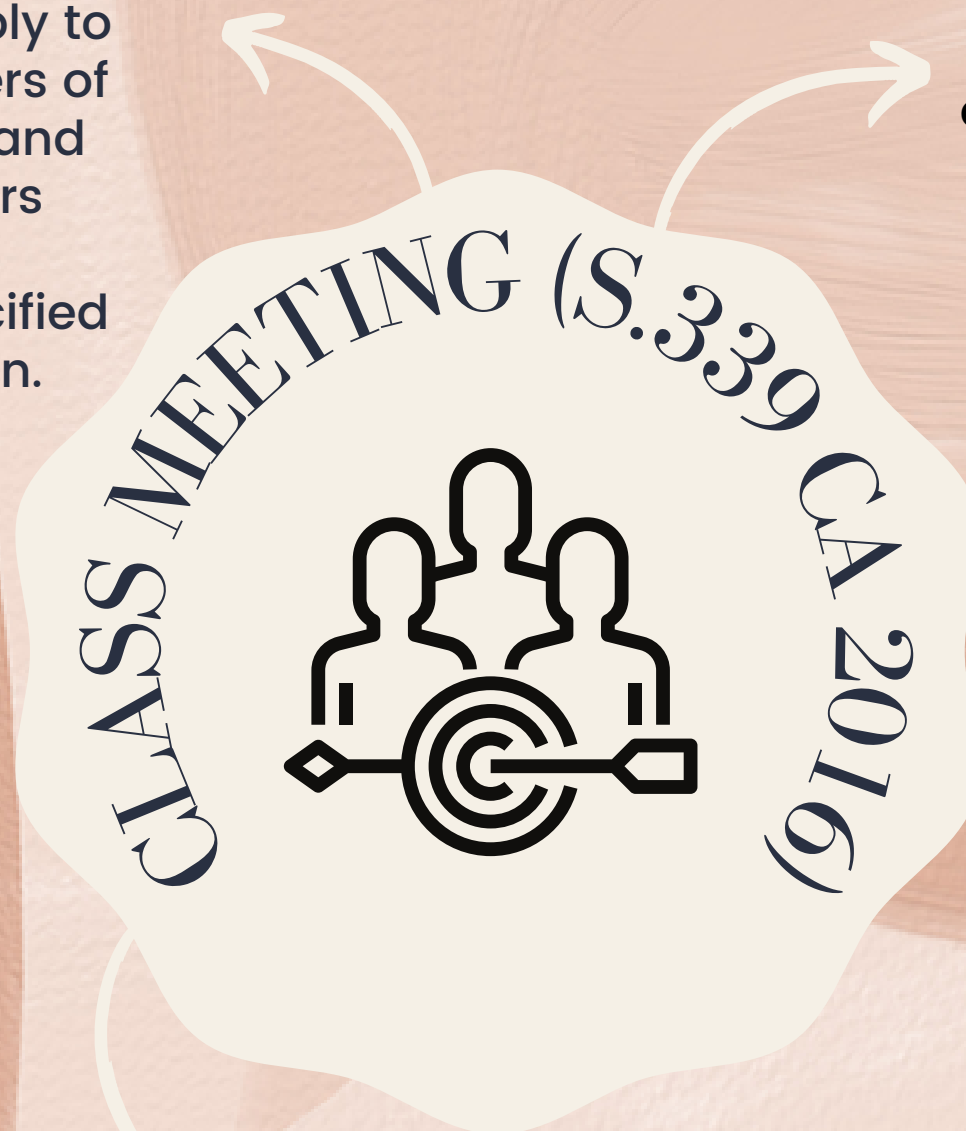
4



The share capital of companies can be , and often is divided into more than one class of shares.

Section 339. (1) The provisions of Subdivision 5 of this Division in relation to meetings shall apply to a meeting of holders of a class of shares and class of members subject to the modifications specified in this Subdivision.

Sections 328 and 330 shall not apply in relation to a meeting of holders of a class of shares and class of members in connection with a meeting in respect of the variations of rights attached to the class of shares and class of members.



The quorum for a variation of class rights meeting in respect of holders of a class of shares is—

- for a meeting other than an adjourned meeting, two persons present holding at least one-third of the number of issued shares of such class, excluding any shares of that class held as treasury shares;
- for an adjourned meeting, one person present holding shares of such class, unless otherwise provided in the constitution

1.8. COMPARISONS SHAREHOLDER `S MEETING

Parameter of Comparison	Creditors Meeting	AGM	EGM	Class Meeting
Definition	Discuss matters concerning rights and welfare of creditors	General meeting which must be held by the company every year, to discuss various business matters.	Any meeting other than the AGM in which business relating to company's management is transacted.	Meeting that are held by holders of a particular class of shares such as preference shareholders.
Types of Company	Both public and private companies.	Both public and private companies.	Both public and private companies.	Both public and private companies.
Necessary	Compulsory for public companies	The AGM is mandatory for public company and should be conducted yearly. The AGM is optional for private company.	The EGM is not mandatory.	Normally called when it is proposed to vary the rights of that particular class of shares.
Number of times held	Once in the whole lifespan of the company.	Once in a calendar year.	An extraordinary general meeting can be held several times, depending on the issue.	Depending on the needs of the company
Called by	The company	Board of Directors	Board of Directors Shareholders Court Order	Members/shareholders
Purposes	If the company is insolvent, the company shall call for a meeting of the creditors of the company in which the resolution for winding up is to be proposed	Ordinary business and special business	Conducted to discuss any urgent matter or to pass special resolution urgently. Special business only.	The meeting is held to pass resolutions which will bind only the members of the class concerned and only members of that class can attend and vote

First director meeting is held after the incorporation of the company to get things going.

There is no statutory requirement that every company must hold its first directors meeting.

In some cases, one of the directors may be delegated to transact certain businesses and this should be done by way of convening a board meeting or by directors' circular resolution.

BOARD OF 1.9. DIRECTORS' MEETING

The directors have no individual rights (subject constitution and CA 2016) to act on behalf of the company. They must act through the Board and their powers emanate from their collective decisions.

The directors are elected to run and manage the affairs of the company. It is important that major decisions made by directors are documented at meetings.

Regulations affecting the conduct of Board meeting and their powers (and limitations) are usually set out in their Constitution.

BUSINESS TO BE TRANSACTED AT THE FIRST DIRECTORS' MEETING:

To receive report of incorporation of the Company	To table and note the Certificate of Incorporation of the Company	To table and note the Memorandum & Articles of Association	To record the appointment of the first directors
To appoint chairman of the board	To appoint managing director	To table the directors' disclose in interests in shares	To record the appointment of first secretary
To adopt the common seal of the company	To establish the registered office of the company	To discuss the holding the statutory meeting and statutory report	To fix the financial year end of the company

1.10.

CREDITORS MEETING

primarily discusses matters concerning rights and welfare of creditors

1

Creditors

Suppliers, Financier or Debenture Holders

2

Matters commonly discussed

A compromise proposal or an arrangement proposal

3

Examples of proposal:

Where the borrowing company seeking a discount on the outstanding debt, rescheduling the earlier promised repayment schedule

4

Resolution

The company, its members or any creditor may request the court order to convene a meeting

A resolution approved by 75% of the creditors present and voted at the meeting shall be binding everyone (company, its members and all creditors)

TUTORIAL 1

1

Define meeting.

[3 marks]

2

State FIVE (5) types of meetings.

[5 marks]

3

Distinguish the purpose of Annual General Meeting (AGM) and Extraordinary General Meeting (EGM).

[10 marks]

4

List FOUR (4) characteristics of meeting.

[4 marks]

5

Discuss the requisites of valid meeting.

[10 marks]



CHAPTER 2

••• COMPANY SECRETARY

Learning Objectives

At the end of this topic, students should be able to:

- Examine the company secretary
- Exhibit the appointment of company secretary
- Demonstrate the duties of company secretary

2.1. WHO IS COMPANY SECRETARY

A Company Secretary is a professional whose role in a corporate set up is that of an adviser for legal matters

He or she is a very important member of the Company's Management to handle all paperwork's, statutory documents and procedural matters that running of the company involves

A Company Secretary has been recognized by corporate law as one of the officers of the company

The knowledge that he or she acquires during training makes them versatile enough to carry out functions in various areas like Finance, Accounts, Legal Administrations and Personnel Division

A Company Secretary of today is a company officer who is endorsed with heavier responsibilities and a greater power, duties which demand for ethical behavior from company secretaries at all times

In short, it would suffice to say that all legal and procedural matters as per the Companies Act and all other applicable laws fall under the duties of a Company Secretary



2.2. Cases on Historical Functions of A Company Secretary



Newlands v National Employer's Accident Association (1885)

The functions of a secretary were described as 'clerical and ministerial only'



Barnett, Hoarse & Co v South London Tramways Co (1887)

The company secretary was regarded as a mere servant



George Whitechurch Ltd. v. Cavanagh [1902] A.C. 117

The duties as "of a limited and of a somewhat humble character"



Panorama Developments (Guildford) Ltd v Fidelis Furnishing Fabrics Ltd (1971)

The secretary's position has been enhanced considerably

2.3.

BACKGROUND OF COMPANY SECRETARY

Previously the company secretary was seen as just another employee of the company, carrying out much if the clerical and documental work in the office

He is now regarded as an officer of the company holding extensive duties and responsibilities

He serves as the Chief Administrative officer of the company and has ostensible authority with administrative matters such as sign contracts on the company's behalf

Example: employment contracts of staff, contracts for the purchase of personal computers for office use and etc

2.4.

COMPARISON

SECRETARY vs COMPANY SECRETARY

An Administrative Officer

Backbone of his/her boss

As supporting
management

The main role is clerical
duties

Has no license

A Chief Administrative
Officer

Backbone of a company

Form a managerial
position

Role is not for clerical
duties only

Must hold license from
CCM/Professional Bodies



2.5.

REGISTRATION OF A COMPANY SECRETARY

•SECTION 241 – COMPANIES ACT 2016

(1) Any person who is qualified to act as a secretary and who desires to act as a secretary shall be registered under this section before he can act as a secretary.

(2) The Registrar shall cause a register of secretaries to be kept and shall cause to be entered in the register in relation to a secretary-

(a) the name of the secretary

(b) the residential address and business address of the secretary

(c) the details of the qualifications referred to in subsection 235(2)

(d) Such other information as the Registrar may require



REGISTRATION OF A COMPANY SECRETARY

- (3) The Registrar, before registering such person, may-
 - (a) Require him to produce any evidence to his satisfaction of the qualification as stated under subsection 235(2)
 - (b) Impose any other conditions that he deems fit
- (4) If the requirements under subsection (3) are satisfied, the Registrar shall-
 - (a) Enter the particulars in the register of secretaries
 - (b) Issue a practicing certificate in such form as the Registrar may determine
- (5) On or after the commencement of this Act, a person who is a secretary of a company and who is not registered under subsection (1) may continue to act as a secretary to the company for a period of not more than twelve months or any longer period as the Registrar may allow.

REGISTRATION OF A COMPANY SECRETARY

(6) After the expiry of the period referred to in subsection (5), a person who fails to comply with the requirement to register shall be deemed to have not been registered under this section.

(7) The Minister shall have the power to make regulations on any matters relating to any practicing certificate issued under this section.

(8) Any person who contravenes subsection (1) commits an offence.

2.6. APPOINTMENT OF COMPANY SECRETARY

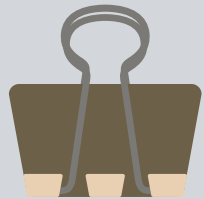


SECTION 236 - COMPANIES ACT 2016

- (1) The Board shall appoint a secretary and determine the terms and conditions of such appointment.
- (2) Notwithstanding subsection (1), the appointment of the first secretary shall be made within thirty days from the date of incorporation of a company.
- (3) No person shall be appointed as a secretary unless—
 - (a) He has consented in writing to be appointed as a secretary
 - (b) He is qualified under subsection 235(2)
 - (c) He is not disqualified under section 238
- (4) The company and every person who contravene this section commit an offence.



2.7. QUALIFICATIONS OF COMPANY SECRETARY



SECTION 235 – COMPANIES ACT 2016

- (1) A company shall have at least one secretary who shall be:
- (a) A natural person
 - Meaning that he/she must a true person not an artificial persons
- (b) Eighteen years of age and above
 - Must a person 18 years old and above according to majority age provided under Sect 2 Majority Age Act 1971
- (c) A citizen or permanent resident of Malaysia
 - Who shall ordinarily reside in Malaysia by having a principal place of residence in Malaysia


QUALIFICATIONS OF COMPANY SECRETARY

- (d) A member of a body as set out in the Fourth Schedule,
- Malaysian Institute of Chartered Secretaries And Administrators (MAICSA)
 - Malaysian Institute of Accountant (MIA)
 - Malaysian Bar Council
 - Malaysian Association of Company Secretaries (MACS)
 - Malaysian Institute of Certified Public Accountant (MICPA)
 - Sabah Law Association
 - Advocates Association of Sarawak




QUALIFICATIONS OF COMPANY SECRETARY


(E) LICENSED BY REGISTRAR OF COMPANIES (ROC)



A qualified person can apply for a licence under Section 20 G of the Companies Commission of Malaysia Act 2001



The CCM will grant a license after consideration of character, qualification and experience of applicant the interest of the public and whether the applicant had previously contravened any provisions of this act



Every license granted or renewed under this section shall be valid for a period of three years from the date of issue or renewal





2.8.

QUALIFICATION AND EXPERIENCE OF APPLICANT FOR COMPANY SECRETARY



In order to apply for a company secretary license, the qualifications and experience as stated below:

- Minimum qualification: Sijil Pelajaran Malaysia or equivalent (with credit in Bahasa Malaysia and English)

- Experience: working experience in company law or company secretarial practice for a specific period

- Minimum period of working experience: depend on the highest academic qualifications

EXPERIENCE AND QUALIFICATION

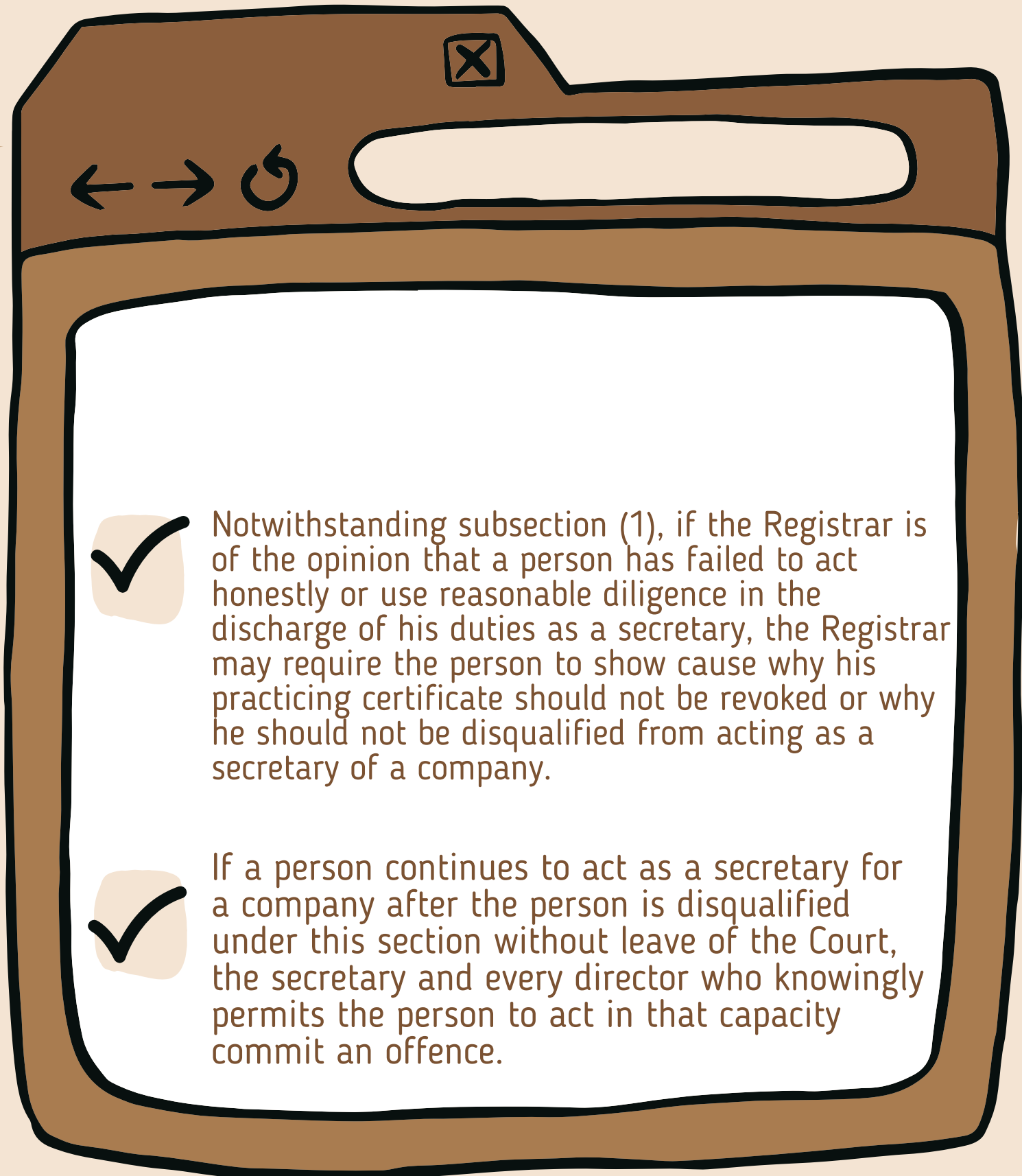
ACADEMIC QUALIFICATION	WORKING EXPERIENCE
<u>Sijil Pelajaran Malaysia</u> / <u>Sijil Tinggi Pelajaran Malaysia</u>	Minimum 5 years
Holders of a certificate in the field of company law, company secretarial practice, management, business administration or accounting	Minimum 3 years
Diploma in the field of company law, company secretarial practice, management, business administration or accounting	Minimum 2 years
Degree in the field of company law, company secretarial practice, management, business administration or accounting	Minimum 1 years

2.9. **DISQUALIFICATIONS OF COMPANY SECRETARY**

SECTION 238 - COMPANIES ACT 2016

- (1) A person shall be disqualified to act as secretary if-
- (a) He is an undischarged bankrupt
 - (b) He is convicted whether in or outside Malaysia of any offence referred to in section 198:
 - 1. any offence in relation to the promotion, formation or management of a company
 - 2. any offence involving bribery, fraud or dishonesty
 - 3. He ceased to be a holder of a practicing certificate issued by the Registrar under section 241



DISQUALIFICATIONS OF COMPANY SECRETARY



2.10.

RESIGNATION OF COMPANY SECRETARY

SECTION 237 - COMPANIES ACT 2016

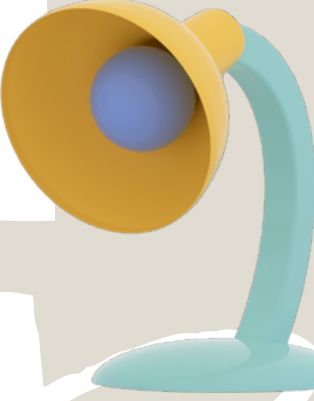
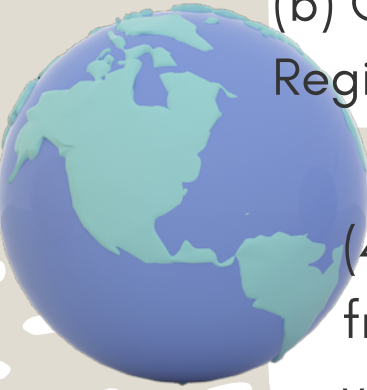


(1) Subject to the constitution or terms of appointment, a secretary may resign from his office by giving a notice to the Board.

(2) If none of the directors of the company can be communicated with at the last known residential address, the secretary may, notwithstanding subsection 235(1), notify the Registrar of that fact and of his intention to resign from the office.

(3) The secretary shall cease to be the secretary of the company:

- (a) On the expiry of **thirty days** from the date of the notice lodged under subsection (1) or the period specified in the constitution or the terms of appointment, as the case may be
- (b) On the expiry of thirty days from the date of the notice to the Registrar under subsection (2)



(4) Nothing in subsections (1) and (2) shall relieve the secretary from liability for any act or omission done before the secretary vacated that office.

2.11

REMOVAL OF A COMPANY SECRETARY

SECTION 239 – COMPANIES ACT 2016

- ✓ The board may remove a secretary from its office in accordance with the terms of appointment or the constitution.
- ✓ A company secretary is an officer appointed by the Board of Directors through meetings of the Board of Directors and is empowered to appoint or dismiss a company secretary at any desired time.
- ✓ In view of Section 240, the removal of a secretary and the appointment of another person to replace him usually be done simultaneously

2.12 DUTIES OF COMPANY SECRETARY

- The company secretary is an officer of the company and adviser to the board in which his/her duties to ensure the following in performing the duties.
- Vary from one company to company
 - FAMILIARISE HIMSELF/HERSELF WITH THE COMPANY'S CONSTITUTION
 - WELL-VERSED IN THE COMPLIANCE WITH NUMEROUS STATUTORY AND REGULATORY BODIES.
 - HE/SHE MUST KEEP ABREAST OF THE LATEST DEVELOPMENTS IN COMPANY AND SECURITIES LAW SUCH AS THE MALAYSIAN CODE ON CORPORATE GOVERNANCE (MCCG) AND BURSA MALAYSIA LISTING REQUIREMENTS (FOR PUBLIC LISTED COMPANIES)
 - ENSURE COMPLIANCE AND CORRECT PROCEDURES ARE FOLLOWED AND ADHERED TO IN ACCORDANCE WITH THE COMPANY'S CONSTITUTION AND THE CA 2016 (TO BE CONVERSANT WITH MEETING PROCEDURES & STATUTORY REQUIREMENTS)
 - ABLE TO ADVISE THE BOARD AND TO ENSURE THE INTEREST OF THE BOARD AND MEMBERS ARE WELL-PROTECTED AT ALL TIMES.
 - TO ENSURE COMPANY'S BOOKS OF ACCOUNT ARE KEPT, ANNUAL ACCOUNT AND REPORTS ARE PREPARED
 - TO ORGANIZE AND ATTEND MEETINGS OF THE SHAREHOLDERS AND DIRECTORS
 - COMPLIANCE WITH STATUTORY REQUIREMENTS AND ADVISORY

DUTIES OF A COMPANY SECRETARY FOR BOARD MEETING & OTHER MEETINGS

- The company secretary is required to attend board meetings and give general advice on matters relating to company secretarial matters
- Organizing board and board committees meetings
- The secretary will act as a primary link between shareholders and the company
- Preparing and handling of boards and member's resolutions and attending board meetings, annual general meetings and extraordinary general meetings
- Collecting, organizing and distributing such information, documents or other papers required for the meeting
- Ensuring that all meetings are minute and that the minute books are maintained with certified copies of the minutes



DUTIES OF A COMPANY SECRETARY FOR GENERAL MEETING



Ensuring that an annual general meeting is held in accordance with the requirement of the Companies Act and the company's constitution



Obtaining internal and external agreement to all documentation for circulation to shareholders



Preparing and issuing notices of meetings, and distributing proxy forms

DUTIES OF A COMPANY SECRETARY FOR STATUTORY REGISTERS

- Maintaining share registration and safe custody of documents.
- The company secretary has a duty to maintain the company`s register of members
- To deal with transfer of shares and other matters relating to shareholding.
- The company secretary usually also ensures the safe custody of the company seal and original share certificates.

DUTIES OF A COMPANY SECRETARY FOR STATUTORY REGISTERS

Filing information with the CCM to report certain changes regarding the company or to comply with requirements for periodic filing such as:

- Annual returns
- Audited annual financial statements and reports related thereto



2.13

LIMITATIONS ON ADMINISTRATIVE AUTHORITY

1

Call a meeting of the company without a resolution of the directors

2

Issue a writ in the company's name

3

Alter the register of members, for example by striking off a name

4

Accept and enter the transfer of shares on behalf of directors

5

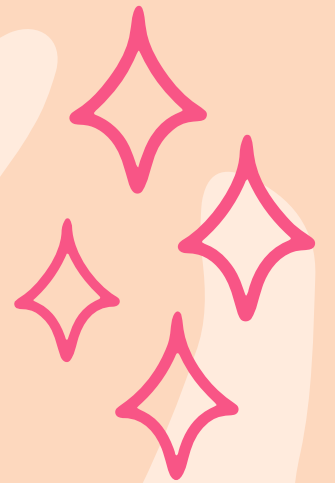
Make any request on behalf of a company for a loan or make any such loan agreement for the company



2.14



CODE OF ETHICS & CONDUCT



This Code of Ethics is 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;*
- To uphold the spirit of social responsibilities and accountability in line with the legislation, regulations and guidelines governing a company.*



CODE OF CONDUCT

In the performance of his duties, a company secretary should always observe the following codes:



Strive for professional competency

At all times exhibit a high degree of skill and proficiency in the performance of the duties of his office

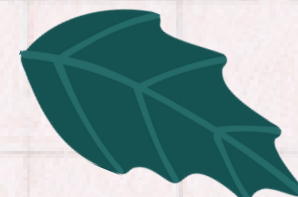
At all times exercise the utmost good faith and act both responsibly



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 M&A of the company



CODE OF CONDUCT

Be knowledgeable of the law of meetings, meeting procedures, particularly quorum requirements, voting procedures and proxyprovisions

Be responsible for the proper administration of meetings

Neither direct for his own advantage any business opportunity that the company is pursuing, nor may he use or disclose to any party any confidential information obtained by reason of his office for his own advantage or that of others

Adopt an objective and positive attitude and give full cooperation when dealing with governmental authorities and regulatory bodies

Disclose to the board of directors or an appropriate public officer any information within his knowledge that he honestly believe suggests that fraud is being or is likely to be practiced by the company or by any of its directors employees

Limit his secretaryship of companies to a number in which he can best and fully devote his times and effectiveness

CODE OF CONDUCT

- Assist and advise the directors to ensure at all times that the company maintains an effective system of internal control for keeping proper registers and accounting records
- Be impartial in his dealing with shareholders, directors and without fear or favor use his best endeavours to ensure that the directors and the company comply with the relevant legislation, contractual obligations and other relevant requirements
- Be present in person or ensure that in his absence he is so represented at the company's registered office on the days and at the hours that the office is accessible to the public
- Advise the board of directors that no policy is adopted by the company that will antagonize or offend any stakeholders of the company
- Be aware of all reporting and other requirements imposed by the statute under which the company is incorporated
- Be present or represented at meetings and do not allow himself or his representative to be excluded or withdrawn from those meetings in way that prejudices his professional responsibilities as secretary of company



TUTORIAL 2

1

Give **FOUR (4)** characteristics to become a company secretary.

[4 marks]

2

A company secretary must be a member of a professional body. List down **FIVE (5)** professional bodies mentioned.

[5 marks]

3

Explain **THREE (3)** differences between a company secretary and secretary.

[9 marks]

4

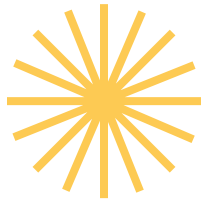
Explain qualification and disqualification of a company`s secretary.

[14 marks]

5

List **SIX (6)** duties of a company secretary.

[6 marks]



CHAPTER 3

PROCEEDING AT MEETINGS

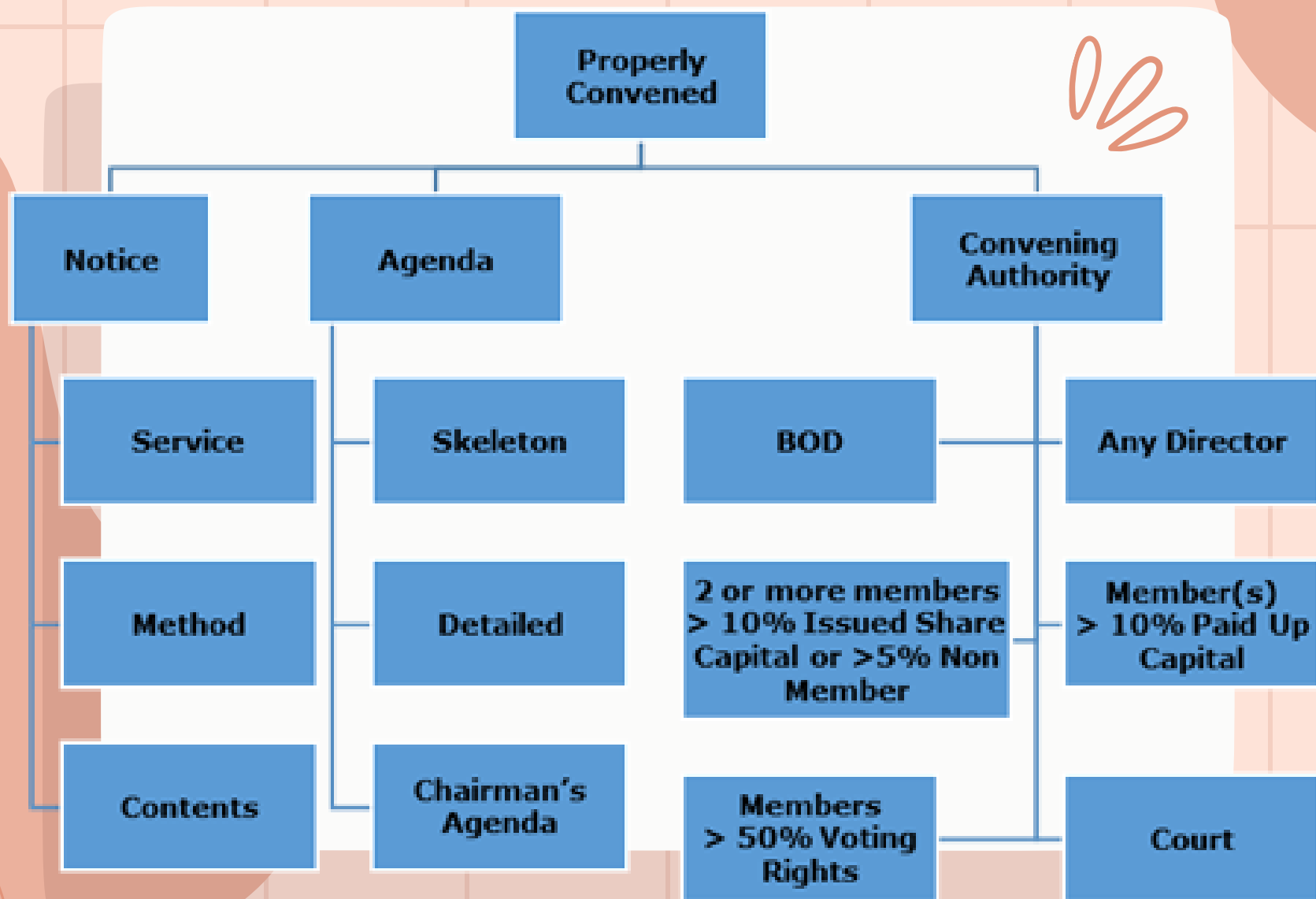
Learning Objectives

At the end of this topic, students should be able to:

- Demonstrate the proceedings of meeting

3.1.

REQUISITES OF A VALID MEETING





3.2. PROPERLY CONVENED



1

Notice - The form and method of communication used by the convener to summon to the meeting all persons who are entitled to attend

2

Agenda - The items of business to be dealt with at a meeting that determined the required period of notice

3

Convening authority - The person(s) who is entitled or authorized to summon a meeting and can give a valid notice of meeting





3.2.1.

SERVICE OF NOTICE

1.

Sect 319 (1), notice should be written and given to the members either in:
a) hardcopy
b) electronic form
c) partly in hard copy and partly in electronic form

2

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

3.

If it is required by the constitution of a company for the notice to be given in the electronic form, then it should be sent to the appropriate electronic address provided or published on a website.

SERVICE OF NOTICE

Notice of GM shall be given in a manner
as stipulated in the constitution to:

- ü Every Member
- ü Trustee/Assignee of a member who has become a bankrupt
- ü Legal Representative of a member who has passed away
- ü The Auditor for the time being of the company
- ü Each director

NOTIFICATION OF NOTICE ON WEBSITE

A publication on a website should be notified to members in writing and given to members:

- ii The nature of the meeting
- ii Venue, date and time of the meeting
- ii Whether the meeting is AGM (public company)

Notice should be available on website throughout the period from the date notification until the conclusion of the meeting

3.2.2.

LENGTH OF NOTICE-S.316 (1)

1.

GENERAL MEETING OF PRIVATE COMPANY



AT LEAST 14 DAYS

2.

AGM FOR PUBLIC COMPANY



A MINIMUM OF 21 DAYS OR LONGER PERIOD

3.

OTHER MEETING



A MINIMUM 14 DAYS OR LONGER PERIOD SPECIFIED IN CONSTITUTION OF COMPANY



NOTICE

TYPES	RESOLUTION	NO.OF DAYS
AGM (PUBLIC COMPANY)	-	21
AGM (PRIVATE COMPANY)	-	14
EGM	SPECIAL RESOLUTION	21
	ORDINARY RESOLUTION	14

SPECIAL NOTICE

1.

A notice of intention to move should be given to the company at least 28 days prior to the meeting

2.

Examples of resolutions that require Special notice:

- the removal of a director before the expiration of his term of office (sec.206 (3))
- the removal of an auditor at general meeting (sec.277 (1))
- the appointment of an auditor in place of an outgoing auditor (sec.280(2))

The procedure to serve notice should be in the same manner as other notice practice in the company.

SHORTER NOTICE- SEC. 316 (4)

1. If so agreed in writing by:

- All members entitled to attend and vote in the AGM
- A majority in number of the members having a right to attend and vote and together holding not less than 95% in nominal values of shares
- Company not having a share capital by majority of not less than 95% of total voting rights

2.

the requisite percentage shall be-

(a) in the case of a private company-95% or such higher percentage, not exceeding 95% as maybe specified in the constitution

(b) in the case of a public company, 95%

3.2.3 AGENDA

1. A list of meeting activities in the order in which they are to be taken up, beginning with the call to order and ending with the adjournment
2. It enables the business to be arranged in a logical flow which promotes efficiency and harmony in a meeting
3. It usually includes one or more specific items of business to be discussed
4. It provides a basis on which to write the minutes of the meeting

AGENDA

A typical agenda shall include the following:-

- (a) Welcoming/opening of the meeting;**
- (b) Apologising for absence;**
- (c) Approving minutes of the previous meeting;**
- (d) Matters arising from the previous meeting;**
- (e) A list of specific points to be discussed;**
- (f) Any other business-allowing a participant to raise another point for discussion;**
- (g) Arranging/announcing details of the next meeting; and**
- (h) Closing the meeting**



TYPES OF AGENDA

#1

'Skeleton' Form

Giving only the headings of the items to be dealt with

#2

'Detailed' Form

Giving the complete headings and setting out in draft form the resolutions to be submitted to the meeting for consideration

#3

'Chairman's Agenda'

An annotated agenda giving more details than those given to members for the guidance of the chairman, with a wide margin to facilitate note taking by the chairman

AGENDA

ANNUAL GENERAL MEETING

(AGM)



01

Consideration of accounts, balance sheet and the report of the directors and auditors

02

Declaration of dividend (if any) recommended by directors

03

Election of directors in place of those retiring

04

Appointment and fixing of the remuneration of auditors

ORDINARY BUSINESS

AGENDA EGM

SPECIAL BUSINESS

- **All other businesses transacted excluding the above 4 ordinary businesses**

Venues & Technology for Company Meetings



Section 327(1)

A company may hold the meeting at more than one venue, using technology or method that allows all members are reasonable opportunity to participate and to exercise their right to speak and vote at the meeting

The members' meeting may be held anywhere so long as the main venue is in Malaysia. Section 327 (2) – the chairperson of the meeting shall be at the main venue

Thus, a members' meeting may now be held through telephone conferencing or video conferencing or even using Skype

The only condition is that the method used should be available to all members as all members must have a reasonable opportunity to participate in the meeting

3.3.

PROPERLY CONSTITUTED

Quorum

The minimum acceptable number of persons (who are entitled to attend the meeting) required to be present to constitute a meeting to validly transact the business of the meeting

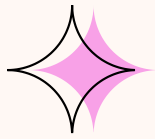
General Meeting

Board of
Director Meeting

&

Proxy

A person being named and authorized in the proxy form to act for the appointer/on behalf of a corporation to attend and vote at the meeting on the appointer's behalf




3.3.1


Quorum




- 01**



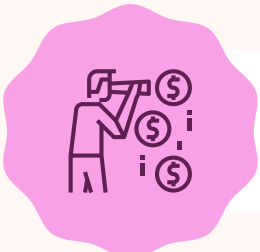
Requisites minimum number of person entitle to attend a meeting constitutes a validly convened meeting and transact the business of the meeting
- 02**






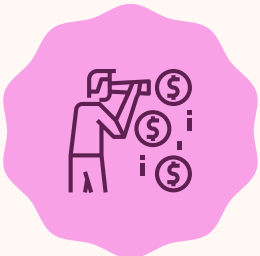
In the absence of a quorum any resolution passed at the meeting is void
- 03**



According to **Sect.328 (3)** and **sect.294**, if a member appoints more than one representative or proxy, it shall be counted as **ONE (1)** member for purpose of qorum
- 04**



Quorum

- 01**  The minimum number of members that need to be present is as follows:-
- 02**  **ONE** member present personally for a company with **ONE** member
- 03**  **TWO** members present personally or by proxy unless otherwise stated by the constitution of a company
- 04**  The quorum should be those members who are eligible to vote in respect of the agenda of the meeting

ABSENCE OF QUORUM



Failure to Muster Quorum

- Until a quorum is present, there is legally no meeting.
- If the quorum is not present within 30 minutes from the appointed time, If they still fail to be constituted, the meeting shall be dissolved or shall be formally adjourned to the same day in the following week at the same time and place or such other day, time and place determined by directors.

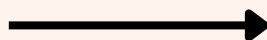


- However, under CA 2016, this types of dailuyere ti muster quourum isn not relebant



Failure to Maintain Quorum

- It is provided under CA 2016 that is not necessary to maintain qourum



- The common law rules that the quorum must be present for the whole meeting and any resolution passed after the quorum ceases to exist is invalid.
- If the quorum is not maintained, any person present is entitled to draw chairman's attention to require a count to be taken.
- For a company, its AA govern the procedures. Inability to maintain quorum shall not invalidate the proceedings after the members' departure, unless the members present reduces to one, because one man cannot constitute a valid meeting.



INCOMPETENT QUORUM

- In computing the 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
- Therefore a person who is denied the right to vote is unable to form part of a quorum. If disinterested quorum is not possible for any BOD meeting, the board then shall convene a GM of members to consider the business



SECTION 328

- A quorum as determined by the constitution of a company should be present at the start of the AGM



NOT NECESSARY TO MAINTAIN THE QUORUM

- Proxies constitute part of the quorum
- The chairman satisfied that a quorum is present. This is usually done by confirming from a company secretary



RE SALVAGE ENGINEERS LTD (1962)

- One member present cannot hold a meeting even if the said member is also a proxy for another member



SECTION 328

- Recognize if the company has only ONE member, then the quorum for the company's meeting will only be ONE member personally



SOLE MEMBER CANNOT BE REPRESENTED BY A PROXY

- This happen for the purpose of determining whether there is a valid qorum

3.3.2 PROXY

Who is proxy and corporate representatives?

As a corporation has no physical presence, it must appoint an individual to attend and act on its behalf at a general meeting or annual general meeting (AGM) of a company in which it holds shares



This can be done by appointing one or more individuals to act as its proxy, or its corporate representative



PROXY

The proxy form and the power of attorney under which instrument is signed has to be deposited at the registered office of the company **NOT LESS than**

48 hours prior to the meeting **for voting purposes**



24 hours prior to the meeting **for polling purposes**



Four (4) Types of Proxy

01

Two-way Proxy

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

02

Open Proxy

- The form of proxy that does not need the appointer to indicate the voting instruction as opposed to the two-way proxy.

03

Special Proxy

- The one meeting proxy which given specific voting instructions on the various resolutions. The proxy appointed to attend only the meeting and any adjournment thereof.

04

General Proxy

- The proxy is given the power to vote upon any proposals the way the proxy thinks fit – there are no voting instructions as how the proxy should vote;
- To vote at any meeting on any matter – it is valid for more than one meeting and any adjournment thereof

Rights as Proxy

- The proxy shall have the same right as the member to speak at the meeting;
- However, unless the AA otherwise provide

A proxy shall not be entitled to vote except on a poll

01

A member is allowed to appoint any person as his/her proxy or proxies. There are no limitations in the Act as to who can be a proxy

02

A member shall not appoint more than two proxies to attend and vote at the same meeting

04

If two proxies are appointed, the appointment shall be invalid unless he specifies the proportions of his holdings to be represented by each proxy

03

Examples: Mr Jones holds 300,000 shares in a company. He may appoint 2 proxies to represent him, i.e. Ms Dian and Mr Aziz.. He has to apportion his shareholding to each of the proxies. For example, Ms Dian represents 180,000 shares and Mr Aziz represents 120,000 shares

Removal of Proxy

Sect 336 stated that a proxy can be appointed as a chairperson at a meeting



Notice of the revocation should be received by the company before commencement of meeting



Transfer of shares by the appointer



The notice of removal or termination of proxy will not be deemed to disrupt the quorum of meeting, the validity of vote made by proxy



The constitution of a company may provide the notice of termination should be given earlier

Corporate Representatives

The proxy of a body corporate must be executed under seal



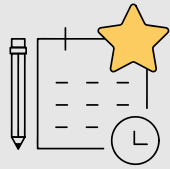
The person representing the corporation by virtue of the proxy form executed and authorized to attend the meeting as proxy of the corporation



However a company may appoint what is commonly called, a corporate representative to attend meetings as its representative



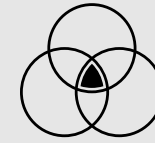
APPOINTMENT OF CORPORATE REPRESENTATIVE



Appointed by corporate member by a resolution of the board of directors of the corporation to attend all meetings or particular meeting



Entitled to exercise the same power on behalf of the corporation



No proxy form is required to be executed for the appointment of a corporate representative



The company however is required to inform the company of the appointment



A certificate under the corporation's seal shall be prima facie evidence of the appointment or revocation of the appointment of a corporate representative



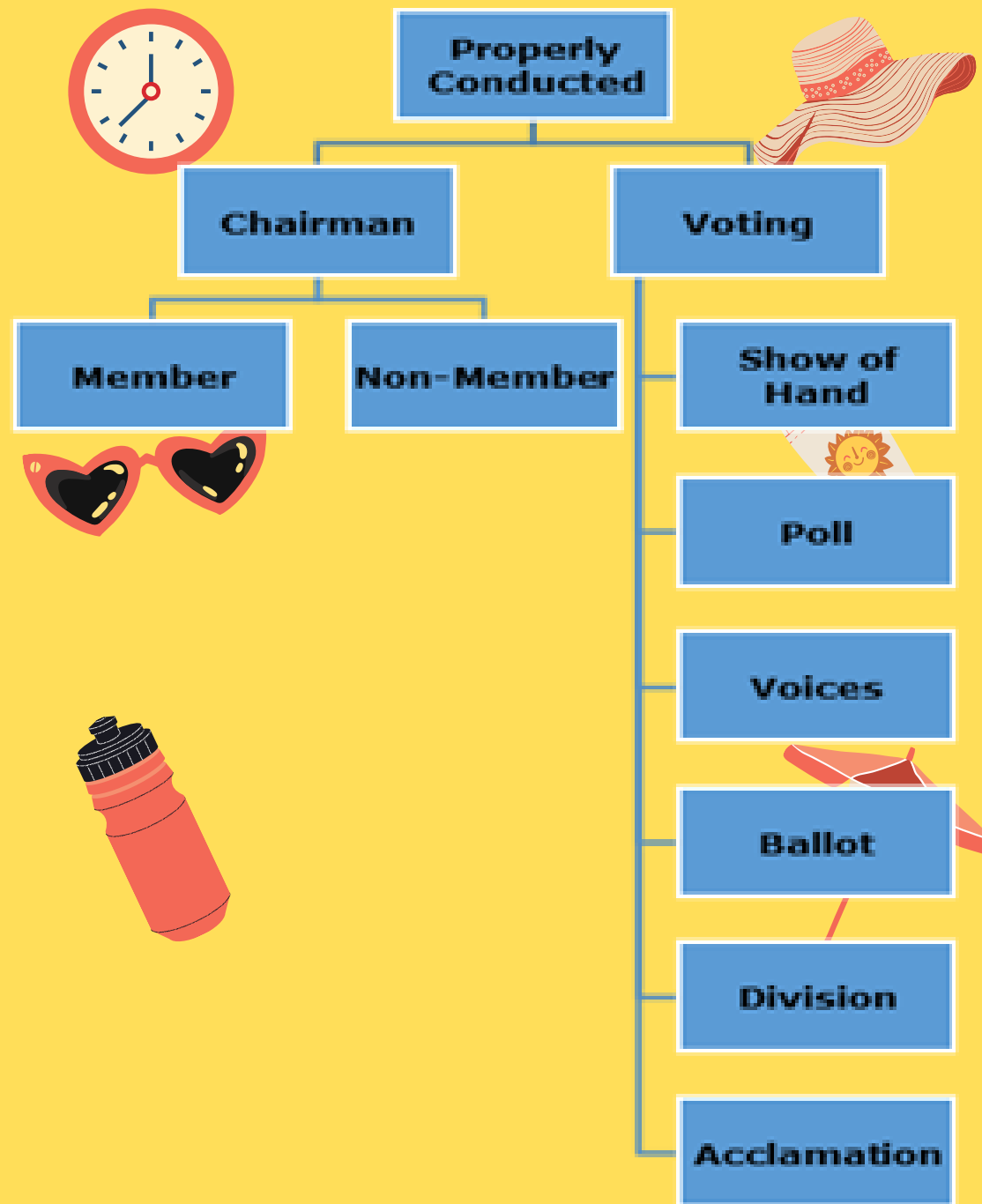
There is no time limit for the lodgement of the certificate as long as it is before the meeting and a corporate representative is not subject to the restriction applicable to a proxy

Notes:

- **Board minutes of a company to appoint a single/multiple corporate representative(s) to attend a general meeting of a private company/unlisted public company and Board minutes to appoint single or multiple corporate representative(s)—general meeting of listed public company**

3.4.

Properly Conducted



3.4.1 Chairman

01.

Spoke person of the meeting

02.

Give director rights to choose chairman among board of directors (Sect 329 (1))

03.

If chairman not present within 15 minutes, the members presented let one of their number to be chairman of the meeting

04.

Chairman has the power to demand a poll at any general meeting before or on the declaration of the result of the show of hands

05.

The Chairman's job is to ensure that the meeting is properly conducted and that order is maintained

06.

According to *Byng v London Life Association* (1990), the chairman has the power to adjourn the meeting, such power must be exercised in good faith;

07.

Most constitution provides that the Chairman of BOD shall be the chairman at every general meetings, failing which the members present shall elect one of the members to chair the meeting

Function and Duties of Chairman

- Preside at the meeting
- Determine that the meeting is properly convened, constituted and a quorum is present
- Be conversant with the provisions of articles regarding the procedure
- Be informed about the rules of debate
- Study the agenda, the business and object of the meeting
- Preservation of order
- Confine discussion within scope of the meetings and reasonable limits of time
- Decide points of order
- Give reasonable opportunity to all present who entitled to speak
- Ensure all present know exactly what the motion or amendment about to vote
- Declare an adjournment
- Declaring the meeting closed when its business has been completed

SHOW OF
HANDS

BY POLL

3.4.2

VOICES

VOTING

BALLOT

ACCLAMA
TION

DIVISION

VOTING

01

BALLOT

A ballot is a document used by a shareholder to exercise their voting rights.

Such a ballot is typically submitted by shareholders (electronically or by mail) ahead of their company's annual general meeting (AGM) or by proxy.

02

ACCLAMATION

Motion of a courtesy nature with not draw any dissent are mostly carried by acclamation

03

DIVISION

This method is not commonly used. The vote is cast by the members being counted by tellers as they divide and proceed to their respective sides.

04

VOICES

A simple method by which members indicate their vote by saying 'yes' or 'no'. "The decision is based on the volume of sound and there is no clear count of those in favour and against the motion".

VOTING BY SHOW OFF HANDS

According to sect.293(1)(a)(i) provides that a company having share capital, every member shall have one vote in respect of each share for a written resolution. Meaning that 1 share for 1 vote.

In case a vote on resolution on show of hands at a meeting, constituted 1 vote for each individual member ("1 member=1 vote")

In case a vote on a poll, every member shall have 1 vote in respect of each share. ("1 share=1 vote")

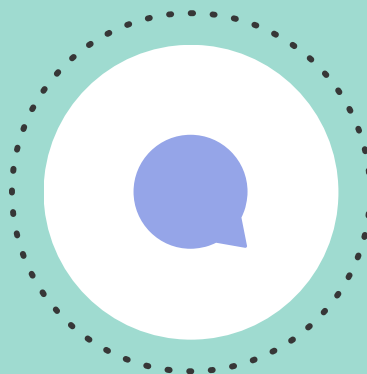
Notes:

- Section 330 provides that a resolution of voting at the meeting shall be decided on a show of hand unless poll is demanded by:-
 - a) by the chairman
 - b) at least three (3) members present in person or by proxy
 - c) by any member present in person or by proxy representing not less than 10% of the total voting rights;
 - d) by a member holding shares on not less than 10% of the total paid up shares

VOTING BY POLL (S.331)

In a poll vote, all votes on a resolution are calculated by reference to the number of shares held by members present at the meeting

Member present in meeting either in person, by proxy or corporate representative and this kind of voting is used when there is no clear result through voting by show of hands



It is stated that "each ordinary shareholder present personally or by proxy has one vote for every ordinary share held (1 unit share=1 vote)

Sect. 293 (l) (a) (iii) provides a vote on a resolution on a poll taken at a meeting, every member shall have one vote in respect of each share or stock held by him

3.4.3 **ADJOURNMENT**

An adjournment is a suspension of proceedings to another time or place

A meeting which has already commenced, and is in progress but the proceedings have to be brought to a close for the time being

Be continued at a time fixed by the motion adjourning the meeting

Notes:

- Adjournment may be automatic when there is want of quorum or voluntarily at the desire of the chairman or of the members
- The decision is taken by the chairman of the meeting when it is voluntary
- No such notice is necessary because the members already present to know it
- Adjournment is very common particularly the discontinuance type of adjournment
- Records have to be prepared for an adjourned meeting even though it is suspended

Adjournment of meeting is a rare occurrence, the following circumstances warrant for an adjournment:

- When the accounts are not ready for submission at the AGM
- When it is impossible to maintain order of the meeting, the chairman may adjourn to enable tempers to cool
- When there is a lack of quorum
- When the meeting fails to maintain a quorum
- When necessary, for the purpose of taking a poll
- When within half an hour from the time appointed for the meeting, a quorum is not present, the meeting shall adjourn

3.4.4. POSTPONEMENT

A meeting once properly convened cannot be cancelled or postponed, unless the articles permit

In absence of a power to postpone meeting, a meeting held on the postponed date is an invalid meeting



Postponement refers to the putting off the meeting to a later date before the meeting was held

Where a general meeting has been convened to be held on a certain day, the directors cannot postpone the meeting to another day unless the articles allow

POSTPONEMENT

A notice of of postponement
has to be issued and
circulated

A fresh notice is necessary
to hold the meeting again



No records have to be
prepared for a postponed
meeting

Where a general meeting has been
convened to be held on a certain day,
the directors cannot postpone the
meeting to another day unless the
articles allow

3.4.5

Motion

Definition of Motion

A proposal or proposition put forward at a meeting for discussion before it has been duly passed by a majority vote

A propose resolution to be tabled, discussed and vote upon

Once the above is done, it becomes a resolution and is the resolution of the meeting

Moved by a proposer and does not require to be seconded by a seconder except in the case of formal motion

A motion must have the following form:



1

It must be moved by a person who is qualified to do so

2

It is customary to commence with the word 'That'

3

It must be lawful

4

It should be in definite terms free from ambiguity

5

It should be in a positive, affirmative form

6

It should be plain and complete

7

It must be in the form and manner required by the rules governing the meeting

8

It must be relevant

Disposal of Motion



WHERE IT IS PUT TO VOTE AFTER ALLOWING ADEQUATE TIME FOR DISCUSSING IT AND IT IS EITHER CARRIED OR REJECTED BY THE MEETING

WHERE IT IS PUT TO THE MEETING AS SUBSTANTIVE MOTION

WHERE IT IS SHELVED

WHERE IT IS DROPPED BY THE PROPOSER WITH THE CONSENT OF THE MEETING OR HAVING NO SECONDER

WHERE IT IS TEMPORARILY SHELVED UNTIL THE ADJOURNED MEETING IS HELD



3.4.6

RESOLUTIONS

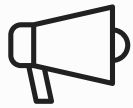
DIRECTORS' / BOARD RESOLUTIONS

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

MEMBERS' RESOLUTION

- Ordinary Resolution
- Special Resolution

Ordinary Resolution



Notice of 14 days



Passed by Simple Majority (50%)



$\frac{3}{4}$ or 75% majority required for resolutions of:

1. Appointment of an over-aged person as director of a public or subsidiary of a public company
2. Appointment of another person nominated at the meeting convened for the purpose of removal of the company's auditor to fill the casual vacancy created by the removal

***Director meeting shall be decided by a majority of votes and determination by a majority of director shall for all purpose be deemed at the boards determination

AMENDMENTS OF ORDINARY RESOLUTION

The following principles apply when amending an ordinary resolution:-

01

Amendments must within the scope of the notice of the meeting

02

Amendments must be no more onerous on the company

03

Amendments must not have the effect of negating the substantive resolution

04

A chairman can also reject a proposed amendment on the grounds of redundancy, inconsistency or on grounds that the proposed amendments are obstructive, dilatory or irrelevant

Special Resolution

✓ Notice of 21 days

✓ Passed by a majority of more than $\frac{3}{4}$ or 75% who attended and voted in person or proxy

✓ It takes place mostly during EGM where an urgent decision must take place and is voted by the majority of the members during the meeting

Examples of Special Resolutions

1. Alteration or amendment of company's constitution (s.36)
2. Change of Company's Name (s.28)
3. Adoption of constitution (s.32)
4. Variation of class rights (s.91(2))
5. Reduction of Share Capital (s.115)
6. Conversion from a public company to private company or private to public (s.41)
7. Exercise of certain powers by liquidator under a members' voluntary winding-up



ORDINARY RESOLUTION

VS

SPECIAL RESOLUTION

-
- Under Section 291 of CA 2016
 - Resolution passed by a simple majority of members (>50%) entitled to vote who are present personally or by proxy
 - Notice not less than 14 days
 - Removal of public company directors
 - Removal of auditors

- Under Section 292 of CA 2016
- Requires at least 75% (3/4) majority votes in favor of the resolution cast by members present and entitled to vote in person or by proxy
- Notice not less than 21 days
- Altering the object clause of constitution
- Amendments to company's constitution



Resolution Requiring Special Notice (s.322)



Special Notice

- Notice given by members to the company requiring any of these resolutions to be included in the meeting:
 - i. Removal of auditor from office
 - ii. Removal of director from office before the expiration of his term
 - iii. Appointment of a person as director in place of a director removed
- The notice must be served not less than 28 days before the resolution proposed to be moved

Registration of Resolutions

i. 7 days

- Resolution for voluntary winding-up

ii. 14 days

- OR Altering its share capital
- Altering MA
- Special Resolution on Change of Name
- Special Resolution on Conversion and Re-registration of Company

iii. 14 days after the lapse of 21 days

- Alteration of Object Clause

WRITING RESOLUTION

01

Only for private companies

02

Not applicable in the case of removal of director or an auditor before the expiration of terms (s.297(2))

03

Removal of auditor must be done by ordinary resolution requiring special notice (s.277)

04

it is prohibited for private company to remove the auditor/director by written resolution (s.297(2))

05

It is passed by majority of members who have signed their consensus/agreement

06

It must be signed 28 days before the circulation Becomes lapse if it is passed after period 28 days

WRITING RESOLUTION

Proposer - Section 301 & 302 (1)



- Director
 - Member holding at least 5% of voting rights
- *the constitution of company may provide for a lower threshold

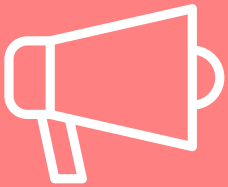
Circulation of written resolution

- S.298 provides that the company to circulate the resolution to eligible person entitled for the written resolution – member appears in the registers of members
- Date of circulation - the date of the first copy of resolution is circulated to the members (s.299)
- Circulation - Hardcopy or in electronic forms (s.300) (subject to the constitution)
- For hardcopy, it is served either personally or sent by post to the address provided by the member. Where as if it is in electronic form, it may be send to the electronic address provided



WRITING RESOLUTION

Section 305 (1) provides that a company is not required to circulate a member's written resolution if the court is satisfied that the proposed resolution:



- i. If passed, would be ineffective whether by reason of inconsistency with any written law or the constitution;
- ii. Is defamatory to any person;
- iii. Is frivolous or vexatious;
- iv. If passed, would not be in the best interest of the company

The application to restrain the circulation can be made to the court by any person who claim to be aggrieved



Need not to be a member of company

Also, the application can be made for an order of the circulation of the written resolution (in case where the director fails to circulate to the members)



3.4.7

AMENDMENTS

Amendment means any modification to a motion before it is put to vote for adoption.

Any member who has not already spoken on the main motion or has not previously moved an amendment thereto may propose amendment.



There can be an amendment to an amendment motion also.

A motion must be in writing and signed by the mover and put to the vote of the meeting by the chairman.



An amendment must not raise any question already decided upon at the same meeting and must be relevant to the main motion which it seeks to amend.



The chairman has the discretion to accept or reject an amendment on various grounds such as inconsistency, redundancy, irrelevance, etc.

If the amendment is adopted on a vote by the members, it is incorporated in the body of the main motion.



The altered motion is then discussed and put to vote and if passed, becomes a resolution.



AMENDMENTS

AMENDMENTS

The following principles apply when amending an ordinary resolution:-

01

amendments must within the scope of the notice of the meeting

02

amendments must be no more onerous on the company

03

amendments must not have the effect of negating the substantive resolution

04

a chairman can also reject a proposed amendment on the grounds of redundancy, inconsistency or on grounds that the proposed amendments are obstructive, dilatory or irrelevant

3.5

PROCEDURES OF MEETING



Notice of Meeting



Agenda

Motions & Resolution

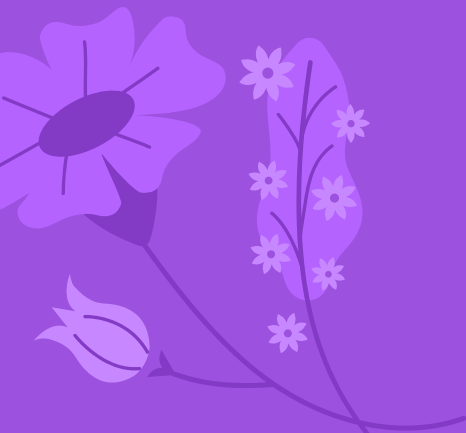



Voting

Amendment



Adjournment /
Postponement





✓
1. Prepare the proposal agenda for the board meeting and submit to the chairman for approval

✓
2. Upon the chairman's approval on the final compilation of the agenda; prepare the agenda paper and the collation of necessary reports and papers

✓
9. It is good practice to have a copy of the memorandum and articles of association of the company available for reference at the meeting

3.6

THE PRACTICAL WORK OF THE COMPANY SECRETARY BEFORE, DURING AND AFTER BOARD MEETING

Before the Board Meeting

✓
3. Prepare 2 copies of detailed agenda paper, one of which is to be given to the chairman

✓
8. Ensure that the venue for the board meeting is properly prepared with stationery supplied

✓
4. Dispatch the notice of the meeting to each director together with the agenda paper

✓
7. Prepare the attendance list/book

✓
6. Ensure all necessary documents and returns required are in hand and make some spare copies

✓
5. Advise any persons who are not directors but are invited to attend the meeting of the meeting



After the Board Meeting



1. Make a list of the action required to be taken and formally inform the persons concerned to take action

2. Keep notes or reminder of those items deferred and requiring further consideration

3. (For listed company), inform the Stock Exchange immediately of the item which required immediate announcement (if any) and notify the company's press agents

4. Prepare the draft minutes and send the draft to the chairman for his comment

5. After receiving the comments (if any) or in the absence of comments, prepare the formal copy and keep it in the minute book within 14 days after the meeting

3.7 DUTIES OF SECRETARY AS REGARDS TO THE COMPANY MEETING/AGM

PREPARATION BEFORE MEETING



1. Board meeting must be held at least 2 months before AGM take place
2. Company's secretary release the preliminary to the stock exchange



3. The dispatch the account containing together the notice of the meeting to the shareholder
4. The final copy of account and report will be printed



5. 3 copies of them will be arranged or two authorizes directors to sign and another one copy will be signed by the secretary
6. Then pass it to the auditor for his signature



7. After signing the document, he will retain one copy, one for the company and another one will be sent to SSM
8. Arrange the dispatch of the report and account the shareholder



9. Under the instruction of the company's secretary, the company's banker will arrange for the posting of dividend to be approved by AGM
10. To obtain the director's amount recommended

DUTIES OF SECRETARY AS REGARDS TO THE COMPANY MEETING/AGM

PREPARATION BEFORE MEETING



11. To inspect the place of meeting at least 15 minutes prior to the meeting and to ensure that copies of the director's service and contacts are available



12. Secretary from time to time has to check with the registration as to the progress of proxy votes



13. Company's secretary can remind the bigger shareholder that if he wishes to support the resolution to be proposed at a meeting; return a proxy card will be helpful



14. Propose through proxy has time limit, if it is due, the CCM will report the final result

15. To make sure that the chairman bring together with him a copy of report to the meeting



16. To ensure there are sufficient quorum to start the meeting

17. To prepare the agenda of AGM

DUTIES OF SECRETARY AS REGARDS TO THE COMPANY MEETING/AGM

PREPARATION BEFORE THE DAY OF AGM

1. Arrange the stewards at the meeting
2. Arrange some one to take a shorthand notes to be taken in the proceeding

3. To ensure the registered members available at the meeting
4. To prepare attendance sheets for member (required full name and number of shares whether attend individually or by proxy)

5. To prepare attendance sheets for persons other than member
6. To ensure all proxy cards are taken to the meeting

7. Ensure poll cards and voting lists are available in case a poll is demanded
8. Arrange who will propose and second the resolutions relating to the auditors and their remuneration

9. To ensure director's register of interest is in good order for inspection
10. To ensure that copy of director's service contract are available

DUTIES OF SECRETARY AS REGARDS TO THE COMPANY MEETING/AGM

PREPARATION BEFORE THE DAY OF AGM

11. Prepare detail agenda and examine the arrangement for a press release

- Prepare preliminary announcement and leading up to the AGM
- Release to the stock exchange
- Press agent will send copy to the press together with the name of contact person (for further information)

12. Make some extra copies of the report, account and company's constitution

13. Make sure all the necessary documents and equipment are available at a meeting

14. If the chairman makes a statement about company's current position, the secretary has to release to the press immediately after the AGM has been reached

15. Ensure all the decisions come out from the AGM will be immediately release to the Stock Exchange

DUTIES OF SECRETARY AS REGARDS TO THE COMPANY MEETING/AGM

Duties after the meeting

1

To make sure all the relevant documents is cleared especially confidential document

2

To prepare minutes of meeting

TUTORIAL 3

1

List **FIVE (5)** information's that must be included in a notice of meeting. [5 marks]

2

List and compare any **TWO (2)** types of agenda. [5 marks]

3

Explain **FOUR (4)** types of proxy and give **ONE (1)** example for each proxy. [10 marks]

4

Determine **FIVE (5)** circumstance that warrant a meeting to be adjourned. [5 marks]

TUTORIAL 3

5

List and explain **TWO (2)** types of absence quorum. [4 marks]

6

Mr. Grey wants to appoint Miss Fika as his proxy to attend and vote at a meeting of the company, but he was not sure which type of proxy Miss Fika should be appointed as.

Advise him to choose any **THREE (3)** types of proxy who can attend and vote at a meeting of the company. [6 marks]

7

Arrange **FIVE (5)** differences between ordinary resolution and special resolution.

[10 marks]



CHAPTER 4

••• MINUTES ••• WRITING

Learning Objectives

At the end of this topic, students should be able to:

- Manage meeting documents

4.1

DEFINITION OF MINUTES



- Written records of the resolutions and business transacted at a meeting and recorded on the minute books
- Factual and concise
- May be and often are confined simply to recording the persons present and the decisions reached
- Purpose of minutes is to provide an accurate and objective account of the proceedings of a meeting
- Minutes should record the decisions made and the important things which occurred and were done at the meeting

MINUTES OF MEETING

DOCUMENTARY RECORDS OF THE PROCEEDINGS AT MEETING

RECORD TIME, PLACE AND DATE OF THE MEETING

THE MEMBERS AND OFFICERS OF THE COMPANY WHO WERE PRESENT, PERSON (NOT BEING MEMBERS) WHO WERE IN ATTENDANCE AND THE BUSINESS WHICH WAS DONE AND

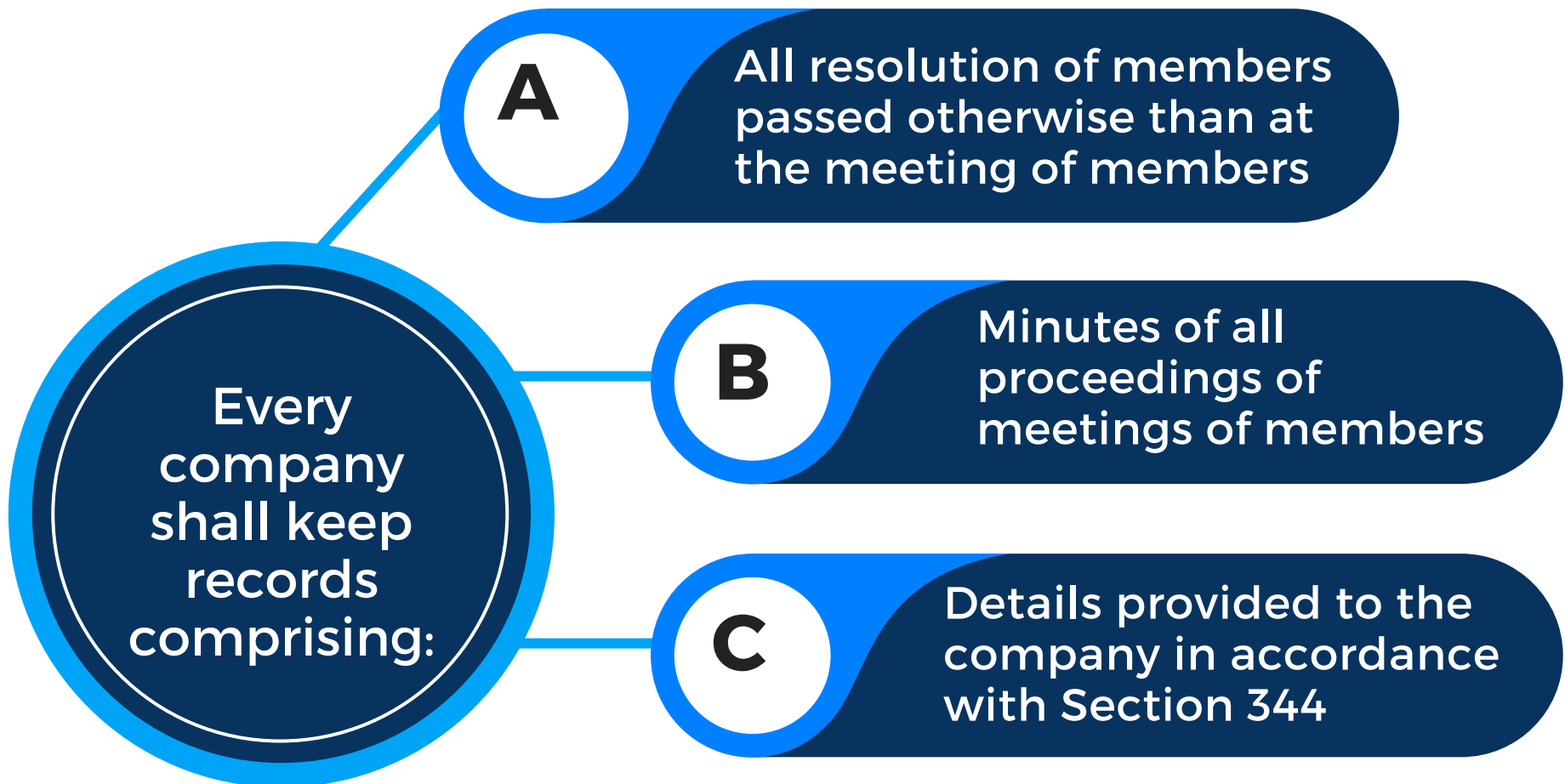
THE RESOLUTIONS WHICH WERE PASSED

MINUTES OF MEETING



- Permanent form, formal and detailed (although not verbatim) record of business transacted, and resolutions adopted, at a firm's official meetings such as BOD, managers and AGM
- By written up (or typed) in a minute book and approved at the next meeting, the minutes are accepted as a true representation of the proceedings they record and can be used as prima facie evidence in legal matters

MINUTES OF ALL PROCEEDINGS OF GENERAL MEETING



SECTION 344

1

If a sole member of a company takes any decision that

- May be taken by the company in meeting of members
- Has effect as if agreed by the company in meeting of members, he shall provide the company with details of that decision, unless that decision is taken by way of a written resolution

2

A person who contravenes this section commits an offence and be liable to a fine not exceeding RM10,000

3

Failure to comply with this section does not affect the validity of any decision referred to in subsection (1)

4.3 MINUTES OF ALL PROCEEDINGS OF GENERAL MEETING

1

Section 341(1)(b) provides that the minutes of all proceeding of the meetings must be kept by the company

2

Signed by the chairman of the meeting at which the proceedings were had or by the chairman of the next succeeding meeting



4.4

FAILURE TO PROVIDES INSPECTION OF RECORDS OF RESOLUTIONS AND MINUTES

(S.342 (5))

1

EVERY OFFICER WHO CONTRAVENES THIS SECTION COMMITS AN OFFENCE AND BE LIABLE TO A FINE NOT EXCEEDING RM10,000



2

IN THE CASE OF A CONTINUING OFFENCE, A FURTHER FINE NOT EXCEEDING RM500 FOR EACH DAY DURING WHICH THE OFFENCE CONTINUES AFTER CONVICTION



INSPECTION OF RECORDS OF RESOLUTIONS AND MEETINGS



Section 342(1) provides that the records shall be kept available for inspection

- At the registered office of the company
- At another place which a notice has been given to the Registrar within 14 days from the date of the records are kept at such place or change of place



The documents must be kept for 7 years from the date of resolution, meeting or decision [Section 342(1)]



Shall be made available for inspection by any member of the company without charge [Section 342(3)]



Any member shall be entitled to be furnished with a copy of any minutes within 14 days after he has made a request in writing to the company at charge not exceeding RM2 for every 100 words

4.5

RECORDS AS EVIDENCE OF RESOLUTIONS

Section 343(1)

- The record of a resolution passed otherwise than at the meeting of members, signed by a director/company secretary, is sufficient evidence of the passing the resolution

- If there is a record of a written resolution of a private company, the requirements of this Act with respect to the passing of the resolution are deemed to be complied with unless the contrary is proved

The minutes which have been signed by the chairman of that meeting or by the chairman of the next meeting shall be evidence that:

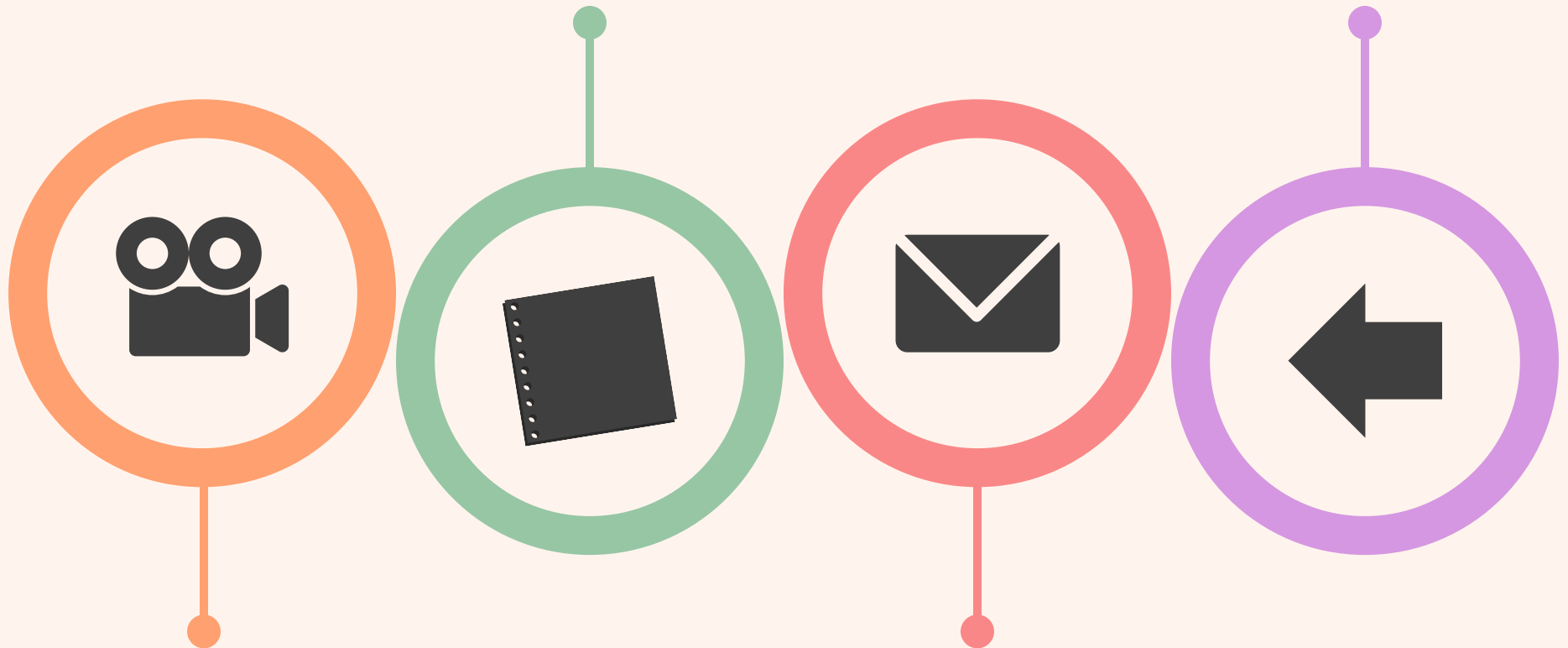
- The meeting has been duly held and convened
- The proceedings have been duly held
- All appointments at the meeting are valid

4.6

CONTENTS OF MINUTES

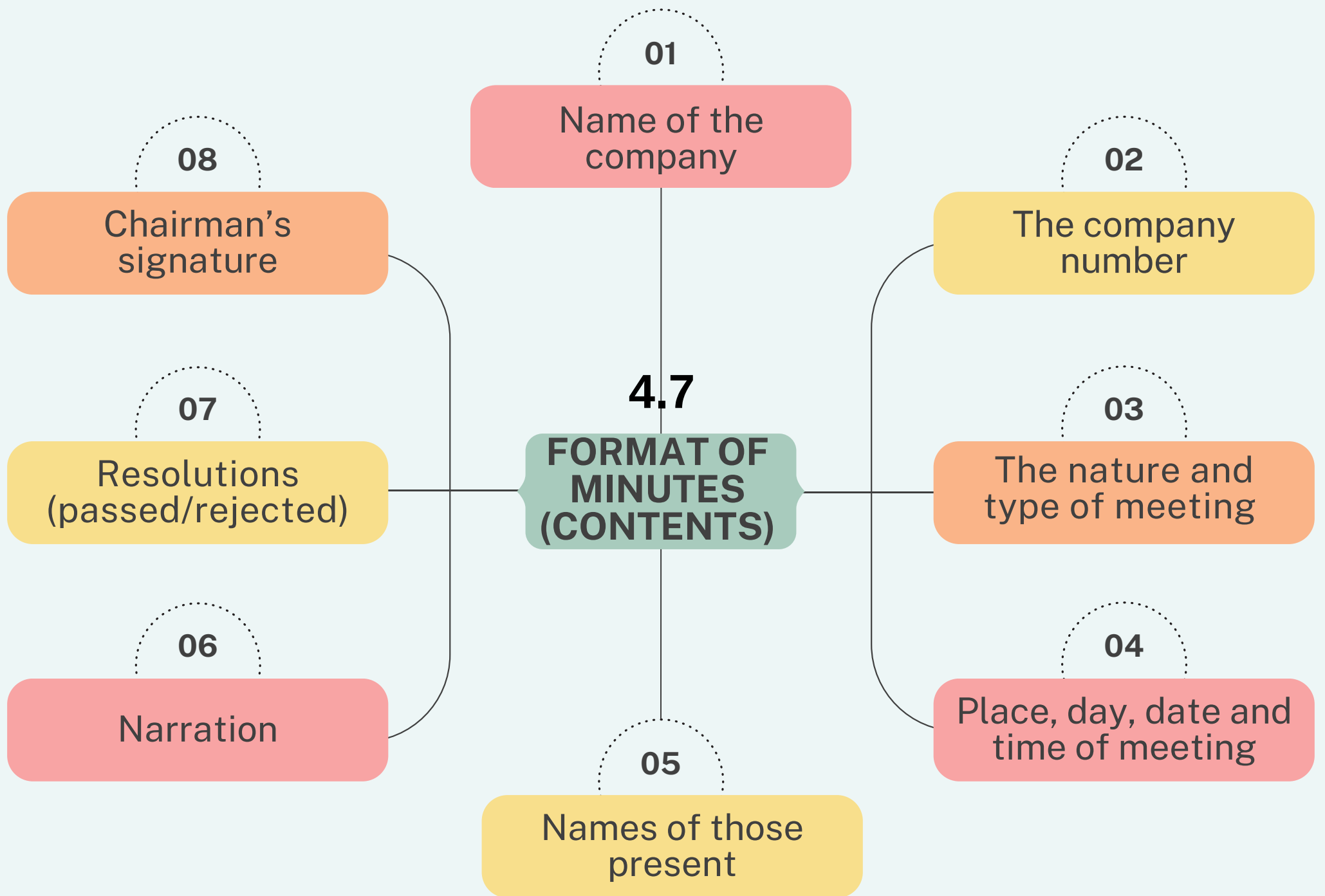
Record of conclusions,
resolutions and ancillary
thereto and not of every word
said in the course
of a meeting

The detailed account of the
discussion need not
be recorded



Minutes is not a verbatim
transcript of what was
said or occurred at a
meeting

In preparing minutes of
meeting, only the actual
resolutions passed is
necessary to be recorded



4.8 MATTERS TO BE CONSIDERED WHILE PREPARING MINUTES



1

UNIFORMITY

when preparing a minutes, there must be in consistent and uniform form so that the chances to alter it will be less

2

PAGE NUMBERING

There must be a consecutive numbering of the pages of the Minutes book, independent of its frame, i.e. physical or electronic. In the event that any page or portion is cleared out clear, it ought to be crossed out and initialed by the Chairperson

3

THIRD PERSON

It ought to be composed within the third individual and past tense. By the by, the resolutions should be entered within the show tense



THE ESSENTIALS OF GOOD MINUTES WRITING

**1**

Authentic

Giving a precise account of the proceeding of the meeting

2

Complete

Giving sufficient detail to enable a person who was not present to understand fully what are the business transacted

3

Concise

Not to be done at the expense of completeness

4

Free from ambiguity

Clear & unambiguity

5

Past tense

Minutes records of what has been done

6

Impersonal form

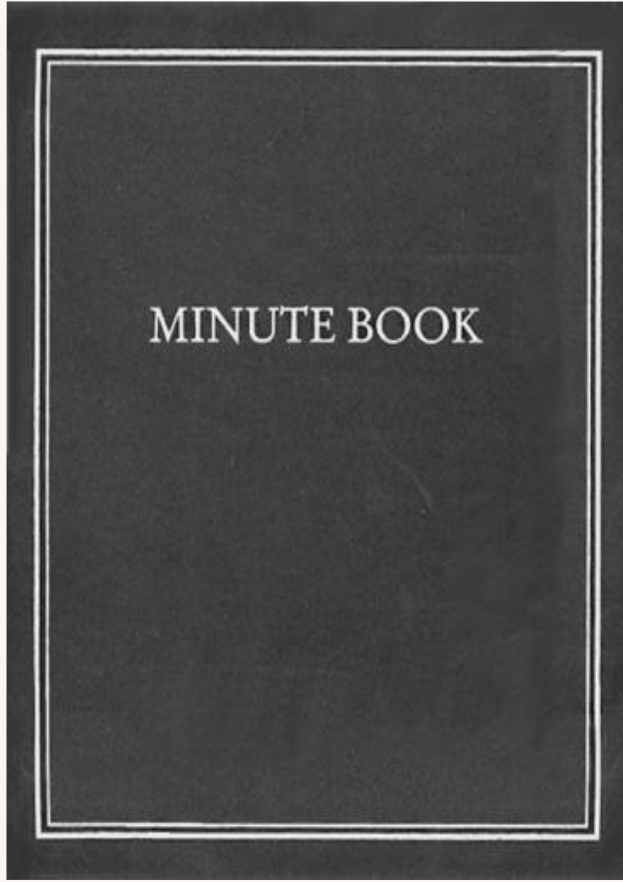
Words such as 'we' and 'they' are not used and terms like 'the Chairman', 'the Secretary', 'the Managing Director' and so on should be used instead of their names





4.11

EXAMPLE OF MINUTE BOOK

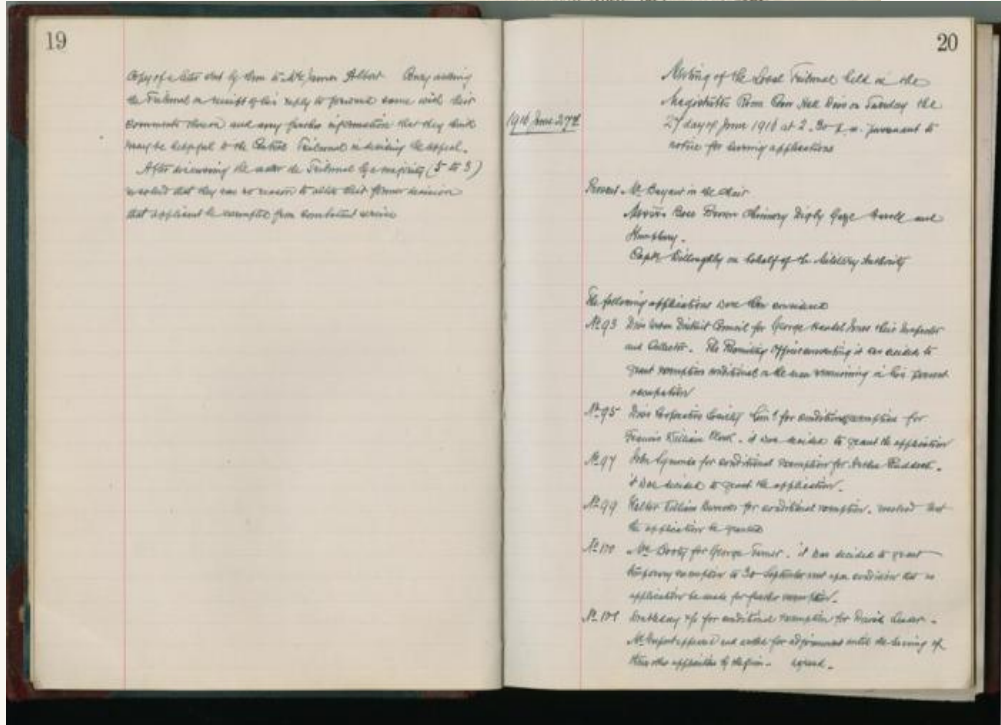


GENERAL.
 "Clarke Market Review"—Published twice per Term. Students' Union Magazine; also contains official School Notices. Obtainable at Porters' Lodge.
Editor—Mr. W. A. ROBSON.
Business Manager—Mr. W. E. GREEN.
Dunford House (Midhurst, Sussex)—School Holiday Residence. Apply to Miss Jones, Room 65 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	Presbys' Meeting.
" 13	Professor Sedg, 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 Hallam, O.M., K.T.

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



EXAMPLE OF MINUTES OF MEETING



AXIATA GROUP BERHAD (242188 H)
(Incorporated in Malaysia)

MINUTES OF TWENTY-SIXTH ANNUAL GENERAL MEETING OF AXIATA GROUP BERHAD HELD AT THE NEXUS BALLROOM 2 & 3, LEVEL 3A, CONNEXION@NEXUS, NO. 7 JALAN KERINCHI, BANGSAR SOUTH CITY, 59200 KUALA LUMPUR, MALAYSIA ON WEDNESDAY, 23 MAY 2018 AT 10.00 A.M.

PRESENT:-

1. Tan Sri Datuk Wira Azman Haji Mokhtar - *Chairman*
("Chairman")
2. Tan Sri Jamaludin Ibrahim - *Managing Director/President & Group*
("President & GCEO") *Chief Executive Officer*
3. Tan Sri Ghazzali Sheikh Abdul Khalid
("TSG")
4. Datuk Azzat Kamaludin ("DAK")
5. Dato' Mohd Izzaddin Idris ("DII")
6. Dato Dr. Nik Ramlah Mahmood ("DNR")
7. David Lau Nai Pek ("DL")
8. Dr David Robert Dean ("DD")
9. Dr Muhamad Chatib Basri ("MCB")
10. Tengku Dato' Sri Azmil Zahrudin Raja
Abdul Aziz ("TAZ")

IN ATTENDANCE

Suryani Hussein ("Group Cosec") - *Group Company Secretary*

SHAREHOLDERS PRESENT

As per the attendance list [Total : 1,735 representing 6,609,500 Ordinary shares ("Axiata Shares")]

PROXIES PRESENT

As per the attendance list [Total : 1,020 representing 7,772,957,762 Axiata Shares of which of 1,389,978,799 are represented by Chairman]

As at 14 May 2018, being the cut-off date for determining who shall be entitled to attend, speak and vote at the 26th AGM or appoint proxies on his/her behalf, Axiata Group Berhad ("Axiata" or "Company") had 19,542 depositors, and total issued and paid-up capital of RM13,417,719,082 comprising 9,049,736,213 Axiata Shares. As at the date and time of close of proxy on Tuesday, 22 May 2018, a total number of 1,744 valid Proxy Forms/Corporate Representatives representing 7,772,988,605 (85.89%) Axiata Shares had been lodged.

Minutes of 26th Annual General Meeting

Ballroom Nexus 2 & 3, Connexion@Nexus
No. 7 Jalan Kerinchi, Bangsar South City
Kuala Lumpur

23 May 2018

10.00 a.m.

Therefore, **IT WAS RESOLVED:-**

• **ORDINARY BUSINESS**

THAT the final tax exempt dividend under single tier system of 3.5 sen per ordinary share for the financial year ended 2017 be and is hereby approved.

(Ordinary Resolution 1)

THAT Tan Sri Datuk Wira Azman Hj Mokhtar who retired in accordance with Article 93 of the Articles of Association of the Company and who being eligible offered himself for re-election, be and is hereby re-elected as Director of the Company.

(Ordinary Resolution 2)

THAT David Lau Nai Pek who retired in accordance with Article 93 of the Articles of Association of the Company and who being eligible offered himself for re-election, be and is hereby re-elected as Director of the Company.

(Ordinary Resolution 3)

THAT Dr David Robert Dean who retired in accordance with Article 99 (ii) of the Articles of Association of the Company and who being eligible offered himself for re-election, be and is hereby re-elected as Director of the Company.

(Ordinary Resolution 4)

THAT Tengku Dato' Sri Azmil Zahrudin Raja Abdul Aziz who retired in accordance with Article 99 (ii) of the Articles of Association of the Company and who being eligible offered himself for re-election, be and is hereby re-elected as Director of the Company.

(Ordinary Resolution 5)

THAT payment of the following Directors' fees with effect from the 26th Annual General Meeting ("**AGM**") until the next AGM of the Company be and is hereby approved:-

- i) Directors' fees of RM30,000.00 per month to the Non-Executive Chairman ("**NEC**") and RM20,000.00 per month to each of the Non-Executive Directors ("**NEDs**") who are members of the Board;
- ii) Directors' fees of RM4,000.00 per month to the NEC and RM2,000.00 per month to each of the NEDs who are members of the Board Audit Committee; and
- iii) Directors' fees of RM1,200.00 per month to the NEC and RM800.00 per month to each of the NEDs who are members of the Board Nomination & Remuneration Committee.

AND THAT the benefits payable to NEC and NEDs from the 26th AGM until the next AGM be and is hereby approved.

TECHNIQUES IN WRITING MINUTES



Writing prompts

- One option for beginning your minutes of continuous writing is to start by responding to a writing prompt.
- This prompt offers writers a starting point so that they are not left with complete writer's block.
- A 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 reach.
- 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.

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.

TUTORIAL 4

1

Explain minutes of proceedings. [4 marks]

2

Minutes should be written as soon possible so that it is much easier to be absolutely accurate when the discussions are fresh in the mind. Thus, it is essential that the minutes must fulfil certain characteristics or criteria. Explain these characteristics or criteria as stated below:

- i) Accurate
- ii) Brief
- iii) Clear

[9 marks]

3

All incorporated firms are required by law to maintain an up-to date minute book which should be accessible to all members of the firm.

Briefly define Minute Book.

[3 marks]

TUTORIAL 4

4

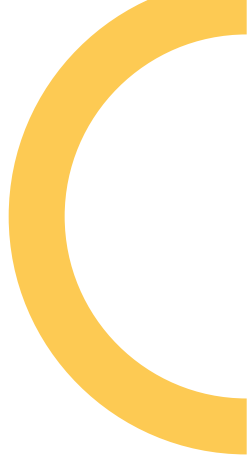
The Minutes Book will keep all minutes of directors` and shareholder`s meeting as well as resolutions passed. Elaborate **FOUR (4)** importance of keeping minutes properly.

[12 marks]

5

A secretary is responsible to attend a meeting and also take down in note form, details of the decisions reached. The format of minutes varies but normally it has typical items. Illustrate the format of minutes.

[10 marks]



CHAPTER 5

• • • • ASSOCIATION & SOCIETY MEETINGS

Learning Objectives

At the end of this topic, students should be able to:

- Determine association and society meetings

5.1.

**IDENTIFY ASSOCIATIONS
& SOCIETIES REGISTERED
UNDER SOCIETIES ACT ♡
1966 (SA 1966) ♡ ♡ ♡**

1 RELIGIOUS

2 HUMAN RIGHTS

5.2.

9

CATEGORIES OF SOCIETIES

3 SECURITY

4 WELFARE/CHARITIES

5 SOCIAL

6 RECREATIONAL

7 MUTUAL BENEFIT

8 CULTURAL AND ART

9 BUSINESS



5.3. INTERPRETATION–sect.2

1

Local Society

means 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 by virtue of section 4

2

Registered Society

means any society for the time being registered under section 7

3

Benefit

a 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

4

Mutual Benefit Society

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



01

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 or members or subscribers during minority



02

The payment of money on the birth of a member's 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 child, husband, or wife of a member or subscriber or of the widow of a deceased member or subscriber



03

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

Minister

the Minister charged with responsibility for the registration of societies

5

Registrar

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

Office-bearer

any person who is the president, vice-president, secretary or treasurer of such society or any branch of a society, or who is a member of the committee or governing body of the society, or of any branch of the society or who holds in such society or any branch of such society any office or position analogous to any of those mentioned above

7

Subscription

8 subscription paid by a member or subscriber to a mutual benefit society and where a mutual benefit society carries on activities other than those of a mutual benefit society means the subscription paid by the member or subscriber for the purpose of obtaining the benefits provided by the rules of the society

9 POLITICAL PARTY

(a) any society which by any of its objects or rules, regardless whether such object or rule is its principal object or rule, or constitutes merely an object or rule which is ancillary to its principal object or objects or to its principal rule or rules, makes provision for the society to participate, through its candidates, in elections to the Dewan Rakyat, or to a Dewan Undangan Negeri, or to a local authority, or makes provision for it to seek the appointment or election of a person proposed or supported by it to the Dewan Negara; or

(b) any society which, notwithstanding anything contained in its objects or rules, carries on any activity or pursues any objective which involves its participation, through its candidates, in elections to the Dewan Rakyat, or to a Dewan Undangan Negeri, or to a local authority, or which involves its seeking the appointment or election of a person proposed or supported by it to the Dewan Negara;

"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:

- 1 any company registered under the provisions of any written law relating to companies for the time being in force in Malaysia;
- 2 any company or association constituted under any written law;
- 3 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;
- 4 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 thereof;
- 5 any co-operative society, registered as such, under any written law;
- 6 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 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;
- 7 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

5.4.

7

RESPONSIBILITIES OF OFFICE BEARER IN AN ASSOCIATION



1

Administering association

2

Call/convene meetings
association

3

Keep the minutes of the
General Meetings and
Committee Meeting

4

Keep the records of
membership in accordance
with the member names

5

Financial records (book
keeping, bank statement,
receipts, voucher)

6

Collect fees

7

Prepare and present the
Annual activity reports, the
Financial Statement

5.5. MATTERS FOR WHICH PROVISION MUST BE MADE IN THE CONSTITUTION OR RULES OF THE MUTUAL BENEFIT SOCIETY



The name of society and the place for the business of the society



All the objects of the society and the conditions under which any member or subscriber may become entitled to any benefit



The election and removal of office bearers, including the secretary, treasurer, trustees and other office-bearers of the society



The custody and investment of the funds of the society and the designation of the office-bearers responsible



The keeping of a register with particulars of the age, name and address

5.6. REGISTERED SOCIETIES TO ACT IN FULFILLMENT OF THE CONSTITUTION (SEC 2A OF SA 1966)

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

1

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;

2

the position of Islam as the religion of Malaysia, with other religions being practiced in peace and harmony;

3

the use of the National Language for official purposes;

4

the position of the
Malays and of the
natives of the States
of Sabah
and Sarawak

5

the legitimate interests
of the other
communities

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

5.7.

APPOINTMENT OF REGISTRAR, DEPUTY REGISTRARS AND OTHER OFFICERS (SEC 3 OF SA 1966)

01

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.

02

The Minister may appoint such number of Assistant Registrars and such other officers as he may consider necessary for the proper administration of this Act.

03

The Deputy Registrars, Assistant Registrars and other officers appointed under subsections (1) and (1A) respectively shall be under the direction and control of the Registrar. All officers appointed under subsections (1) and (1A) shall be deemed to be public servants for the purposes of the Penal Code [Act 574].

04

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 exercise of any power or performance of any duty conferred or imposed on him by this Act.

5.8.

POWERS OF REGISTRAR (SEC 3A OF SA 1966)

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

.....

5.9.

POWER OF DELEGATION (SEC 3B OF SA 1966)

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.

The power of delegation under subsection (1) shall be exercised by the Registrar personally.

A delegation under subsection (1) may be made subject to such restrictions and limitations as may be prescribed by the Registrar in the instrument of delegation.

5.10.

SOCIETIES DEEMED TO BE ESTABLISHED IN MALAYSIA (SEC 4 OF SA 1966)



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.



Provided that no society shall be deemed to be so established, if and so long as:

- 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; and
 - no subscriptions are collected or solicited in Malaysia by the society or by any person in its behalf.
-

5.11.

POWER OF THE MINISTER TO DECLARE A SOCIETY UNLAWFUL (SEC 5 OF SA 1966)



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.

5.12. APPLICATION FOR REGISTRATION (SEC 6 OF SA 1966)



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 of subsection (2) 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.

5.13.

REGISTRATION AND REFUSAL TO REGISTER (SEC 7 OF SA 1966)

Upon receipt of an application under section 6, the Registrar shall, subject to the provisions of this section and to such conditions as the Registrar may deem fit to impose, register the local society making the application.



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) (c);

(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.

REGISTRATION AND REFUSAL TO REGISTER

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;

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

(e) the constitution or rules of the society do not contain provisions for all matters set out in Schedule I to this Act or if the society is a mutual benefit society, matters set out in Second Schedule or any other matters which the Registrar may reasonably require.

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

(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;

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

REGISTRATION AND REFUSAL TO REGISTER

Where the Registrar has refused to register a local society under this section, the provisions of section 17 shall apply to that local society.

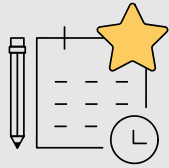
Any society that contravenes any condition imposed on it by the Registrar under subsection (1) shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding two thousand ringgit.



5.14.

PROVISIONS APPLICABLE TO REGISTERED SOCIETIES (SEC 9 OF SA 1966)

The following provisions shall apply to registered societies—



(a) the movable property of a society, if not vested in trustees, shall be deemed to be vested for the time being in the governing body of the society, and in all proceedings civil and criminal, may be described as the property of the governing body of the society by its proper title if known;



(b) the immovable property of a society may, if not registered in the names of trustees, notwithstanding the provisions of any written law to the contrary, be registered in the name of the society, and all instruments relating to that property shall be as valid and effective as if they had been executed by a registered proprietor provided that they are executed by three office-bearers for the time being of the society, whose appointments are authenticated by a certificate of the Registrar, and sealed with the seal of the society;

PROVISIONS APPLICABLE TO REGISTERED SOCIETIES (SEC 9 OF SA 1966)

(c)

a society may sue or be sued in the name of such one of its members as shall be declared to the Registrar and registered by him as the public officer of the society for that purpose, and, if no such person is registered, it shall be competent for any person having a claim or demand against the society to sue the society in the name of any office-bearer of the society;

no suit or proceeding by or against a registered society in any civil court shall abate or discontinue by reason of the person, by or against whom the suit or proceeding has been brought or continued, dying or ceasing to fill the character in the name whereof he has sued or been sued, but the same suit or proceeding shall be continued in the name of, or against the successor of, that person;

(d)

PROVISIONS APPLICABLE TO REGISTERED SOCIETIES (SEC 9 OF SA 1966)

- (e) (i) no judgment in any such suit against a registered society shall be put into force against the person or property of the person sued but against the property of the society;
- (ii) the application for execution shall set forth the judgment, the fact of the party against whom it has been recovered having sued or having been sued, as the case may be, on behalf of the society, and shall require to have the judgment enforced against the property of the society;

any member who—

- (f) (i) fails to pay a subscription which, according to the rules of the society to which he belongs, he is bound to pay;
- (ii) owes money to the society;
- (iii) contrary to the rules of the society, takes possession of, or detains, any property thereof; or
- (iv) injures or destroys any property thereof, may, in the manner here in before provided, be sued for that subscription or money or for the damage accruing from that wrongful possession, detention, injury or destruction of property:

- Provided that if the defendant is successful in that suit and is awarded costs, he may elect to recover them from the officer in whose name the suit was brought or from the society and, in the latter case, may have execution against the property of the society;

PROVISIONS APPLICABLE TO REGISTERED SOCIETIES (SEC 9 OF SA 1966)

g.

any member who—

- (i) commits theft of, or dishonesty misappropriates or converts to his own use, any money or other property;
- (ii) willfully and maliciously destroys or injures any property of the society;
- (iii) forges any deed, bond, security for money, receipt or other instrument whereby the funds of the society may be exposed to loss, shall be liable to be prosecuted and punished as if he were not a member;

PROVISIONS APPLICABLE TO REGISTERED SOCIETIES (SEC 9 OF SA 1966)

h.

in the absence of specific provision in the rules of a society, any number not less than three-fifths of the members of any such society for the time being resident in Malaysia may determine that such society shall be dissolved forthwith or at a time agreed, and all necessary steps shall be taken for the disposal and settlement of the property of such society, its claims and liabilities, according to the rules (if any) of the said society applicable thereto and if none, then as the governing body shall direct:

- Provided that if any dispute shall arise among the members of the said governing body or the members of such society under paragraph (h) of this section, such dispute may be decided by the Registrar. Any person aggrieved by any decision of the Registrar under this paragraph may within thirty days from the date of such decision appeal to the Court.

5.15. DISQUALIFICATIONS APPLICABLE TO OFFICE-BEARERS, ADVISERS AND EMPLOYEES OF REGISTERED SOCIETIES (SEC 9A OF SA 1966)

A person shall be disqualified from being, and shall not become or remain, an office bearer, adviser or employee of a registered society—

01. if he has been convicted of any offence against this Act;

02. if 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;

03. if there is in force against him any order of detention, restriction, supervision, or deportation under any law relating to the security of, or public order in, Malaysia or any part thereof, or to prevention of crime, preventive detention or immigration;

04. if he is an undischarged bankrupt; or

05. if he is and has been found or declared to be of unsound mind

**DISQUALIFICATIONS
APPLICABLE TO
OFFICE-BEARERS,
ADVISERS AND
EMPLOYEES OF
REGISTERED
SOCIETIES
(SEC 9A OF SA 1966)**

The disqualification of a person under paragraph (1)(b) shall cease at the end of the period of five years beginning with the date on which the person convicted was released from custody or the date on which the fine mentioned was imposed, as the case may be.

Where the Registrar by notice under his hand notifies a society that any office-bearer, adviser or employee of a society has become disqualified under subsection (1), the society shall immediately thereupon give effect to such disqualification.

Any person who is subject to any disqualification under paragraph (1)(a), (b) or (c) may apply to the Registrar to be exempted from the application of such disqualification, and the Registrar may, if he deems it proper to do so, grant him such exemption for such period as the Registrar may specify and subject to such limitations, restrictions, terms or conditions as he may decide to impose.

DISQUALIFICATIONS APPLICABLE TO OFFICE-BEARERS, ADVISERS AND EMPLOYEES OF REGISTERED SOCIETIES (SEC 9A OF SA 1966)

Any person who contravenes any provision of subsection (1) or any limitation, restriction, term or condition imposed under subsection (4) shall be guilty of an offence and shall be liable, on conviction, to imprisonment for a term not exceeding *three years or to a fine not exceeding **ten thousand ringgit or to both.

For the purposes of subsection (1), "office-bearer" includes—

(a) a member of any sub-committee or other body established or formed by the governing body of a registered society, or by the governing body of a branch of such society;

(b) any person who is responsible to any extent for the management of any of the affairs, or the conduct of any of the activities, of a registered society, or of any branch of such society; and

(c) any person who is appointed or authorized to represent, or act on behalf of, a registered society or any branch of such society, in any matter, other than a person who, not being a member of the society, is engaged by the society to represent, or act on behalf of, the society or any branch of such society in his professional capacity or by contractual arrangement.

5.16.

DIFFERENTIATION BETWEEN RESIGNATION AND TERMINATION FOR MEMBERS OF SOCIETY

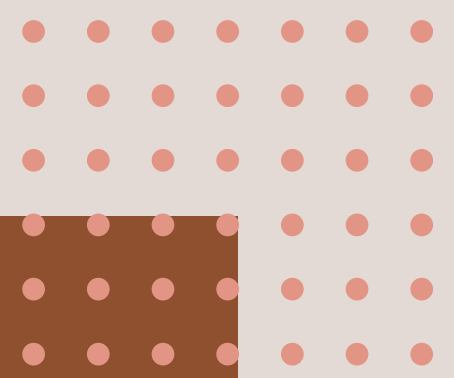
RESIGNATION

VS

TERMINATION

- if a member tenders his or her resignation on his or her behalf

- once a member punished by a court of law for any criminal offence
- a person violates any of the rules and regulations of the society
- a member is found working against the aims and objects of the society
- a member indulges in activities, which are not in the interest of the organization



1. Name

2. Place of Business

3. Flags, Symbols, Badges
or Other Insignia

4. Aims & Objects

5. Membership

6. Entrance Fees,
Subscriptions &
Other dues

5.17.

RULES OF INTERNAL REGULATION OF SOCIETY





#1

Name

#2

Place of business

(the registered place of business of society shall not be changed without the prior approval of the Registrar of Societies)

#3

Flags, Symbols, Badges or Other Insignia

(should the society intend to have any of the above, a description and explanation of its meaning should be stated. Enclosed as an attachment the symbol to be used)

#4

Aims & Objects

(this rules must contain a full statement of the aims & objects for which the society is being formed or which it may pursue)

#5

Membership

(1)Membership shall be opened to.....

(Here state the qualifications for membership of the society, including particulars of age limits, if any, are to be imposed, and whether there is to be any restriction on the sex, race, religion, nationality, dwelling place, clan of persons who may be admitted to membership, also state whether membership will be limited (state number of members permitted) or unlimited)

#6

Entrance fees, subscriptions and other dues

(1)The entrance fee and subscription payable shall be as follows:-

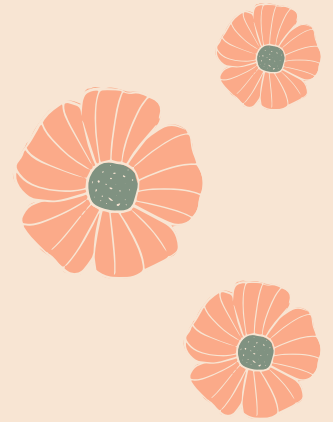
Entrance fee RM.....(Ringgit Malaysia.....)

Monthly subscription RM.....(Ringgit Malaysia.....)

EXAMPLES

5.18.

RULES & REGULATIONS OF SOCIETY



1. Name of the Society: _____

2. Registered office: _____

3. Short titles and definition used hereinafter:

i) 'Society' means the Society _____

ii) 'Rules' means Rules and Regulations of the Society

iii) 'Memorandum' means Memorandum of Association

iv) 'Board' means the Governing Body (E.B.) of the Society

v) 'Member' means member of the society

vi) 'President' means the President of Society

vii) 'Vice President' means the Vice President of the Society

viii) 'General Secretary' means the General Secretary of the Society

ix) 'Joint Secretary' means the Joint Secretary of the Society

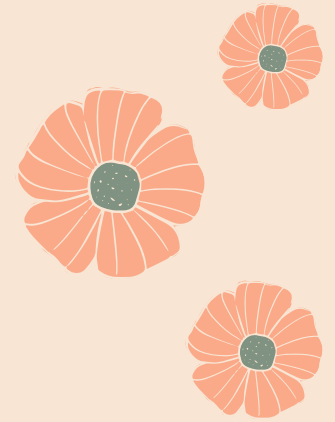
X) 'Treasurer' means the Treasurer of the Society

xi) SA 1966 means Societies Act 1966 as applicable in the state of Malaysia



EXAMPLES

RULES & REGULATIONS OF SOCIETY



- xii) 'Section', sub-section, 'Clause' and sub-clause' means section, sub-section, clause and sub-clause respectively, of the Rules and Regulations of the society, respectively
- xiii) AGM means the Annual General Meeting of the Society
- xiv) Words and expressions used hereinafter and not defined so far shall have the meanings assigned to them in the Rules

4. Membership

- There shall be the following categories of members of the Society

4.1 Founder Member

- a) Founder member are all the individuals whose names appear in para 6 of the memorandum of the society
- b) each founder member shall have to pay one time membership fee of RM_____

4.2 General Member

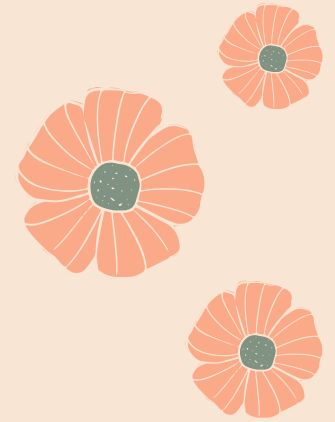
Any major individual of sound mind and integrity having unflinching faith in the aims and objectives of the society can become its General Member enjoying voting rights. Membership fee for such member shall be RM_____per year subject to revision in the General Body



EXAMPLES

RULES & REGULATIONS

OF SOCIETY



4.3 Donor Member

a) any person of good integrity donating RM 500,000.00 (RM five hundred thousand only) or more in cash or kind shall be enrolled as a donor member of the society enjoying voting rights in the General Body

b) any institution or organization donating RM 500,000.00 (RM five hundred thousand only) or more in cash or kind shall be enrolled as a donor member of the society enjoying voting rights in the General Body

4.4 Honorary Member

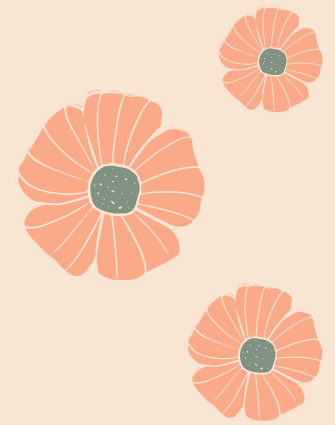
- Any person of remarkable achievement in any field of knowledge, creativity, performance, work or service subscribing to the aims and objectives of the society may be enrolled as a Honorary Member of the Society without paying any fee. Such members may attend important meetings of the E.B. and offer suggestions at times but shall not enjoy any voting right. The Honorary Members may be inducted in the E.B at times of emergency temporarily.



EXAMPLES

RULES & REGULATIONS

OF SOCIETY

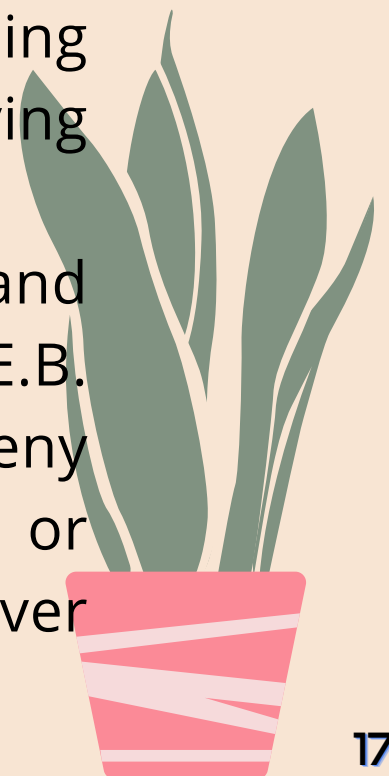


4.5 Patron

- Eminent persons of proven excellence and exemplary caliber in any field of knowledge, creativity, performance, work or service may be nominated as Patrons of the society. Patrons maybe invited to attend important E.B. meetings. However they shall not be obliged to pay any membership fee or to attend General Body meetings or take part in any voting.

4.6 Procedure for Enrolment of a Member

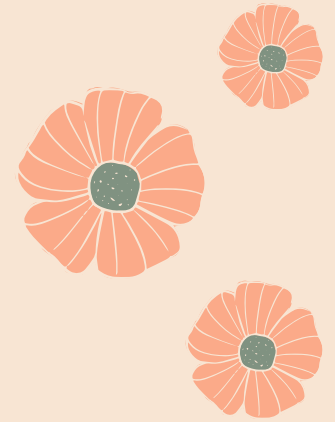
- Persons or institutions or organization (except the Honorary Member and Patron) desirous of being enrolled as members shall apply to the president giving their particulars on a prescribed application form
- The E.B. shall deal with all kinds of such application and grant membership by a majority decision. The E.B. reserves to itself the right to accept, continue or deny membership to any individual, institution or organization without assigning any reason whatsoever and its decision shall be final



EXAMPLES

RULES & REGULATIONS

OF SOCIETY



4.7 Termination of membership

a) any member of the society who works against the interests, objectives and reputation of the society will cease to be its member. The president shall have full power to take such decision.

b) A member of the society shall cease to be a member of the society if:-

i) He/She dies, resign, becomes of unsound mind

ii) Becomes insolvent or is convicted of a criminal offence

iii) He/She does not attend three consecutive meetings of the G.B/E.B. However ,if he/she submits or sends prior written information to the President/Secretary mentioning proper reason for his/her absence ,his/her membership may be continued.

iv) He/She fails to pay the membership fees or any due to the society for more than three months after the due date.

c) A member may resign from the membership of the society any time by a letter addressed to the President or the Secretary.

The President shall have full powers to accept such resignation.

d) Restoration of membership after termination shall be done only after the permission of the President



CONSTITUTION AND RULES OF SOCIETIES (SCHEDULE I)

5.19.

1. Matters for which provisions shall be made in the constitution or rules of every local society or a branch thereof shall be as follows:

- ✓ the name and registered place of business or registered postal address of the society
- ✓ (Deleted by Act A557)
- ✓ an accurate description of the design and colours of any flag, emblem, badge or other insignia used by the society
- ✓ the aims or objects for which the society is formed, or which it may pursue, or for which its funds or any of them may be used
- ✓ the qualifications for membership, including particulars of any restriction or limitations that may be imposed as to the numbers, age limits, sex, religion, race, nationality, dwelling place, clan or surname of persons who may be admitted to membership of the society
- ✓ the method of appointment or election of members
- ✓ the composition and method of appointment of the committee or governing body and the designations, powers and functions of the office-bearers of the society and where applicable the branches thereof; that, if the Registrar so requires, the office-bearers of the society and every officer performing executive functions in such society shall be citizens

CONSTITUTION AND RULES OF SOCIETIES (SCHEDULE I)

1. Matters for which provisions shall be made in the constitution or rules of every local society or a branch thereof shall be as follows:

- ✓ the sources from which the society shall derive its income, including the rates and method of payment of such entrance fees and periodical subscriptions as may be decided upon
- ✓ the authority or authorities for expenditure from the funds of the society
- ✓ the keeping of accounts of the income and expenditure of the society and the publication of such accounts to its members annually
- ✓ the appointment of one or more auditors
- ✓ the quorum required for the transaction of business at any meeting of the society or its governing body
- ✓ the manner by and in which the constitution or rules of the society may be amended




CONSTITUTION AND RULES OF SOCIETIES (SCHEDULE I)



2. WHERE A SOCIETY IS A POLITICAL PARTY, THE CONSTITUTION OR RULES THEREOF SHALL, IN ADDITION TO MATTERS ENUMERATED IN PARAGRAPH 1, PROVIDE THAT-

- (A) EVERY MEMBER OF THE SOCIETY, EVERY OFFICER PERFORMING EXECUTIVE FUNCTIONS IN SUCH SOCIETY AND EVERY ADVISER, TO SUCH SOCIETY, SHALL BE CITIZENS; AND
- (B) EVERY MEMBER SHALL HAVE A RIGHT TO VOTE AND SHALL BE ELIGIBLE TO HOLD OFFICE IN THE COMMITTEE OR GOVERNING BODY IN THE SOCIETY.

3. WHERE ANY REGISTERED SOCIETY MAKES PROVISION IN ITS CONSTITUTION OR RULES FOR THE ESTABLISHMENT OF BRANCHES IT SHALL IN ADDITION ALSO PROVIDE THEREIN FOR THE METHOD AND MANNER BY WHICH THE ESTABLISHMENT OF SUCH BRANCHES SHALL BE APPROVED BY THE SOCIETY OR ITS GOVERNING BODY.



TUTORIAL 5

1

Define society.

[3 marks]

2

Explain TWO (2) powers of delegation by the Registrar.

[4 marks]

3

Explain the terms below:

- i) Mutual benefit society
- ii) Registrar
- iii) Minister
- iv) Subscription
- v) Office bearer
- vi) Local society

[12 marks]

TUTORIAL 5

4

Describe FIVE (5) factors where a person shall be disqualified from being and shall not become or remain, an office-bearer, adviser or employee of a registered society.

[10 marks]

5

List down matters for which provision must be made in the constitution or rules of mutual benefit societies.

[10 marks]

6

Identify FOUR (4) conditions where a society is not deemed to be established. [8 marks]

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