PART XIV
MEETINGS

Chapter 1

Procedure for conducting General Meetings of members

Synopsis

Important Provisions at a Glance

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1.	170	Application of sections 171 to 186 to meetings	
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Sl. No.	Sections	Matters dealt with	Form Nos.
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1. Authority to the Board for calling general meetings

General meetings of members of a company shall be called by the Board at its initiative, these may be either for:—

(*i*) An Annual General Meeting shall required to be held every year as per the provisions of section 166 of the Act (which has been discussed in the chapter

(*ii*) An Extraordinary General Meeting of members may be held between the two annual general meetings.

2. Secretarial standard on General Meetings

Since the members of a company are the supreme authority and real owners of the share capital of the company, they may exercise their voting powers in a company only by way of participation and vesting in the general meeting. Therefore, all the procedure and obligations right from submission of matters before the Board till the conclusion of meeting and recording of minutes should be conducted in a proper manner and in strict compliance of the Companies Act, 1956, and the Rules made thereunder as well as the provisions of the Articles of Association should be made.

The Institute of Company Secretaries of India has issued the 'Secretarial Standard on General Meetings' text of which has been given in Appendix 1.

3. General Meeting on requisition of members

Section 169 of the Companies Act, 1956, provides that on requisition of members of a company having share capital or not, the Board is required to call and hold extra-ordinary general meeting within the time-limit provided under the Act. The rights of members are individually or collectively are enumerated as under:—

(*a*) in case of a company having a share capital, such number of them as hold at the date of requisition, not less than 1/10th of such of the paid up capital of the company as at the date carrying voting right in regard to that matter;

(*b*) in case of a company not having a share capital, such number of them as have at the date of deposit of requisition, not less than 1/10th of the total voting power of all members having at the date a right to vote in regard to that matter.

4. Special business

As per provisions of section 173 of the Act, all matters which are placed for consideration and approval of members at general meetings other than at annual general meetings are called, 'Special Business'. This subject has also been given in detail in the chapter.

5. Procedure for convening and conduct of general meetings

The procedure for the convening and conduct of general meetings including Annual General Meetings has been prescribed in sections 171 to 189 of the Act. These provisions shall apply to all general meetings of a public company and a private company, which is a subsidiary of a public company.

In the matter of private companies, the provisions in the above sections will apply to their general meetings only, if the Articles of Association of the private company do not contain suitable provisions.

6. Exemptions available to section 25 companies

In the matter of general meeting of section 25 companies, the following exemptions are available to such company as per the notifications issued by the Central Government:—

(*a*) The Board of directors may in advance decide the time, date and place of each annual general meeting taking into account the direction, if any, given by the company in general meeting. [Section 166(2)]

(*b*) A general meeting may be called by giving notice of not less than 14 days. [Section 171(1)]

A. STATUTORY MEETING

Important Provisions at a Glance

Sl. No.	*Sections*	*Matters dealt with*	*E-Form Nos.*
1.	165	Provisions regarding Statutory Meetings.	22

7. Meaning of 'Statutory Meeting'

Statutory meeting is a special meeting of members of a public limited company, which is intended to be held only once in the life time of a company. At this meeting, the members are expected to acquaint with the company and it provides them opportunity of discussion on various matters relating to promotion and to consider the statutory report.

8. Purposes for holding statutory meeting

Statutory meeting has a number of vital purposes to serve as under:—

(1) it provides an opportunity to members to discuss matters relating to formation of the company or any matter arising out of the statutory report, etc.;

(2) discussion on any matter, whether included in the notice or not and to pass appropriate resolutions, provided that due notice for that purpose has been given in accordance with the provisions of the Act;

(3) approval and adoption of the statutory report of the company;

(4) consideration and approval of any modification proposed in contracts entered into by the promoters of the company;

(5) analysis the success of formation of the company; and

(6) providing information to the members about the shares allotted, preliminary expenses incurred or to be incurred, status of implementation of underwriting agreements and contracts entered into by the company, etc.

9. Obligation of certain types of companies to hold statutory meeting

The following types of companies are required to convene and hold a statutory meeting in accordance with the provisions of section 165 of the Companies Act, 1956:—

(*a*) A public company limited by shares;

(*b*) A public company limited by guarantee and having a share capital;

Therefore, a private company and a private limited company, converted into public limited company is not required to hold statutory meeting.

10. Time-limit for holding statutory meeting

Section 165(1) provides that a company which is obliged to hold statutory meeting shall within a period of not less than one month and not more than six months from the date at which the company is entitled to commence business shall hold a meeting of its members which shall be specified as 'Statutory Meeting'.

The date of entitlement of commencement of business shall be considered as the date of certificate to commence business issued by the Registrar of Companies u/s 149 of the Act.

If a meeting is held within one month from entitlement to commencement of business it will not be a statutory meeting.

11. Convening and conduct of statutory meeting of the company

As the statutory meeting is a meeting of the members of a company, all the provisions of general meeting under sections 171 to 187B will be applicable. However, sections 166 and 169 deals with the annual general meeting and extraordinary general meeting respectively.

Statutory Report

The Board of directors shall prepare a statutory report containing particulars as set out in sub-section (3) of section 165, in the prescribed e-Form 22. Statutory report shall include the following contents: (Appendix 2)

1. Details of shares allotted fully paid-up subject to payment in cash, shares allotted as fully paid up otherwise than in cash and consideration for which they have been allotted, shares allotted as partly paid up to the extent of amount per share and consideration for which they have been allotted for each category of shares.
2. Abstract of receipt and payment upto the seven days prior to the date of statutory report.
3. Abstract of preliminary expenses as estimated in the prospectus or statement in lieu of prospectus and the expenses actually incurred upto the 7 days prior to the report.
4. Name, addresses and occupations of the company's directors, auditors, managers and secretary and the particulars and date of change, if any, since the date of incorporation.
5. Particulars of any contract, which is to be submitted to the statutory meeting for approval including modification of a contract.
6. Underwriting Contract: Brief description of each contract if contract not carried out fully and extent to which it has not been carried out and reasons thereof.
7. The amount of arrears, if any due on calls from directors and manager of the company.
8. Particulars of any commission or brokerage paid or to be paid in connection with the issue or sale of shares to any director or manager of the company.
9. Certification by at least two directors, one of them shall be managing director if there is one regarding that the above report is correctly made.
10. Certificate by the auditors for the correctness of so much of the report as related to the shares allotted by the company, the cash received in respect of such shares and to the receipt and payment.

12. Certification of the statutory report

In terms of the provisions of section 165(4) of the Act, the statutory report is required to be certified by two or more directors, one of them shall be the managing director, if there is one for correctness of the report. It is also required to be certified by the auditors of the company for correctness in respect of the shares allotted, cash received on allotment of shares and receipt and payment of the company (See Appendix 3 for Board resolution).

13. Notice of the statutory meeting

At least 21 days notice should be given to all the members of the company for convening the statutory meeting. A statutory meeting may be called after giving shorter notice than that of 21 days provided the consent is accorded by the members of the company holding at least 95% of such part of the paid up capital. Notice must say that meeting is intended to be a statutory meeting.

14. Filing of statutory report with the Registrar

The Board of directors of a company shall deliver a copy of the said report in e-Form 22 electronically to the Registrar, digitally certified by directors and auditors as above alongwith filing fee as per provisions of Schedule X of the Companies Act, 1956 after copies thereof have been sent to the members.

15. Passing of other resolutions at the statutory meeting

Other resolutions may also be passed at the statutory meeting only on those matters for which previous notice has been given alongwith explanatory statement in accordance with the provisions of the Companies Act, 1956.

16. Presentation of list of members at the statutory meeting

The company shall made available a list of members showing names, addresses, occupation of members and the number of shares held by them respectively at the commencement of meeting and to remain open and accessible to any member of the company during the continuance of the meeting.

17. Adjournment of the statutory meeting

Statutory meeting may adjourn from time to time and at any adjourned meeting, any resolution for which notice has been given may be passed. The adjourned meeting shall have the same powers as an original meeting.

18. Proxy, quorum, voting rights, resolution, minutes, etc.

All these matters have been discuss in the respective parts of the book.

19. Penalty

If default is made in complying with the provisions of section 165 of the Act, every director or other officer of the company, who is in default, shall be punishable with fine, which may extend to Rs. 5,000.

Failure to file statutory report or to hold statutory meeting are valid grounds for a petition for compulsory winding up of a company under section 433.

B. ANNUAL GENERAL MEETING

Important Provisions at a Glance

Sl. No.	*Sections*	*Matters dealt with*	*e-Form Nos.*
1.	166	Regarding annual general meeting.	
2.	167	Power of the Central Government to call annual general meeting.	
3.	168	Penalty for default in complying with section 166 or 167.	
4.	170	Application of sections 171 to 186 to meeting.	
5.	210	Annual accounts and Balance Sheet of companies.	
6.	2(38)	Public holiday.	

Mandatory requirement for holding Annual General Meetings

Pursuant to the provisions of section 166, every company, whether public or private, incorporated under the provisions of the Companies Act, 1956 shall hold during every year a general meeting of members, which shall be called 'Annual General Meeting'. It is mandatory on every company to hold an annual general meeting in every calendar year.

20. Non-functioning of company is no excuse

The fact that the company did not function is no excuse for not convening an annual general meeting. [*Madan Gopal Dev* v *West Bengal* (1969) 39 Comp Cas 119: AIR 1968 Cal 79].

21. Time-limit for holding the first annual general meeting

A new company which is registered under the Act, shall hold its first annual general meeting latest within a period of eighteen months from the date of its incorporation, namely, the date on which the Registrar has issued the certificate of incorporation to the company. If the first annual general meeting is so held, it is not necessary for the company to hold another annual general meeting in the year of its incorporation or in the following year. It may also be noted in this connection that the accounts placed before the first annual general meeting shall be for the period beginning from the date of incorporation and ending on a day of financial year, which will not precede the first annual general meeting by more than nine months from the close of the first financial year of the company — section 210(3). This may be illustrated by the following example:

Date of incorporation of company	23-10-2005
Date by which the first annual general meeting ought to be held	22-04-2007

The holding of the first annual general meeting shall comply with the following criteria of the Act:—

(*i*) The gap between the last date of the accounting period and the meeting shall not exceed 9 months, and (*ii*) The second annual general meeting shall be held during the third year of incorporation.

Therefore, in the above example assuming that the first accounts shall be for the period from 23-10-2005 to 31-3-2007

The first AGM was to be held on or before (within a gap of nine months)	31-12-2006
The accounts for next period will end on	31-03-2007
The second AGM will be held on or before (namely the third year after incorporation)	30-09-2007

In the above example, since it was proposed to close the first accounts as on 31-03-2006, the first annual general meeting could be held before 31-12-2006 and the second annual general meeting could be held during the third year of incorporation.

As explained above there is no need to hold annual general meeting in the first calendar year of its incorporation, *i.e.* 2005.

22. Time-limit for holding subsequent annual general meetings

As mentioned above, every company shall hold every year an annual general meeting and ordinarily there shall not be a gap of more than fifteen months between two such meetings. Further that in terms of the provisions of section 210 an annual general meeting shall be held within a period of six months from the end of the financial year whose accounts are proposed to be considered at the said annual general meeting. Accordingly, it is the rule that a company whose financial year ends on 31st March, shall hold its annual general meeting by 30th September every year. (See detailed agenda and calendar of activities in Appendix 4 and 5)

23. Extension in time for holding annual general meeting

The power of the Registrar conferred by the second proviso to section 166(1) enabling him to grant extension of time to hold the annual general meeting is exercisable by the Registrar without restriction or qualification up to a limit of three months. He can, therefore, grant extension of time for special reasons up to the maximum limit of three months, even if such extension allows the company to hold its general meetings beyond the calendar year

The Registrar shall grant an extension of time for holding the annual general meeting of a company under the second proviso to sub-section (1) of section 166 only when the application for such extension is made to him before the expiry of the period laid down in sub-section (1) of that section. Therefore, if a company considers that it will not be possible for a company to hold the annual general meeting within six months from the conclusion of the financial year, the company shall make an application in the prescribed e-Form 61 (prescribed by the Notification No. GSR 56(E) dated 10th Feb., 2006 by the MCA) electronically with the Registrar before the due date for holding the said meeting. The application may be made by a letter giving full justification for seeking extension of time certified by the chartered accountant or company secretary or cost accountant in practice. (Appendix 6)

Financial Year

A financial year is a period of twelve months and the accounts of a company for a financial year shall be placed at every annual general meeting. But in certain circumstances a financial year may be for less than a year or it may be for more than a year as in the case of the first annual general meeting but it shall not exceed fifteen months.

The Registrar has power to extend a financial year up to eighteen months in terms of the proviso under section 210(4) of the Act. The company shall make an application in the prescribed e-Form 61 (prescribed by the Notification No. GSR 56(E) dated 10th Feb., 2006 by the MCA) with the Registrar before the due date for closing of the financial year. The application may be made by a letter giving full justification for seeking extension of time. certified by the chartered accountant or company secretary or cost accountant in practice. (*See* Appendix 7 for Specimen of Board Resolution)

Where a company proposes to extend its financial year and in that process requires extension in time for holding its annual general meeting it shall make an application digitally in the e-Form 61 with the Registrar of Companies for extending financial year under section 210(4) and for granting extension in time for holding annual general meeting under the proviso to section 166(1).

Financial year extension also requires approval under the Income-tax Act, 1961. The company should apply to the concerned Assessing Officer for extending any financial year beyond twelve months.

24. Uniform accounting year under Income-tax Act, 1961

For the purpose of the Income-tax Act, 1961, previous year means the financial year immediately preceding the assessment year. Accordingly, for the purpose of the said Act, from the assessment year 1989-90, the assessees including companies were required to declare their income every year as on 31st March. All that is necessary from the said assessment year is to make up the accounts as on 31st March, for the purpose of submitting the account-tax return.

Requirement for holding Annual General Meeting where there is delay in finalising the accounts of the company

If it is not possible to hold an annual general meeting by the due date in terms of section 166 and section 210, extension in time should be sought from the Registrar for holding the annual general meeting. The main reason for seeking extension in time may be delay in finalising the accounts due to unavoidable circumstances.

In such situation the best course for a company is to hold the annual general meeting by the due date and get approval of members for reappointment of directors in place of those retiring by rotation and on other matters if any may be taken. As the annual accounts are not ready, the said meeting may be adjourned to a date not exceeding three months up to which the Registrar can grant extension in time. In *Bejoy Kumar Karnani* v *Assistant Registrar of Companies* (1985) 58 Comp Cas 273 (Cal), the Court did not approve the holding of an adjourned annual general meeting beyond the period of the extended date which can be allowed by the Registrar under the second proviso of section 166(1). The court ruled that if a statute envisages that a meeting is to be held within a specified period, it follows by necessary implication that it must be completed within the said period.

In the case of *T.V. Mathew* v *Nadukkara Agro Processing Co. Ltd.* (2002) 46 CLA 101 (Ker), the High Court had given certain directions to be complies with within 3 months. But there were no directions in that order that before the AGM was convened the AGM should be deferred. The company had *bona fide* believed that convening the meeting before complying with the directions would be against the spirit of the judgment. Clearly, failure to convene the AGM was a continuing offence for which consequences are also provided under the Companies Act, 1956.

The Department of Company Affairs also revised their earlier clarification, dated 2-2-1974 by their Circular No. 2/85, dated 25-3-1985. In the latter circular the Department has unequivocally stated that it is no doubt open to a company to adjourn an annual general meeting called and held by the due date to a subsequent date for laying the accounts and that the adjourned meeting must be held within the time extended by the Registrar. The text of the Circular, dated 25-3-1985 of the Department is quoted below for information:

> "I am directed to invite your attention to this Department's Circular No. 4/74, dated 2-2-1974 and to say that the defaults under sections 159, 166, 210 and 220 of the Companies Act, are separate offences. A plea has been raised that in accordance with the aforesaid Circular, dated 2-2-1974 it is possible for a company to adjourn the annual general meeting in case the accounts are not ready, without complying with the requirements of section 210 of the Act. In this connection, it may be stated that it is mandatory on the part of the board of directors of the company to lay the accounts at every annual general meeting within the statutory period laid down in sub-section (3) thereof. In case the annual general meeting is held in accordance with the provisions of section 166 of the Act and the accounts are not placed thereat, the same not being ready, it is no doubt open to the company concerned to adjourn the said annual general meeting to a subsequent date for laying the accounts but then, the adjourned annual general meeting must itself be held within the statutory period (including the period of extension thereof, if any allowed) as provided in section 166(1). That being so, procedure of adjourning the annual general meeting cannot be so adopted as to bypass the provisions of section 210 of the Act. Thus, in case the accounts are not placed at the annual general meeting or the adjourned annual general meeting, in either case, within the statutory period laid down in sub-section

(3) of section 210 of the Act, the delinquent directors are liable for prosecution under sub-section (5) thereof. In this connection, a reference may be made to a decision of the Division Bench of Calcutta High Court in *Bejoy Kumar Karnani and Others* v *Asstt. Registrar of Companies* (88 CWNP 1073), wherein it has been held that if the said Circular, dated 2-2-1974 is to be literally construed divorced of the provisions of sections 166 and 210 of the Act, such adjournments may go on *ad infinitum* and in such an event not only the provisions of section 166 but also the provisions of sections 168 and 210 of the Act would be rendered nugatory, leading to chaos and confusion in the matter of enforcement of the relevant provisions of the Act by the Registrar of Companies."

25. Contradiction in the provisions in sections 166 and 210 and clarifications issued by the Department

Section 166 allows holding of an annual general meeting within fifteen months of the last AGM. If company proposes for change in the accounting year (permissible period of not less then nine months and not more than 18 months), this may at times result that a company not being able to hold the annual general meeting within six months from the end of the financial year as envisaged in section 210(3)(*b*). In order to ensure smooth working of companies, the DCA has advised all companies *vide* its Circular No. 8/45(166)/64-PR, dated 12-1-1965 that the sections 166 and 210 should be read together so as to get a harmonious construction and if a breach of the provisions of one or the other of the two sections is to be avoided an annual general meeting should be held on the earlier of the three relevant dates prescribed under the said two sections as under:

Earlier of the following dates:—

(*a*) 6 months of the close of the financial year.

(*b*) Within 15 months from last AGM.

(*c*) Last date of next calendar year.

The full text of the Circular, dated 12-1-1965 is given below for reference:

"With reference to the correspondence resting with your letter No. Sec. 166/5694, dated 20-7-1964 on the above subject, I am directed to say that the question raised by you has been carefully examined in the Department.

From the strictly legal point of view, the time within which an AGM of a company is required to be held is governed solely by section 166 of the Companies Act, 1956 and the date on which an AGM is required to be held has no direct relationship with the financial year of a company. Accordingly, the Registrar's powers to grant extension of time under the second proviso to section 166(1) does not become exercisable if the extension sought by the company is for holding the meeting falling within the time-limits mentioned in the said section 166 and is asked solely on the ground that it has not been able to prepare the accounts for the period mentioned in section 210(3). Notwithstanding the legal provision aforesaid, the Board is of the view for administrative and practical consideration where a company approaches for the grant of extension of time for holding the annual general meeting in terms of the proviso to section 166(1) of the Act, the Registrar may continue to give the required extension for the holding of AGM beyond the period of six months from the close of the financial year of the company as contemplated under section 210(3) even though the time-limit for holding the meeting as per section 166 may not have reached. It is considered that apart from facilitating the smooth working of companies, such a practice would be administratively desirable as well. It was also in this context that the Department had earlier advised the field officers and companies which sought clarification on the point that sections 166 and 210 should be read together and if a breach of the provisions of one or the other of the two sections is to be avoided, an annual general meeting should be held in the earliest of the three relevant dates prescribed under these two sections (*vide* item No. 27 of interpretation, explained above: Circular No. 8/16(1)/61-PR, dated 25-2-1961) However, when it comes to determining for purposes of legal proceedings or levy of additional fees as to whether there has been a default in holding the AGM it would no doubt be necessary for the Registrar to continue the provisions of section 166 strictly in the manner indicated above. For this purpose the financial year of a company or the provision of section 210 is irrelevant. In other words, where a company holds its AGM within the time prescribed under section 166, though such a meeting is held after the expiry of six months from the close of its financial year and the company files its annual return within 42 days of the holding of the said meeting (now extended to 60 days), no action should be taken against the company for default of section 159 or 166 nor additional fee be levied in such a case in respect of the filing of the annual return and audited accounts."

Place, Day, Time and Business of an Annual General Meeting

26. Place for holding an annual general meeting

Section 166(2) of the Companies Act, provides that the annual general meeting shall be held at the registered office or at some other place within the city, town or village where the registered office of the company is situated. Due to rapid urbanisation the municipal limits of certain cities and towns tend to be extended and in that case the municipal limits, which are followed under the Companies Act and the postal limits may not coincide. The DCA have recognised this contingency and have advised *vide* Circular Letter No. 1/1/80-CL.V and No. 6/159/PT/64, dated 16-2-1981 that a company can hold its annual general meeting within the postal limits of the city in which the registered office is situated if it is more convenient to its shareholders.

27. Annual general meeting shall be called during business hours

Sub-section (2) of section 166 provides that an annual general meeting shall be called for a time during business hours. The term "business hours" signifies the normal working hours during which the trade, industry and banks function. The provision in the section only means that the meeting shall commence during business hours. A meeting may end on the conclusion of its business irrespective of the "business hours" or adjourn at any time as may be decided by the chairman with the consent of the members.

28. Annual General Meeting cannot be held on a public holiday

Section 166(2) *inter alia* states that every annual general meeting shall be called on a day, which is not a public holiday.

It has been clarified by the Department *vide* Circular F. No. 8/23/(166)/69-CL-V that section 166 of the Companies Act deals with the actual period during which the annual general meeting is to be held. Sub-section (2) states that every annual general meeting shall be held on a day that is not a public holiday and this provision is mandatory. If the provision of section 166(2) are to be considered as 'merely regulatory' as suggested "shall be called" used in the section will ceased to have any meaning.

29. Meaning of 'Public Holiday'

According to section 2(38) of the Companies Act, 1956 'public holiday' means a public holiday within the meaning of the Negotiable Instruments Act, 1881. Further, proviso to section 2(38) enacts that a day declared to be a public holiday by the Central Government shall not be a public holiday in relation to any meeting provided the declaration of holiday was notified after the issue of notice of convening such meeting. Provided that the holiday declared by banks for closure of half yearly accounts under the Negotiable Instruments Act, shall not be considered as a public holiday for the purpose of holding an annual general meeting.

30. Adjourned annual general meeting may be held on a public holiday

The Department has *vide* Circular File No. 8/16(1)/61-PR stated that there is no contravention of section 166(2) if the adjourned annual general meeting comes to be accidentally held on a public holiday.

31. Consideration of businesses at an annual general meeting

An annual general meeting gives the opportunity to members to review the performance of the company in the last financial year and to consider the question of payment of dividend and of reappointment of directors and auditors. According to section 173 of the Act, all business other than the following that may be considered at an annual general meeting are special businesses:—

(*a*) The consideration of balance-sheet, profit and loss account and the reports of the directors and auditors;

(*b*) The declaration of dividend;

(*c*) The appointment of directors in place of those retiring;

(*d*) The appointment of auditors.

If the accounts are not ready for being laid at the meeting the usual practice is to hold the meeting, transact all the business except the adoption of accounts and then adjourn the meting to a later date for adoption of accounts. But the later date also has to be within the statutory time limit. But, if the police has seized the accounts books of the company, then the inability of the directors to call the AGM is not an offence. [*Asian Udyog Pvt. Ltd*. (1961) 31 Comp Cas 269].

32. Special business

Section 173 provides that all matters other than the foregoing four ordinary businesses of the annual general meeting are considered as special business at every annual general meeting. In so far as a general meeting other than an annual general meeting is concerned, all matters of business that are considered at a general meeting are considered as special business.

33. Notice of annual general meeting

All these matters have been given in the respective parts of the book.

34. Adjournment of annual general meeting

All these matters have been given in the respective parts of the book.

35. Proxy, quorum, voting rights, resolution, minutes, etc.

All these matters have been given in the respective parts of the book.

36. Power of the Central Government to call annual general meeting

Section 167 deals with the power of the Central Government to call annual general meeting. If default is made in complying with the provisions of section 166 then section 167 takes over. Section 167 vests the Central Government with overriding powers to call annual general meeting.

37. Prosecution and penalty for non-compliance

Where the company has defaulted under section 156 and/or 210 of the Companies Act, 1956, that is, where they have not held the annual general meeting and/or have not placed the balance sheet and the profit and loss account before the annual general meeting, prosecutions are rarely launched. The fact that the complaint has to be filed in the court of first class Magistrate having territorial jurisdiction over the place at which the Registered office of the company is situated, which is at the place other than the Head Quarter of the Registrar need not prevent the Registrar from enforcing the penal provision in this regard.

Section 168 contains penal provision for not complying with the provisions of section 166 or 167. It provides that if default is committed in holding the annual general meeting of the company, the company and every officer of the company who is in default shall be punishable with fine which may extend to Rs. 50,000 and if the default is continuing one then with further fine extending upto Rs. 2,500 for every day after the first day during which the default continues.

However, if the books of accounts have been ceased by the police and produced in criminal court, the default is beyond the control of the company and should not be punished.

Failure to hold the meeting in each calendar years is a separate offence different from failure to had it within 15 months of the earlier meeting.

In *State of Kerela* v *West Coast Planters Agencies* (*P*) *Ltd.* (1958) 28 Comp Cas. 13 (Ker) (DB) it was held that where there was only a single member in a company then not holding the AGM would not amount to a default.

In *ROC* v *Krishna Nambiar* (1958) Comp Cas 225, it was held that if there was any default in holding AGM the company immediately becomes punishable but for an officer of the company to be punished it is necessary to prove that he was knowingly responsible for the default.

38. Important clarifications issued by the Department of Company Affairs relating to the Annual General Meeting

I. Delay in completion of audit not a special reason for extension of time for holding annual general meeting

The liberal policy of granting extension of time to companies to enable them to call their annual general meetings on the ground that the audit of their account has not been completed or that their accounts have not yet been compiled or cast for submission to the auditors or for other similar reasons indicating slackness, negligence or deliberate default on the part of the managements or the auditors of companies, can no longer be justified. The law contemplates that the permissible interval between two consecutive annual general meetings should not be lightly extended. The Government has accordingly decided that delay in the completion of the audit of the annual accounts of a company should not ordinarily constitute a "special reason" justifying the grant of extension of time for holding its annual general meeting. Companies are, therefore requested to take all suitable steps to ensure that their annual accounts are audited in good time so that their annual general meetings may be called within the statutory time-limit.

Source: Press Note, dated 29-1-1959.

II. Extension of time upto 3 months by Registrar — Even if it allows the company to hold its annual general meeting beyond the calendar year

The question whether the second proviso to sub-section (1) of section 166 empowers the Registrar of Companies to grant extension not exceeding three months, though the company concerned may not be able to hold its annual general meeting in a particular calendar year, has been considered by the Company Law Board.

The Board (now the Central Government) is of the view that the power of the Registrar conferred by the second proviso of the aforesaid section of the Act enabling him to grant extension of time to hold the annual general meeting is exercisable by the Registrar of Companies without restriction or qualification up to a limit of three months. He can, therefore, grant extension of time for special reasons up to the maximum limit of three months, even if such extension allows the company to hold its general meeting beyond the calendar year.

Source: Letter No. 34/11/69-CL-III, dated 13-1-1972.

III. Application for extension of time under section 166(1), second proviso to be made before the expiry of the period

The Department's view is that the Registrar should grant an extension of time for holding the annual general meeting of a company under the second proviso to sub-section (1) of section 166 only when the application for such extension is made to him before the expiry of the period laid down in sub-section (1) of that section.

Source: Company News and Notes July 1, 1963 issue.

IV. Clarifications on adjourned annual general meeting

Query: Section 166(2) provides that every annual general meeting shall be called for a time during business hours on a day, that is, not a public holiday, and shall be held either at the registered office of the company or at some other place within the city, town or village in which the registered office of the company is situated. Section 174(4) provides that any meeting of a company other than that called upon the requisition of members, shall in the absence of a quorum, stand adjourned to the same day in the next week at the same time and place or to such other date and time and place as may be determined by the Board. The following issues arising out of the aforesaid section need clarification:—

(*a*) Is it necessary that notice of the adjourned general meeting is to be given to the members of a company?

(*b*) If the adjourned meeting falls on a holiday will there be any contravention of section 166(2), when the meeting is held on the holiday?

(*c*) Is it contemplated by section 174(4) that a meeting of the Board of directors is to be convened to fix another date for adjourned general meeting and, if so, is it necessary that notice thereof should be given to the members and what will be the period of such notices?

Answer:

(*a*) Not necessary, unless the date of the adjourned general meeting is not decided at the original meeting itself.

(*b*) There is no contravention of section 166(2) if the adjourned meeting comes to be accidentally held on a holiday.

(*c*) If the Board of directors fix another date for the adjourned general meeting, a notice is to be given to the members in accordance with the provisions of the Act governing notices of general meetings.

Source: File No. 8/16/(1)/61-PR, dated 19-5-1961.

V. Annual general meeting may be held at any place within the postal limits, even if wider than municipal limits

A question has been raised whether the annual general meeting of a company can be held at a place within the postal limits of the city in which the registered office of the company is situated though the postal limits are wider than the municipal limits of the city. The matter has been carefully examined by the Department. It has been observed that as a result of rapid urbanisation, cities frequently tend to expand beyond municipal limits and in view of this, the expression "Every annual general meeting shall be held either at the registered office of the company or at some other place within the city, town or village in which the registered office of the company is situated", used in section 166(2) of the Companies Act, 1956 may be taken to mean both the postal limits and local body limits of the city in which the registered office of the company is situated and where the two do not coincide, the wider of the two. A company can, therefore, hold its annual general meeting at any place within the postal limits of the city in which its registered office is situated, if it is more convenient to its shareholders.

Source: Letter No. 1/1/83-CL-V and No. 6/159/PT/64, dated 16-2-1981.

VI. AGM should be held on a day that is not a public holiday

Sub-section (2), *inter alia*, provides that every annual general meeting shall be called on a day that is not a public holiday. "Public Holiday" has been defined in section 2(38). This provision, that is, the annual general meeting shall be called on a day that is not a public holiday, is mandatory. If the provisions of section 166(2) are to be considered as "merely regulatory" as suggested, the words "shall be called" used in the section will cease to have any meaning.

VII. Holding of AGMs on 30th June and 31st December

In case 30th June and 31st December are declared as holidays under the Negotiable Instruments Act for the limited purpose of half-yearly closing of accounts of banks/treasuries, etc. In that case, these two holidays will not be treated as public holidays for the purpose of section 166.

Source: Letter No. 8/166/80-CL-V, dated 2-3-1981.

VIII. The word "time" denotes hour and date of commencement of meeting

Query: The exact significance and the meaning of the word 'time' in the second proviso to sub-section (2) may please be clarified. Does it denote the hour at which the meeting will begin or the duration of the meeting?

Answer: 'Time' in the second proviso to sub-section (2) of the section indicates only the hour and the date of the commencement of the meeting.

Source: File No. 8/16(1)/61-PR.

IX. Every meeting has to be held during business hours

In section 166, "Every annual general meeting shall be called for a time during business hours, ..." means that a time should be fixed in the notice for the meeting to be commenced. "For" shows that a specific point of time must be indicated. A specific point of time is contemplated and this can only be the starting point in the circumstances. If the duration of the meeting were to be covered, the appropriate language would have to be different and would have borne an express reference to a 'period' rather than a 'time'. Since it is clear that the standing point of the meeting should be within the business hours, it is equally clear that the duration is left to the meeting itself, according to the speed with which it is in a position to go through its agenda. The meeting is expected to be in full control of its proceeding under the guidance of its chairman and determine when it will end its session and for how many hours depending on the need, it may like to sit in a day and if necessary for how many days continuing it may sit to complete the consideration of its agenda. These are details for which the law cannot provide and hence it makes provision only in relation to the starting point of the meeting which should be fixed in the notice of the meeting to fall within the usual business of the company. The law does not choose to define business hours for a company as this could be best left to the convenience of each company. Each company has its own schedule of business hours and this is well known to the public with whom it deals. Hence no practical difficulty has ever been felt on this score.

Source: File No. 34/1/75-CLIII.

X. Registrar has no power to grant extension under section 210

Query: The period of six months allowed to hold annual general meetings is too short. It is hoped that the administration would be lenient and grant extension of time.

Answer: The Registrar has no power to grant any extension under section 210 and the accounts should be laid in the general meeting within six months of the close of the financial year. Subject to this, power has been conferred under section 166 for extension of time to hold an annual general meeting upto three months only, and that too for special reasons only. It is expected that the companies should so organise their business and office that they will be able to hold their annual general meeting within the statutory period.

Source: File No. 8/16(1)/61-PR.

XI. Extensions under section 166 to enable company to hold AGM beyond 6 months of financial year even though within time prescribed under section 166

Sections 166 and 210 when read together clearly suggested that the annual general meeting should be held on the earliest date of the three relevant dates prescribed under these two sections, *i.e.* 6 months after the close of the financial year, 15 months from the previous annual general meeting and the last day of the next calendar year, whichever is earlier. Otherwise one or the other section is bound to be breached. Occasions may, however, arise where a company experiences genuine difficulty in being able to hold its annual general meeting within 6 months of the close of the financial year though it can hold it within the time-limit prescribed under section 166. The Registrars should be departmentally instructed that in such cases they should, on the merits of each case, allow extensions under section 166, even though the periods prescribed under that section are not likely to be exceeded, so that the company can take advantage of the extension and is enabled to hold its annual general meeting beyond the period of 6 months prescribed under section 210 and upto nine months of the financial year (as in that case the company shall be able to add the period of extension to the prescribed period of 6 months), even though the meeting is held within the time prescribed under section 166.

Source: File No. 8/16(1)/61-PR.

XII. Time of holding AGM may be fixed by articles or section 25 company may fix date and time of AGM by the Board of directors

Section 166(2) of the Companies Act, 1956 does not make it absolutely obligatory on every company to hold its annual general meeting only on a day which is not a public holiday. In this connection, attention is invited to the provisions contained in the second proviso to sub-section (2) of section 166 of the Companies Act which enable a company to fix by its articles of association or by a resolution passed in one annual general meeting the time of its annual general meetings generally or any subsequent such meeting. A reference is also invited to the Central Government's order SO 1578, dated the 1st July, 1961 issued in exercise of the powers conferred by sub-section (6) of section 25, *ibid* which exempts wholly a company to which a licence has been granted under the said section, from the provisions of section 166(2), provided that the time, date and place of each annual general meeting are decided upon beforehand by the Board of directors having regard to the directions if any given by the company in general meeting.

Source: 8/5(166)/65-PR, dated 21-1-1963.

XIII. Extension only if application made before the expiry of the period lay under section 166(1)

The Department's view is that the Registrar should grant an extension of time for holding the annual general meeting of a company under the second proviso to sub-section (1) of section 166 only when the application for such extension is made to him before the expiry of the period laid down in sub-section (1) of that section.

Source: Company News & Notes, dated 1-7-1963.

C. EXTRAORDINARY GENERAL MEETING

Important Provisions at a Glance

Sl. No.	*Sections*	*Matters dealt with*	*Form Nos.*
1.	169	EGM on requisition of members.	
2.	186	Power of CLB/Tribunal to call General Meeting.	
3.	170	Application of sections 171 to 186 to meeting.	
4.	Reg.47 and 48	Provisions of Articles for Calling EGM.	

Besides the annual general meeting, a company is free to hold one or more general meetings of its members. Such general meetings are stated as extraordinary general meetings in clause 47 of Table 'A' to the Companies Act, 1956 but the Act does not use the name "Extraordinary General Meeting" to indicate a general meeting. One comes across the use of the name "Extraordinary General Meeting" only in section 169 of the Act to signify the meeting called on the requisition of members.

39. Need for extraordinary general meeting

There is generally a gap of around a year or so in between two annual general meetings. Important businesses arising in between two annual general meetings that require shareholders approval shall be considered at the extraordinary general meeting.

40. Types of extraordinary general meeting

The EGM may be called in the following circumstances:—

1. Calling of the EGM by the Board on its own motion.
2. Calling of EGM by any director, if at any time there are not within India directors capable of acting who are sufficient in number to form quorum.
3. Calling EGM by the Board on requisition of members as per provision of the Act.
4. Calling of EGM by the requisitionists themselves.
5. Convening of EGM by the CLB/Tribunal.

41. Business at an extraordinary general meeting

Section 173 provides that in case of extraordinary general meeting all matters of business that are considered at such meeting shall be considered as special business.

The objects of special business are two-fold. First, this instantly highlights the attention of members and provokes them to know about the matter and if necessary, makes them to attend the meeting personally whenever possible. The second aspect is that as far as the company is concerned, the Act places a duty on the company to annex a statement (popularly known as explanatory statement) to the notice and set out therein the following matters:—

(*i*) All material facts concerning each item of such special business and in particular mentioning the nature of interest, if any, of every director or manager therein.

(*ii*) Where any such item of special business relates to any contract or arrangement between the company and any other company, the shares held by the directors and manager, if any, of the first mentioned company in the other shall be disclosed in the statement where the said shareholding is not less than twenty per cent of the paid-up share capital of the other.

(*iii*) Further, where any item of special business involves approval or reference to any document, the time and place where the document can be inspected by a member should also be indicated in the statement.

42. Explanatory statement of special business

All these matters have been given in the respective parts of the book.

43. Notice of extraordinary general meeting

All these matters have been given in the respective parts of the book.

44. Adjournment of extraordinary general meeting

All these matters have been given in the respective parts of the book.

45. Proxy, quorum, voting rights, resolution, minutes, etc.

All these matters have been given in the respective parts of the book.

46. Applicability of sections 171 to 186

Sections 171 to 186 elaborate provision relating to general meeting of the company.

47. Day for holding extraordinary general meeting

An extraordinary general meeting can be called on a day that is a public holiday unless the articles of the company provide otherwise. Therefore, an EGM can be called for a time outside business hours on a day that is a public holiday.

48. Convening of extraordinary general meeting on the requisition of members

Section 169 of the Companies Act, 1956, provides that on requisition of members of a company having share capital or not, the Board is required to call and hold extra-ordinary general meeting. The rights of members individually or collectively are enumerated as under:—

(*a*) in case of a company having a share capital, such number of them as hold at the date of requisition, not less than 1/10th of such of the paid up capital of the company as at the date carrying voting right in regard to that matter;

(*b*) in case of a company not having a share capital, such number of them as have at the date of deposit of requisition, not less than 1/10th of the total voting powers of all members having at the date a right to vote in regard to that matter.

Though section 169 uses the expression 'such number of members of the company' in the plural, yet the requirements of the provisions would be satisfied even if one member holding the requisite number of shares or voting rights makes the requisition

Shareholders who have not paid a call made on them, are not entitled to requisition an extraordinary general meeting

The Board of directors of the company is under an obligation to forthwith proceed duly to convening an extraordinary general meeting if requisition by members is made in relation to any matters. The Board shall within twenty days from the date of deposits of a valid requisition shall proceed to call a meeting on a day not later than 45 days from the date of deposits of such requisitions.

49. Members right to call requisition meeting

If the company fails to proceed within 21 days and to call the above said meeting within 45 days then the members may call themselves a meeting within a period of 90 days from the date of deposit of requisition to the company after expiry of 45 days and the expenses for calling meeting by them shall be reimbursed by the company by debiting the amount to the directors.

The word 'valid' has no reference to objects of requisition but to compliance of requirements of the section itself.

If on a day appointed for meeting on requisition, the adequate quorum is not present then meeting shall stand dissolved.

It would finally be for shareholders to decide in meeting whether to opt for proposals or not and thus, no injunction could be granted to restrain holding of a meeting, when such a meeting was the only way in which shareholders could decide the matter. [*K.G. Khosla* v *Rahul C. Kirloskar* (2002) 35 SCL 546 (Delhi)]

Appendix 1

Secretarial Standard-2 (SS-2) on General Meetings[1]

Secretarial Standard on General Meetings

The following is the text of the Secretarial Standard-2 (SS-2) issued by the Council of the Institute of Company Secretaries of India, on "General Meetings".

In the initial years, adherence by a company to this Secretarial Standard will be recommendatory.

Introduction

This Standard seeks to prescribe a set of principles for the convening and conduct of General Meetings and matters related thereto.

The decision-making powers of a company are vested in its members and the Board of directors (the Board). Such powers are exercisable through meetings of the members and the Board respectively. Except where the law expressly provides that certain powers of a company are to be exercised only by the company in General Meeting, the Board is entitled to exercise all the powers of the company. Although members acting through the forum of a General Meeting exercise ultimate check over a company, they should not interfere with the exercise by the Board of the powers, which are vested in the Board.

Every company is required to hold, every year, a meeting of its members called the Annual General Meeting and may also hold any other meeting, called an Extraordinary General Meeting, as and when required or on the requisition of members. The business to be transacted at an Annual General Meeting may consist of items of ordinary business as well as special business. The items of ordinary business specifically required to be transacted at an Annual General Meeting should not be transacted at any other General Meeting.

Every public company having a share capital is also required to hold a Statutory Meeting.

If a company defaults in holding its Annual General Meeting in any year, any Member of the company has a statutory right to approach the prescribed authority to direct the company to hold the meeting.

A company may also hold meetings of its members, or class of members or debentureholders or creditors under the directions of the Court or the Company Law Board or any other prescribed authority, and any such meeting shall be governed by the Articles or by the rules, regulations and directions prescribed for the conduct of any such meeting.

Scope

The principles enunciated in this Standard for General Meetings may also be applicable to class meetings of members, debentureholders and creditors. These principles may, however, not be applicable to any meeting convened on the directions of the Court or the Company Law Board or any other prescribed authority unless the directions themselves so prescribe.

This Standard does not deal with passing of resolutions by postal ballot.

Definitions

The following terms are used in this Standard with the meaning specified:

"*Act*" means the Companies Act, 1956 (1 of 1956), or any statutory modification or re-enactment thereof and includes any Rules and Regulations framed thereunder.

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1 Issued by the Institute of Company Secretaries of India.

"*Articles*" means the Articles of Association of a company, as originally framed or as altered from time to time, including, where they apply, the Regulations contained in the Tables in Schedule I to the Act.

"*Board*" or *"Board of directors*" means the Board of directors of a company.

"*Chairman*" means the Chairman of the Board or the Chairman appointed or elected for a meeting.

"*Member*" means any person who agrees, either by subscribing to the Memorandum of Association of the company or by applying in writing to become a Member of the company and whose name is entered either in the Register of members of the company or in the records of the depository as a beneficial owner in respect of the equity shares of the company held by him.

"*Meeting*" or "*General Meeting*" or *"Extraordinary General Meeting*" means a meeting of members duly convened by the Board or on the requisition of members.

"*Ordinary Business*" means business to be transacted at an Annual General Meeting relating to— (*i*) the consideration of the accounts, balance sheet and the reports of the Board of directors and Auditors; (*ii*) the declaration of a dividend; (*iii*) the appointment of directors in the place of those retiring; and (*iv*) the appointment of, and the fixing of the remuneration of, the Auditors.

"*Ordinary Resolution"* means a Resolution when, at a General Meeting of which the Notice required under the Act has been duly given, the votes cast (whether on a show of hands or on a poll) in favour of the Resolution (including the casting vote, if any, of the Chairman) exceed the votes, if any, cast against the Resolution by members entitled to vote thereon either in person or, where proxies are allowed, by Proxy.

"*Proxy"* means an instrument in writing signed by a Member, authorizing another person, whether a Member or not, to attend and vote on his behalf at a meeting and also means the person so appointed by a Member.

"*Quorum*" means the minimum number of members whose presence is necessary for a meeting.

"*Special Business"* means business other than the Ordinary Business to be transacted at an Annual General Meeting and all business to be transacted at any other General Meeting.

"*Special Resolution*" means a Resolution in respect of which (*a*) the intention to propose the Resolution as a Special Resolution has been duly specified in the Notice calling the meeting or other intimation of the Resolution has been given to the members; (*b*) the Notice required under the Act has been duly given of the meeting; and (*c*) the votes cast in favour of the Resolution (whether on a show of hands or on a poll) are not less than three times the number of the votes, if any, cast against the Resolution by members entitled to vote thereon either in person or, where proxies are allowed, by Proxy.

Words and expressions used herein and not defined shall have the meaning respectively assigned to them under the Act.

Secretarial Standards

1. Convening a Meeting

1.1 Authority

A General Meeting should be convened on the authority of the Board.

The Board of its own accord or on the requisition of members should, either at a meeting of the Board or by passing a resolution by circulation, convene or authorize the convening of a General Meeting.

If, on a requisition having been made in this behalf, the Board fails to call a meeting, the requisitionists may themselves call the meeting in the same manner, as nearly as possible, as that in which meetings are to be called by the Board.

1.2 Notice

1.2.1 Notice in writing of every meeting should be given to every Member of the company. Such Notice should also be given to the directors and auditors of the company, to the Practising Company Secretary who has given the Compliance Certificate, to Debenture Trustees, if any, and, wherever applicable or so required, to other specified recipients.

Notice should be given to all persons entitled to receive such Notice, at the address provided by them in India or outside India. In the case of joint-shareholders, the Notice should be given to the person whose name appears first in the Register of members or in the records of the depository, as the case may be.

On receipt of intimation of death of a Member, the Notice of a meeting should be sent to the surviving first joint-holder or to the nominee of the sole shareholder or to the person entitled to a share in consequence of the death of the Member. In case of insolvency of a Member, the Notice should be sent to the assignees of the insolvent or to the person entitled to a share in consequence of the insolvency of the Member.

Notice should be given by hand or by post and should also be placed on the website, if any, of the company.

1.2.2 The Notice should specify the day, date, time and venue of the meeting with complete address.

Meeting should commence during business hours, on a working day, at the Registered Office of the company or at some other place within the city, town or village in which the Registered Office is situated.

If the venue of the meeting is not a prominent place, a site map of the venue should be enclosed with the Notice.

The Notice should prominently contain a statement that a Member entitled to attend and vote is entitled to appoint a Proxy to attend and vote instead of himself and that, except in the case of a private company and a company not having a share capital where the Articles may provide otherwise, a Proxy need not be Member.

1.2.3 The Notice should clearly specify the nature of the meeting and the business to be transacted thereat. In respect of items of Special Business, each such item should be in the form of a Resolution and should be accompanied by an explanatory statement which should set out all such facts as would enable a Member to take an informed decision on the matter. In respect of items of Ordinary Business, Resolutions are not required to be specified in the Notice except where the appointment of Auditors has to be made by a special resolution, or where the auditors or directors to be appointed are other than the retiring auditors or directors, as the case may be.

All Resolutions and the explanatory statement should be framed in simple and intelligible language so as to enable members to understand the meaning, scope and implications of the proposed items of business.

The nature of the concern or interest, if any, of directors in any item of business or in a proposed Resolution should be disclosed in the explanatory statement, along with the extent of such concern or interest where the item relates to transactions with any other company.

Where reference is made to any document, contract, agreement or the Memorandum of Association and Articles, the relevant explanatory statement should state that such documents are available for inspection and such documents should be so made available for inspection for not less than two hours during business hours at the Registered Office of the company and copies thereof should also be made available at the head/corporate office of the company, if such office is situated elsewhere, and also at the meeting.

In all cases relating to the appointment or reappointment of directors, details of each such director should be given, including age, qualifications, experience, date of first appointment on the Board, shareholding in the company, relationship with other directors of the company, other directorships, membership/Chairmanship of Committees of other Boards and the number of meetings of the Board attended during the year.

In the case of appointment/re-appointment or varying of the terms of remuneration of managerial personnel of the company, their personal resume, terms and conditions of appointment/re-appointment including full details of remuneration sought to be paid and the remuneration last drawn by such person should be stated in the explanatory statement.

1.2.4 Notice and accompanying documents should be set at least twenty-five days in advance of the meeting.

Where the Notice also is to be published in a newspaper, it should appear at least twenty-one days before the date of the meeting and such notice need not be accompanied by an explanatory statement.

1.2.5 Notice and accompanying documents may be given at a shorter period of time if consent in writing, in the prescribed form, is given thereto by, in the case of an Annual General Meeting, all the members entitled to vote at the meeting and, in the case of any other meeting, members holding ninety-five per cent of the paid-up share capital carrying voting right or, where the company has no share capital, ninety-five per cent of the total voting power

Consent for shorter Notice may be given before or at the meeting.

1.2.6 In the case of listed companies with more than 5,000 members, an abridged version of the Notice, listing the items of business and the day, date, time and venue of the meeting, should be published in a newspaper having a wide circulation within such States of India where more than 1,000 members reside.

1.2.7 No business should be transacted at a meeting if Notice in accordance with this Standard has not been given.

1.2.8 No items of business other than those specified in the Notice should be taken up for consideration at the meeting

No Resolution shall be valid if it is passed in respect of an item of business not contained in the Notice convening the meeting.

Where Special Notice is required of any Resolution and Notice of the intention to move such Resolution is received by the company at least fourteen days before the meeting, such item of business should be placed for consideration at the meeting after giving Notice of the Resolution to members in the manner specified.

Any amendment to the Notice, including the addition of any item of business, can be issued provided the notice of amendment is sent to all persons entitled to receive the Notice of the meeting and is sent within the time-limit prescribed for giving of the original Notice.

1.2.9 The notice should be accompanied by an attendance slip and a Proxy form with clear instructions for filling, stamping, signing and depositing the Proxy form.

1.2.10 A meeting convened upon due Notice should not be postponed or cancelled.

If, for reasons beyond the control of the Board, a meeting cannot be held on the date originally fixed, the Board may defer the meeting. The meeting should be reconvened after giving not less than seven days fresh Notice published in a newspaper having a wide circulation within such States of India where more than 1,000 members reside.

2. Frequency of Meetings

2.1 Statutory Meeting.—Every public company having a share capital and every public company limited by guarantee and having a share capital should, after one month but not later than six months from the date on which it is entitled to commence business, hold a meeting called the Statutory Meeting.

2.2 Annual general meeting.—Every company should, in each year, hold a meeting called the annual general meeting.

Every company should hold its first Annual General Meeting within eighteen months of the date of incorporation and thereafter in each year within six months of the close of the financial year, with an interval of not more than fifteen months between two successive meetings. The aforesaid period of six months or interval of fifteen months may be extended by a period not exceeding three months with the prior approval of the Registrar of Companies.

2.3 Extraordinary General Meeting.—Items of business of an urgent nature which need to be transacted before the next Annual General Meeting should be considered at an Extraordinary General Meeting.

3. Quorum

Quorum should be present throughout the meeting.

A minimum of five members personally present and entitled to vote, in the case of a public company, and two members personally present and entitled to vote, in the case of a private company, shall be the

Quorum for a General Meeting. Where the requirements for Quorum as prescribed in the Articles are more stringent, the Quorum should conform to such requirements.

A meeting must be constituted of at least two individuals present in person. The quorum requirement of five members in the case of a public company will be fulfilled where a person acting as an authorised representative of five bodies corporate is present in the meeting along with another Member personally present. However, if there is no such other member personally present, the Quorum requirement will not be fulfilled.

Since members need to be personally present at a meeting to constitute the Quorum, Proxies are to be excluded for determining the Quorum. However, a duly authorised representative of a body corporate or the representative of the President of India or the Governor of a State is deemed to be a Member personally present and enjoys all the rights of a Member present in person.

4. Presence of Directors and Auditors

4.1 Directors

4.1.1 The directors of the company should attend all meetings of the company, particularly the Annual General Meeting, and should be seated with the Chairman.

If any director is unable to attend the meeting for reasons beyond his control, the Chairman should explain such absence at the meeting.

4.1.2 The Chairman of the Audit Committee, where such a committee exists, should attend the Annual General Meeting.

4.2 Auditors

While the Auditors of the company are entitled to attend the Annual General Meeting, the Auditors, represented by the proprietor or a partner, as the case may be, should attend the meeting if there are any reservations, qualifications or adverse remarks in the Auditor's Report.

4.3 Practising Company Secretary

The Practising Company Secretary who has given the Compliance Certificate should attend the Annual General Meeting.

5. Chairman

5.1 Appointment

5.1.1 Where the Articles so provides, the Chairman of the Board should take the chair and conduct the meeting. If there is no Chairman or if he is not present within fifteen minutes after the time appointed for holding the meeting, or if he is unable to act as Chairman of the meeting, the directors present should elect one of themselves to be the Chairman of the meeting. If the directors are unable to do so or if no Director is willing to take the chair, the members present shall elect one of themselves to be the Chairman of the meeting.

5.1.2 In the absence of any express provision contained in the Articles, the members personally present at the meeting shall elect one of themselves to be the Chairman of the meeting.

The Chairman should ensure that the meeting is duly constituted in accordance with the Act and the Articles or any other applicable laws, before it proceeds to transact business. The Chairman should then conduct the meeting in a fair and impartial manner and ensure that only such business as has been set out in the Notice is transacted.

5.2 The Chairman should explain the object and implications of each Resolution before the Resolution is put to vote.

5.3 The Chairman should provide a fair opportunity to members who are entitled to vote to raise questions and/or offer comments and ensure that these are answered.

5.4 The Chairman should not propose any Resolution in which he is deemed to be concerned or interested nor should he participate in the discussion or vote on any such Resolution.

If the Chairman is interested in any item of business, he should entrust the conduct of the proceedings in respect of such item to the Vice-Chairman, if there is one, or to any dis-interested Director or to a

Member and resume the Chair after that item of business has been transacted. A person who so takes the Chair can exercise his casting vote in the event that a vote on such item of business results in a tie.

6. Voting

6.1 Proposing a resolution

6.1.1 Every resolution should be proposed by a member and seconded by another member entitled to vote thereon.

Every member holding equity shares and, in certain events as specified in the Act, every member holding preference shares, shall be entitled to vote on a Resolution.

6.1.2 A Director should not propose any Resolution in which he is deemed to be concerned or interested nor should he participate in the discussion or vote on any such resolution.

6.2 On show of hands

Every resolution should, in the first instance, be put to vote on a show of hands.

Every member entitled to vote on a Resolution and present in person shall, on a show of hands, have only one vote irrespective of the number of shares held by him. Unless the Articles otherwise provide, a proxy cannot vote on a show of hands.

6.3 By poll

A member present in person or by Proxy shall, on a poll, have votes in proportion to his share of the paid up equity capital of the company, subject to differential rights as to voting, if any, attached to certain shares as stipulated in the Articles or by the terms of issue of such shares.

While a Proxy cannot speak at the meeting, he has the right to demand or join in the demand for a poll.

6.4 Casting vote

If the Articles so provide, the Chairman shall have a casting vote.

7. Proxies

7.1 Notice of Right to Appoint

Every Notice calling a meeting of a company which has a share capital or the Articles of which provide for voting at a meeting by Proxy, should prominently contain a statement that a Member entitled to attend and vote is entitled to appoint a Proxy to attend and vote instead of himself and that, unless the Articles provide otherwise, a Proxy need not be a Member.

7.2 Form of Proxy

7.2.1 An instrument appointing a Proxy should be either in the Form specified in the Articles or in any of the Forms set out in the Act.

If the Articles do not provide a form for 'two way voting' as per the format set out in Annexure 'A', the Articles should be amended so as to provide accordingly.

7.2.2 An instrument of Proxy duly filled, stamped and signed, is valid only for the meeting to which it relates including any adjournment thereof.

7.3 Stamping of Proxies

An instrument of Proxy is valid only if it is properly stamped. Unstamped or inadequately stamped Proxies or proxies upon which the stamps have not been cancelled are invalid.

7.4 Execution of Proxies

7.4.1 In addition to the Member appointing a Proxy, the Proxy-holder also should sign the instrument of Proxy.

7.4.2 An authorised representative of a body corporate or of the President of India or of the Governor of a State, holding shares in a company, may appoint a Proxy under his signature.

7.5 Proxies in Blank and Incomplete Proxies

7.5.1 A proxy form which does not state the name of the proxy should not be considered valid.

7.5.2 If an undated proxy, which is otherwise complete in all respects, is lodged within the prescribed time-limit, it should be considered valid.

If a company receives multiple proxies for the same holdings of a member, which are either not dated or bear the same date without specific mention of time, all such multiple proxies should be treated as invalid.

7.6 Deposit of proxies

7.6.1 Proxies should either be deposited with the company in person or received through post not later than forty-eight hours before the commencement of the meeting at which they are to be used and a proxy should be accepted even on a holiday if the last date by which it could be accepted is a holiday.

Proxies may be accepted at a shorter period, being not less than twenty-four hours before the commencement of the meeting, if the articles so provide.

7.6.2 A member who has not appointed a Proxy to attend and vote on his behalf at a meeting may appoint a proxy for any adjournment of such meeting, not later than forty-eight hours before the time of such adjourned meeting.

7.7 Revocation of proxies

7.7.1 If a Proxy had been appointed for the original meeting and such meeting is adjourned, any Proxy given for the adjourned meeting revokes the proxy given for the original meeting.

7.7.2 A Proxy later in date revokes and Proxy/Proxies dated prior to such proxy.

7.7.3 A Proxy is valid until written notice of revocation has been received by the company before the commencement of the meeting or adjourned meeting, as the case may be.

A Proxy need not be informed of the revocation of the proxy issued by the member. Even an undated letter of revocation of proxy should be accepted. Unless the Articles provide otherwise, a notice of revocation should be signed by the same person who had signed the proxy.

7.8 Inspection of proxies

7.8.1 Requisitions, if any, for inspection of proxies should be received in writing from a member at least three days before the commencement of the meeting.

7.8.2 Proxies should be made available for inspection during the period beginning twenty-four hours before the time fixed for the commencement of the meeting and ending with the conclusion of the meeting.

7.8.3 A fresh requisition, conforming to the above requirements, should be given for inspection of proxies in case the original meeting is adjourned.

7.9 Record of proxies

7.9.1 All proxies received by the company should be recorded chronologically in a register kept for that purpose.

7.9.2 In case any Proxy entered in the register is rejected; the reasons therefor should be entered in the remarks column.

8. Conduct of poll

8.1 When a poll is demanded on any Resolution, the Chairman should get the validity of the demand verified and should order the poll forthwith if it is demanded on the question of appointment of the Chairman or adjournment of the meeting and, in any other case, within forty-eight hours of the demand for poll.

8.2 In the case of a poll which is not taken forthwith, the Chairman should announce at the meeting the date, venue and time of taking the poll to enable members to have adequate and convenient opportunity to exercise their vote. The chairman should also announce that any member who so desires may be present at the time of counting of votes.

A member who did not attend the meeting can participate and vote in the poll.

8.3 Each Resolution on which a poll is demanded should be put to vote separately.

One ballot paper may be used for two or more items for which poll has been ordered.

8.4 The Chairman should appoint two scrutineers to ensure that the scrutiny of the votes cast on a poll is done fairly, accurately and properly. At least one of the two scrutineers should be a member who is present at the meeting and is not an officer or employee of the company.

Based on the scrutineers' report, the Chairman should declare the result of the poll, which details of the number of votes cast for and against the Resolution and the final result as to whether the Resolution has been carried or not.

8.5 The result of the poll should be displayed on the notice board of the company at its Registered Office and its Corporate/head Office, if such office is situated elsewhere, and also placed on the website, if any, of the company. In the case of listed companies with more than 5,000 members, the result of the poll should also be published in a leading newspaper circulating in the neighbourhood of the Registered Office of the company.

9. Withdrawal of resolutions

Resolutions for items of business, which are likely to affect the market price of the securities of the company should not be withdrawn.

10. Rescinding of Resolutions

A resolution passed at a meeting should not be rescinded other than by a Resolution passed at a subsequent meeting.

11. Modifications to resolutions

Modifications to any resolution which do not change the purpose of the resolution materially may be proposed, seconded and adopted by the requisite majority at the meeting and, thereafter, the amended resolution should be duly proposed, seconded and put to vote.

No amendment to any proposed Resolution should be made if it in any way alters the substance of the Resolution as set out in the Notice. Grammatical and clerical errors may be corrected or words translated into more formal language and, if the precise text of the Resolution was not included in the Notice, it may be corrected into a formal resolution, provided there is no departure from the substance as stated in the notice.

12. Reading of report/certificate

12.1 The entire Auditor's Report including the Statement pursuant to the Manufacturing and other Companies Auditor's Report Order should be read at the Annual General Meeting.

12.2 The Compliance Certificate given by the Practising Company Secretary and attached to the Directors' Report should be read at the Annual General Meeting.

13. Distribution of Gifts

No gifts, gift coupons, or cash in lieu of gifts should be distributed to members at or in connection with the meeting.

14. Adjournment of meetings

14.1 A duly convened meeting should not be adjourned arbitrarily by the Chairman. The Chairman may adjourn a meeting with the consent of the members and shall adjourn a meeting if so decided by the members.

Meetings may be adjourned for want of requisite Quorum. The Chairman may adjourn a meeting in the event of disorder or other like causes, where it becomes impossible to conduct the meeting and complete its business.

14.2 If a meeting is adjourned *sine-die* or for a period of thirty days or more, a Notice of the adjourned meeting should be given in accordance with the provisions contained hereinabove relating to notice.

14.3 If a meeting is adjourned for a period of less than thirty days, in the case of listed companies with more than 5,000 members, notice thereof specifying the day, date, time and venue of the meeting should be published immediately in a newspaper having a wide circulation within such States of India where more than 1,000 members reside.

14.4 If a meeting, other than a requisitioned meeting, stands adjourned for want of Quorum, the adjourned meeting should be held on the same day, in the next week at the same time and place or on such other day at such other time and place as may be determined by the Board. In the case of listed companies with more than 5,000 members, notice thereof, specifying the day, date, time and venue of the meeting, should be published immediately in a newspaper having a wide circulation within such States of India where more than 1,000 members reside.

If, at an adjourned meeting, a Quorum is not present within half an hour from the time appointed, the members present, being not less than two in number, will constitute the Quorum.

14.5 If, within half an hour from the time appointed for holding a requisitioned meeting, a quorum is not present, the meeting shall stand dissolved.

14.6 At an adjourned meeting, only the unfinished business of the original meeting should be considered.

Any Resolution passed at an adjourned meeting would be deemed to have been passed on the date of the adjourned meeting and not on any earlier date.

15. Minutes

15.1 Minutes should contain a summary of the proceedings of the meeting, recorded fairly, correctly, completely and in unambiguous terms, and should be written in third person and past tense.

15.2 The Minutes should be entered and signed within thirty days from the conclusion of the meeting.

In case a meeting is adjourned, minutes should be entered in respect of the original meeting as well as the adjourned meeting within thirty days from the dates of the respective meetings.

The pages of the minute book should be consecutively numbered. The minutes should be dated and signed by the chairman of the meeting within a period of thirty days or, in the event of death or inability of the Chairman within that period, by a Director who was present in the meeting and authorised by the Board for the purpose.

15.3 The Chairman should initial each page of the minutes, sign the last page of the minutes and append to such signature the date on which he has signed the minutes.

15.4 Minutes, once entered in the Minutes Book, should not be altered. However, minor errors may be corrected and initialled by the Chairman even after the Minutes have been signed.

15.5 Minutes should not be pasted or attached to the Minutes Book.

15.6 Minutes, if maintained in loose-leaf form, should be bound at reasonable intervals.

16. Recording in the Minutes

16.1 The name of the Chairman of the meeting and the names of directors including the Chairman of the Audit Committee, if any, present at the meeting should be recorded.

16.2 The number of members required to form the quorum and the fact that the required quorum was present should be recorded.

16.3 The number of members present in person and through representatives and proxies should be recorded.

16.4 The presence at the Annual General Meeting, of the Auditor and the Practising Company Secretary who has given the Compliance Certificate, should be recorded.

16.5 If the Chairman was interested in an item of business at the meeting, the fact that he vacated the Chair and requested the Vice-Chairman, if any, or some other Director or Member to Chair the meeting to transact such business, should be recorded.

17. Preservation of minutes and other records

17.1 Minutes book to record minutes of meetings should be kept separately from those books used to record minutes of any other meetings and should be kept at the registered office of the company.

17.2 The Minutes of all meetings should be preserved permanently.

Minutes can be inspected by any member. The Auditor or Cost Auditor of the company or Practising Company Secretary appointed by the company can also inspect the Minutes Book in the course of audit or certification.

17.3 Where, under a scheme of arrangement, a company has been merged or amalgamated with another company, the Minutes of all meetings of the transferor company should be preserved permanently by the transferee company, notwithstanding the fact that the identity of the transferor company may not survive such arrangement.

17.4 Office copies of notices and supporting papers relating to the Notice should be preserved in good order for as long as they remain current or for ten years, whichever is later, and may be destroyed thereafter, on the authority of the Board.

18. Disclosure

The annual report of a company should disclose particulars of all meetings held during the last three years.

Effective date

This Standard shall come into effect from 1st May, 2002.

Annexure 'A'

Form of Proxy

Name of the Company: ....

Registered Office: ....

I/We .... of .... being a member of the above-named Company, hereby appoint the following as my/our Proxy to attend and vote (on a poll)* for me/us and on my/our behalf at the .... Annual General Meeting/General Meeting of the Company, to be held on ...., ... at .... a.m./p.m. and at any adjournment thereof:

1. Mr./Ms. ...., ... (signature), or failing him-
2. Mr./Ms. ...., ... (signature), or failing him-
3. Mr./Ms. ...., ... (signature)

** I/We direct my/our Proxy to vote on the Resolution in the manner as indicated below:

Resolutions	*For*	*Against*
Resolution No. 1 [To specify]		
Resolution No. 2 [To specify]		
Resolution No. 3 [To specify]		
Resolution No. 4 [To specify]		

Affix Revenue Stamp

Number of shares held

Signed this .... day of .... 2.

Reference Folio No./ Signature(s) of Member(s)

DP ID & Client ID

(1) ....

(2) ....

(3) ....

Notes.—

1. The Proxy, to be effective should deposited at the Registered Office of the Company not less than Forty-Eight Hours before the commencement of the meeting.
2. A proxy need not be a member of the Company.
3. In the case of joint holders, the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the vote of the other joint holders. Seniority shall be determined by the order in which the names stand in the Register of members.

* Delete if the Articles give a proxy-holder the right to vote even on a show of hands.

4. This form of proxy confers authority to demand or joint in demanding a poll.
5. The submission by a member of this form of proxy will not preclude such member from attending in person and voting at the meeting.
6. **This is optional. Please put a tick mark (√) in the appropriate column against the Resolutions indicated in the Box. If a member leave the 'For' or 'Against' column blank against any or all the Resolutions, the proxy will be entitled to vote in the manner he/she thinks appropriate. If a member wishes to abstain from voting on a particular resolution, he/she should write "Abstain" across the boxes against the Resolution.
7. In case a member wishes his/her votes to be used differently, he/she should indicate the number of shares under the columns 'For' or 'Against' as appropriate.

Appendix 2

Specimen of e-Form 22

Statutory report

[Pursuant to section 165 of the Companies Act, 1956]

Note.—All fields marked in * are to be mandatorily filled.

1. (*a*) *Corporate identity number (CIN) of company — xxxxxxxxxxxxx
   (*b*) Global location number (GLN) of company —
2. (*a*) Name of company — ABC CONSULTANTS PVT. LTD.
   (*b*) Address of the registered office of the company — 4TH FLOOR, SILVER ARK PLAZA, NEW PALASIYA, INDORE (M.P.)
3. *Date of notice for holding the statutory meeting 23/11/2006 (DD/MM/YYYY)
4. *Date of the meeting 23/12/2006 (DD/MM/YYYY)
5. * Place where the meeting is to be held

	Line I	4TH, FLOOR, SILVER ARK
	Line II	20A, NEW PALASIYA
*City		INDORE
*State		MADHYA PRADESH
*Country		IN
*Pin code		452001

The Board of directors submit this statutory report to the members in pursuance of Section 165

6. *Shares allotted and cash received up to 15/11/2006 (DD/MM/YYYY)
   (*a*) Shares allotted subject to payment thereof in cash:

	Number of shares	*Nominal value of each share (in Rs.)*	*Cash received up to above date (in Rs.)*
(*i*) Equity	50,000	10	500000
(*ii*) Redeemable preference shares			
(*iii*) Preference shares other than redeemable preference shares			

(*b*) Shares allotted as fully paid-up otherwise than in cash and consideration for which they have been allotted:

	Number of shares	*Nominal value of each share (in Rs.)*	*Cash received up to above date (in Rs.)*
(*i*) Equity			
(*ii*) Redeemable preference shares			
(*iii*) Preference shares other than redeemable preference shares			

(*c*) Shares allotted as partly paid upto the extent of Rs. [ ] per share and the consideration for which they have been so allotted

	Number of shares	*Nominal value of each share (in Rs.)*	*Cash received up to above date (in Rs.)*	*Particulars of consideration*
(*i*) Equity				
(*ii*) Redeemable preference shares				
(*iii*) Preference shares other than redeemable preference shares				

Change in particulars of names, addresses and occupation of the company's directors, manager, secretary and auditor(s) (including dates of change)

7. Particulars of directors

(*i*) Director identification number (DIN) [ ]

Name [ ]

Income-tax permanent account number (PAN) [ ]

Occupation [ ]

Address

Line I [ ]

Line II [ ]

City [ ]

State [ ]

Country [ ]

Pin code [ ]

Date of change [ ] (DD/MM/YYYY)

(*ii*) DIN [ ]

Name [ ]

Income-tax permanent account number (PAN) [ ]

Occupation [ ]

Address

Line I [ ]

Line II [ ]

City [ ]

State [ ]

Country

Pin code

Date of change (DD/MM/YYYY)

(*iii*) DIN

Name

Income-tax permanent account number (PAN)

Occupation

Address

Line I

Line II

City

State

Country

Pin code

Date of change (DD/MM/YYYY)

8. Particulars of manager

Income-tax PAN

Name

Occupation

Address

Line I

Line II

City

State

Country

Pin code

Date of change (DD/MM/YYYY)

9. Particulars of secretary

Income-tax PAN

Name

Occupation

Address

Line I

Line II

City

State

Country

Pin code

Date of change (DD/MM/YYYY)

10. Particulars of auditors

(*i*) Income-tax PAN

Name

Occupation

Address

Line I

Line II

City

State

Country

Pine code

Date of change (DD/MM/YYYY)

(*ii*) Income-tax PAN

Name

Occupation

Address

Line I

Line II

City

State

Country

Pin code

Date of change (DD/MM/YYYY)

11. Particulars and proposed modifications (if any) of any contract, which is to be submitted to the statutory meeting for approval.

12. (*a*) Brief description of underwriting contracts

(*b*) Reason(s), if contract has not been carried out fully and the extent to which it has not been carried out.

Attachments

1.	*Notice of statutory meeting.	Attach	
2.	*Abstract of receipts and payments.	Attach	
3.	*Details of preliminary expenses.	Attach	
4.	Details of the arrears, if any, due on calls from directors and managers	Attach	
5.	Details of particulars of any commission and brokerage paid or to be paid in connection with the issue or sale of shares or debentures to any director or manager	Attach	
6.	Optional attachment(s) - if any	Attach	

Declaration

To the best of our knowledge and belief, the information given in this form and its attachments is correct and complete.

We have been authorised by the board of directors' resolution dated* 23/11/2006 (DD/MM/YYYY) to sign and submit this form.

To be digitally signed by

1. Managing director or director of the company ABC
2. Director of the company CDE

Certificate

We hereby certify as correct so much of the report as relates to the shares allotted by the company and to the cash received in respect of such shares and to receipts and payments.

Auditor J.P.SARAF

For office use only

This e-Form is hereby registered

Digital signature of the authorising officer

Annexure 1 to Appendix 2

Specimen of notice for calling the Statutory Meeting

NOTICE IS HEREBY GIVEN THAT the Statutory Meeting of the members of the Company be held on 22nd December, 2006 at 11.00 a.m. at the registered office of the Company to consider and approve the Statutory Report.

Copy of the Statutory Report duly certified by the directors and auditors of the company as required under the Companies Act, 1956 is annexed with the notice of the meeting.

By orders of the Board

Dated 23rd Nov., 2006 Abha Jaiswal

Indore Managing Director

Note.—Members entitled to attend and vote may, appoint one or more proxies to attend and vote instead of themselves and a proxy need not be a member. Proxies to be valid must be received at the registered office of the company not less than forty-eight hours before the appointed time of the meeting.

Annexure 2 to Appendix 2

FORMATS OF ATTACHMENT

1. Abstract of receipts and payments up to 15/11/2006

Receipts (*In Rs.*)	*Payments* (*In Rs.*)
Equity 5,00,000	Commission on issue or sale of debentures
Redeemable preference shares	Discount on issue or sale of shares
Preference shares other than redeemable preference shares	Capital expenditure- Land Building Plant Machinery
Advance payment for shares	Other items (to be specified)
Debentures	Preliminary expenses 25,305
Loans	
Deposits	
Other Sources (to be specified)	Balances In hand 4,695 At Banks 4,70,000 At Post Office Savings Bank
Total 5,00,000	Total 5,00,000

Annexure 3 to Appendix 1

1. Details of preliminary expenses (mention whether details are based on estimated in the prospectus or statement in lieu of prospectus). The details to be provided are as follows:

Particulars	*Preliminary Expenses actually incurred up to aforesaid date (In Rs.)*	*Preliminary expenses estimated to be incurred after the aforesaid date (in Rs.)*
Legal Charges	2,000	
Other charges in connection with the preparation of the memorandum and articles of association	1,000	
Printing Expenses	1,500	
Registration charges	19,200	
Advertisement Charges		
Commission on issue or sale of shares		
Discount on issue or sale of shares		
Other initial expenses (To be specified) Stationery	2,605	
Total	25,305	

Appendix 3

Specimen of Board resolution for signing of the Statutory Report and calling of statutory meeting

RESOLVED THAT the Statutory Report, submitted to this meeting and initialled by the Chairman for the purpose of identification, be and is hereby approved and the same be signed by Shri VKL, Managing Director and Shri ASJ, Director on behalf of the Board of directors, and that it be sent to all eligible members along with the notice of the statutory meeting.

RESOLVED FURTHER THAT the Statutory Meeting of the Company be held on 22nd Dec., 2006 at 11.00 a.m. at the registered office of the Company.

RESOLVED FURTHER THAT the notice of the Statutory Meeting, submitted to this meeting and initialled by the Chairman for the purpose of identification, be and is hereby approved and Shri PP, Company Secretary be and is hereby authorised to sign and issue the same to all eligible members of the company.

RESOLVED FURTHER THAT Shri PP, Company Secretary be instructed to file the statutory report with the Registrar after it has been sent to the members.

Appendix 4

Specimen of detailed agenda for the Chairman for conducting Annual General Meeting

PROCEDURE TO BE FOLLOWED AT THE 10TH ANNUAL GENERAL MEETING OF NPL LIMITED TO BE HELD ON ...... THE ..TH DAY OF .... 2006, AT THE REGISTERED OFFICE OF THE COMPANY AT NAGPUR-KALAN ORDNANCE FACTORY ROAD, ITARSI (M.P.) AT 2.00 P.M

BEFORE THE MEETING:

A. Attendance at the Meeting:

(Members present to sign the Attendance register)

Shri .... shall keep the Attendance register.
Shri........... shall verify name of the shareholders.

B. Seating Arrangements & Refreshment:

Shri .... available at the meeting hall to look after proper seating arrangement of the Members.
Shri ....shall arrange to serve refreshment.

C. Records & Books:

Shri ..... and Shri ...... shall make available the following books:

1. Minutes book of last AGM.
2. Register of members.
3. Register of director's shareholding.
4. Prospectus of the company.
5. Companies Act, 1956
6. Income-tax Act, 1961.
7. Register of Proxy Forms received.
8. Original signed copy of the Accounts, Auditors & Directors' Report and Notice of the meeting.
9. Amended copy of the Articles & Memorandum.
10. Register of directors.
11. Attendance Register of members.
12. Register of Proxy holders.
13. Register of share transfers.
14. 25 spare copies of the annual report.
15. Adequate folders for the directors, auditors & the secretary.

AT THE MEETING:

1. Shri .... shall occupy the Chair.
2. Shri ......, The Company Secretary: Sir, More than five members are present in person thereby constituting quorum for the meeting, the proxy forms received have also been placed therefore, the meeting may be commenced.

The Chairman shall welcome & declare that the meeting is in order : Notice of the meeting and Explanatory Statement attached with the notice along with the Balance Sheet and Profit and Loss Account for the year ended 31st March, 2006 and the Directors' Report, with the consent of the members shall be taken as read.
The Chairman shall ask the secretary to read the Auditors' Report & Shri ....the Secretary shall read the same at the meeting.

The Chairman : Shall proceed the meeting as per Agenda Items of the notice for the meeting.

ITEM NO. 1 APPROVAL OF ACCOUNTS:

The Chairman : Put the following motion for approval.
RESOLVED THAT the Balance Sheet as at 31st March, 2006 and Profit & Loss Accounts of the company for the year ended 31st March, 2006 alongwith the Directors' Report together with the Report on Corporate Governance & Auditors' Report thereon as placed before the meeting be and is hereby received, considered and adopted.

The Chairman : Shall ask the members to raise their questions on the Accounts and operations of the company.

		If their is any question or query, the Chairman reply suitably on the questions/ comments and then request to second the resolution.
Shri	:	Sir, I second the resolution for approval.
The Chairman	:	Shall put the motion for voting and ask. Any body opposing: .... Who are in favour, raise their hands: after ascertaining the same he shall declare the result. Results: carried unanimously/by majority.

ITEM NO. 2 FOR APPROVAL OF DIVIDEND FOR THE YEAR 2005-06

The Chairman	:	Put the following motion for approval. **RESOLVED THAT** in terms of the recommendation of the Board of directors of the Company, the approval of the members of the Company be and is hereby granted for payment of dividend @ 2% per on the Equity Share of the Company for the year 2005-06 and the same be paid to all the members whose names appear in the register of members and in case of the shares held in the electronic mode to those members whose names appears in the records of the Depository participants as on xx.xx.xxxx.

ITEM NO. 3 FOR RE-APPOINTMENT OF THE DIRECTOR SHRI ....:

Shri	:	Proposed Item No. 3 as set out in the notice for approval of re-appointment of Shri .... who retires by rotation and being eligible offers himself for re-appointment as director.
Shri............	:	Seconded the resolution.
The Chairman	:	Shall put the motion for voting and ask. Any body opposing: .... Who are in favour, raise their hands: after ascertaining the same he shall declare the result. Results: carried unanimously/by majority.

ITEM NO. 4 FOR RE-APPOINTMENT OF AUDITORS:

The Chairman	:	M/s ...., Chartered Accountants retiring auditors at this Annual General Meeting, he had informed that the company have received the certificate from the Auditors in terms of section 224(1B) of the Companies Act, 1956.
Shri	:	Proposed for the re-appointment of Auditors and submitted the following motion for approval as an ordinary resolution: **RESOLVED THAT** M/s ...., Chartered Accountants, the Auditors of the company be and is hereby re-appointed as the Auditors of the company to hold the office of the Auditors till the conclusion of the next Annual General Meeting on such remuneration as may be determined by the Board and agreeable to the Auditors.
Shri.............	:	Seconded the resolution.
The Chairman	:	Shall put the motion for voting and ask. Any body opposing: .... Who are in favour, raise their hands: after ascertaining the same he shall declare the result. Results: carried unanimously/by majority.

ITEM NO. 5 FOR RE-APPOINTMENT OF WHOLE TIME DIRECTOR:

Shri	:	Proposed Item No.5 as set out in the Notice for re-appointment of Shri .... as the Whole-time director of the company for approval as an ordinary resolution.

		RESOLVED THAT pursuant to the provisions of sections 198, 269, 302, 309, 310 read with Schedule XIII and other applicable provisions of the Companies Act, 1956 if any, and subject to the approval of the Central Govt. if required, Shri .... be and is hereby re-appointed as the Whole-time Director of the company for a further period of two years w.e.f. 1st August, 2006 on the terms, conditions and remuneration as specified in the explanatory statement attached hereto.
The Chairman	:	Shall put the motion for voting and ask. Any body opposing: .... Who are in favour, raise their hands: after ascertaining the same he shall declare the result. Results: carried unanimously/by majority
Shri. ..... Company Secretary	:	Sir, Being no other Business, meeting may be terminated with a vote of thanks to the Chair.
The Chairman	:	Shall place on records his thanks to the members for their valuable suggestions and interest shown in the company's business and shall declared the meeting concluded.

Appendix 5

Specimen of time bound activity chart for holding of the 3rd Annual General Meeting of M/s Ral Agrotech Ltd. to be held on Friday, the 30th day of September, 2006 at the Registered Office of the company at, 124 Radio Colony, Indore - 452001 (M.P.) at 11.00 a.m.

Proposed date of Annual General Meeting: Friday the 30th September, 2006

Sl. No.	*Activities*	*Targeted date*	*Actual date*	*Latest date*
I. PRE-MEETING ACTIVITIES:				
1.	Holding Board meeting for the followings:	20-08-2006		30-08-2006
	(*a*) Approval of accounts by the Board			
	(*b*) Get accounts certified by the auditors			
	(*c*) Obtain report from the auditors			
	(*d*) Approve the book closure			
	(*e*) Approve Directors' Report			
	(*f*) Consider businesses to be transacted in AGM			
	(*g*) Decide, date, venue & time of AGM			
	(*h*) Approve notice of the AGM			
2.	Inform to Stock Exchanges about book closure	10-08-2006		16-08-2006
3.	Inform to the Share transfer agent about the Annual General Meeting and Book Closure.	31-08-2006		15-09-2006
4.	Update share transfer register & member's register for dispatch of annual report.	25-08-2006		30-08-2006
5.	Call and finalise the quotation from printer for printing of annual report.	15-08-2006		25-08-2006
6.	Place order for printing of annual report.	16-08-2006		20-08-2006
7.	Get ready address slip as per Register of members and mailing list for bankers, institutions, press, brokers, etc.	27-08-2006		30-08-2006

Sl. No.	Activities	Targeted date	Actual date	Latest date
8.	Check proof of the annual report & confirm to printer.	20-08-2006		28-08-2006
9.	After receipt of annual report dispatch the same to all members, auditors, directors, Stock Exchange (Where the shares are listed in three copies).	30-08-2006		05-09-2006
10.	Keep available the updated Register of director's shareholding, copy of the material documents as per notice for inspection.	10-09-2006		15-09-2006
11.	Give notice in the newspaper about Book Closure and proposed AGM date, etc.	08-09-2006		15-09-2006
12.	Forward copy of the above notice to the Stock Exchange.	15-09-2006		20-09-2006
13.	Complete all the transfer cases received till the date of beginning of the Book closure.	28-09-2006		29-09-2006
14.	Get details of the delegates to be on the dias.	25-09-2006		27-09-2006
15.	Obtain updated Register of members, distribution schedule, alpha schedule, shareholding pattern as per LF order from the share transfer agent.	29-09-2006		29-09-2006
16.	Check and record the Proxy Forms received in the Register of Proxy up to 48 hours before the time of the meeting	28-09-2006		30-09-2006
17.	Make reservation of the Travel & Hotel arrangements for the outside directors/auditors, if any.	as per needs		
18.	Prepare proper questionnaire & their answer camera, etc.	25-09-2006		27-09-2006
II. AT THE MEETING:				
1.	Arrange for the following documents at the place of the meeting: (*a*) at least 25 copies of the annual report (*b*) copy of the prospectus (*c*) Register of members (*d*) Distribution schedule (*e*) Alpha schedule (*f*) Share Transfer Register (*g*) Statutory Register (*h*) Memorandum and Articles of Association (*i*) Original copy of the A/Cs and Auditor's Report (*j*) Principal Books of Accounts (*k*) Latest Companies Act, Income-tax Act. (*l*) Register of Proxy holders (*m*) Attendance Register of members (*n*) Chairman Speech	10.00 AM		
2.	Welcome the members/proxy holders and obtain their signatures on the Attendance Register for verification.	10.30 AM		
3.	Confirm the quorum available at the meeting.	11.00 AM		
4.	The chairman to proceed to start the meeting.	11.00 AM		
5.	Arrange for refreshment for the members. as per needs			
III. AFTER THE MEETING:				
1.	Send six certified true copies of the Balance Sheet, P & L A/c, Director's & Auditor's report duly approved by the meeting to each stock exchange where the shares are listed and one copy to all other stock exchanges in India.	30-9-2006		29-10-2006

2.	Inform the Auditors about their appointment	30-9-2006	7-10-2006
3.	Prepare minutes of the meeting and file three copies of the proceeding of the meeting to Stock Exchanges where the Shares are listed.	30-9-2006	29-10-2006
4.	File Annual Return duly certified by the Practising Company Secretary to ROC.	15-10-2006	29-11-2006

Appendix 6

Specimen of e-Form 61

Form for filing an application with Registrar of Companies

[Pursuant to sections 166, 210, 394, 560, 621A of the Companies Act, 1956]

Note: All fields marked in * are to be mandatorily filled.

1. (*a*) *Corporate identity number (CIN) of company: xxxxxxxxxxxxxx

   (*b*) Global location number (GLN) of company:

2. (*a*) Name of the company: ABC INDUSTRIES LIMITED

   (*b*) Address of the registered office of the company: 4TH FLOOR, SILVER ARK PLAZA, 20A, NEW PALASIYA INDORE (M.P.) 452001

3. *Application filed for

☐ Compounding of offences

☑ Extension of period of annual general meeting by three months under section 166(1)

☐ Exemption from holding annual general meeting at the registered office under section 166(2)

☐ Extending the period of annual accounts upto eighteen months under section 210(4)

☐ Declaring a defunct company under section 560

☐ Amalgamation

☐ Others

4. If others, then specify ☐

5. Whether application for compounding offence is filed by

   ○ Company ○ Director ○ Manager or secretary ○ Other

6 Director identification number (DIN) or income-tax permanent account number (PAN) ☐

7. Name of the applicant ☐

8. (*a*) Service request number of Form 23 ☐

   (*b*) Date of passing special or ordinary resolution ☐ (DD/MM/YYYY)

   (*c*) Date of filing Form 23 ☐ (DD/MM/YYYY)

9. *Details of application

   Application for seeking extension of time for a period of 3 months for holding the annual general meeting of the company.

Attachments

1.	Board resolution.	Attach	
6.	Optional attachment(s), if any.	Attach	

Declaration

To the best of my knowledge and belief, the information given in this application and its attachments is correct and complete. I have been authorised by the Board of directors' resolution dated 28/08/2006 (DD/MM/YYYY) to sign and submit this application.

To be digitally signed by

Managing director or director or manager or secretary of the company ISHAN JAIN

Certificate

It is hereby certified that I have verified the above particulars from the books of account and records of ABC INDUSTRIES LIMITED and found them to be true and correct.

Chartered accountant or cost accountant or company secretary (in whole-time practice) D.K. Jain

For office use only

Digital signature of the authorising officer

This e-Form is hereby approved

This e-Form is hereby rejected

Annexure 1 to Appendix 6

Specimen of Board resolution for seeking extension of time for holding annual general meeting

RESOLVED THAT an application under Section 166 of the Companies Act, 1956 be submitted to the Registrar of Companies for extension of time for holding the annual general meeting upto the period of 3 months *i.e.* 27th December, 2006.

RESOLVED FURTHER THAT Shri Ishan Jain, Director of the Company be and is hereby authorised to comply with all other formalities in this regard and to submit e-Form 61 with the Registrar of Companies.

Appendix 7

Specimen of Board resolution for extension of financial year

RESOLVED THAT subject to the permission of the Registrar of Companies, Income Tax authorities and such other approvals and sanctions as may required in this regard, an application under Section 210(4) of the Companies Act, 1956 be submitted to the Registrar of Companies for extension of financial year and for preparation of accounts covering a period of 18 months *i.e.* from 1st April 2004 to 30th September, 2005 and that Shri ABC, the Company Secretary be and is hereby authorised to comply with all other formalities in this regard.

RESOLVED FURTHER THAT the subsequent financial years of the company be commencing from 1st October 2005 and ending on 30th September 2006.

RESOLVED FURTHER THAT an application also be made under section 166 of the Companies Act, 1956 for obtaining the permission for extension of holding the Annual General Meeting of the Company for the calendar year 2005 up to 31st March, 2006.

RESOLVED FURTHER THAT Mr. PQR, the Director of the Company be and is hereby authorised to make application on behalf of the Company and to do all such acts, deeds and things as may be required to be done for giving effect to the aforesaid resolution including authorising any official or any other representative to represent the Company before the Registrar of Companies.

RESOLVED FURTHER THAT consent of Income Tax authorities shall also be obtained in this regard and that Mr. ABC, the Company Secretary be and is hereby authorised to obtain the consent.

Chapter 2

Board Meetings

Synopsis

Important Provisions at a Glance

Sl. No.	*Sections*	*Matters dealt with*	*Form Nos.*
1.	285	Meetings of Board to be held at least in every three calender months.	
2.	286	Notice for meetings of Board.	
3.	287	Quorum for the meeting of Board.	
4.	288	Adjournment of Board meeting for want of quorum.	

A meeting of the Board of directors is an important forum in the working of companies. Several statutory prescriptions are incorporated in the Companies Act, 1956, to ensure that the actions approved by the Board are in the interest of the company and reflect the fiduciary nature of the duties of directors. These are explained below (Secretarial Standards issued by the Institute of Company Secretaries of India has been given in Appendix 1):

1. Periodicity of the Board Meetings

Section 285 of the Act provides that every company, private or public, shall hold at least one meeting of the Board in a period of three months and four meetings in a year. There is no need to ensure a gap of not more than three months between two meetings. But in a company registered under section 25 of the Companies Act, has privileges that the Board or the Governing Body may meet at least once in six months (Notification No. SO 578, dated 8-7-1961).

2. Interval between two Board Meetings

The Department has clarified *vide* Circular letter No. 40/3/72-CL-III, dated 2-6-1973, that there is a clear distinction between 'every' and 'each'. 'Every' directs attention chiefly to the totality, 'each' chiefly to the individual's composing it. In view of this distinction, the expression 'every three months' occurring in section 285 should naturally means three months taken together. Provisions of section 285 will be fulfilled if the Board of directors meets on the first of January, or the 31st March, or any date in between. Next three months should naturally comprise April to June. It is open to the Board of directors to meet on any date during three months from April to June. Similarly, the Board may, at least, meet on a particular date during July to September and so on. In section 285 there is no scope for making backward calculation.

3. Notice of Board Meeting

Section 286 of the Companies Act, stipulates that a meeting of the Board of directors shall be held after giving notice. The notice shall be given in writing to every director in India and at his usual address in India. Notice shall be given reasonably in advance say for seven days before the date of the meeting.

Although it is not incumbent to give notice to a foreign director at the address outside India. However, sound corporate practice requires that notice to be sent to all directors, whether in India or outside.

4. Agenda for the Board Meeting

Section 286 does not say that every item, which is discussed at the Board meeting must be specified on the agenda of the Board meeting. In fact, the section does not refer to any agenda. Law does not require an agenda for a meeting of the board of directors and any business whatsoever can be transacted at the Board meeting.

Thus, non-mentioning of an item in agenda, at the highest would only be an irregularity. [*Dr. Banoo J. Coyajee* v *Shanta Genevieve Pommeret Parulekar* (1995) 84 Comp Cas 534 (Bom)].

However, it is generally recognised that an agenda sent in advance of the meeting facilitates fruitful consideration of matters put before the Board. However, it is a general practice with well managed companies to forward an agenda for the meeting. A further refinement that is followed in well run public companies is the practice of sending with the agenda, brief notes thereon which promotes a better understanding of the business to be transacted at the meeting. However, the chairman will be free to allow consideration of matters not included in the agenda. [*Suresh Chandra Marwaha* v *Laids* (*P*) *Ltd*. 1978) 48 Comp Cas 110 (P&H)]. It may be appreciated that while the Board is a formal body, the discussions therein reflect a spirit of informality.

Even if there is no specific agenda, under the miscellaneous items ‘with the permission of the chairman’ any other business may be transacted.

Therefore, simply because removal of chairman is not mentioned in agenda of meeting, resolution for removal of chairman passed by majority directors, cannot be said to be invalid particularly when chairman himself has raised such issue in meeting. [*Kashinath Tapuriah* v *Incab Industries Ltd.* (1995) 6 SCL 201 (Cal.)].

5. Who can convene a Board Meeting

Generally the Secretary or a director on the direction of the Chairman/Managing Director shall call a Board meeting. The Articles describe the procedure in that matter.

6. Quorum of the Board Meeting

In terms of the provisions of section 287 of the Companies Act, 1956, the quorum for a Board meeting shall be one-third of its total strength of directors who are in office or two directors, whichever is higher. Any fraction arising in counting of one-third will be rounded off as one. For example, in a Board having seven directors, the quorum shall be three directors. It is also provided that where the interested directors exceed or equal two-thirds of the total strength, the number of remaining disinterested directors present at the meeting being not less than two shall be the quorum of that business of the meeting. This section also applies to a private company.

Section 287(2) lays down only minimum number to form a quorum; the company by its articles can provide for a higher number as quorum.

In the case of section 25 company, the Central Government has issued a Notification No. SO 1578, dated 8-7-1961, that the quorum fixed shall be either eight members or one-fourth of the total strength of the Board, whichever is less, but not less than two directors of the company.

7. Quorum required throughout the meeting

It has been held that the required quorum should be present throughout the continuance of the Board meeting. [*Bell* v *Royal Western India Turf Club Ltd*. AIR 1946 Bom 88] If any director leave the meeting for some moment and rejoin the meeting, it is advisable to record his period of absence in the minutes of the Board meeting for reference.

8. Quorum in case where all directors except one are interested

Where all the directors except, one are interested in a matter, the only way available with the company to resolve the matter is that to call a general meeting and get the approval of members to the matter in question. Another way available is to appoint more number of directors on the Board who are not interested in a matter. [*Rajan Nagindas Joshi* v *British Burma Petroleum Co. Ltd*. (1972) 42 Comp Cas 197 (Bom)].

Day, Date, Time and Place for Holding Board Meetings

9. Day of holding meeting

Board meetings are normally held during business hours and on a day, which is not a public holiday. However, a Board meeting may validly be held on public holiday. Department has clarified *vide* Letter No. 8/11(285)/63-PR, dated 2-5-1963 that it would not raise any objection if an original Board meeting is held on a public holiday for the convenience of the directors although it considers that an original Board meeting should normally be held only on a working day.

10. Time of holding Board Meetings

Board meetings may be held during business hours or outside business hours. There is no restriction on that matter under the Act.

11. Place for holding Board Meetings

Board meetings can be held at any place whether it be a company's registered office or head office or any other premises and whether or not it is within the same city, town, village or state in which the registered office of the company is situated. Board meeting can also be held at places other than these places including abroad.

12. Time, day and place for holding adjourned Board Meetings

As per provisions of section 288(1), if a Board meeting is adjourned for want of quorum then the adjourned meeting shall be held at the same day in the next week at the same time and place or if the day is a public holiday till the next succeeding day which is not a public holiday at the same time and place. Therefore, an adjourned meeting should be held only on a working day.

13. Director cannot appoint a Proxy for Board Meetings

The Companies Act provides that it is necessary for the directors to attend the Board meetings personally once in every quarter. Proxies are not allowed at Board meetings and directors are not allowed to appoint their representatives to attend the Board meetings and cast vote on their behalf.

One direct consequence of numerous joint ventures with overseas partners is that a large number of expatriate directors are required to attend Board meetings, which must necessarily be held once in a quarter. It was concluded in many sections of the Act that it would become unworkable if proxies are allowed to attend the Board meetings on behalf of the directors. In case of directors are not available for a period of three months or more, in the state in which generally the meetings of the Board are held it is possible to appoint an alternate director under the provisions of section 313 of the Companies Act, 1956.

14. Appointment of observer for the Board Meetings

As such a director cannot appoint a proxy or his representative to attend and cast his vote at the Board meetings on his behalf. However, nominee directors are allowed to appoint observes to attend the Board meetings as per the terms of the loan agreement entered with the company.

A director may also appoint with the consent of the Board, an observer to observe the proceedings of the Board meeting, if he is not available to attend the meeting. An observer has no right to speak or vote at the meeting.

15. Payment of sitting fees

The directors are allowed to receive sitting fees for each meeting of the Board or a committee thereof attended by them. The sitting fees payable by public companies and private companies subsidiary to public companies to their directors for attending the Board meeting or committee thereof has been revised w.e.f. 24th July, 2003. The directors of companies with a paid-up share capital and free reserves of Rs. 10 crore and above or turnover of Rs. 50 crore and above, shall be paid sitting fees not exceeding Rs. 20,000 and directors of other companies will be paid sitting fees not exceeding Rs. 10,000.

16. Adjournment of Board Meeting

Section 288 of the Companies Act, 1956 provides that if a meeting of the Board cannot be held for want of quorum, then unless the Articles otherwise provide, the meeting shall automatically be adjourned till the same day in the next week, at same place, or if that day is a public holiday, till the next succeeding day which is not a public holiday.

In such case, it will not be considered any contravention of section 285 of the Act, if the Board meeting was called in compliance with the terms of section 285 and could not be held for want of quorum.

17. Cancellation of convened Board Meeting

When the items of business for which Board meeting was convened have been altered or become non-existent than Board meeting convened may be cancelled by a notice to the director. Regulation 73(1) says that the Board of directors may meet for the despatch of business adjourn and otherwise regulate its meetings, as it thinks fit. The Articles of Association of the company may contain procedures regarding cancellation of Board meetings. If the postponement of the meeting is enough, Board meeting will not be cancelled.

Matters to be considered by the Board

18. Matters, which shall always be considered at the meeting of the Board

There are specific provision in the Act that certain matters, which are of importance to the company, shall always be considered at a meeting of the Board and accorded approval by resolution as per provisions of section 292 of the Act, as given below:

1. Making calls on shareholders in respect of money remaining uncalled.
2. Issuance of debentures.
3. Borrowing moneys otherwise than by issue of debentures.
4. Investing funds of the company.
5. Making loans to others.

It is also provided in the section that the Board may delegate by a resolution to a committee of directors, the managing director, manager or a principal officer of the company, any of the powers at items (3), (4) and (5) in the following manner:—

(*i*) The delegation to borrow shall state the amounts up to which money may be borrowed by the delegatee.

(*ii*) The delegation to invest funds shall state the total amount up to which the fund may be invested and the nature of the investments that may be made.

(*iii*) The delegation to make loans shall specify the total amount up to which loans may be made by the delegatee, the purpose for which the loans may be made and the maximum amount that can be made for each such purpose.

19. Other matters which shall be considered at Board meeting mandatorily

These matters are discussed in brief herein under:—

(*i*) Approval of contracts under section 297(1) are approved by the Board, the consent of the Board is accorded by a resolution at a Board meeting.

(*ii*) Where any director is interested in a contract directly or indirectly, the disclosure of his interest shall be made at a meeting of the Board as per section 299. The general notices received from directors under the latter section shall be read at a meeting of the Board and noted by it.

(*iii*) A casual vacancy on the Board, where it is filled, shall be made by the Board at a meeting as per provisions of section 262 of the Act.

(*iv*) Where a company proposes to make a political contribution, the proposal shall be approved by resolution at a meeting of the Board as required under section 293A of the Act.

(*v*) The register of interested contracts shall be placed before a meeting of the Board for signature. [Section 301]

(*vi*) The notice from a director regarding his shareholding or change thereon shall be given and read at a meeting of the Board. [Section 308]

(*vii*) Where it is proposed to appoint a person as a managing director who is already managing director in any other company including a private company or as manager who is manager or managing director of any other company, notice of the draft resolution shall be given to all the directors than in India and the proposal shall be approved at a Board meeting by resolution. Another requirement here is that the resolution shall be approved unanimously. [Sections 316/386]

(*viii*) In terms of section 372A there are two circumstances when the matters are required to be decided at a meeting of the Board. These are quoted below:—

(*i*) Where the aggregate of the loans and investments so far made and the amount of guarantee or security so far provided along with the loan, investment and guarantee/security proposed to be made or given exceed the limits specified in section 372A, the Board without being previously approved by the company in general meeting may give the guarantee/security on behalf of a body corporate when the proposal is, *inter alia*, approved at a meeting of the Board by a resolution.

(*ii*) No loan or investment or guarantee/security covered by section 372A can be made or given unless the resolution sanctioning it is passed at a meeting of the Board with the consent of all the directors present, when the aggregate amounts are within the limits specified or in excess thereof.

(*ix*) The text of the advertisement for inviting and accepting deposits by a public company shall be approved at a Board meeting. [Section 58A]

20. Other matters that are generally placed before the Board meeting

In addition to the items referred to above, there are various other matters, as illustrated below in the routine working of a company which are considered by the Board at Board meetings:—

(*i*) Issuance of shares.

(*ii*) Allotment of shares and debentures.

(*iii*) Appointment of directors and Managing Director/Whole-time Director.

(*iv*) Consideration of Annual Accounts.

(*v*) Approval of interim dividend and recommendation of final dividend.

(*vi*) Appointment of sole selling/buying agents.

(*vii*) Merger and amalgamation of companies.

(*viii*) Inter-corporate loans and providing security and guarantee.

(*ix*) Capitalisation of reserves and issuance of bonus shares.

(*x*) Appointment of auditors in casual vacancy caused otherwise than by resignation.

(*xi*) Appointment of whole time secretary for issuance of compliance certificate.

(*xii*) Further, where proposals are initiated by the Board and recommended for the consideration of the company in general meeting, all these matters are first considered at a meeting of the Board.

Appendix 1

Text of the Secretarial Standard (SS-1) on the Meetings of the Board of directors[1]

Preface to the Secretarial Standards

Secretarial Standards Board and its Objectives

The Institute of Company Secretaries of India, (ICSI), recognising the need for integration, harmonisation and standardisation of diverse secretarial practices, has constituted the Secretarial Standards Board (SSB) with the objective of formulating Secretarial Standards.

Scope and Functions of the Secretarial Standards Board

The scope of SSB is to identify the areas in which secretarial standards need to be issued by the Council of ICSI and to formulate such standards, taking into consideration the applicable laws, business environment and best secretarial practices. SSB will also clarify issues arising out of such standards and issue guidance notes for the benefit of members of ICSI, corporates and other users.

The main functions of SSB are:

- formulating Secretarial Standards;
- clarifying issues arising out of the Secretarial Standards;
- issuing guidance notes; and
- reviewing and updating the Secretarial Standards/Guidance Notes at periodic intervals.

Need for Secretarial Standards

Companies follow diverse secretarial practices and, therefore, there is a need to integrate, harmonise and standardise such practices so as to promote uniformity and consistency.

Scope of Secretarial Standards

The secretarial standards do not seek to substitute or supplant any existing laws or the rules and regulations framed thereunder but, in fact, seek to supplement such laws, rules and regulations.

Secretarial standards that are issued will be in conformity with the provisions of the applicable laws. However, if, due to subsequent changes in the law, a particular standard or any part thereof becomes inconsistent with such law, the provisions of the said law shall prevail.

ICSI will endeavour to persuade the Government and appropriate authorities to enforce these Standards, to facilitate the adoption thereof by industry and corporate entities in order to achieve the desired objective of standardisation of secretarial practices.

Procedure for issuing Secretarial Standards

The following procedure shall be adopted for formulating and issuing secretarial standards:

SSB, in consultation with the Council, shall determine the areas in which secretarial standards need to be formulated and the priority in regard to the selection thereof.

In the preparation of secretarial standards, SSB may constitute Working Groups to formulate preliminary drafts of the proposed standards.

The preliminary draft of the secretarial standard prepared by the Working Group shall be circulated amongst the members of SSB for discussion and shall be modified appropriately, if so required.

The preliminary draft will then be circulated to the members of the Central Council as well as to the Chairmen of Regional Councils/Chapters of ICSI, various professional bodies, Chambers of Commerce, regulatory authorities such as the Department of Company Affairs, the Department of Economic Affairs, the Securities and Exchange Board of India, Reserve Bank of India, Department of Public Enterprises and to such other bodies/organizations as may be decided by SSB, for ascertaining their views, specifying a time-frame within which such views, comments and suggestions are to be received.

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1 Issued by the Institute of Company Secretaries of India.

A meeting of SSB with the representatives of such bodies/organisations may then be held, if considered necessary, to examine and deliberate on their suggestions.

On the basis of the preliminary draft and the discussion with the bodies/organisations referred to in 4 above, an exposure draft will be prepared and published in the *Chartered Secretary*, the journal of ICSI, and also put on the Website of ICSI to elicit comments from members and the public at large.

The draft of the proposed Secretarial Standard will generally include the following basic points:—

— Concepts and fundamental principles relating to the subject of the Standard;

— Definitions and explanations of terms used in the Standard;

— Objectives of issuing the Standard;

— Disclosure requirements; and

— Date from which the Standard will be effective.

After taking into consideration the comments received, the draft of the proposed secretarial standard will be finalised by SSB and submitted to the Council of ICSI.

The Council will consider the final draft of the proposed secretarial standard and finalise the same in consultation with SSB. The secretarial standard on the relevant subject will then be issued under the authority of the Council.

Compliance with Secretarial Standards

In the initial years, the secretarial standards will be recommendatory.

The Institute will request the Government and other appropriate authorities to enforce these Standards and will endeavors to educate the users about the utility and need for compliance with these Standards. The Standards would be made mandatory thereafter.

Secretarial Standard on meetings of the Board of Directors

The following is the text of the Secretarial Standard-1 (SS-1) issued by the Council of the Institute of Company Secretaries of India, on *Meetings of the Board of directors*.

In the initial years, adherence by a company to this Secretarial Standard will be recommendatory.

Introduction

This Standard seeks to prescribe a set of principles for the convening and conduct of meetings of the Board of directors and matters related thereto.

The principles enunciated in this Standard for meetings of the Board of directors are equally applicable to meetings of Committees, unless otherwise stated herein or otherwise stipulated by any other applicable guidelines, Rules or Regulations.

Although a company is a legal entity, it cannot act by itself and can do so only through its directors, thus establishing a relationship of principal and agent. Moreover, directors are in a fiduciary position *vis-a-vis* the company and, to that extent, they are also deemed to be trustees of the properties and assets of the company. They owe a duty to the shareholders and should exercise care, skill and diligence in the discharge of their functions and in the exercise of the powers vested in them. All the powers vested in directors are exercisable by them only collectively. As an individual director, no director has the power to act on behalf of the company unless such powers have been delegated to him by the Board.

Definitions

The following terms are used in this Standard with the meaning specified:—

"*Act*" means the Companies Act, 1956 (1 of 1956), or any statutory modification or re-enactment thereof and includes any Rules and Regulations framed thereunder.

"*Articles*" means the Articles of Association of a company, as originally framed or as altered from time to time, including, where they apply, the Regulations contained in the Tables in Schedule I to the Act.

"*Board*" means the Board of directors of a company.

"*Chairman*" means the Chairman of the Board, or the Chairman appointed or elected for a meeting.

"*Committee*" means a Committee of the Board.

"*Disinterested Director*" means a Director who is not an Interested Director.

"*Interested Director*" means a director whose presence cannot count for constituting a Quorum and who can neither participate in the discussion nor vote on an item of business since he is, directly or indirectly, concerned or interested in the contract or arrangement forming part of the business under consideration by the Board.

"*Meeting*" means a meeting, duly convened and constituted, of the Board or any Committee thereof.

"*Original Director*" means a director in whose place the Board has appointed any other individual as an Alternate Director.

"*Quorum*" means the minimum number of directors whose presence is necessary for a meeting.

"*Unpublished price sensitive information*" means any information which is material and is generally not known or is not published by the company for general information but which, if published or known, is likely to materially affect the price of the securities of the company. Such information includes financial results, intended declaration of dividend, announcement of bonus, rights shares and other corporate benefits, issue of securities, any major expansion plans or execution of new projects, amalgamation, merger and takeovers, de-mergers, compromise or arrangement with creditors and members, disposal of the whole or substantially the whole of the undertaking, any changes in policies, plans or operations of the company, and such other information as may affect the earnings of the company.

Words and expressions used herein and not defined shall have the meaning respectively assigned to them under the Act.

Secretarial Standards

1. Convening a Meeting

1.1 Authority

Unless the Articles provide otherwise, any director of a company may, and the Manager or Secretary on the requisition of a director should, at any time, summon a meeting of the Board.

1.2 Notice

1.2.1 Notice in writing of every meeting should be given to every director by hand or by post or by facsimile or by e-mail or by any other electronic mode. Where a director specifies a particular mode, the Notice should be given to him by such mode.

1.2.2 The Notice should specify the day, date, time and full address of the venue of the meeting. A meeting may be held at any time, on any day, including a public holiday, and at any place.

1.2.3 The Notice of a meeting should be given even when meetings are held on pre-determined dates or at predetermined intervals.

1.2.4 Unless the Articles prescribe a longer notice period, Notice should be given at least fifteen days before the date of the meeting.

Notice need not be given of an adjourned meeting other than a meeting that has been adjourned *sine die*. However, Notice of the reconvened adjourned meeting should be given to those directors who did not attend the meeting, which had been adjourned.

1.2.5 No business should be transacted at a meeting if notice in accordance with this Standard has not been given.

1.2.6 The Agenda, setting out the business to be transacted at the meeting, and notes on Agenda should be given at least seven days before the date of the meeting.

1.2.7 Each item of business should be supported by a note setting out the details of the proposal and, where approval by means of a resolution is required, the draft of such resolution should be set out in the note.

1.2.8 The Notice, Agenda and Notes on Agenda may be given at shorter periods of time than those respectively stated above, if the majority of members of the Board or of the Committee, as the case may be, agree. The proposal to hold the meeting at a shorter notice should be stated in the Notice and the fact that consent thereto was obtained should be recorded in the minutes.

Notice, Agenda and Notes on Agenda should be given to all directors or to all members of the Committee, as the case may be, at the address provided by them, whether in India or abroad, and should also be given to the Original director, even when the Notice, Agenda and Notes on Agenda have also been given to the Alternate director.

1.2.9 Any supplementary item not originally included in the Agenda may be taken up for consideration with the permission of the chairman and with the consent of the majority of the directors present in the meeting.

However, no supplementary item, which is of significance or is in the nature of unpublished price sensitive information, should be taken up by the Board without prior written Notice.

The items of business to be transacted should be arranged in order of those items that are of a routine or general nature or which merely required to be noted by the directors, and those items which require discussions and specific approval.

Besides the items of business that are required by the Act or any other applicable law to be considered at a meeting of the Board and all material items having a significant bearing on the operations of the company, there are certain items which, if applicable, should also be placed before the Board. An illustrative list of such items is given at Annexure 'A'.

There are certain specific items, which should be placed before the Board at its first meeting and there are certain items, which should be placed before the Board at the meeting held for consideration of the year-end accounts. Illustrative lists of such items are given at Annexures 'B' and 'C' respectively.

2. Frequency of Meetings

2.1 Meetings of the Board

The Board should meet at least once in every three months, with a maximum interval of 120 days between any two meetings such that at least four meetings are held in each year. Each meeting should be of such duration as would enable proper deliberations to take place on items placed before the Board.

2.2 Meetings of Committees

Committees should meet at least as often as stipulated by the Board or as prescribed by any other authority.

3. Quorum

3.1 Meetings of the Board

3.1.1 Quorum should be present throughout the meeting. No business should be transacted when the Quorum is not so present. The Quorum for a meeting of the Board should be one-third of the total strength of the Board (any fraction contained in that one-third being rounded off as one), or two directors, whichever is higher.

Where the requirements for the Quorum, as provided in the Articles, are stricter, the Quorum should conform to such requirements.

If the number of interested directors exceeds or is equal to two-thirds of the total strength, the remaining directors present at the meeting, being not less than two, should be the quorum during such time.

3.1.2 Where the number of directors is reduced below the minimum fixed by the Articles, no business should be transacted unless the number is first made up by the remaining director(s) or through a general meeting.

If a meeting of the Board could not be held for want of quorum, then, unless the Articles otherwise provide, the meeting should automatically stand adjourned to the same day in the next week, at the same time and place or, if that day is a public holiday, to the next succeeding day which is not a public holiday, at the same time and place.

3.2 Meetings of Committees

The presence of all the members of any Committee constituted by the Board is necessary to form the Quorum for meetings of such Committee unless otherwise stipulated by the Board while constituting the Committee.

Certain guidelines, Rules and Regulations framed under the Act or by any statutory authority may contain provisions for the Quorum of a Committee and such stipulations should then be followed.

Illustrations

(*a*) In the case of the Remuneration Committee, constituted pursuant to the requirements of the Listing Agreement with stock exchanges, all the members of such Committee should be present to form the Quorum.

(*b*) In the case of a Committee constituted to give effect to or implement any of the provisions contained in The Companies (Issue of Share Certificate) Rules, 1960, the Board cannot prescribe a Quorum smaller than what has statutorily been laid down.

4. Attendance at Meetings

4.1 An Attendance Register, containing the names and signatures of the directors present at the meeting, should be maintained. If an attendance register is maintained in loose-leaf form, it should be bound at reasonable intervals and may be destroyed after eight years, with the approval of the Board.

4.2 Leave of absence should be granted to a director only when a request for such leave has been communicated to the Secretary or to the Board or to the Chairman.

5. Chairman

5.1 Meetings of the Board

Every company should have a chairman who would be the chairman for meetings of the Board. It would be the duty of the chairman to see that the meeting is duly convened and constituted in accordance with the Act or any other applicable guidelines, Rules and Regulations before it proceeds to transact business. The chairman should then conduct the proceedings of the meeting and ensure that only those items of business as have been set out in the Agenda are transacted and generally in the order in which the items appear on the Agenda. The chairman should encourage deliberations and debate and assess the sense of the meeting. The chairman should ensure that the proceedings of the meeting are correctly recorded and, in doing so, he may include or exclude any matter as he deems fit.

In the case of a public company, if the chairman himself is interested in any item of business, he should entrust the conduct of the proceedings in respect of such item to any other dis-interested director and resume the Chair after that item of business has been transacted.

5.2 Meetings of Committees

The Board, while constituting any Committee, should also appoint the chairman of that Committee, unless such appointment is to be made in pursuance of any other applicable guidelines, Rules or Regulations.

6. Passing of Resolution by Circulation

6.1 A Resolution proposed to be passed by circulation should be sent in draft, together with the necessary papers, individually to all the directors or, in the case of a Committee, to all the members of the Committee.

The Act requires certain matters to be approved at meetings of the Board of directors only. Though the Act permits that all other matters can be approved by means of Resolutions by circulation, it would be appropriate if only those matters, which are of an urgent nature are approved by means of Resolutions by circulation.

6.2 The draft Resolution to be passed by circulation and the necessary papers should be circulated by hand, or by post, or by facsimile, or by e-mail or by any other electronic mode.

6.3 The Resolution should be deemed to have been passed on the date on which it is signed and dated as approved by all the directors then in India, being not less than the Quorum, or on the date on which it is approved by the majority of the directors entitled to vote on the Resolution, whichever is earlier.

6.4 Resolutions sent for passing by circulation should be noted along with the decision thereof, at the next meeting of the Board or Committee, as the case may be, and recorded in the minutes of such meeting.

7. Accounts

7.1 The annual accounts of a company should be approved at a meeting of the Board and should not be approved by means of a Resolution passed by circulation.

7.2 Quarterly or half-yearly financial results should be approved at a meeting of the Board or its Committee and should not be approved by means of a Resolution passed by circulation.

7.3 In the case of a listed company, if there is any material variance between un-audited and audited results, the limited review report of the Auditors should also be discussed and approved at a meeting of the Board and not approved by means of a Resolution passed by circulation.

8. Minutes

8.1 Within seven days from the date of the meeting of the Board or Committee or of an adjourned meeting, the draft minutes thereof should be circulated to all the members of the Board or the Committee, as the case may be, for their comments. The directors should forward their comments on the draft minutes within 15 days from the date of circulation thereof, so that the minutes are finalised and entered in the minutes book within the specified time-limit of thirty days.

8.2 The minutes of proceedings of a meeting should be entered in the minute book within thirty days from the conclusion of the meeting.

In case a meeting is adjourned, the minutes should be entered in respect of the original meeting as well as the adjourned meeting within thirty days from the date of the respective meetings. In respect of a meeting adjourned for want of Quorum, a statement to that effect should be recorded in the minute book by the chairman or any director present at the meeting.

8.3 The date of entering the minutes should be specified in the minute book by a director or the secretary.

8.4 The chairman should initial each page of the minutes, sign the last page of the minutes and append to such signature the date on which he has signed the minutes. While the law requires that minutes of the proceedings should be entered in the minutes book within thirty days of the meeting, there is no prescribed time-limit within which such minutes have to be signed. They could be signed beyond a period of thirty days if the succeeding meeting is held after a period of thirty days from the date of the earlier meeting. However, it is also not obligatory to wait for the next meeting in order to have the minutes of the previous meeting signed. Such minute may be signed by the chairman of the meeting at any time before the next meeting is held.

The minutes of meetings of the Board can be inspected only by the directors. While the Auditor or Cost Auditor of the company or Secretary in whole-time practice appointed by the company can also inspect the minutes books in the course of audit or certification, a member of the company has no right to inspect the minutes of meetings of the Board or any Committee thereof. Officers of the Registrar of Companies, or other Government or regulatory bodies duly authorised in this behalf under law, during the course of an inspection, can also inspect the minutes.

8.5 Minutes should not be pasted or attached to the minute book.

8.6 Minutes, if maintained in loose-leaf form, should be bound at intervals coinciding with the financial year of the company.

The pages of the minutes book should be serially numbered and there should be proper locking device to ensure security and proper control to prevent irregular removal of the loose leaves.

8.7 Extracts of the minutes should be given only after the minutes have been duly signed. However, certified copies of any Resolution passed at a meeting may be issued even pending signing of the minutes by the chairman, if the draft of that Resolution had been placed at the meeting and was duly approved.

8.8 Minutes of an earlier meeting should be noted before the next meeting.

8.9 Any alteration, other than grammatical or minor corrections, in the minutes as entered, should be made only by way of express approval taken in the subsequent meeting in which such minutes are sought to be altered.

8.10 The minutes of meetings of any Committee should be circulated to the Board along with the Agenda for the meeting of the Board next following such meeting of the Committee and should be noted at the Board meeting.

If the minutes of meetings of any Committee are pending noting by the Committee at the time of circulating the Agenda for the meeting of the Board, such minutes should be circulated to the Board in draft form.

9. Recording in the Minutes

9.1 In addition to the names of directors present at the meeting, the names of persons in attendance and the names of invitees, if any, should be recorded in the minutes.

9.2 Apart from the resolution or the decision, the minutes should mention the brief background of the proposal and the rationale for passing the resolution or taking the decision.

9.3 The names of the directors who dissented or abstained from the decision should be recorded. Similarly, the fact that an interested director did not participate in the discussion or vote should be recorded in the minutes.

9.4 Wherever any approval of the Board or of the Committee is taken on the basis of certain papers laid before the Board or the Committee, proper identification by initialling of such papers by the chairman or any director should be made and a reference thereto should be made in the minutes.

10. Preservation of Minutes and other Records

10.1 The minutes of all meetings should be preserved permanently.

10.2 Where, under a scheme of arrangement, a company has been merged or amalgamated with another company, the minutes of all meetings of the Board and Committees of the transferor company should be preserved permanently by the transferee company, notwithstanding the fact that the identity of the transferor company may not survive such arrangement.

10.3 Office copies of Notices, Agenda and Notes on Agenda and other related papers should be preserved in good order for as long as they remain current or for ten years, whichever is later, and may be destroyed thereafter under the authority of the Board.

11. Disclosure

The Annual Report of a company should disclose the number of meetings of the Board and Committees held during the year indicating the number of meetings attended by each director.

Effective Date

This Standard shall come into effect from 13th December, 2001.

Annexure 'A'

Illustrative list of items of business, which should be placed before the Board:

1. Calls on shareholders in respect of money unpaid on their shares.
2. Issue of debentures.
3. Borrowing money otherwise than by issue of debentures.
4. Investing the funds of the company.
5. Making loans.
6. Filling casual vacancies in the office of directors.
7. Making donation to political parties.
8. Granting loans to directors.
9. According sanction for specified contracts in which one or more directors are interested and to sign the Register of Contracts.
10. Disclosure of interest by a director.
11. Receiving notice of disclosure of directors' interest.

12. Receiving notice of disclosure of directors' shareholdings.
13. Appointment or Resignation of Managing Director or Whole-time Director or Manager.
14. Appointment and removal of the Chief Financial Officer and the Company Secretary.
15. Appointment of sole-selling agents.
16. Making a declaration of solvency where it is proposed to wind up the company voluntarily.
17. Forfeiture of shares.
18. Taking note of the quarterly financial results.
19. Approving the half-yearly financial results.
20. Noting minutes of meetings of Committees of the Board.
21. Quarterly results for each operating division or business segment.
22. Annual operating plans and budgets.
23. Any material default in financial obligations.
24. Non-compliance of any regulatory/statutory provisions or listing requirements.
25. Sale of investments, subsidiaries or assets, which is not in the normal course of business.
26. Show cause notices, prosecutions and penalty notices of material nature.
27. Any material effluent or pollution problems, industrial accidents, labour problems, signing of wage agreement, implementation of Voluntary Retirement Scheme, etc.
28. Any issue which involves possible public or product liability claims.
29. Transactions that involve substantial payment towards goodwill, brand equity, or intellectual property.
30. Foreign exchange exposures and the steps taken by management to limit the risks of adverse exchange rate movements.
31. Information on recruitment and remuneration of senior officers and transfers or resignations.
32. Details of any joint venture or collaboration agreement.
33. Material liability — legal or contractual.
34. Report of the Compliance Officer regarding share transfer process and analysis of movement of bulk transfers.
35. Fixed deposit advertisements.
36. Certificate regarding compliance with various applicable laws.
37. Events, which are significant or have material commercial/financial implications, such as:
    (*a*) strikes, lockouts, lay-off, closure of units/factory, etc.;
    (*b*) change in the general character or nature of business;
    (*c*) major expansion plans or execution of new projects;
    (*d*) disruption of operations due to natural calamity or Act of God;
    (*e*) commencement of commercial production/commercial operations;
    (*f*) developments with respect to pricing/realisation arising out of change in the regulatory framework;
    (*g*) litigation/dispute with a material impact;
    (*h*) revision in ratings assigned by credit rating agencies;
    (*i*) issue of any class of securities;
    (*j*) acquisition, merger, de-merger, amalgamation, restructuring, scheme of arrangement, spin off of divisions of the company;
    (*k*) change in market lot and sub-division of equity shares of the company;
    (*l*) voluntary delisting of securities from the Stock Exchange(s);
    (*m*) default in the repayment of any deposits or redemption of any securities including debentures and in payment of interest, if any, due thereon;
    (*n*) any Action which will result in alteration in the terms regarding redemption/cancellation/ retirement in whole or in part of any securities issued;

(*o*) information regarding opening, closing of status of ADR, GDR or any other class of securities issued abroad;

(*p*) cancellation of dividend/rights/bonus, etc.;

(*q*) formation of a subsidiary company and/or de-subsidiarisation of an existing subsidiary company.

Annexure 'B'

Illustrative list of items of business for the Agenda for the First meeting of the Board of directors of the company.

1. To appoint the chairman of the meeting.
2. To note the Certificate of Incorporation of the company, issued by the Registrar of Companies.
3. To take note of the Memorandum and Articles of Association of the company, as registered.
4. To note the situation of the Registered Office of the company.
5. To confirm/note the appointment of the first directors of the company.
6. To read and record the notices of disclosure of interest given by the directors.
7. To consider the appointment of Additional directors.
8. To consider the appointment of the chairman of the Board.
9. To fix the financial year of the company.
10. To consider the appointment of the first Auditors.
11. To adopt the Common Seal of the company.
12. To appoint Bankers and to open bank accounts of the company.
13. To authorise printing of share certificates.
14. To authorise the issue of share certificates to the subscribers to the Memorandum and Articles of Association of the company.
15. To approve preliminary expenses and preliminary contracts.
16. To consider the appointment of the Managing Director/Whole-Time Director/Manager and Company Secretary, if applicable and other senior officers.

Annexure 'C'

Illustrative list of items of business for the Agenda for the meeting of the Board of directors at which annual accounts, etc. are to be considered. (Besides regular Agenda items, such as confirmation of minutes, granting leave of absence to directors, reading Notices of disclosure of interest of directors)

1. To consider and approve matters arising out of the accounts such as commission to directors, write-offs, provisions, legal cases, etc.
2. To consider and approve transfers to reserves and other appropriations.
3. To consider recommendation of dividend.
4. To consider and approve the Balance Sheet and the Profit & Loss Account as well as the abridged Accounts or statement of financial results.
5. To approve the cash flow statement.
6. To consider and take note of the directors to retire by rotation at the Annual General Meeting.
7. To consider the draft Notice of the Annual General Meeting and to authorise issuance thereof.
8. To consider the appointment of Auditors and the payment of remuneration to them, to be proposed for members' consideration.
9. To take note of the draft Auditor's report.
10. To consider the draft Directors' Report and to authorise issuance thereof.
11. To open a Bank Account for payment of dividend.
12. To approve/note the closure of the Register of members and the Share Transfer Books for the purpose of the Annual General Meeting.
13. To approve the text of the advertisement inviting fixed deposits.
14. To discuss the Compliance Certificate issued by a secretary in whole-time practice.

Chapter 3

Committee and Class Meetings

Synopsis

Committee Meetings

1. Committee of directors

Various committees may be appointed by the Board from time to time and power may be delegated to the Committee as provided in the Articles of the company. There may be *ad hoc* committees, whose duration may be for short periods, or permanent committees.

In either case a committee is a mini-version of a Board and the procedure for the conduct of committee meetings will be identical to that of a Board. The chairman and quorum for the committee may be fixed by the Board while appointing the committee.

The only precaution that has to be taken is that a committee appointed under the Issue of Share Certificates Rules shall consist of at least three directors where the total strength of the Board exceeds six and not less than two where the total strength does not exceed six directors and for the Audit Committee appointed under the provisions of section 292A of the Companies Act, 1956.

2. Types of Committees

The Board may appoint various types of committees for proper functioning of the company and to get advantages of expertise of the members having technical and/or professional knowledge of the particular field. (*See* Appendix 1 for Board resolution) The following types of committees are formed by the Board of directors in a company subject to the provisions of the Articles of the company:—

1. Share Transfer Committee.
2. Audit Committee.
3. Management Committee.
4. Finance & Accounts Committee.
5. Project Implementation Committee.
6. Labour and Employees Welfare Committee.
7. Remuneration Committee

3. Members of the Committee

The Board of directors appoints the members of a committee. It may constitute with the members of the Board of directors or from the outsiders as the Board may consider appropriate. Majority of the members of the committee are generally directors of the company.

4. Appointment and tenure of the committee

All the terms and conditions for appointment of a committee is determined by the Board, mentioning its function, members, frequency of meetings, etc. A committee may be dissolved by the Board on completion of its work.

5. Chairman

The Board may appoint a chairman for such committee and the provisions for the Board meeting is generally applicable to the committee also.

6. Consideration of the report of the committee

The Board provides that the proceedings of the committee meetings will be placed before the Board, at its next meeting for consideration and taking suitable decision as may be required by the company.

7. Constitution of audit committee

Section 292A requires that every public company having paid-up capital of not less than Rs. 5 crore shall constitute an Audit Committee of the Board. (Appendix 2) The other requirements are given as under:—

(1) It will consist of not less than three directors; two thirds of its total strength shall be of directors other than managing and whole-time directors.

(2) The members of the Audit Committee shall exercise such powers and perform such functions as may be specified by the Board.

(3) The members will elect one amongst themselves as chairman.

(4) The Auditors of the company, the internal Auditor, if any, and the director in charge of finance will participate in the meetings and shall not have right to vote.

(5) The Audit Committee shall have discussions with the Auditor periodically about internal control systems, the scope of audit etc. and review the half-yearly and annual accounts before submission to the Board.

(6) The Audit Committee shall have authority to investigate any matter above stated and shall have access to records of the company.

(7) The composition of the Audit Committee shall be mentioned in the annual directors' report.

(8) The recommendations of the Audit Committee relating to financial management, an audit report shall be binding on the Board.

(9) If the Board does not accept the recommendations of the Audit Committee, it shall record the reasons therefor and communicate such reasons to the shareholders.

(10) The Chairman of the Committee shall attend the annual general meetings of the company to provide clarification on any matter relating to audit.

8. Default in complying with the provisions

If a default is made in complying with the provisions of section 292A of the Companies Act, 1956, the company and every officer who is in default shall be punishable with imprisonment for a term upto one year and fine upto Rs. 50,000 or with both.

Class meeting means the meeting of different classes of shareholders of a company. This type of meeting is held when rights attached to any class of shares needs to be varied by the company.

Class Meetings

9. Types of Class Meetings

Generally three types of class meeting are available:—

1. Meetings of any class of shareholders.

2. Meetings of any class of debentureholders.
3. Meetings of debentureholders.

10. Conditions for alteration in the rights of special classes of shareholders

Section 106 states that the rights of special classes of shareholders can be varied with the consent in writing of at least three-fourth of such class of shareholders or by passing special resolution in the meeting of shareholders of that class. Such variation in rights will only be effective if the provision for variation is contained in the Memorandum or Articles of Association of the company or in the absence of such provision, variation will be effective, if it is not prohibited by the terms of issue of shares of that class.

11. Protection to shareholders not interested in the variation

Following protections are available under the Act to the dissenting shareholders of such class:—

1. Section 107 state that Dissentient shareholders of such class holding not less than 10% of shares of such class can apply to the Court for cancellation of variation in the rights of the class shareholders.
2. An application for cancellation of variation shall be made within 21 days after the consent was given or the special resolution was passed.
3. Court shall hear the applicant or such other person as may appear to it to be interested in such proceeding and may pass such decision as appear to it to be justified. The decision passed by the Court will be final.
4. Company shall file the copy of the Court's order with the Registrar of Companies within 30 days from the receiving of the Court's order.
5. If the company fails to comply with the Court's order than company and every defaulted officer of the company shall be fined upto Rs. 5,000.

Appendix 1

Specimen of Board resolution for appointment of committee with specific powers

RESOLVED THAT in accordance with Article 117 of the Company's Article of Association, the Board of Directors of the Company do appoint the under mentioned Committees of Directors consisting of Directors as named against each Committee to do the following acts, deeds and things on such terms and conditions as the Committees may think fit and that two members shall form quorum for the meeting of the said committees:

1. Capital Goods Committee:

Mr. DKJ — Chairman
Ms. AJ — Member
Mr. GM — Member

Powers and Functions:

— To purchase capital goods or otherwise acquire for the Company any property, rights or privileges which the Company's authorized to acquire and generally subject to a limit of Rs.50 Lacs for each transaction;

— To sell, let, lease, exchange or otherwise dispose of absolutely or conditionally any part of the property, privileges and rights of the Company subject to a limit of Rs. 50 Lacs for each such transaction.

2. Finance Committee:

Mr. DKJ — Chairman
Ms. AJ — Member
Mr. SG — Member

Powers and Functions:

- To borrow money for the purpose of the Company's business not exceeding the overall limit upto which the Board of Directors of the Company authorised/or to be authorized under section 293(1)(*d*) of the Companies Act, 1956;
- To invest the funds of the company in the Government securities, national savings certificates, postal savings certificates, shares debentures, bonds of companies, securities of municipal and local bodies and in fixed term deposits with companies, corporations, etc., and to vary investments and deal with securities and investments and do all such acts, deeds and things provided that the aggregate of all such investments outstanding at any one time shall not exceed Rs. 50 Lacs;
- To grant, give or make loans or advances on behalf of the Company up to and not exceeding Rs. 50 Lacs for the following purposes provided that minimum amounts of loans or advances which may be given or made in each individual case shall not exceed Rs. 25 Lacs:
  - (*i*) to utilize the idle funds of the Company;
  - (*ii*) to provide temporary financial accommodation;
  - (*iii*) to enable the borrowers to fulfill their obligations towards the Company;
  - (*iv*) to open current/cash/ overdraft fixed deposit or other account(s) with any scheduled bank and authorize the officials to operate the same and to vary the existing authorization to operate accounts of the company with its bankers.

3. Share Transfer Committee:

Ms AJ — Chairman

Mr. AK — Member

Mr. GS — Member

Powers and Functions:

- To approve transfer/transmission of shares/debentures/bonds of the company;
- To issue certificates of shares/debentures/bonds on allotment thereof and split/consolidation/ renewal thereof;
- To issue duplicate certificates under the seal of the Company.

4. Administration Committee:

Ms AJ — Chairman

Mr. SJ — Member

Mr. GS — Member

Powers and Functions:

- To authorise the use of the common seal of the Company and to appoint any attorney(s), agents representative(s) of the Company, to represent the interest of the Company in the manner and to the extent of powers/authorities as the case may be;
- To appoint, transfer and dismiss employees drawing consolidated salary of not less than Rs. 15,000 per month subject to the provision of the section 314 of the Companies Act, 1956.

RESOLVED FURTHER THAT each member of each of the committees be paid a fee of Rs. 5,000 for every meeting attended by him and that the presence of two members be the quorum for each of the committees constituted as aforesaid.

Appendix 2

Specimen resolution for appointment of Audit Committee

RESOLVED THAT pursuant to the provisions of section 292A of the Companies Act and in accordance with the provisions of Article No. 130 of the Articles of Association of the company, the

Board hereby appoint and constitute a committee of the Board of directors, named as 'AUDIT COMMITTEE' consisting of the following directors/officers of the company.

COMMITTEE MEMBERS:

S. No.	*Name*	*Designation*	*Position in Committee*
1.	...........………....	Managing Director	Member
2.	...........………....	Director	Member
3.	...........………....	Director	Member
4.	...........………....	Secretary	Secretary
5.	...........………....	Internal Auditor	Invitee
6.	...........………....	Finance Director	Invitee

FURTHER RESOLVED THAT the Audit Committee shall act in accordance with the provisions of the Articles of Association of the company and shall have the following Rules for its working.

CHAIRMAN OF THE COMMITTEE:

Members of the Committee shall elect a chairman from amongst themselves.

DECISION & VOTING POWERS:

All the decision of the committee shall be taken by vote of majority.

Members of the committee shall be entitled to vote, in case of equality, the chairman shall have one additional casting vote.

The Secretary, Internal Auditor and Finance Director of the company shall attend and participate at the meeting but shall not have the right to vote.

TENURE OF THE COMMITTEE:

The Audit Committee shall continue to be in function as a committee of the Board until otherwise resolved by the Board, to carry on the functions of the Audit Committee in relation of the accounts of the company.

MEETINGS:

The Committee shall meet at least twice in a year before the finalisation of the half yearly review and before approval of the annual accounts by the Board.

FUNCTIONS & POWERS OF THE COMMITTEE:

The committee shall have discussion with the auditors periodically about internal control system, the scope of audit including the observations of the auditors and review the half yearly and annual financial statements before submission to the Board and also ensure compliance of internal control systems.

In discharging the function of the Audit Committee, the committee shall have authority to investigate into any matter in relation to any items specified in section 292A or referred to it by the Board.

RESPONSIBILITY OF THE COMMITTEE:

The Board may assign any matter of important nature relating to the accounts, finance, taxation, inspection and investigation from time to time and may require to submit a report to the Board on such matters within the stipulated time.

The Committee on any matter relating to financial management including audit report shall submit a report to the Board from time to time.

The chairman of the Audit Committee shall attend the Annual General meeting of the company to provide any clarification on matter relating to Audit.

Appendix 3

Specimen of Board resolution for calling of meeting of debentureholders

RESOLVED THAT subject to the provisions of the Companies Act, 1956, SEBI Guidelines, Debenture Trust Deed and subject to such other approvals, sanctions and consents as may be required including that of debentures-holders, consent of the Board be and is hereby accorded for extension of redemption date of debentures by one year from .... and for payment of additional interest @ 2% over and above the present rate of interest.

RESOLVED FURTHER THAT a general meeting of the debenture holders of the company be convened on .... for obtaining consent of the members and that the draft notice for the general meeting as placed before the meeting and initialed by the Chairman for the purpose of identification be and is hereby approved and that the company secretary be and is hereby instructed to forward the notice to all debenture-holders of the company and also to make all such arrangements as may be necessary for properly convening and holding the general meeting.

RESOLVED FURTHER THAT pursuant to the provisions contained in the Debenture Trust Deed, Shri KS, the Managing Director, be and is hereby authorised to execute a supplemental Trust Deed in favour of the Debenture Trustees for the extended period of redemption of debentures and also to do all such acts, deeds and things as may be required to be done for giving effect to this resolution of the Board.