

e-voting by Postal Ballot :

“postal ballot” as per Section 2(65) means voting by post or through any electronic mode;

22. Procedure to be followed for conducting business through postal ballot.-

(1) Where a company is required or decides to pass any resolution by way of postal ballot, it shall send a notice to all the shareholders, along with a draft resolution explaining the reasons therefore and requesting them to send their assent or dissent in writing on a postal ballot because postal ballot means voting by post or through electronic means within a period of thirty days from the date of dispatch of the notice.

(2) The notice shall be sent either (a) by Registered Post or speed post, or (b) through electronic means like registered e-mail id or (c) through courier service for facilitating the communication of the assent or dissent of the shareholder to the resolution within the said period of thirty days.

(3) An advertisement shall be published at least once in a vernacular newspaper in the principal vernacular language of the district in which the registered office of the company is situated, and having a wide circulation in that district, and at least once in English language in an English newspaper having a wide circulation in that district, about having dispatched the ballot papers and specifying therein, *inter alia*, the following matters, namely:-

- (a) a statement to the effect that the business is to be transacted by postal ballot which includes voting by electronic means;
- (b) the date of completion of dispatch of notices;
- (c) the date of commencement of voting;
- (d) the date of end of voting;
- (e) the statement that any postal ballot received from the member beyond the said date will not be valid and voting whether by post or by electronic means shall not be allowed beyond the said date;

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- (f) a statement to the effect that members, who have not received postal ballot forms may apply to the company and obtain a duplicate thereof; and
- (g) contact details of the person responsible to address the grievances connected with the voting by postal ballot including voting by electronic means.

(4) The notice of the postal ballot shall also be placed on the website of the company forthwith after the notice is sent to the members and such notice shall remain on such website till the last date for receipt of the postal ballots from the members.

(5) The Board of directors shall appoint one scrutinizer, who is not in employment of the company and who, in the opinion of the Board can conduct the postal ballot voting process in a fair and transparent manner.

(6) The scrutinizer shall be willing to be appointed and be available for the purpose of ascertaining the requisite majority.

(7) If a resolution is assented to by the requisite majority of the shareholders by means of postal ballot including voting by electronic means, it shall be deemed to have been duly passed at a general meeting convened in that behalf.

(8) Postal ballot received back from the shareholders shall be kept in the safe custody of the scrutinizer and after the receipt of assent or dissent of the shareholder in writing on a postal ballot, no person shall deface or destroy the ballot paper or declare the identity of the shareholder.

(9) The scrutinizer shall submit his report as soon as possible after the last date of receipt of postal ballots but not later than seven days thereof;

(10) The scrutinizer shall maintain a register either manually or electronically to record their assent or dissent received, mentioning the particulars of name, address, folio number or client ID of the shareholder, number of shares held by them, nominal value of such shares, whether the shares have differential voting rights, if any, details of postal ballots which are received in defaced or mutilated form and postal ballot forms which are invalid.

(11) The postal ballot and all other papers relating to postal ballot including voting by electronic means, shall be under the safe custody of the scrutinizer till the chairman considers, approves and signs the minutes and thereafter, the scrutinizer shall return the ballot papers and other related papers or register to the company who shall preserve such ballot papers and other related papers or register safely.

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(12) The assent or dissent received after thirty days from the date of issue of notice shall be treated as if reply from the member has not been received.

(13) The results shall be declared by placing it, along with the scrutinizer's report, on the website of the company.

(14) The resolution shall be deemed to be passed on the date of at a meeting convened in that behalf.

(15) The provisions of rule 20 regarding voting by electronic means shall apply, as far as applicable, *mutatis mutandis* to this rule in respect of the voting by electronic means.

(16) pursuant to clause (a) of sub-section (1) of section 110, the following items of business shall be transacted only by means of voting through a postal ballot-

(a) alteration of the objects clause of the memorandum and in the case of the company in existence immediately before the commencement of the Act, alteration of the main objects of the memorandum;

(b) alteration of articles of association in relation to insertion or removal of provisions which, under sub-section (68) of section 2, are required to be included in the articles of a company in order to constitute it a private company;

(c) change in place of registered office outside the local limits of any city, town or village as specified in sub-section (5) of section 12;

(d) change in objects for which a company has raised money from public through prospectus and still has any unutilized amount out of the money so raised under sub-section (8) of section 13;

(e) issue of shares with differential rights as to voting or dividend or otherwise under sub clause

(ii) of clause (a) of section 43;

(f) variation in the rights attached to a class of shares or debentures or other securities as specified under section 48;

(g) buy-back of shares by a company under sub-section (1) of section 68;

(h) election of a director under section 151 of the Act;

(i) sale of the whole or substantially the whole of an undertaking of a company as specified under sub-clause (a) of sub-section (1) of section 180;

(j) giving loans or extending guarantee or providing security in excess of the limit specified under sub-section (3) of section 186:

Provided that One Person Company and other companies having members upto two hundred are not required to transact any business through postal ballot.

23. Special Notice.-

(1) A special notice required to be given to the company shall be signed, either individually or collectively by such number of members holding not less than one percent of total voting power or holding shares on which an aggregate sum of not less than five lakh rupees has been paid up on the date of the notice.

(2) The notice referred to in sub-rule (1) shall be sent by members to the company not earlier than three months but at least fourteen days before the date of the meeting at which the resolution is to be moved, exclusive of the day on which the notice is given and the day of the meeting.

(3) The company shall immediately after receipt of the notice, give its members notice of the resolution at least seven days before the meeting , exclusive of the day of dispatch of notice and day of the meeting , in the same manner as it gives notice of any general meetings.

(4) Where it is not practicable to give the notice in the same manner as it gives notice of any general meetings, the notice shall be published in English language in English newspaper and in vernacular language in a vernacular newspaper, both having wide circulation in the State where the registered office of the Company is situated and such notice shall also be posted on the website, if any, of the Company.

(5) The notice shall be published at least seven days before the meeting, exclusive of the day of publication of the notice and day of the meeting.

24. Resolutions and agreements to be filed.-

A copy of every resolution or any agreement required to be filed, together with the explanatory statement under section 102, if any, shall be filed with the Registrar in **Form No. MGT.14** along with the fee.

**25. Minutes of proceedings of general meeting, meeting of Board of Directors and other meetings and resolutions passed by postal ballot.-
(Section 118)**

(1) (a) A distinct minute book shall be maintained for each type of meeting namely:-

- (i) general meetings of the members;
- (ii) meetings of the creditors

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- (iii) meetings of the Board; and
- (iv) meetings of each of the committees of the Board.

Explanation.- For the purposes of this sub-rule, resolutions passed by postal ballot shall be recorded in the minute book of general meetings as if it has been deemed to be passed in the general meeting.

(b) (i) The minutes of proceedings of each meeting shall be entered in the books maintained for that purpose along with the date of such entry within thirty days of the conclusion of the meeting.

(ii) In case of every resolution passed by postal ballot, a brief report on the postal ballot conducted including the resolution proposed, the result of the voting thereon and the summary of the scrutinizer's report shall be entered in the minutes book of general meetings along with the date of such entry within thirty days from the date of passing of resolution.

(d) Each page of every such book shall be initialed or signed and the last page of the record of proceedings of each meeting or each report in such books shall be dated and signed –

(i) in the case of minutes of proceedings of a meeting of the Board or of a committee thereof, by the chairman of the said meeting or the chairman of the next succeeding meeting;

(ii) in the case of minutes of proceedings of a general meeting, by the chairman of the same meeting within the aforesaid period of thirty days or in the event of the death or inability of that chairman within that period, by a director duly authorised by the Board for the purpose;

(iii) In case of every resolution passed by postal ballot, by the chairman of the Board within the aforesaid period of thirty days or in the event of there being no chairman of the Board or the death or inability of that chairman within that period, by a director duly authorized by the Board for the purpose.

(e) The minute books of general meetings, shall be kept at the registered office of the company and shall be preserved permanently and kept in the custody of the company secretary or any director duly authorised by the board or at such other place as may be approved by the Board.

(f) The minutes books of the Board and committee meetings shall be preserved permanently and kept in the custody of the company secretary of the company or

any director duly authorized by the Board for the purpose and shall be kept in the registered office or such place as Board may decide.

26. Copy of minute book of general meeting.-

Any member shall be entitled to be furnished, within seven working days after he has made a request in that behalf to the company, with a copy of any minutes of any general meeting, on payment of such sum as may be specified in the articles of association of the company, but not exceeding a sum of ten rupees for each page or part of any page:

Provided that a member who has made a request for provision of soft copy in respect of minutes of any previous general meetings held during a period immediately preceding three financial years shall be entitled to be furnished, with the same free of cost.

27. Maintenance and inspection of document in electronic form.-(119 Section)

(1) Every listed company or a company having not less than one thousand shareholders, debenture holders and other security holders, shall maintain its records, as required to be maintained under the Act or rules made there under, in electronic form.

Explanation.- For the purposes of this sub-rule, it is hereby clarified that in case of existing companies, data shall be converted from physical mode to electronic mode within six months from the date of notification of provisions of section 120 of the Act.

(2) The records in electronic form shall be maintained in such manner as the Board of directors of the company may think fit,

Provided that –

- (a) the records are maintained in the same formats and in accordance with all other requirements as provided in the Act or the rules made there under;
- (b) the information as required under the provisions of the Act or the rules made there under should be adequately recorded for future reference;
- (c) the records must be capable of being readable, retrievable and reproducible in printed form;
- (d) the records are capable of being dated and signed digitally wherever it is required under the provisions of the Act or the rules made thereunder;
- (e) the records, once dated and signed digitally, shall not be capable of being edited or altered;
- (f) the records shall be capable of being updated, according to the provisions of the Act or the rules made there under, and the date of updating shall be capable of being recorded on every updating. Explanation: - For the purpose of this rule, the term "records" means any register, index, agreement, memorandum, minutes or any other document required by the Act or the rules made there under to be kept by a company