



# Companies Act 2006

## 2006 CHAPTER 46

### PART 13

#### RESOLUTIONS AND MEETINGS

#### CHAPTER 1

##### GENERAL PROVISIONS ABOUT RESOLUTIONS

#### **281 Resolutions**

- (1) A resolution of the members (or of a class of members) of a private company must be passed—
  - (a) as a written resolution in accordance with Chapter 2, or
  - (b) at a meeting of the members (to which the provisions of Chapter 3 apply).
- (2) A resolution of the members (or of a class of members) of a public company must be passed at a meeting of the members (to which the provisions of Chapter 3 and, where relevant, Chapter 4 apply).
- (3) Where a provision of the Companies Acts—
  - (a) requires a resolution of a company, or of the members (or a class of members) of a company, and
  - (b) does not specify what kind of resolution is required,what is required is an ordinary resolution unless the company's articles require a higher majority (or unanimity).
- (4) Nothing in this Part affects any enactment or rule of law as to—
  - (a) things done otherwise than by passing a resolution,
  - (b) circumstances in which a resolution is or is not treated as having been passed, or
  - (c) cases in which a person is precluded from alleging that a resolution has not been duly passed.

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## **282 Ordinary resolutions**

- (1) An ordinary resolution of the members (or of a class of members) of a company means a resolution that is passed by a simple majority.
- (2) A written resolution is passed by a simple majority if it is passed by members representing a simple majority of the total voting rights of eligible members (see Chapter 2).
- (3) A resolution passed at a meeting on a show of hands is passed by a simple majority if it is passed by a simple majority of—
  - (a) the members who, being entitled to do so, vote in person on the resolution, and
  - (b) the persons who vote on the resolution as duly appointed proxies of members entitled to vote on it.
- (4) A resolution passed on a poll taken at a meeting is passed by a simple majority if it is passed by members representing a simple majority of the total voting rights of members who (being entitled to do so) vote in person or by proxy on the resolution.
- (5) Anything that may be done by ordinary resolution may also be done by special resolution.

## **283 Special resolutions**

- (1) A special resolution of the members (or of a class of members) of a company means a resolution passed by a majority of not less than 75%.
- (2) A written resolution is passed by a majority of not less than 75% if it is passed by members representing not less than 75% of the total voting rights of eligible members (see Chapter 2).
- (3) Where a resolution of a private company is passed as a written resolution—
  - (a) the resolution is not a special resolution unless it stated that it was proposed as a special resolution, and
  - (b) if the resolution so stated, it may only be passed as a special resolution.
- (4) A resolution passed at a meeting on a show of hands is passed by a majority of not less than 75% if it is passed by not less than 75% of—
  - (a) the members who, being entitled to do so, vote in person on the resolution, and
  - (b) the persons who vote on the resolution as duly appointed proxies of members entitled to vote on it.
- (5) A resolution passed on a poll taken at a meeting is passed by a majority of not less than 75% if it is passed by members representing not less than 75% of the total voting rights of the members who (being entitled to do so) vote in person or by proxy on the resolution.
- (6) Where a resolution is passed at a meeting—
  - (a) the resolution is not a special resolution unless the notice of the meeting included the text of the resolution and specified the intention to propose the resolution as a special resolution, and
  - (b) if the notice of the meeting so specified, the resolution may only be passed as a special resolution.

## **284 Votes: general rules**

- (1) On a vote on a written resolution—
  - (a) in the case of a company having a share capital, every member has one vote in respect of each share or each £10 of stock held by him, and
  - (b) in any other case, every member has one vote.
- (2) On a vote on a resolution on a show of hands at a meeting—
  - (a) every member present in person has one vote, and
  - (b) every proxy present who has been duly appointed by a member entitled to vote on the resolution has one vote.
- (3) On a vote on a resolution on a poll taken at a meeting—
  - (a) in the case of a company having a share capital, every member has one vote in respect of each share or each £10 of stock held by him, and
  - (b) in any other case, every member has one vote.
- (4) The provisions of this section have effect subject to any provision of the company's articles.

## **285 Votes: specific requirements**

- (1) Where a member entitled to vote on a resolution has appointed one proxy only, and the company's articles provide that the proxy has fewer votes in a vote on a resolution on a show of hands taken at a meeting than the member would have if he were present in person—
  - (a) the provision about how many votes the proxy has on a show of hands is void, and
  - (b) the proxy has the same number of votes on a show of hands as the member who appointed him would have if he were present at the meeting.
- (2) Where a member entitled to vote on a resolution has appointed more than one proxy, subsection (1) applies as if the references to the proxy were references to the proxies taken together.
- (3) In relation to a resolution required or authorised by an enactment, if a private company's articles provide that a member has a different number of votes in relation to a resolution when it is passed as a written resolution and when it is passed on a poll taken at a meeting—
  - (a) the provision about how many votes a member has in relation to the resolution passed on a poll is void, and
  - (b) a member has the same number of votes in relation to the resolution when it is passed on a poll as he has when it is passed as a written resolution.

## **286 Votes of joint holders of shares**

- (1) In the case of joint holders of shares of a company, only the vote of the senior holder who votes (and any proxies duly authorised by him) may be counted by the company.
- (2) For the purposes of this section, the senior holder of a share is determined by the order in which the names of the joint holders appear in the register of members.
- (3) Subsections (1) and (2) have effect subject to any provision of the company's articles.

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## **287 Saving for provisions of articles as to determination of entitlement to vote**

Nothing in this Chapter affects—

- (a) any provision of a company’s articles—
  - (i) requiring an objection to a person’s entitlement to vote on a resolution to be made in accordance with the articles, and
  - (ii) for the determination of any such objection to be final and conclusive, or
- (b) the grounds on which such a determination may be questioned in legal proceedings.

## **CHAPTER 2**

### WRITTEN RESOLUTIONS

#### *General provisions about written resolutions*

## **288 Written resolutions of private companies**

- (1) In the Companies Acts a “written resolution” means a resolution of a private company proposed and passed in accordance with this Chapter.
- (2) The following may not be passed as a written resolution—
  - (a) a resolution under section 168 removing a director before the expiration of his period of office;
  - (b) a resolution under section 510 removing an auditor before the expiration of his term of office.
- (3) A resolution may be proposed as a written resolution—
  - (a) by the directors of a private company (see section 291), or
  - (b) by the members of a private company (see sections 292 to 295).
- (4) References in enactments passed or made before this Chapter comes into force to—
  - (a) a resolution of a company in general meeting, or
  - (b) a resolution of a meeting of a class of members of the company,
 have effect as if they included references to a written resolution of the members, or of a class of members, of a private company (as appropriate).
- (5) A written resolution of a private company has effect as if passed (as the case may be)—
  - (a) by the company in general meeting, or
  - (b) by a meeting of a class of members of the company,
 and references in enactments passed or made before this section comes into force to a meeting at which a resolution is passed or to members voting in favour of a resolution shall be construed accordingly.

## **289 Eligible members**

- (1) In relation to a resolution proposed as a written resolution of a private company, the eligible members are the members who would have been entitled to vote on the resolution on the circulation date of the resolution (see section 290).

- (2) If the persons entitled to vote on a written resolution change during the course of the day that is the circulation date of the resolution, the eligible members are the persons entitled to vote on the resolution at the time that the first copy of the resolution is sent or submitted to a member for his agreement.

### *Circulation of written resolutions*

#### **290 Circulation date**

References in this Part to the circulation date of a written resolution are to the date on which copies of it are sent or submitted to members in accordance with this Chapter (or if copies are sent or submitted to members on different days, to the first of those days).

#### **291 Circulation of written resolutions proposed by directors**

- (1) This section applies to a resolution proposed as a written resolution by the directors of the company.
- (2) The company must send or submit a copy of the resolution to every eligible member.
- (3) The company must do so—
- (a) by sending copies at the same time (so far as reasonably practicable) to all eligible members in hard copy form, in electronic form or by means of a website, or
  - (b) if it is possible to do so without undue delay, by submitting the same copy to each eligible member in turn (or different copies to each of a number of eligible members in turn),
- or by sending copies to some members in accordance with paragraph (a) and submitting a copy or copies to other members in accordance with paragraph (b).
- (4) The copy of the resolution must be accompanied by a statement informing the member—
- (a) how to signify agreement to the resolution (see section 296), and
  - (b) as to the date by which the resolution must be passed if it is not to lapse (see section 297).
- (5) In the event of default in complying with this section, an offence is committed by every officer of the company who is in default.
- (6) A person guilty of an offence under this section is liable—
- (a) on conviction on indictment, to a fine;
  - (b) on summary conviction, to a fine not exceeding the statutory maximum.
- (7) The validity of the resolution, if passed, is not affected by a failure to comply with this section.

#### **292 Members' power to require circulation of written resolution**

- (1) The members of a private company may require the company to circulate a resolution that may properly be moved and is proposed to be moved as a written resolution.
- (2) Any resolution may properly be moved as a written resolution unless—

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- (a) it would, if passed, be ineffective (whether by reason of inconsistency with any enactment or the company’s constitution or otherwise),
  - (b) it is defamatory of any person, or
  - (c) it is frivolous or vexatious.
- (3) Where the members require a company to circulate a resolution they may require the company to circulate with it a statement of not more than 1,000 words on the subject matter of the resolution.
- (4) A company is required to circulate the resolution and any accompanying statement once it has received requests that it do so from members representing not less than the requisite percentage of the total voting rights of all members entitled to vote on the resolution.
- (5) The “requisite percentage” is 5% or such lower percentage as is specified for this purpose in the company’s articles.
- (6) A request—
- (a) may be in hard copy form or in electronic form,
  - (b) must identify the resolution and any accompanying statement, and
  - (c) must be authenticated by the person or persons making it.

### **293 Circulation of written resolution proposed by members**

- (1) A company that is required under section 292 to circulate a resolution must send or submit to every eligible member—
- (a) a copy of the resolution, and
  - (b) a copy of any accompanying statement.

This is subject to section 294(2) (deposit or tender of sum in respect of expenses of circulation) and section 295 (application not to circulate members’ statement).

- (2) The company must do so—
- (a) by sending copies at the same time (so far as reasonably practicable) to all eligible members in hard copy form, in electronic form or by means of a website, or
  - (b) if it is possible to do so without undue delay, by submitting the same copy to each eligible member in turn (or different copies to each of a number of eligible members in turn),
- or by sending copies to some members in accordance with paragraph (a) and submitting a copy or copies to other members in accordance with paragraph (b).
- (3) The company must send or submit the copies (or, if copies are sent or submitted to members on different days, the first of those copies) not more than 21 days after it becomes subject to the requirement under section 292 to circulate the resolution.
- (4) The copy of the resolution must be accompanied by guidance as to—
- (a) how to signify agreement to the resolution (see section 296), and
  - (b) the date by which the resolution must be passed if it is not to lapse (see section 297).
- (5) In the event of default in complying with this section, an offence is committed by every officer of the company who is in default.

- (6) A person guilty of an offence under this section is liable—
  - (a) on conviction on indictment, to a fine;
  - (b) on summary conviction, to a fine not exceeding the statutory maximum.
- (7) The validity of the resolution, if passed, is not affected by a failure to comply with this section.

#### **294 Expenses of circulation**

- (1) The expenses of the company in complying with section 293 must be paid by the members who requested the circulation of the resolution unless the company resolves otherwise.
- (2) Unless the company has previously so resolved, it is not bound to comply with that section unless there is deposited with or tendered to it a sum reasonably sufficient to meet its expenses in doing so.

#### **295 Application not to circulate members' statement**

- (1) A company is not required to circulate a members' statement under section 293 if, on an application by the company or another person who claims to be aggrieved, the court is satisfied that the rights conferred by section 292 and that section are being abused.
- (2) The court may order the members who requested the circulation of the statement to pay the whole or part of the company's costs (in Scotland, expenses) on such an application, even if they are not parties to the application.

#### *Agreeing to written resolutions*

#### **296 Procedure for signifying agreement to written resolution**

- (1) A member signifies his agreement to a proposed written resolution when the company receives from him (or from someone acting on his behalf) an authenticated document—
  - (a) identifying the resolution to which it relates, and
  - (b) indicating his agreement to the resolution.
- (2) The document must be sent to the company in hard copy form or in electronic form.
- (3) A member's agreement to a written resolution, once signified, may not be revoked.
- (4) A written resolution is passed when the required majority of eligible members have signified their agreement to it.

#### **297 Period for agreeing to written resolution**

- (1) A proposed written resolution lapses if it is not passed before the end of—
  - (a) the period specified for this purpose in the company's articles, or
  - (b) if none is specified, the period of 28 days beginning with the circulation date.
- (2) The agreement of a member to a written resolution is ineffective if signified after the expiry of that period.

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### *Supplementary*

#### **298 Sending documents relating to written resolutions by electronic means**

- (1) Where a company has given an electronic address in any document containing or accompanying a proposed written resolution, it is deemed to have agreed that any document or information relating to that resolution may be sent by electronic means to that address (subject to any conditions or limitations specified in the document).
- (2) In this section “electronic address” means any address or number used for the purposes of sending or receiving documents or information by electronic means.

#### **299 Publication of written resolution on website**

- (1) This section applies where a company sends—
  - (a) a written resolution, or
  - (b) a statement relating to a written resolution,to a person by means of a website.
- (2) The resolution or statement is not validly sent for the purposes of this Chapter unless the resolution is available on the website throughout the period beginning with the circulation date and ending on the date on which the resolution lapses under section 297.

#### **300 Relationship between this Chapter and provisions of company’s articles**

A provision of the articles of a private company is void in so far as it would have the effect that a resolution that is required by or otherwise provided for in an enactment could not be proposed and passed as a written resolution.

## **CHAPTER 3**

### **RESOLUTIONS AT MEETINGS**

#### *General provisions about resolutions at meetings*

#### **301 Resolutions at general meetings**

A resolution of the members of a company is validly passed at a general meeting if—

- (a) notice of the meeting and of the resolution is given, and
- (b) the meeting is held and conducted,

in accordance with the provisions of this Chapter (and, where relevant, Chapter 4) and the company’s articles.

#### *Calling meetings*

#### **302 Directors' power to call general meetings**

The directors of a company may call a general meeting of the company.



### **303 Members' power to require directors to call general meeting**

- (1) The members of a company may require the directors to call a general meeting of the company.
- (2) The directors are required to call a general meeting once the company has received requests to do so from—
  - (a) members representing at least the required percentage of such of the paid-up capital of the company as carries the right of voting at general meetings of the company (excluding any paid-up capital held as treasury shares); or
  - (b) in the case of a company not having a share capital, members who represent at least the required percentage of the total voting rights of all the members having a right to vote at general meetings.
- (3) The required percentage is 10% unless, in the case of a private company, more than twelve months has elapsed since the end of the last general meeting—
  - (a) called in pursuance of a requirement under this section, or
  - (b) in relation to which any members of the company had (by virtue of an enactment, the company's articles or otherwise) rights with respect to the circulation of a resolution no less extensive than they would have had if the meeting had been so called at their request,in which case the required percentage is 5%.
- (4) A request—
  - (a) must state the general nature of the business to be dealt with at the meeting, and
  - (b) may include the text of a resolution that may properly be moved and is intended to be moved at the meeting.
- (5) A resolution may properly be moved at a meeting unless—
  - (a) it would, if passed, be ineffective (whether by reason of inconsistency with any enactment or the company's constitution or otherwise),
  - (b) it is defamatory of any person, or
  - (c) it is frivolous or vexatious.
- (6) A request—
  - (a) may be in hard copy form or in electronic form, and
  - (b) must be authenticated by the person or persons making it.

### **304 Directors' duty to call meetings required by members**

- (1) Directors required under section 303 to call a general meeting of the company must call a meeting—
  - (a) within 21 days from the date on which they become subject to the requirement, and
  - (b) to be held on a date not more than 28 days after the date of the notice convening the meeting.
- (2) If the requests received by the company identify a resolution intended to be moved at the meeting, the notice of the meeting must include notice of the resolution.
- (3) The business that may be dealt with at the meeting includes a resolution of which notice is given in accordance with this section.

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- (4) If the resolution is to be proposed as a special resolution, the directors are treated as not having duly called the meeting if they do not give the required notice of the resolution in accordance with section 283.

### **305 Power of members to call meeting at company's expense**

- (1) If the directors—
- (a) are required under section 303 to call a meeting, and
  - (b) do not do so in accordance with section 304,
- the members who requested the meeting, or any of them representing more than one half of the total voting rights of all of them, may themselves call a general meeting.
- (2) Where the requests received by the company included the text of a resolution intended to be moved at the meeting, the notice of the meeting must include notice of the resolution.
- (3) The meeting must be called for a date not more than three months after the date on which the directors become subject to the requirement to call a meeting.
- (4) The meeting must be called in the same manner, as nearly as possible, as that in which meetings are required to be called by directors of the company.
- (5) The business which may be dealt with at the meeting includes a resolution of which notice is given in accordance with this section.
- (6) Any reasonable expenses incurred by the members requesting the meeting by reason of the failure of the directors duly to call a meeting must be reimbursed by the company.
- (7) Any sum so reimbursed shall be retained by the company out of any sums due or to become due from the company by way of fees or other remuneration in respect of the services of such of the directors as were in default.

### **306 Power of court to order meeting**

- (1) This section applies if for any reason it is impracticable—
- (a) to call a meeting of a company in any manner in which meetings of that company may be called, or
  - (b) to conduct the meeting in the manner prescribed by the company's articles or this Act.
- (2) The court may, either of its own motion or on the application—
- (a) of a director of the company, or
  - (b) of a member of the company who would be entitled to vote at the meeting,
- order a meeting to be called, held and conducted in any manner the court thinks fit.
- (3) Where such an order is made, the court may give such ancillary or consequential directions as it thinks expedient.
- (4) Such directions may include a direction that one member of the company present at the meeting be deemed to constitute a quorum.
- (5) A meeting called, held and conducted in accordance with an order under this section is deemed for all purposes to be a meeting of the company duly called, held and conducted.

### *Notice of meetings*

#### **307 Notice required of general meeting**

- (1) A general meeting of a private company (other than an adjourned meeting) must be called by notice of at least 14 days.
- (2) A general meeting of a public company (other than an adjourned meeting) must be called by notice of—
  - (a) in the case of an annual general meeting, at least 21 days, and
  - (b) in any other case, at least 14 days.
- (3) The company's articles may require a longer period of notice than that specified in subsection (1) or (2).
- (4) A general meeting may be called by shorter notice than that otherwise required if shorter notice is agreed by the members.
- (5) The shorter notice must be agreed to by a majority in number of the members having a right to attend and vote at the meeting, being a majority who—
  - (a) together hold not less than the requisite percentage in nominal value of the shares giving a right to attend and vote at the meeting (excluding any shares in the company held as treasury shares), or
  - (b) in the case of a company not having a share capital, together represent not less than the requisite percentage of the total voting rights at that meeting of all the members.
- (6) The requisite percentage is—
  - (a) in the case of a private company, 90% or such higher percentage (not exceeding 95%) as may be specified in the company's articles;
  - (b) in the case of a public company, 95%.
- (7) Subsections (5) and (6) do not apply to an annual general meeting of a public company (see instead section 337(2)).

#### **308 Manner in which notice to be given**

Notice of a general meeting of a company must be given—

- (a) in hard copy form,
  - (b) in electronic form, or
  - (c) by means of a website (see section 309),
- or partly by one such means and partly by another.

#### **309 Publication of notice of meeting on website**

- (1) Notice of a meeting is not validly given by a company by means of a website unless it is given in accordance with this section.
- (2) When the company notifies a member of the presence of the notice on the website the notification must—
  - (a) state that it concerns a notice of a company meeting,
  - (b) specify the place, date and time of the meeting, and

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- (c) in the case of a public company, state whether the meeting will be an annual general meeting.
- (3) The notice must be available on the website throughout the period beginning with the date of that notification and ending with the conclusion of the meeting.

### **310 Persons entitled to receive notice of meetings**

- (1) Notice of a general meeting of a company must be sent to—
  - (a) every member of the company, and
  - (b) every director.
- (2) In subsection (1), the reference to members includes any person who is entitled to a share in consequence of the death or bankruptcy of a member, if the company has been notified of their entitlement.
- (3) In subsection (2), the reference to the bankruptcy of a member includes—
  - (a) the sequestration of the estate of a member;
  - (b) a member's estate being the subject of a protected trust deed (within the meaning of the Bankruptcy (Scotland) Act 1985 (c. 66)).
- (4) This section has effect subject to—
  - (a) any enactment, and
  - (b) any provision of the company's articles.

### **311 Contents of notices of meetings**

- (1) Notice of a general meeting of a company must state—
  - (a) the time and date of the meeting, and
  - (b) the place of the meeting.
- (2) Notice of a general meeting of a company must state the general nature of the business to be dealt with at the meeting.

This subsection has effect subject to any provision of the company's articles.

### **312 Resolution requiring special notice**

- (1) Where by any provision of the Companies Acts special notice is required of a resolution, the resolution is not effective unless notice of the intention to move it has been given to the company at least 28 days before the meeting at which it is moved.
- (2) The company must, where practicable, give its members notice of any such resolution in the same manner and at the same time as it gives notice of the meeting.
- (3) Where that is not practicable, the company must give its members notice at least 14 days before the meeting—
  - (a) by advertisement in a newspaper having an appropriate circulation, or
  - (b) in any other manner allowed by the company's articles.
- (4) If, after notice of the intention to move such a resolution has been given to the company, a meeting is called for a date 28 days or less after the notice has been given,

the notice is deemed to have been properly given, though not given within the time required.

### **313 Accidental failure to give notice of resolution or meeting**

- (1) Where a company gives notice of—
  - (a) a general meeting, or
  - (b) a resolution intended to be moved at a general meeting,any accidental failure to give notice to one or more persons shall be disregarded for the purpose of determining whether notice of the meeting or resolution (as the case may be) is duly given.
- (2) Except in relation to notice given under—
  - (a) section 304 (notice of meetings required by members),
  - (b) section 305 (notice of meetings called by members), or
  - (c) section 339 (notice of resolutions at AGMs proposed by members),subsection (1) has effect subject to any provision of the company's articles.

#### *Members' statements*

### **314 Members' power to require circulation of statements**

- (1) The members of a company may require the company to circulate, to members of the company entitled to receive notice of a general meeting, a statement of not more than 1,000 words with respect to—
  - (a) a matter referred to in a proposed resolution to be dealt with at that meeting, or
  - (b) other business to be dealt with at that meeting.
- (2) A company is required to circulate a statement once it has received requests to do so from—
  - (a) members representing at least 5% of the total voting rights of all the members who have a relevant right to vote (excluding any voting rights attached to any shares in the company held as treasury shares), or
  - (b) at least 100 members who have a relevant right to vote and hold shares in the company on which there has been paid up an average sum, per member, of at least £100.

See also section 153 (exercise of rights where shares held on behalf of others).

- (3) In subsection (2), a “relevant right to vote” means—
  - (a) in relation to a statement with respect to a matter referred to in a proposed resolution, a right to vote on that resolution at the meeting to which the requests relate, and
  - (b) in relation to any other statement, a right to vote at the meeting to which the requests relate.
- (4) A request—
  - (a) may be in hard copy form or in electronic form,
  - (b) must identify the statement to be circulated,
  - (c) must be authenticated by the person or persons making it, and

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- (d) must be received by the company at least one week before the meeting to which it relates.

### **315 Company's duty to circulate members' statement**

- (1) A company that is required under section 314, to circulate a statement must send a copy of it to each member of the company entitled to receive notice of the meeting—
  - (a) in the same manner as the notice of the meeting, and
  - (b) at the same time as, or as soon as reasonably practicable after, it gives notice of the meeting.
- (2) Subsection (1) has effect subject to section 316(2) (deposit or tender of sum in respect of expenses of circulation) and section 317 (application not to circulate members' statement).
- (3) In the event of default in complying with this section, an offence is committed by every officer of the company who is in default.
- (4) A person guilty of an offence under this section is liable—
  - (a) on conviction on indictment, to a fine;
  - (b) on summary conviction, to a fine not exceeding the statutory maximum.

### **316 Expenses of circulating members' statement**

- (1) The expenses of the company in complying with section 315 need not be paid by the members who requested the circulation of the statement if—
  - (a) the meeting to which the requests relate is an annual general meeting of a public company, and
  - (b) requests sufficient to require the company to circulate the statement are received before the end of the financial year preceding the meeting.
- (2) Otherwise—
  - (a) the expenses of the company in complying with that section must be paid by the members who requested the circulation of the statement unless the company resolves otherwise, and
  - (b) unless the company has previously so resolved, it is not bound to comply with that section unless there is deposited with or tendered to it, not later than one week before the meeting, a sum reasonably sufficient to meet its expenses in doing so.

### **317 Application not to circulate members' statement**

- (1) A company is not required to circulate a members' statement under section 315 if, on an application by the company or another person who claims to be aggrieved, the court is satisfied that the rights conferred by section 314 and that section are being abused.
- (2) The court may order the members who requested the circulation of the statement to pay the whole or part of the company's costs (in Scotland, expenses) on such an application, even if they are not parties to the application.

### *Procedure at meetings*

#### **318 Quorum at meetings**

- (1) In the case of a company limited by shares or guarantee and having only one member, one qualifying person present at a meeting is a quorum.
- (2) In any other case, subject to the provisions of the company's articles, two qualifying persons present at a meeting are a quorum, unless—
  - (a) each is a qualifying person only because he is authorised under section 323 to act as the representative of a corporation in relation to the meeting, and they are representatives of the same corporation; or
  - (b) each is a qualifying person only because he is appointed as proxy of a member in relation to the meeting, and they are proxies of the same member.
- (3) For the purposes of this section a “qualifying person” means—
  - (a) an individual who is a member of the company,
  - (b) a person authorised under section 323 (representation of corporations at meetings) to act as the representative of a corporation in relation to the meeting, or
  - (c) a person appointed as proxy of a member in relation to the meeting.

#### **319 Chairman of meeting**

- (1) A member may be elected to be the chairman of a general meeting by a resolution of the company passed at the meeting.
- (2) Subsection (1) is subject to any provision of the company's articles that states who may or may not be chairman.

#### **320 Declaration by chairman on a show of hands**

- (1) On a vote on a resolution at a meeting on a show of hands, a declaration by the chairman that the resolution—
  - (a) has or has not been passed, or
  - (b) passed with a particular majority,is conclusive evidence of that fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- (2) An entry in respect of such a declaration in minutes of the meeting recorded in accordance with section 355 is also conclusive evidence of that fact without such proof.
- (3) This section does not have effect if a poll is demanded in respect of the resolution (and the demand is not subsequently withdrawn).

#### **321 Right to demand a poll**

- (1) A provision of a company's articles is void in so far as it would have the effect of excluding the right to demand a poll at a general meeting on any question other than—
  - (a) the election of the chairman of the meeting, or
  - (b) the adjournment of the meeting.

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- (2) A provision of a company's articles is void in so far as it would have the effect of making ineffective a demand for a poll on any such question which is made—
- (a) by not less than 5 members having the right to vote on the resolution; or
  - (b) by a member or members representing not less than 10% of the total voting rights of all the members having the right to vote on the resolution (excluding any voting rights attached to any shares in the company held as treasury shares); or
  - (c) by a member or members holding shares in the company conferring a right to vote on the resolution, being shares on which an aggregate sum has been paid up equal to not less than 10% of the total sum paid up on all the shares conferring that right (excluding shares in the company conferring a right to vote on the resolution which are held as treasury shares).

### **322 Voting on a poll**

On a poll taken at a general meeting of a company, a member entitled to more than one vote need not, if he votes, use all his votes or cast all the votes he uses in the same way.

### **323 Representation of corporations at meetings**

- (1) If a corporation (whether or not a company within the meaning of this Act) is a member of a company, it may by resolution of its directors or other governing body authorise a person or persons to act as its representative or representatives at any meeting of the company.
- (2) Where the corporation authorises only one person, he is entitled to exercise the same powers on behalf of the corporation as the corporation could exercise if it were an individual member of the company.
- (3) Where the corporation authorises more than one person, any one of them is entitled to exercise the same powers on behalf of the corporation as the corporation could exercise if it were an individual member of the company.
- (4) Where the corporation authorises more than one person and more than one of them purport to exercise a power under subsection (3)—
  - (a) if they purport to exercise the power in the same way, the power is treated as exercised in that way,
  - (b) if they do not purport to exercise the power in the same way, the power is treated as not exercised.

### *Proxies*

### **324 Rights to appoint proxies**

- (1) A member of a company is entitled to appoint another person as his proxy to exercise all or any of his rights to attend and to speak and vote at a meeting of the company.
- (2) In the case of a company having a share capital, a member may appoint more than one proxy in relation to a meeting, provided that each proxy is appointed to exercise the rights attached to a different share or shares held by him, or (as the case may be) to a different £10, or multiple of £10, of stock held by him.



### **325 Notice of meeting to contain statement of rights**

- (1) In every notice calling a meeting of a company there must appear, with reasonable prominence, a statement informing the member of—
  - (a) his rights under section 324, and
  - (b) any more extensive rights conferred by the company's articles to appoint more than one proxy.
- (2) Failure to comply with this section does not affect the validity of the meeting or of anything done at the meeting.
- (3) If this section is not complied with as respects any meeting, an offence is committed by every officer of the company who is in default.
- (4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **326 Company-sponsored invitations to appoint proxies**

- (1) If for the purposes of a meeting there are issued at the company's expense invitations to members to appoint as proxy a specified person or a number of specified persons, the invitations must be issued to all members entitled to vote at the meeting.
- (2) Subsection (1) is not contravened if—
  - (a) there is issued to a member at his request a form of appointment naming the proxy or a list of persons willing to act as proxy, and
  - (b) the form or list is available on request to all members entitled to vote at the meeting.
- (3) If subsection (1) is contravened as respects a meeting, an offence is committed by every officer of the company who is in default.
- (4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **327 Notice required of appointment of proxy etc**

- (1) This section applies to—
  - (a) the appointment of a proxy, and
  - (b) any document necessary to show the validity of, or otherwise relating to, the appointment of a proxy.
- (2) Any provision of the company's articles is void in so far as it would have the effect of requiring any such appointment or document to be received by the company or another person earlier than the following time—
  - (a) in the case of a meeting or adjourned meeting, 48 hours before the time for holding the meeting or adjourned meeting;
  - (b) in the case of a poll taken more than 48 hours after it was demanded, 24 hours before the time appointed for the taking of the poll;
  - (c) in the case of a poll taken not more than 48 hours after it was demanded, the time at which it was demanded.
- (3) In calculating the periods mentioned in subsection (2) no account shall be taken of any part of a day that is not a working day.

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### **328 Chairing meetings**

- (1) A proxy may be elected to be the chairman of a general meeting by a resolution of the company passed at the meeting.
- (2) Subsection (1) is subject to any provision of the company's articles that states who may or who may not be chairman.

### **329 Right of proxy to demand a poll**

- (1) The appointment of a proxy to vote on a matter at a meeting of a company authorises the proxy to demand, or join in demanding, a poll on that matter.
- (2) In applying the provisions of section 321(2) (requirements for effective demand), a demand by a proxy counts—
  - (a) for the purposes of paragraph (a), as a demand by the member;
  - (b) for the purposes of paragraph (b), as a demand by a member representing the voting rights that the proxy is authorised to exercise;
  - (c) for the purposes of paragraph (c), as a demand by a member holding the shares to which those rights are attached.

### **330 Notice required of termination of proxy's authority**

- (1) This section applies to notice that the authority of a person to act as proxy is terminated ("notice of termination").
- (2) The termination of the authority of a person to act as proxy does not affect—
  - (a) whether he counts in deciding whether there is a quorum at a meeting,
  - (b) the validity of anything he does as chairman of a meeting, or
  - (c) the validity of a poll demanded by him at a meeting,unless the company receives notice of the termination before the commencement of the meeting.
- (3) The termination of the authority of a person to act as proxy does not affect the validity of a vote given by that person unless the company receives notice of the termination—
  - (a) before the commencement of the meeting or adjourned meeting at which the vote is given, or
  - (b) in the case of a poll taken more than 48 hours after it is demanded, before the time appointed for taking the poll.
- (4) If the company's articles require or permit members to give notice of termination to a person other than the company, the references above to the company receiving notice have effect as if they were or (as the case may be) included a reference to that person.
- (5) Subsections (2) and (3) have effect subject to any provision of the company's articles which has the effect of requiring notice of termination to be received by the company or another person at a time earlier than that specified in those subsections.

This is subject to subsection (6).
- (6) Any provision of the company's articles is void in so far as it would have the effect of requiring notice of termination to be received by the company or another person earlier than the following time—

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- (a) in the case of a meeting or adjourned meeting, 48 hours before the time for holding the meeting or adjourned meeting;
  - (b) in the case of a poll taken more than 48 hours after it was demanded, 24 hours before the time appointed for the taking of the poll;
  - (c) in the case of a poll taken not more than 48 hours after it was demanded, the time at which it was demanded.
- (7) In calculating the periods mentioned in subsections (3)(b) and (6) no account shall be taken of any part of a day that is not a working day.

### **331 Saving for more extensive rights conferred by articles**

Nothing in sections 324 to 330 (proxies) prevents a company's articles from conferring more extensive rights on members or proxies than are conferred by those sections.

#### *Adjourned meetings*

### **332 Resolution passed at adjourned meeting**

Where a resolution is passed at an adjourned meeting of a company, the resolution is for all purposes to be treated as having been passed on the date on which it was in fact passed, and is not to be deemed passed on any earlier date.

#### *Electronic communications*

### **333 Sending documents relating to meetings etc in electronic form**

- (1) Where a company has given an electronic address in a notice calling a meeting, it is deemed to have agreed that any document or information relating to proceedings at the meeting may be sent by electronic means to that address (subject to any conditions or limitations specified in the notice).
- (2) Where a company has given an electronic address—
  - (a) in an instrument of proxy sent out by the company in relation to the meeting, or
  - (b) in an invitation to appoint a proxy issued by the company in relation to the meeting,it is deemed to have agreed that any document or information relating to proxies for that meeting may be sent by electronic means to that address (subject to any conditions or limitations specified in the notice).
- (3) In subsection (2), documents relating to proxies include—
  - (a) the appointment of a proxy in relation to a meeting,
  - (b) any document necessary to show the validity of, or otherwise relating to, the appointment of a proxy, and
  - (c) notice of the termination of the authority of a proxy.
- (4) In this section “electronic address” means any address or number used for the purposes of sending or receiving documents or information by electronic means.

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

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### *Application to class meetings*

#### **334 Application to class meetings**

- (1) The provisions of this Chapter apply (with necessary modifications) in relation to a meeting of holders of a class of shares as they apply in relation to a general meeting.

This is subject to subsections (2) and (3).

- (2) The following provisions of this Chapter do not apply in relation to a meeting of holders of a class of shares—
- (a) sections 303 to 305 (members' power to require directors to call general meeting), and
  - (b) section 306 (power of court to order meeting).
- (3) The following provisions (in addition to those mentioned in subsection (2)) do not apply in relation to a meeting in connection with the variation of rights attached to a class of shares (a “variation of class rights meeting”)—
- (a) section 318 (quorum), and
  - (b) section 321 (right to demand a poll).
- (4) The quorum for a variation of class rights meeting is—
- (a) for a meeting other than an adjourned meeting, two persons present holding at least one-third in nominal value of the issued shares of the class in question (excluding any shares of that class held as treasury shares);
  - (b) for an adjourned meeting, one person present holding shares of the class in question.
- (5) For the purposes of subsection (4), where a person is present by proxy or proxies, he is treated as holding only the shares in respect of which those proxies are authorised to exercise voting rights.
- (6) At a variation of class rights meeting, any holder of shares of the class in question present may demand a poll.
- (7) For the purposes of this section—
- (a) any amendment of a provision contained in a company's articles for the variation of the rights attached to a class of shares, or the insertion of any such provision into the articles, is itself to be treated as a variation of those rights, and
  - (b) references to the variation of rights attached to a class of shares include references to their abrogation.

#### **335 Application to class meetings: companies without a share capital**

- (1) The provisions of this Chapter apply (with necessary modifications) in relation to a meeting of a class of members of a company without a share capital as they apply in relation to a general meeting.

This is subject to subsections (2) and (3).

- (2) The following provisions of this Chapter do not apply in relation to a meeting of a class of members—

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- (a) sections 303 to 305 (members' power to require directors to call general meeting), and
  - (b) section 306 (power of court to order meeting).
- (3) The following provisions (in addition to those mentioned in subsection (2)) do not apply in relation to a meeting in connection with the variation of the rights of a class of members (a “variation of class rights meeting”)—
- (a) section 318 (quorum), and
  - (b) section 321 (right to demand a poll).
- (4) The quorum for a variation of class rights meeting is—
- (a) for a meeting other than an adjourned meeting, two members of the class present (in person or by proxy) who together represent at least one-third of the voting rights of the class;
  - (b) for an adjourned meeting, one member of the class present (in person or by proxy).
- (5) At a variation of class rights meeting, any member present (in person or by proxy) may demand a poll.
- (6) For the purposes of this section—
- (a) any amendment of a provision contained in a company’s articles for the variation of the rights of a class of members, or the insertion of any such provision into the articles, is itself to be treated as a variation of those rights, and
  - (b) references to the variation of rights of a class of members include references to their abrogation.

## CHAPTER 4

### PUBLIC COMPANIES: ADDITIONAL REQUIREMENTS FOR AGMS

#### **336 Public companies: annual general meeting**

- (1) Every public company must hold a general meeting as its annual general meeting in each period of 6 months beginning with the day following its accounting reference date (in addition to any other meetings held during that period).
- (2) A company that fails to comply with subsection (1) as a result of giving notice under section 392 (alteration of accounting reference date)—
- (a) specifying a new accounting reference date, and
  - (b) stating that the current accounting reference period or the previous accounting reference period is to be shortened,
- shall be treated as if it had complied with subsection (1) if it holds a general meeting as its annual general meeting within 3 months of giving that notice.
- (3) If a company fails to comply with subsection (1), an offence is committed by every officer of the company who is in default.
- (4) A person guilty of an offence under this section is liable—
- (a) on conviction on indictment, to a fine;
  - (b) on summary conviction, to a fine not exceeding the statutory maximum.

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### **337 Public companies: notice of AGM**

- (1) A notice calling an annual general meeting of a public company must state that the meeting is an annual general meeting.
- (2) An annual general meeting may be called by shorter notice than that required by section 307(2) or by the company's articles (as the case may be), if all the members entitled to attend and vote at the meeting agree to the shorter notice.

### **338 Public companies: members' power to require circulation of resolutions for AGMs**

- (1) The members of a public company may require the company to give, to members of the company entitled to receive notice of the next annual general meeting, notice of a resolution which may properly be moved and is intended to be moved at that meeting.
- (2) A resolution may properly be moved at an annual general meeting unless—
  - (a) it would, if passed, be ineffective (whether by reason of inconsistency with any enactment or the company's constitution or otherwise),
  - (b) it is defamatory of any person, or
  - (c) it is frivolous or vexatious.
- (3) A company is required to give notice of a resolution once it has received requests that it do so from—
  - (a) members representing at least 5% of the total voting rights of all the members who have a right to vote on the resolution at the annual general meeting to which the requests relate (excluding any voting rights attached to any shares in the company held as treasury shares), or
  - (b) at least 100 members who have a right to vote on the resolution at the annual general meeting to which the requests relate and hold shares in the company on which there has been paid up an average sum, per member, of at least £100.

See also section 153 (exercise of rights where shares held on behalf of others).

- (4) A request—
  - (a) may be in hard copy form or in electronic form,
  - (b) must identify the resolution of which notice is to be given,
  - (c) must be authenticated by the person or persons making it, and
  - (d) must be received by the company not later than—
    - (i) 6 weeks before the annual general meeting to which the requests relate, or
    - (ii) if later, the time at which notice is given of that meeting.

### **339 Public companies: company's duty to circulate members' resolutions for AGMs**

- (1) A company that is required under section 338 to give notice of a resolution must send a copy of it to each member of the company entitled to receive notice of the annual general meeting—
  - (a) in the same manner as notice of the meeting, and
  - (b) at the same time as, or as soon as reasonably practicable after, it gives notice of the meeting.

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- (2) Subsection (1) has effect subject to section 340(2) (deposit or tender of sum in respect of expenses of circulation).
- (3) The business which may be dealt with at an annual general meeting includes a resolution of which notice is given in accordance with this section.
- (4) In the event of default in complying with this section, an offence is committed by every officer of the company who is in default.
- (5) A person guilty of an offence under this section is liable—
  - (a) on conviction on indictment, to a fine;
  - (b) on summary conviction, to a fine not exceeding the statutory maximum.

### **340 Public companies: expenses of circulating members' resolutions for AGM**

- (1) The expenses of the company in complying with section 339 need not be paid by the members who requested the circulation of the resolution if requests sufficient to require the company to circulate it are received before the end of the financial year preceding the meeting.
- (2) Otherwise—
  - (a) the expenses of the company in complying with that section must be paid by the members who requested the circulation of the resolution unless the company resolves otherwise, and
  - (b) unless the company has previously so resolved, it is not bound to comply with that section unless there is deposited with or tendered to it, not later than—
    - (i) six weeks before the annual general meeting to which the requests relate, or
    - (ii) if later, the time at which notice is given of that meeting,a sum reasonably sufficient to meet its expenses in complying with that section.

## **CHAPTER 5**

### **ADDITIONAL REQUIREMENTS FOR QUOTED COMPANIES**

#### *Website publication of poll results*

### **341 Results of poll to be made available on website**

- (1) Where a poll is taken at a general meeting of a quoted company, the company must ensure that the following information is made available on a website—
  - (a) the date of the meeting,
  - (b) the text of the resolution or, as the case may be, a description of the subject matter of the poll,
  - (c) the number of votes cast in favour, and
  - (d) the number of votes cast against.
- (2) The provisions of section 353 (requirements as to website availability) apply.

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- (3) In the event of default in complying with this section (or with the requirements of section 353 as it applies for the purposes of this section), an offence is committed by every officer of the company who is in default.
- (4) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) Failure to comply with this section (or the requirements of section 353) does not affect the validity of—
  - (a) the poll, or
  - (b) the resolution or other business (if passed or agreed to) to which the poll relates.
- (6) This section only applies to polls taken after this section comes into force.

#### *Independent report on poll*

### **342 Members' power to require independent report on poll**

- (1) The members of a quoted company may require the directors to obtain an independent report on any poll taken, or to be taken, at a general meeting of the company.
- (2) The directors are required to obtain an independent report if they receive requests to do so from—
  - (a) members representing not less than 5% of the total voting rights of all the members who have a right to vote on the matter to which the poll relates (excluding any voting rights attached to any shares in the company held as treasury shares), or
  - (b) not less than 100 members who have a right to vote on the matter to which the poll relates and hold shares in the company on which there has been paid up an average sum, per member, of not less than £100.

See also section 153 (exercise of rights where shares held on behalf of others).

- (3) Where the requests relate to more than one poll, subsection (2) must be satisfied in relation to each of them.
- (4) A request—
  - (a) may be in hard copy form or in electronic form,
  - (b) must identify the poll or polls to which it relates,
  - (c) must be authenticated by the person or persons making it, and
  - (d) must be received by the company not later than one week after the date on which the poll is taken.

### **343 Appointment of independent assessor**

- (1) Directors who are required under section 342 to obtain an independent report on a poll or polls must appoint a person they consider to be appropriate (an “independent assessor”) to prepare a report for the company on it or them.
- (2) The appointment must be made within one week after the company being required to obtain the report.



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- (3) The directors must not appoint a person who—
  - (a) does not meet the independence requirement in section 344, or
  - (b) has another role in relation to any poll on which he is to report (including, in particular, a role in connection with collecting or counting votes or with the appointment of proxies).
- (4) In the event of default in complying with this section, an offence is committed by every officer of the company who is in default.
- (5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (6) If at the meeting no poll on which a report is required is taken—
  - (a) the directors are not required to obtain a report from the independent assessor, and
  - (b) his appointment ceases (but without prejudice to any right to be paid for work done before the appointment ceased).

#### **344 Independence requirement**

- (1) A person may not be appointed as an independent assessor—
  - (a) if he is—
    - (i) an officer or employee of the company, or
    - (ii) a partner or employee of such a person, or a partnership of which such a person is a partner;
  - (b) if he is—
    - (i) an officer or employee of an associated undertaking of the company, or
    - (ii) a partner or employee of such a person, or a partnership of which such a person is a partner;
  - (c) if there exists between—
    - (i) the person or an associate of his, and
    - (ii) the company or an associated undertaking of the company,a connection of any such description as may be specified by regulations made by the Secretary of State.
- (2) An auditor of the company is not regarded as an officer or employee of the company for this purpose.
- (3) In this section—
  - “associated undertaking” means—
    - (a) a parent undertaking or subsidiary undertaking of the company, or
    - (b) a subsidiary undertaking of a parent undertaking of the company; and“associate” has the meaning given by section 345.
- (4) Regulations under this section are subject to negative resolution procedure.

#### **345 Meaning of “associate”**

- (1) This section defines “associate” for the purposes of section 344 (independence requirement).

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- (2) In relation to an individual, “associate” means—
  - (a) that individual’s spouse or civil partner or minor child or step-child,
  - (b) any body corporate of which that individual is a director, and
  - (c) any employee or partner of that individual.
- (3) In relation to a body corporate, “associate” means—
  - (a) any body corporate of which that body is a director,
  - (b) any body corporate in the same group as that body, and
  - (c) any employee or partner of that body or of any body corporate in the same group.
- (4) In relation to a partnership that is a legal person under the law by which it is governed, “associate” means—
  - (a) any body corporate of which that partnership is a director,
  - (b) any employee of or partner in that partnership, and
  - (c) any person who is an associate of a partner in that partnership.
- (5) In relation to a partnership that is not a legal person under the law by which it is governed, “associate” means any person who is an associate of any of the partners.
- (6) In this section, in relation to a limited liability partnership, for “director” read “member”.

### **346 Effect of appointment of a partnership**

- (1) This section applies where a partnership that is not a legal person under the law by which it is governed is appointed as an independent assessor.
- (2) Unless a contrary intention appears, the appointment is of the partnership as such and not of the partners.
- (3) Where the partnership ceases, the appointment is to be treated as extending to—
  - (a) any partnership that succeeds to the practice of that partnership, or
  - (b) any other person who succeeds to that practice having previously carried it on in partnership.
- (4) For the purposes of subsection (3)—
  - (a) a partnership is regarded as succeeding to the practice of another partnership only if the members of the successor partnership are substantially the same as those of the former partnership, and
  - (b) a partnership or other person is regarded as succeeding to the practice of a partnership only if it or he succeeds to the whole or substantially the whole of the business of the former partnership.
- (5) Where the partnership ceases and the appointment is not treated under subsection (3) as extending to any partnership or other person, the appointment may with the consent of the company be treated as extending to a partnership, or other person, who succeeds to—
  - (a) the business of the former partnership, or
  - (b) such part of it as is agreed by the company is to be treated as comprising the appointment.

### **347 The independent assessor's report**

- (1) The report of the independent assessor must state his opinion whether—
  - (a) the procedures adopted in connection with the poll or polls were adequate;
  - (b) the votes cast (including proxy votes) were fairly and accurately recorded and counted;
  - (c) the validity of members' appointments of proxies was fairly assessed;
  - (d) the notice of the meeting complied with section 325 (notice of meeting to contain statement of rights to appoint proxy);
  - (e) section 326 (company-sponsored invitations to appoint proxies) was complied with in relation to the meeting.
- (2) The report must give his reasons for the opinions stated.
- (3) If he is unable to form an opinion on any of those matters, the report must record that fact and state the reasons for it.
- (4) The report must state the name of the independent assessor.

### **348 Rights of independent assessor: right to attend meeting etc**

- (1) Where an independent assessor has been appointed to report on a poll, he is entitled to attend—
  - (a) the meeting at which the poll may be taken, and
  - (b) any subsequent proceedings in connection with the poll.
- (2) He is also entitled to be provided by the company with a copy of—
  - (a) the notice of the meeting, and
  - (b) any other communication provided by the company in connection with the meeting to persons who have a right to vote on the matter to which the poll relates.
- (3) The rights conferred by this section are only to be exercised to the extent that the independent assessor considers necessary for the preparation of his report.
- (4) If the independent assessor is a firm, the right under subsection (1) to attend the meeting and any subsequent proceedings in connection with the poll is exercisable by an individual authorised by the firm in writing to act as its representative for that purpose.

### **349 Rights of independent assessor: right to information**

- (1) The independent assessor is entitled to access to the company's records relating to—
  - (a) any poll on which he is to report;
  - (b) the meeting at which the poll or polls may be, or were, taken.
- (2) The independent assessor may require anyone who at any material time was—
  - (a) a director or secretary of the company,
  - (b) an employee of the company,
  - (c) a person holding or accountable for any of the company's records,
  - (d) a member of the company, or
  - (e) an agent of the company,

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to provide him with information or explanations for the purpose of preparing his report.

- (3) For this purpose “agent” includes the company’s bankers, solicitors and auditor.
- (4) A statement made by a person in response to a requirement under this section may not be used in evidence against him in criminal proceedings except proceedings for an offence under section 350 (offences relating to provision of information).
- (5) A person is not required by this section to disclose information in respect of which a claim to legal professional privilege (in Scotland, to confidentiality of communications) could be maintained in legal proceedings.

### **350 Offences relating to provision of information**

- (1) A person who fails to comply with a requirement under section 349 without delay commits an offence unless it was not reasonably practicable for him to provide the required information or explanation.
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) A person commits an offence who knowingly or recklessly makes to an independent assessor a statement (oral or written) that—
  - (a) conveys or purports to convey any information or explanations which the independent assessor requires, or is entitled to require, under section 349, and
  - (b) is misleading, false or deceptive in a material particular.
- (4) A person guilty of an offence under subsection (3) is liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);
  - (b) on summary conviction—
    - (i) in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);
    - (ii) in Scotland or Northern Ireland, to imprisonment for a term not exceeding six months, or to a fine not exceeding the statutory maximum (or both).
- (5) Nothing in this section affects any right of an independent assessor to apply for an injunction (in Scotland, an interdict or an order for specific performance) to enforce any of his rights under section 348 or 349.

### **351 Information to be made available on website**

- (1) Where an independent assessor has been appointed to report on a poll, the company must ensure that the following information is made available on a website—
  - (a) the fact of his appointment,
  - (b) his identity,
  - (c) the text of the resolution or, as the case may be, a description of the subject matter of the poll to which his appointment relates, and
  - (d) a copy of a report by him which complies with section 347.

- (2) The provisions of section 353 (requirements as to website availability) apply.
- (3) In the event of default in complying with this section (or with the requirements of section 353 as it applies for the purposes of this section), an offence is committed by every officer of the company who is in default.
- (4) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) Failure to comply with this section (or the requirements of section 353) does not affect the validity of—
  - (a) the poll, or
  - (b) the resolution or other business (if passed or agreed to) to which the poll relates.

### *Supplementary*

#### **352 Application of provisions to class meetings**

- (1) The provisions of—
  - section 341 (results of poll to be made available on website), and
  - sections 342 to 351 (independent report on poll),apply (with any necessary modifications) in relation to a meeting of holders of a class of shares of a quoted company in connection with the variation of the rights attached to such shares as they apply in relation to a general meeting of the company.
- (2) For the purposes of this section—
  - (a) any amendment of a provision contained in a company's articles for the variation of the rights attached to a class of shares, or the insertion of any such provision into the articles, is itself to be treated as a variation of those rights, and
  - (b) references to the variation of rights attached to a class of shares include references to their abrogation.

#### **353 Requirements as to website availability**

- (1) The following provisions apply for the purposes of—
  - section 341 (results of poll to be made available on website), and
  - section 351 (report of independent observer to be made available on website).
- (2) The information must be made available on a website that—
  - (a) is maintained by or on behalf of the company, and
  - (b) identifies the company in question.
- (3) Access to the information on the website, and the ability to obtain a hard copy of the information from the website, must not be conditional on the payment of a fee or otherwise restricted.
- (4) The information—
  - (a) must be made available as soon as reasonably practicable, and

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- (b) must be kept available throughout the period of two years beginning with the date on which it is first made available on a website in accordance with this section.
- (5) A failure to make information available on a website throughout the period specified in subsection (4)(b) is disregarded if—
- (a) the information is made available on the website for part of that period, and
  - (b) the failure is wholly attributable to circumstances that it would not be reasonable to have expected the company to prevent or avoid.

**354 Power to limit or extend the types of company to which provisions of this Chapter apply**

- (1) The Secretary of State may by regulations—
- (a) limit the types of company to which some or all of the provisions of this Chapter apply, or
  - (b) extend some or all of the provisions of this Chapter to additional types of company.
- (2) Regulations under this section extending the application of any provision of this Chapter are subject to affirmative resolution procedure.
- (3) Any other regulations under this section are subject to negative resolution procedure.
- (4) Regulations under this section may—
- (a) amend the provisions of this Chapter (apart from this section);
  - (b) repeal and re-enact provisions of this Chapter with modifications of form or arrangement, whether or not they are modified in substance;
  - (c) contain such consequential, incidental and supplementary provisions (including provisions amending, repealing or revoking enactments) as the Secretary of State thinks fit.

## CHAPTER 6

### RECORDS OF RESOLUTIONS AND MEETINGS

**355 Records of resolutions and meetings etc**

- (1) Every company must keep records comprising—
- (a) copies of all resolutions of members passed otherwise than at general meetings,
  - (b) minutes of all proceedings of general meetings, and
  - (c) details provided to the company in accordance with section 357 (decisions of sole member).
- (2) The records must be kept for at least ten years from the date of the resolution, meeting or decision (as appropriate).
- (3) If a company fails to comply with this section, an offence is committed by every officer of the company who is in default.

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- (4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 3 on the standard scale.

### **356 Records as evidence of resolutions etc**

- (1) This section applies to the records kept in accordance with section 355.
- (2) The record of a resolution passed otherwise than at a general meeting, if purporting to be signed by a director of the company or by the company secretary, is evidence (in Scotland, sufficient evidence) of the passing of the resolution.
- (3) Where there is a record of a written resolution of a private company, the requirements of this Act with respect to the passing of the resolution are deemed to be complied with unless the contrary is proved.
- (4) The minutes of proceedings of a general meeting, if purporting to be signed by the chairman of that meeting or by the chairman of the next general meeting, are evidence (in Scotland, sufficient evidence) of the proceedings at the meeting.
- (5) Where there is a record of proceedings of a general meeting of a company, then, until the contrary is proved—
- (a) the meeting is deemed duly held and convened,
  - (b) all proceedings at the meeting are deemed to have duly taken place, and
  - (c) all appointments at the meeting are deemed valid.

### **357 Records of decisions by sole member**

- (1) This section applies to a company limited by shares or by guarantee that has only one member.
- (2) Where the member takes any decision that—
- (a) may be taken by the company in general meeting, and
  - (b) has effect as if agreed by the company in general meeting,
- he must (unless that decision is taken by way of a written resolution) provide the company with details of that decision.
- (3) If a person fails to comply with this section he commits an offence.
- (4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (5) Failure to comply with this section does not affect the validity of any decision referred to in subsection (2).

### **358 Inspection of records of resolutions and meetings**

- (1) The records referred to in section 355 (records of resolutions etc) relating to the previous ten years must be kept available for inspection—
- (a) at the company's registered office, or
  - (b) at a place specified in regulations under section 1136.
- (2) The company must give notice to the registrar—

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- (a) of the place at which the records are kept available for inspection, and
  - (b) of any change in that place,
- unless they have at all times been kept at the company's registered office.
- (3) The records must be open to the inspection of any member of the company without charge.
  - (4) Any member may require a copy of any of the records on payment of such fee as may be prescribed.
  - (5) If default is made for 14 days in complying with subsection (2) or an inspection required under subsection (3) is refused, or a copy requested under subsection (4) is not sent, an offence is committed by every officer of the company who is in default.
  - (6) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 3 on the standard scale.
  - (7) In a case in which an inspection required under subsection (3) is refused or a copy requested under subsection (4) is not sent, the court may by order compel an immediate inspection of the records or direct that the copies required be sent to the persons who requested them.

### **359 Records of resolutions and meetings of class of members**

The provisions of this Chapter apply (with necessary modifications) in relation to resolutions and meetings of—

- (a) holders of a class of shares, and
  - (b) in the case of a company without a share capital, a class of members,
- as they apply in relation to resolutions of members generally and to general meetings.

## **CHAPTER 7**

### SUPPLEMENTARY PROVISIONS

### **360 Computation of periods of notice etc: clear day rule**

- (1) This section applies for the purposes of the following provisions of this Part—
  - section 307(1) and (2) (notice required of general meeting),
  - section 312(1) and (3) (resolution requiring special notice),
  - section 314(4)(d) (request to circulate members' statement),
  - section 316(2)(b) (expenses of circulating statement to be deposited or tendered before meeting),
  - section 338(4)(d)(i) (request to circulate member's resolution at AGM of public company), and
  - section 340(2)(b)(i) (expenses of circulating statement to be deposited or tendered before meeting).
- (2) Any reference in those provisions to a period of notice, or to a period before a meeting by which a request must be received or sum deposited or tendered, is to a period of the specified length excluding—



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- (a) the day of the meeting, and
- (b) the day on which the notice is given, the request received or the sum deposited or tendered.

### **361 Meaning of “quoted company”**

In this Part “quoted company” has the same meaning as in Part 15 of this Act.