

GENERAL MEETINGS UNDER COMPANIES ACT, 2013: A DETAILED OVERVIEW

Secretarial Standard on General Meeting (**SS-2**) issued by the ICSI and approved by central government is to be mandatorily followed by all companies as per the provision of **Section 118(10)** of Companies Act, 2013.

This Standard is applicable to all types of General Meetings of all companies except One Person Company (OPC) companies exempted by the Central Government.

1. Annual General Meeting (**Section-96** of the companies act, 2013)

- Every company shall hold AGM once a year except One person company
- 1st AGM should be hold **within 9 months** from the end of first financial year, and all the subsequent meeting shall be hold **within 6 months** from the end of the financial year.
- An Annual General Meeting is not required to be held in the year of its incorporation.
- Gap between 2 Annual general meetings shall **not exceed 15 months**.
- According to **SEBI (LODR), 2015** Top 100 listed companies shall hold the Annual general meeting within a period of 5 months from the end of financial year and have to provide one-way live webcast of proceedings of AGM.
- A company may request an extension from the Registrar of Companies (ROC) for holding its AGM, for which ROC can grant this extension only once, and the extension period shall **not exceed 3 months**. (No such extension is allowed in the case of 01st AGM)

➤ **POINTS TO CONSIDER FOR AGM:**

- 1) It shall be held during the business hours i.e. between **9.00 a.m. & 6.00 p.m.**
- 2) It shall not to be held on National holiday i.e. 02nd October, 15th August & 26th January. However, an EGM can be held on any day.
- 3) AGM of an unlisted company may be held at any place in India if consent is given in writing or by electronic mode by all the members in advance

➤ **ORDINARY BUSINESS:**

- 1) Consideration of financial statements & the report of Board & Auditors.
 - 2) Declaration of any dividend.
 - 3) Appointment of Directors in place of these retiring.
 - 4) Appointment of Auditors and fixing their remuneration.
- If a company defaults in holding of AGM, the company and every officer of the company in default shall be punishable with fine which may extend to **Rs. 1 lakh** and in case of continuing default a further fine which **may extend to Rs. 5,000/-** for each day during which such default continues.
- If any default is made in holding the annual general meeting of a company, any member of the company may make an application to the Tribunal to call an annual general meeting.
- Every listed entity is required to disclose the proceedings of annual & extraordinary general meeting to the Stock Exchange where its securities are listed within 24 hours of the event.

❖ **Quorum (Section 103 of The Companies Act, 2013)**

A. Public Limited Company

- i. **5 members:** if the **number** of members is **not more than 1000**.
- ii. **15 members:** if the number of members is more than **1000 but not more than 5000**.
- iii. **30 members:** if the number of members **exceeds 5000**.

B. Private Limited Company

- i. **2 members** personally present

- ✓ SS-2 provides that a duly authorized representative of a body corporate or the representative of the President of India or the Governor of a State is deemed to be a Member personally present and enjoys all the rights of a Member present in person.
- ✓ SS-2 requires that quorum shall be present not only at the time of commencement of the Meeting but also while transacting business.
- ✓ If the quorum is not present within 30 minutes from the time fixed for meeting, it shall be adjourned to the same day in the next week at the same time & place or to such other date, time & place as the Board may determine.

2. EXTRA-ORDINARY GENERAL MEETING (EGM) (SECTION 100)

- Calling of an Extra-ordinary General Meeting
 1. **Board:** On their own can call for a meeting.
 2. **Board on Requisition:**
 - **Share Capital:** 1/10th share capital
 - **No Share Capital:** 1/10th voting power
 3. **By Requisitionists:** On request of the members, the Board may call for the same
 4. **By Tribunal:** If default is made in calling an EGM by the company, Tribunal may intervene
- The Board may **within 21 days** from the date of receipt of a request proceed to call for a meeting on a **day not later than 45 days** from the date of such requisition.
- If the Board does not take **necessary steps within a period of 21 days** from the date of request, the requisitionists may on their own **call for a meeting of members**, within a **period of 3 months** from the date of such request.
- Any **expenses borne** by the Requisitionists for calling of such meeting shall be recovered from the company & the company may in turn recover the same from the defaulting Director.
- In case of such a meeting, if the quorum **is not present** within half an hour, the meeting shall stand **"CANCELLED"**.
- The tribunal may either **suo-motu** or on the request of a Director or a member entitled to vote, **call for an EGM** In such a case, **even if 1 member is present**, it shall constitute a valid **quorum** for the meeting.

3. NOTICE OF MEETINGS (SECTION-101 OF THE COMPANIES ACT, 2013)

- a) A 21 days clear notice is required to be given to all the shareholders in writing or through electronic mode.
- b) Clear days' means days exclusive of the day of the notice of service and of the day on which the meeting is held.
- c) In case of section 8 company, 14 days' clear notice is required instead of 21 days.
- d) General meeting may be called after giving shorter notice, if consent is given for such shorter notice by at least 95% of the members entitled to vote at such AGM.

❖ PERSONS ENTITLED TO RECEIVE NOTICE:

- The members of the company or legal representatives of the deceased member
- Secretarial Auditor, Directors Auditors, Debenture Trustee, Assignee of an insolvent member & other specified persons
- Section 146 of the Act requires the presence to Auditors in general meetings either himself or through his authorized representative, who shall also be qualified to be an auditor.

SS-2 requires the secretarial auditor, unless exempted by the company shall, either by himself or through his authorized representative, attend the Annual General Meeting.