

Conducting General Meetings Under the Companies Act, 2013: Key Provisions and Procedures

The Secretarial Standard-II shall be applicable to all types of General Meetings, including Annual General Meetings (AGMs) and Extraordinary General Meetings (EGMs), of all companies incorporated under the Companies Act, 2013, except for **One Person Companies (OPCs) and Companies licensed under Section 8** of the said Act

The principles in this Standard for General Meetings of Members **apply mutatis mutandis** to Meetings of **debenture holders and creditors**. Meetings of **Members, debenture holders, or creditors under the direction of the Court, CLB, NCLT, or other authorities** shall follow this Standard, subject to any specific rules, regulations, or directions from these bodies. This Standard aligns with the Companies Act, 2013. However, if any part of this Standard conflicts with the Act due to subsequent amendments, the provisions of the Act will prevail.

PROCESS OF GENERAL MEETING

Authority

A **General Meeting (GM)** must be convened by or on the authority of the **Board of Directors**. The Board is responsible for calling or authorizing the **Annual General Meeting (AGM)** each year to address **Ordinary Business and any Special Business**. If the Board fails to do so, any Company member may **apply to the Tribunal**, which may then direct the calling of **the AGM or an Extraordinary General Meeting (EGM)**, in accordance with **Section 96 and Section 100 of the Companies Act, 2013**.

Board may call EGM on requisition of members as follows: -

Company having a Share Capital	At least 1/10th of paid-up share capital carrying voting rights.
Company not having a Share Capital	At least 1/10th of voting power.

NOTE: - If the Board fails to call an Extraordinary General Meeting (EGM) **within 45 days** of receiving a requisition, the requisitioners may call the EGM themselves **within 3 months** from the date of the requisition, **as per Section 100(4) of the Companies Act, 2013**.

Notice

Notice of the Meeting must be given at least **21 clear days** in advance, not counting the day of sending or the day of the Meeting. If sent by post or courier, an additional two days are added. For example, if the AGM is on 30.09.22, the Notice must be issued by 09.09.22; if sent by post, by 06.09.22. The Notice must be in writing and sent to:

i. Every Member ii. Directors iii. Auditors iv. Secretarial Auditor v. Debenture Trustees vi. Other specified persons

This is in accordance with Section 101, 108, and other relevant provisions of the Companies Act, 2013

Notice of the Meeting must be given at the registered address of the members as per Section 101 of the Companies Act, 2013, with the

In case of joint holders, notice goes to the first named holder. On a member's death: To the nominee if a single holder. ii. To the surviving joint holder. iii. To the nominee if all joint holders die. c. If no nominee, to the legal representative. d. In insolvency, to the assignee. e. If a company is being wound up, to the liquidator.

Notices can be given by hand, ordinary post, speed post, registered post, courier, facsimile, email, or other electronic means. For companies with a website, the notice shall also be hosted on the website.

The notice shall specify the day, date, time, and full address of the meeting venue. AGMs/EGMs must be held between 9 a.m. and 6 p.m. on a non-national holiday.

The notice must be published in two newspapers (one vernacular and one English) at least 7 days before the meeting, excluding the meeting and publication dates.

A general meeting can be called on shorter notice with 95%-member consent. Proper notice is required for business transactions, but accidental omission or non-receipt does not invalidate the meeting.

Postal ballot notices must inform members about e-voting availability and provide access details.

Place of meeting



AGMs/EGMs may be held at the registered office or another location within the same city, town, or village. Government company AGMs require Central Government approval for other locations (**Section 96**).

Only items specified in the **Notice** and those permitted under the Act can be discussed (**Section 102**).

Notice must include an attendance slip and **proxy form** with instructions (**Section 105**).

A duly convened meeting cannot be **postponed or cancelled** (**Section 103**).

Frequency of Meetings

AGM: Every company must hold one AGM each calendar year (**Section 96**).

EGM: Special business items may be considered at an EGM or via postal ballot, if the Board deems fit (**Section 100**).



Quorum

Quorum shall be present throughout the Meeting.

(i) In case of Public Company: -

5 Members	If on the date of meeting no. of member below 1000.
15 Members	If on the date of meeting no. of member more than 1000 up-to 5000
30 Members	Id on the date of Meeting no. of members more than 5000

(ii) For a private company: - The quorum is two members personally present. If the Articles specify a higher quorum, that higher requirement applies. Proxies are excluded from the quorum count (Section 103).

Chairperson



The Chairperson of the Board shall conduct the meeting. If the Chairperson is absent for 15 minutes, unwilling to act, or no Director is designated, the present Directors shall elect one of themselves as Chairperson. If no Directors are present, the members shall elect one of themselves as Chairperson,

The Chairperson must explain the objective and implications of resolutions before voting. In public companies, the Chairperson cannot propose or conduct proceedings for any resolution in which they are concerned or interested (Section 188).

Proxy

A member entitled to attend, and vote may appoint a Proxy, who need not be a member. A Proxy can represent up to 50 members holding a maximum of 10% of the total share capital with voting rights. A member with over 10% can appoint one Proxy for their entire shareholding, who cannot act for others (Section 105).

A Proxy form must be duly filled, stamped, and signed to be valid for the relevant meeting and any adjournments. Proxies must be properly stamped; unstamped or inadequately stamped forms are invalid. Invalid Proxies include:

1. Proxies without a named Proxy.
2. Undated Proxies.
3. Multiple Proxies for the same holdings without proper dating (the last dated one is valid).

Proxies must be submitted to the company at least 48 hours before the meeting. They are accepted even if the deadline falls on a holiday.

Revocation of Proxies: A Proxy for an original meeting is revoked if that meeting is adjourned. A later Proxy revokes any earlier ones. A Proxy remains valid until the company receives a written notice of revocation before the meeting starts. If both the member and Proxy attend, the Proxy is automatically revoked (**Section 105**).

Prohibition on Withdrawal of Resolutions

Resolutions related to items of business that may affect the market price of the company's securities cannot be withdrawn. Additionally, any resolution proposed for e-voting cannot be withdrawn (Section 108).

Adjournment of Meetings

A duly convened meeting cannot be adjourned unless warranted by circumstances. The Chairperson may adjourn with the consent of members present or must do so if directed by them. Meetings shall be adjourned for lack of quorum. The Chairperson may also adjourn in cases of disorder or if it becomes impossible to conduct the meeting (Section 103).

CASE LAW

LONGCHENG COMPOSITES PRIVATE LIMITED

- 1. Violation Observed:** An inquiry revealed that the company failed to comply with **Section 101(1) of the Companies Act, 2013**. A shorter notice for the Extra Ordinary General Meeting (EOGM) was issued on 24.08.2019 without obtaining written or electronic consent from members representing at least 95% of the paid-up share capital (**Order No. ROCP/ADJ/Sec-101(1)/(JTA(B)/23-24/17(i)/2777 to 27779 dated 31.03.2024**).
- 2. Opportunity Given:** The company was given a reasonable opportunity to respond (**Order under Section 206(4) dated 11.02.2022**), but the response was unsatisfactory.
- 3. No Response to Adjudication Notice:** The company and its directors did not reply to the adjudication notice.
- 4. Conclusion:** The violations were confirmed during the inquiry, and no further hearing is required. The notices can appeal this order as stated in Para 5(e) of the order.
- 5. Order:** The company and its officers are liable for violations of Section 101(1) and are subject to penalties under Section 450 of the Act, as per Rule 3(12) and Rule 3(13) of the Companies (Adjudication of Penalties) Rules, 2014, along with General Circular No. 1/2020 dated 02.03.2020.

In conclusion, the Companies Act, 2013 outlines clear and detailed procedures for convening General Meetings, ensuring transparent and democratic decision-making within a company. The Board of Directors is primarily responsible for calling these meetings, but provisions are in place for members to requisition an EGM if necessary. Adequate notice must be given to all relevant parties, and a specific quorum must be maintained throughout the meeting. Additionally, members have the right to appoint proxies to vote on their behalf, with certain limitations. Resolutions, especially those affecting market prices, are subject to stringent rules to uphold the integrity of the voting process. Finally, meetings can only be adjourned under circumstances, highlighting the importance of orderly conduct and quorum presence. These regulations ensure that the governance of companies is conducted in a fair, transparent, and legally compliant manner.
