

General Meetings and types of Resolutions under Cyprus Companies Law, Cap. 113 for private Companies

According to Cyprus Companies Law, Cap. 113, it is mandatory for the Board of Directors of a Cyprus company to hold general meetings for the purpose of resolving important decisions, in conformity with the Articles of Association of the company.

It is important that the general meetings are duly convened, and appropriate notice for the calling of a general meeting must be given subject to the provisions of the Cyprus Companies Law, Cap. 113 and the Articles of Association of the company. At the general meetings, the procedures laid down by the Law and Articles of Association of each company, must be followed. The resolutions must be adopted by such majority as it is required by the Law or the Articles of Association of the company. The resolutions adopted at general meetings must be minuted by the secretary of the company and kept at the registered office of the company.

Resolutions adopted affecting changes in the directors, shareholders, secretary, registered office, share capital, Memorandum and Articles of Association, name or charges on assets of the company must be filed within a specified timeframe with the Registrar of Cyprus Companies as prescribed by the provisions of Cyprus Companies Law, Cap. 113.

ANNUAL GENERAL MEETING

Pursuant to section 125 of the Cyprus Companies Law, Cap. 113:

Every company shall in each year hold a general meeting as its annual general meeting in addition to any other meetings in that year, and shall specify the meeting as such in the notices calling it; and not more than fifteen months shall elapse between the date of one annual general meeting of a company and that of the next:

Provided that, so long as a company holds its first annual general meeting within eighteen months of its incorporation, it need not hold it in the year of its incorporation or in the following year.

Failure of the company to act pursuant to the Law and to comply with this obligation will constitute a criminal offense. If an annual general meeting, by default, has not taken place, the Registrar of Cyprus Companies may, on an application made by any member of the company, request and instruct the calling of an annual general meeting. Additionally, the Court has the power to order the calling of an annual general meeting, either on its own or upon the application of a director or a member of the company.

Business to be transacted at an annual general meeting:

- The consideration of the accounts, balance sheets and the reports of the Board of Directors and auditors.
- The election of directors in the place of those retiring and the appointment of the auditors.
- The fixing of the remuneration of the auditors.
- Declaration of dividends.

All other business is considered to be special business.

EXTRAORDINARY GENERAL MEETING

All general meetings other than annual general meetings shall be called “extraordinary general meetings”.

The Board of Directors may, whenever it thinks fit, convene an extraordinary general meeting. An extraordinary general meeting shall also be convened on requisition of any member, or, in default, may be convened by such requisitionists, as provided by section 126 of Cyprus Companies Law, Cap. 113.

In particular, section 126 of the Cyprus Companies Law, Cap. 113 states that:

The directors of a company, notwithstanding anything in its articles, shall, upon the requisition of members of the company holding at the date of the deposit of the requisition not less than one tenth of such of the paid up capital of the company as at the date of the deposit carries the right of voting at general meetings of the company or, in the case of a company not having a share capital, members of the company representing not less than one tenth of the total voting rights of all the members having at the said date a right to vote at general meetings of the company, forthwith proceed duly to convene an extraordinary general meeting of the company.

NOTICES OF GENERAL MEETINGS:

Annual General Meeting:	at least 21 days notice
Extraordinary General Meeting:	at least 14 days notice
General Meeting for the passing of a special resolution:	at least 21 days notice

The notice of a general meeting is circulated by the secretary of the company to the members.

It is the common practice for the Articles of Association of Cyprus companies to state that the notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it is given, and shall specify the place, the date and the hour of the general meeting and the nature of the business to be transacted.

TYPES OF RESOLUTIONS

There are three types of resolutions that can be adopted at a general meeting:

- a) Ordinary resolution
- b) Extraordinary resolution
- c) Special resolution

An ordinary resolution of the company is one passed by a simple majority of the votes of the members entitled to vote in person or by proxy.

An ordinary resolution is required, for example, for the removal of a director, change of name when this is very similar to another company's name, issue of shares at a discount, appointment of auditor or new auditor, appointment of an over-age director, etc.

An extraordinary resolution is one passed by a majority of not less than three-fourths of such members as, being entitled so to do, vote in person or by proxy at a general meeting of which notice specifying the intention to propose the resolution as an extraordinary resolution has been duly given.

This definition raises three points: first, the specified majority, *i.e.*, 75 per cent of those voting must be in favour of the resolution. Secondly, the resolution in the form in which it is to be passed should be set out in the notice convening the meeting. Thirdly, the notice must state that the resolution is to be proposed as an extraordinary resolution.

An extraordinary resolution is required, for example, for the initiation of a voluntary winding up when the company is insolvent, to sanction the exercise of certain of the powers of the liquidator in a members' voluntary winding up, arrangement between a company being wound up voluntarily and its creditors, etc.

A special resolution requires the same majority as an extraordinary resolution, and, in addition, notice must have been given of the intention to propose it as a special resolution, such notice being of not less than twenty-one clear days.

A special resolution is required for the more important matters, for example, for the change of name of a company, alteration of objects, alteration of the Articles of Association, reduction of capital, authority for the liquidator in a voluntary winding up to sell the company's business to another company for cash or shares in the other company, etc.