

Companies Ordinance (Cap. 622)

Resolutions, Meetings, Company Records and Registers

A Guide for Companies Limited by Guarantee

Introduction

This guide is intended to highlight some of the major provisions relating to resolutions and meetings, company records and registers under Part 12 (Company Administration and Procedure) of the Companies Ordinance (Cap.622)(CO). It should be read in conjunction with the provisions of the CO and should not be regarded as a substitute for reading it. Full text of the CO is available at www.elegislation.gov.hk/hk/cap622.

Resolutions and Meetings

Written Resolutions

- ✚ Anything that may be done by a resolution passed at a general meeting of a company may be done, without a meeting and without any previous notice being required, by a written resolution of the members of the company [section 548(1)]. Use of written resolutions for decision-making is more expeditious and less costly than passing a resolution in a general meeting.

Proposing a Written Resolution

- ✚ The directors or a member of a company may propose a resolution as a written resolution. [section 549]
- ✚ A company must circulate a resolution proposed as a written resolution by the directors of the company under section 549(a). [section 550]
- ✚ A company must circulate a resolution proposed as a written resolution by members under section 549(b) to all members who are entitled to vote if it has received requests from members representing not less than 5% of the total voting rights or a lower percentage specified for the purpose in the company's articles. [section 552]
- ✚ A company must send at its own expense to every eligible member and every other members a copy of the written resolution proposed by directors and, if required, any members' statement, within 21 days. [section 553(1)&(3)]



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- ✚ A company, which is required to circulate a written resolution under section 553, must, on or before the circulation date, send to the company's auditor a copy of the written resolution and any other related document in accordance with the prescribed requirements. [section 555(1)]

- ✚ A company is required to bear the expenses of circulating members' proposed resolutions for Annual General Meetings (AGMs) and members' statements relating to the business of AGMs, provided that the required threshold for requests to circulate the proposed resolution is received by the company not later than 6 weeks before the AGM or before the time at which notice of the meeting is given; and in the case of a statement, the required threshold for requests to circulate the statement is received by the company in time to be sent with the notice of the meeting. [sections 582, 615 and 616]

After Passing a Written Resolution

- ✚ A company must send a notice to every member and the auditor of the company that a resolution of company is passed as a written resolution within 15 days after it is passed. [section 559(1)]

Special Resolutions

- ✚ A special resolution of the members (or of a class of members) of a company means a resolution that is passed by a majority of at least 75%. [section 564(1)]

- ✚ A resolution passed at a general meeting on a show of hands is passed by a majority of at least 75% of the total of the following :
 - (a) the number of members who (being entitled to do so) vote in person on the resolution;
 - (b) the number of persons who vote on the resolution as duly appointed proxies of members entitled to vote on it. [section 564(2)]

- ✚ A copy of special resolution should be delivered to the Registrar of Companies (the Registrar) for registration within 15 days after it is passed. [section 622(2)]

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Calling a Meeting

- ✚ The directors of a company may call a general meeting of the company. [section 565]
- ✚ The members of a company may request the directors to call a general meeting of the company. The directors are required to call a general meeting if the company has received requests to do so from members of the company representing at least 5% of the total voting rights of all the members having a right to vote at general meetings. [section 566(2)]
- ✚ Directors required under section 566 to call a general meeting must call a meeting within 21 days after the date on which they become subject to the requirement. [section 567(1)]
- ✚ If the directors do not call a general meeting as requested, the members may themselves call a general meeting and any reasonable expenses incurred by the members requesting the meeting must be reimbursed by the company. [section 568(6)]



Holding a General Meeting

- ✚ Subject to any provision of the company's articles, a company may hold a general meeting at two or more places using any technology that enables the members who are not together at the same place to listen, speak and vote at the meeting. [section 584]



Annual General Meeting (AGM)

- ✚ A company must in respect of each financial year hold its AGM by reference to its accounting reference period. The accounting reference period is the period by reference to which the financial year is to be determined. [section 610]
- ✚ A company limited by guarantee must hold its AGM within 9 months after the end of its accounting reference period. [section 610(1)]






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Notice of General Meeting


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 In the case of an AGM, the notice period is at least 21 days. In any other case the notice period is at least 14 days for a limited company [section 571(1)]. If the company's articles require a longer period of notice, the meeting must be called by notice of that longer period. [section 571(2)]
 

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 An AGM can be called by notice shorter than 21 days (as specified in section 571(1)(a)) if it is so agreed by all the members entitled to attend and vote at the meeting (section 571(3)(a)). In the case of any other meeting, the meeting can be called by notice shorter than 14 days if it is so agreed by a majority in number of the members having the right to attend and vote at the meeting (a majority together representing at least 95% of the total voting rights of all members (section 571(3)(b)).

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 A company must send to its auditor notice of a general meeting or any other document relating to the general meeting at the same time as it gives notice of them to a member. [section 575(1)]

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 A company must ensure that a notice of a general meeting specifies/states: -
 - the date and time of the meeting;
 - the place of the meeting;
 - the general nature of the business to be dealt with at the meeting; and
 - the meeting is an AGM (if applicable). [section 576(1)(a)-(d)]

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 If a resolution is intended to be moved at a general meeting, a company must ensure that a notice of the meeting includes: -
 - notice of the resolution; and
 - (where the company is not a wholly owned subsidiary), a statement containing the information and explanation, if any, that is reasonably necessary to indicate the purpose of the resolution. [section 576(1)(e)]

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 A company must ensure that a notice calling a meeting of a company contains a statement of the prescribed rights of its members to appoint proxies under section 596. [section 597(1)]

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Dispensing with AGM

- ✚ A company is not required to hold an AGM in accordance with section 610 if: -
 - (a) everything that is required or intended to be done at the meeting (by resolution or otherwise) is done by a written resolution; and
 - (b) copies of the documents required to be laid or produced at the meeting are provided to each member of the company on or before the circulation date of the written resolution. [section 612]

Company Records and Registers

Records of Resolutions and Meetings

- ✚ A 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) all written records of decision of sole member provided to the company in accordance with section 116BC(1) of the predecessor Ordinance or section 617(2).





The records should be kept for at least 10 years from the date of the resolution, meeting or decision. [section 618(1)&(2)]

- ✚ A company must keep records of resolutions, meetings and decisions of members available for inspection at the registered office or a place in Hong Kong. [sections 619 and 620]
- ✚ A company must notify the Registrar of the place where copies, minutes or written records of resolutions, meetings and decisions of members are kept or any change in the place. For details, please refer to item 16 of the [Basic Filing Obligations of a Guarantee Company under the Companies Ordinance \(Cap. 622\)](#). [section 619]

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Registers of Members, Directors and Company Secretaries


-  A company must keep a register of its members, a register of its directors and a register of its company secretaries in the English or Chinese language. The registers must be available for inspection at the registered office or a place in Hong Kong. [sections 627, 628, 641 and 648]

-  A company must notify the Registrar of the place where the register of members, register of directors and register of company secretaries are kept or any change in the place. For details, please refer to items 17 to 19 of the [Basic Filing Obligations of a Guarantee Company under the Companies Ordinance \(Cap. 622\)](#). [sections 628, 641 and 648]

Significant Controllers Register ^(Note)

(Note: The new requirements on the keeping of significant controllers registers by companies will come into operation upon commencement of the Companies (Amendment) Ordinance 2018 **on 1 March 2018**.)

-  A company incorporated in Hong Kong is required to ascertain persons who have significant control over the company (“significant controller”) and to maintain a significant controllers register. A significant controller includes a registrable person who is a natural person or a specified entity that has significant control over a company; and a registrable legal entity which is a member of the company and has significant control over the company. A person has significant control over a company if the person meets one or more of the conditions specified in Part 1 of Schedule 5A of the Companies (Amendment) Ordinance 2018. [sections 653C, 653D and 653E of the Companies (Amendment) Ordinance 2018]

-  A company must keep a significant controllers register in the English or Chinese language, even if the company does not have a significant controller. The register can be kept at the registered office or a prescribed place in Hong Kong. [sections 653H and 653M]

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- ✚ Unless the significant controllers register is kept at the company's registered office, the company is required to notify the Registrar of Companies of the place where the register is kept and any change thereafter in Form NR2 within 15 days after the register is first kept at that place or the change. [sections 653M and 653N of the Companies (Amendment) Ordinance 2018]
- ✚ The significant controllers register must be made available for inspection by law enforcement officers upon demand. The company will have to designate a representative to serve as a contact point for providing information about the significant controllers register and related assistance to law enforcement officers. [sections 653X and 653ZC]

Company Records

- ✚ Company records (公司紀錄) means any register, index, agreement, memorandum, minutes or other document required by the CO to be kept by a company, but does not include accounting records. A company must adequately record for future reference the information required to be contained in any company records. [sections 654 and 655]



- ✚ If the records are kept in electronic form, the company must ensure that they are capable of being reproduced in hard copy form. If company records are kept otherwise than by making entries in a bound book, a company must take adequate precaution and steps to guard against, and facilitate the discovery of, falsification of company records. [sections 655(3) and 656(1)]

DISCLAIMER

This guide is intended to provide general information on the CO. It does not, and is not meant to, represent a comprehensive description of the CO. You are advised to seek independent professional advice if in doubt. The Companies Registry does not accept any responsibility or liability for any loss or damage whatsoever arising from the use of or reliance upon any information provided in this document.

Companies Registry
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