

PAPER NO. CS 43

SECTION FOUR

CERTIFIED SECRETARIES (CS)

LAW AND PROCEDURE OF MEETINGS

STUDY TEXT

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GENERAL OBJECTIVE

This paper is intended to equip the candidate with the knowledge skills and attitude that will enable him/her to prepare and manage meetings in both public and private sectors

12.0 LEARNING OUTCOMES

A candidate who passes this paper should be able to:

- Demonstrate an understanding of the Law and procedure of meetings
- Plan and manage meetings in various environments including at county levels
- Support the Chairman undertake his/her responsibilities during the meeting
- Relate with various stakeholders during meetings

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CHAPTER 1

MEETING IN GENERAL

Introduction

One dictionary defines a meeting as an act or process of coming together as an assembly for a common purpose.

A meeting is a gathering of two or more people that has been convened for the purpose of achieving a common goal through verbal interaction, such as sharing information or reaching agreement. Meetings may occur face to face or virtually, as mediated by communications technology, such as a telephone conference call, a skyped conference call or a videoconference.

Thus, a meeting may be distinguished from other gatherings, such as a chance encounter (not convened), a sports game or a concert (verbal interaction is incidental), a party or the company of friends (no common goal is to be achieved) and a demonstration (whose common goal is achieved mainly through the number of demonstrators present, not verbal interaction).

Commercially, the term is used by meeting planners and other meeting professionals to denote an event booked at a hotel, convention center or any other venue dedicated to such gatherings. In this sense, the term meeting covers a lecture (one presentation), seminar (typically several presentations, small audience, one day), conference (mid-size, one or more days), congress (large, several days), exhibition or trade show (with manned stands being visited by passers-by), workshop (smaller, with active participants), training course, team-building session and kick-off event.

E-meeting A meeting that takes place over an electronic medium rather than in the traditional face-to-face fashion. The most common form of an e-meeting is done through web-based software which allows individuals and groups from around the globe to facilitate meetings without physically travelling to an agreed upon location.

TYPES OF MEETINGS

Common types of meeting include:

- Ad hoc meeting, a meeting called for a special purpose
- Board meeting, a meeting of the Board of directors of an organization
- Investigative Meeting, generally when conducting a pre-interview, exit interview or a meeting among the investigator and representative
- Kickoff meeting, the first meeting with the project team and the client of the project to discuss the role of each team member
- Management meeting, a meeting among managers

- Off-site meeting, also called "offsite retreat" and known as an Awayday meeting in the UK
- One-on-one meeting, between two individuals
- Pre-Bid Meeting, a meeting of various competitors and or contractors to visually inspect a jobsite for a future project. The meeting is normally hosted by the future customer or engineer who wrote the project specification to ensure all bidders are aware of the details and services expected of them. Attendance at the Pre-Bid Meeting may be mandatory. Failure to attend usually results in a rejected bid
- Staff meeting, typically a meeting between a manager and those that report to the manager
- Stand-up meeting, a meeting with attendees typically standing. The discomfort of standing for long periods helps to keep the meetings short.
- Team meeting, a meeting among colleagues working on various aspects of a team project
- Work Meeting, which produces a product or intangible result such as a decision

Meeting frequency options

Since a meeting can be held once or often, the meeting organizer has to determine the repetition and frequency of occurrence of the meeting. Options generally include the following:

- A *one-time meeting* is the most common meeting type and covers events that are self-contained. While they may repeat often, the individual meeting is the entirety of the event. This can include a 2006 conference. The 2007 version of the conference is a stand-alone meeting event.
- A *recurring meeting* is a meeting that recurs periodically, such as an every Monday staff meeting from 9:00AM to 9:30 AM. The meeting organizer wants the participants to be at the meeting on a constant and repetitive basis. A recurring meeting can be ongoing, such as a weekly team meeting, or have an end date, such as a 5-week training meeting, held every Friday afternoon.
- A *series meeting* is like a recurring meeting, but the details differ from meeting to meeting. One example of a series meeting is a monthly "lunch and learn" event at a company, church, club or organization. The placeholder is the same, but the agenda and topics to be covered vary. This is more of a recurring meeting with the details to be determined.

REQUISITES OF A VALID MEETING

A meeting can validly transact any business if the following requirements are satisfied:-

- i. Proper authority.
- ii. Proper notice.
- iii. Quorum must be present.
- iv. Chairman must preside.
- v. Minutes of the meeting must be kept.
- vi. These are explained below: -

(i) Proper Authority-

A meeting to be valid must be convened by a proper authority. It is the Board of Directors who has the authority to call a meeting, be it statutory, annual or extra ordinary. If the Board do not call the meeting the members of the company may call the meeting.

Even if the meeting of the Board at which it is resolved to call a General Meeting is not properly constituted, the general meeting called by the Board can act.

(ii) Proper Notice

The second requirement of a valid meeting is that all those who are concerned with the business of the meeting and are entitled to attend, are communicated of the date, time, place and business of the meeting. Such communication is called notice.

The length of notice required by Section 133 for calling a general meeting is 21 days. Section 133, since statutory, overrides any provision in the articles for a shorter notice, but articles can validly provide for longer notice than that laid down by statute.

The meeting can however be called by giving a shorter notice in the following cases:-

- a) In case of an Annual General Meeting, by the consent of all the members entitled to attend and vote.
- b) In case of any other meeting, by the consent of the members holding not less than 5% of paid-up capital of the company or not less than 95% of voting power.

If members agree to accept a shorter notice, a resolution to that effect must be recorded in the minutes of the meeting with sufficient details of voting

Case Law: Bailey, Hay & Co. Re (171)

The notice of a meeting for the Voluntary winding up of a company was short by one day. All the five members attended. The necessary resolution was passed by the votes of two members, the other three abstained from voting. It was held that the resolution was validly passed with the unanimous assent of all the members and those who abstained were treated as having acquiesced in the winding up.

Omission to give Notice

Deliberate omission to give a notice even to one member may invalidate the meeting. An accidental omission or non-receipt of notice by any member does not invalidate the proceedings at the meeting. "Accidentals loss –not deliberate".

Case Law: Mussel white vs. CH Mussel white & Sons Ltd (1962)

M sold shares in M Ltd to D. The payment was to be made by D to M by instalments. M was to remain on the register of members until the last instalment was paid. Before the last instalment was paid, an annual general meeting was held, but M did not receive the notice of the meeting as the directors erroneously believed that M was no longer a member.

It was held that the failure to give notice was not incidental and the meeting held without notice was void.

Contents of the Notice;-

- i. Specify the date, place and hour of the meeting.
- ii. Statement of the business to be transacted/agenda, with sufficient details.

Special Notice

Certain powers which are exercisable by members by ordinary resolution or special resolution, requires “special notice”.

A special notice is required for the following resolutions:-

- i. Removing a director.
- ii. Authorising a director who is over 70 years.
- iii. Appointment of an auditor.
- iv. Providing expressly that a retiring auditor shall not be appointed.

(iii) Quorum

Quorum means the minimum number of members who must be present in order to constitute a valid meeting. The quorum is generally stated by articles.

Articles 53 Table A provides that no business shall be transacted at any general meeting unless a quorum is present at the time the meeting proceeds to business.

Three persons/members present in person shall be quorum.

Thus those members who intend to vote by proxy are not taken into account when determining whether or not a quorum is present.

Where no provision is made as to quorum in the articles, Section 134 (c) prescribes two members in case of private company and in other cases three.

If the articles provide that proxies be included in quorum, then it can be counted.

Rule: If no quorum is present, there is no meeting and any business conducted is invalid.

Unless otherwise provided in the articles, if within half an hour from the time appointed for holding a meeting of the company, a quorum is not present the meeting:-

- a) If called upon by the requisition of members stand dissolved
- b) Other cases stand adjourned to the same date in the next week at the same time, as the directors may determine.

Note: If the quorum is not present at the adjourned meeting, then the present members shall be quorum.

Quorum should be present at the time the meeting proceeds to business not present throughout or at the time of voting.