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General Meetings Under CAMA 2020: A Practical Guide for Companies



Introduction

A company is a legal entity incorporated under the **Companies and Allied Matters Act 2020 (CAMA 2020)** and possesses a legal personality separate and distinct from that of its members and management.

CAMA 2020 classifies companies based on their ownership structure, liability, and mode of incorporation. These include companies limited by shares, companies limited by guarantee, and unlimited companies, each of which may be incorporated as either a private or public company, subject to the provisions of the Act. Other forms of business organisations such as limited liability partnerships and limited partnerships are also recognised under CAMA 2020.

Broadly speaking, companies are categorised as either private or public[1]. This distinction is significant because CAMA 2020 imposes different obligations on private and public companies in relation to corporate governance and the convening and conduct of general meetings, including requirements concerning annual general meetings, notices, quorum, and shareholder participation.

Under CAMA 2020[2], the principal forms of members' meetings recognised under CAMA 2020 are statutory meetings (for public companies), annual general meetings and extraordinary general meetings. Each serves a distinct constitutional purpose and is subject to different requirements.

Statutory Meeting



By virtue of section 235 (1) of CAMA 2020, every public company is required to hold a general meeting of its members, known as the statutory meeting, within 6 (six) months from the date of its incorporation. In essence, the first general meeting of the members of a public company is referred to as the **"statutory meeting"**. The directors must send every member a copy of the statutory report at least 21 (twenty) days before the meeting. The report must state, amongst other things, the total of number of shares (paid up fully or partially), details of directors, managers (if any) and secretary of the company, particulars of pre-incorporation contracts and particulars of commissions or brokerage paid or payable in connection with the issue or sale of shares or debentures. The report must be certified by at least two directors (or a director and

[1] Section 21 of the Companies and Allied Matters Act 2020

[2] Section 235 of the Companies and Allied Matters Act 2020

the secretary) and the auditors must certify the parts relating to shares allotted, cash received and payments. A statutory meeting must be held in Nigeria[3].

The statutory meeting is the forum through which members are informed of the company's affairs since incorporation and are given an opportunity to discuss issues relating to the company's formation, management, share capital, and financial position. The directors must deliver a certified copy of the statutory report to the Corporate Affairs Commission (CAC), within 14 (Fourteen) days after sending the copies to the members of the company[4]. Where a member wishes to propose a resolution on any matter arising from the statutory report, section 235(9) of CAMA 2020 requires the member to give the company a further twenty-one (21) days' notice, calculated from the date on which the statutory report was received, of the intention to propose the resolution. In such circumstances, the statutory meeting must not be held until the expiration of the 21 (Twenty-one) days' notice period.

The Annual General Meeting (AGM)

Subject to the exemptions applicable to small companies and companies having a single shareholder, every company must hold an annual general meeting each year[5]. A "small company" for this purpose is defined in Section 394(3) of CAMA 2020.

A company is required to hold its first AGM within eighteen months of incorporation. Thereafter, an AGM must be held within 15 (fifteen) months after the preceding AGM and at least once in each calendar year[6]. Where a company defaults, the CAC may on its own or on the application of any member, call or direct the calling of a general meeting. Where such a meeting is held and the company resolves that it shall be treated as its annual general meeting, the company shall file a copy of such resolution with CAC within 15 (fifteen) days after the resolution has been passed[7]. Failure to comply renders the company and every officer in in default liable to such penalty as the CAC may specify in its regulations[8].

All business transacted at an AGM is deemed special business except the following matters, which constitute ordinary business: declaration of dividend; presentation of the financial statements; reports of the directors and auditors; election of new directors in place of retired ones; appointment of auditors and members of the audit committee; and fixing of auditors' remuneration and disclosure of company mangers remuneration[9].

CAMA 2020 requires statutory meetings and AGMs to be held in Nigeria, as enacted CAMA 2020 permitted only private companies to hold general meetings electronically in accordance with their articles of association. Following the amendment of section 240 (2) by the Business Facilitation (Miscellaneous Provisions) Act 2022 public companies may now also hold electronic or hybrid general meetings, provided their articles of association permit[10].

[3] Section 240 (1) of the Companies and Allied Matters Act 2020
[4] Section 235 (6) of the Companies and Allied Matters Act 2020
[5] Section 237(1) of the Companies and Allied Matters Act 2020
[6] Section 237 (1)(a)(b) of the Companies and Allied Matters Act 2020
[7] Section 237(4) of the Companies and Allied Matters Act 2020
[8] Section 237 (5) of the Companies and Allied Matters Act 2020
[9] Section 238 of the Companies and Allied Matters Act 2020
[10] Section 240(1) of the Companies and Allied Matters Act 2020

The Extraordinary General Meeting (EGM)

An EGM is any general meeting of a company other than its AGM, usually convened to transact urgent or specific business requiring the attention or decision of its members. Examples include alteration of share capital, amendment of the articles of association, removal or appointment of directors where required, approval of major corporate restructurings and other matters requiring shareholder approval before the next AGM[11].

The Board of Directors may convene an EGM whenever deemed necessary. Where there are not enough directors in Nigeria capable of acting to form a quorum any director or any two members may convene the meeting[12]. Members holding at least one-tenth of the paid-up share capital carrying voting rights or, in a company without share capital, one-tenth of the total voting rights may requisition an EGM, provided the requisition states the purpose of the meeting and is properly signed and deposited at the company's registered office.

If within 21 days of the deposit of the requisition the directors do not proceed to convene the meeting, the requisitioning members may convene the meeting themselves within three months of the date the requisition was deposited, subject to the statutory requirements. The company must reimburse the requisitionists' reasonable expenses which it may recover from the fees or remuneration of the defaulting directors[13].

All business at an EGM is special business. The notice must therefore describe it with sufficient particularity to enable members to understand the decision they are asked to make.

Notice of General Meetings

All general meetings require at least twenty-one (21) days written notice . A meeting may be held on shorter notice if, for an AGM, all members entitled to attend and vote agree; or, for any other general meeting, a majority in number of members entitled to attend and vote, holding at least 95% in nominal value of the voting shares or representing at least 95% of the total voting rights in a company without share capital agree[14].

The notice must specify the place, date, time of the meeting and the general nature of the business to be transacted at the meeting. Where special business is to be considered, the notice must specifically describe the business. If a special resolution is to be proposed, the notice must expressly indicate this[15].

Notice must be given to every member of the company, any person entitled to a share by reason of a member's death, the receiver or trustee in bankruptcy of a member, all directors, the company secretary and the auditors. In the case of a public company, notice must also be given to the CAC[16].

Failure to give notice to any person entitled to it invalidates the meeting, except where the failure is an accidental omission on the part of the person giving the notice [17].

[12] Section 239(1) of the Companies and Allied Matters Act 2020
[13] Section 239 (2)(3)(4)(6) of the Companies and Allied Matters Act 2020
[14] Section 241 (2) (a)(b) of the Companies and Allied Matters Act 2020
[15] Section 242(1) of the Companies and Allied Matters Act 2020
[16] Section 243(1) of the Companies and Allied Matters Act 2020
[17] Section 245(1) of the Companies and Allied Matters Act 2020

Quorum

The quorum for a general meeting is one-third of the company's total membership or twenty-five (25) members, whichever is lower, present in person or by proxy. Where the company has six (6) or fewer members, the quorum is two (2) members. Unless the company has only one member or its articles provide otherwise, no business may be conducted unless the quorum is present at the commencement and throughout the meeting[18].

Where a member deliberately withdraws to break the quorum, the remaining members may proceed with the meeting, and their decisions bind all shareholders. However, where only one member remains, the member must seek the Court's direction before making a decision[19]. If a quorum is not present within half an hour of the time appointed for the meeting or the meeting is dissolved for any reason the chairman considers sufficient, its stands adjourned to the same day in the next week at the same time and place. If a quorum is still absent at the adjourned meeting, the members present constitute the quorum, and their decisions bind all shareholders; where only one member is present, the Court's direction must be sought[20].



Proxies

A member entitled to attend and vote at a company meeting may appoint a proxy, who need not be a member, to attend, speak and vote on their behalf, subject to the company's articles. Notices of meetings of companies with share capital must state the right to appoint a proxy[21].

The appointment of a proxy must be in writing and duly executed. The articles typically require the instrument to be deposited at the company's registered office (or another place in Nigeria specified in the notice) not less than 48 hours before the meeting or 24 hours before a poll, a provision requiring the deposit more than 48 hours before a meeting is void Failure to lodge a proxy instrument within the prescribed period typically invalidates the proxy appointment, not the meeting itself.

[22]A proxy's vote remains valid despite the death, insanity or revocation of the appointor, or the transfer of the relevant shares, unless written notice is received before the meeting commences[23].

[18]Section 256 (2) of the Companies and Allied Matters Act 2020
[19] Section 256 (3) of the Companies and Allied Matters Act 2020
[20] Section 256(4) of the Companies and Allied Matters Act 2020
[21] Section 254 (1) of the Companies and Allied Matters Act 2020
[22] Section 254(3) of the Companies and Allied Matters Act 2020
[3] Section 254 (5) of the Companies and Allied Matters Act 2020

Resolutions

An ordinary resolution is passed by a simple majority of the votes cast by members entitled to vote, either in person or by proxy, at a general meeting[24].

A special resolution requires at least three-quarters of the votes cast and 21 days' notice stating the intention to propose it as a special resolution. However, a special resolution may be passed on shorter notice if the statutory consent requirements are met. An ordinary resolution suffices for any matter for which neither CAMA nor the company's articles require a special resolution[25].

Where a resolution requires special notice under CAMA, the person proposing it must give the company at least 28 days' notice of the intention to move it. The company must notify its members in the usual manner or, where impracticable, through an alternative method permitted by CAMA 2020 or the company's articles, at least 21 days before the meeting[26].

Conclusion

General meetings remain an important mechanism through which members of a company exercise their statutory rights under CAMA 2020 and participate in its governance. They provide a formal platform for reviewing corporate performance, considering significant business decisions and holding directors accountable for the management of the company.

Companies, whether private or public should therefore ensure that general meetings are convened and conducted in accordance with CAMA 2020 and their articles of association. Directors, company secretaries and legal advisers should pay particular attention to notice periods, voting thresholds, proxy appointments, quorum requirements and the proper documentation and filing of resolutions. Effective compliance with these requirements promotes transparency, accountability and sound corporate governance.



[24] Section 258(1) of the Companies and Allied Matters Act 2020
[25] Section 258(2) of the Companies and Allied Matters Act 2020
[26] Section 261(1) of the Companies and Allied Matters Act 2020

About Berkeley Legal

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