

# [Sec 96-122] General Meeting

Part 1 of Total 2 Parts

Sec 96 - AGM (Annual General Meeting)

Intsa = Annual Event + Every yr (Calendar) except Year of Incorp<sup>n</sup> + BOD shall call

Object = Members  $\leftarrow$  meet  $\rightarrow$  BOD (To discuss working & operations)

Bus = Ordinary Bus (A D D A) + Special Business, if any (Exp-Statement)

Period = 1<sup>st</sup> in 9m of FY + Subsequent in 6m of FY + 2AGMs - Max 15 m gap  
+ Extension by ROC (3 months - RNL-1 Applic<sup>n</sup>) except 1<sup>st</sup> AGM.

Time = Bus Hrs: Start = 9 am - 6 pm.  
Conclude = Any time

Dalmia Cement (Bharat) Ltd.  
w/s  
ROC (1954)

Day = Any day except National (Public) Holiday + Meeting if subsequently declared Public Holiday

Place = Within limit of V/T/C (+) A/C at any place (Prior CA)

Sec 8 Co. at any place (Prior BOD)

Annual Compliance = AOC-4 in 30 days + MAT-7 in 60 days = ROC.

Note 1 - NCLT may order AGM to be conducted w/s 97.

## Case laws

1. Meenaxi Mills Co. Ltd. w/s Asst ROC = Separate AGM for every firm yr is reqd.
2. Bijoy Ks. Karmari w/s Asst ROC = Full HC ready + Partial ready HC place in AGM.
3. Re-Asia Udyog (P) Ltd. = Police Books of A/C Seize = No AGM = No violation.
4. State of Kerala w/s West Coast Planners Agencies (P) Ltd. = 1 member alive = No AGM = No violation.
5. Smedley w/s ROC = No AGM  $\neq$  Late AGM

Sec 99 - Penalty = Co + O/D = ₹1 lac + ₹5000/day, till default continues.

Sec 121 - Report on AGM  $\Rightarrow$  LPC  $\xrightarrow{\text{Report in MAT-15}}$  ROC

Rule 31 = Contents

Day + Date + Venue + Hour + Present Members + Chairperson

+ Quorum + Act Compliance + SS-2 + Adjournment Details

in 30 days  
Sign  $\rightarrow$  Chairperson or 2 Dir (IMD) if any  
+ CS

## Requisites of a Valid GM

- Properly Convened = Duly appointed BOD + Notice as per Sec 101
- Legally Constituted = Quorum + Chairperson + AOA
- Validly Conducted = Voting + Resolution

Sec 100 - Extra Ordinary General Meeting (EGM) - GM other than AGM [Table F Reg 42]  
+ AGM  $\leftarrow$  EGM  $\rightarrow$  AGM + Only Special Businesses + Held anywhere in India

Dubai Co.  $\rightarrow$  WOS (India)  
EGM in Dubai  $\checkmark$   
IFSC Co.  $\Rightarrow$  All members consent = EGM outside India

Who may call EGM = BOD + BOD at req<sup>n</sup> + EGM by req<sup>n</sup> + NCLT u/s 98

1. BOD = BR to approve transac<sup>n</sup> (+) BR to call EGM.  
 Re-Hay Craft Add Reduc<sup>n</sup> & Mining Co = EGM Call by MD or CS without BOD.

2. BOD by req<sup>n</sup>  
 1/10<sup>th</sup> Members → BOD → 21-45 days → EGM  
 PUC or VP

Valid? BOD satisfied Valid / BOD satisfied Void

2. + 3. = No Quorum = ~~Not~~ Cancel

3. Next 45 days → EGM by members themselves  
 Expenses to be borne by Co.

4. EGM by NCLT u/s 98 = Suo motu or Request of Members  
 → Chairperson by NCLT + 1 Member is valid Quorum.

Rule 17 - EGM by Requisition (2. + 3.)

21 days notice + on w. day only + V/T/C + No Exp Statement reqd. + Notice by BOD to members in 3 days of deposit of request + Notice  
 ← Speed Post / Regd Post / e-mail

Case Laws

- 1. AD Chaudhary v/s Mysore Paper Mills Ltd. = 1/10<sup>th</sup> members request but Court injunct<sup>n</sup> = No EGM = Valid Point
- 2. Rathmandu Sweeney v/s Manickvelu = MD locked RO from inside = Impracticable to hold EGM
- 3. Re-Sombroso Ltd. = CLB (NCLT) order EGM + Members Oppose = Bound to Comply
- 4. LIC v/s Escorts Ltd. = BOD ~~compel~~ → Members to disclose reason
- 5. Cricket Club of India v/s Madhav & Apts = Invalid Objective of Members = BOD shall call EGM.

AGM	EGM
Once every yr.	> 1
Mandatory	Optional
OB + SB	Only SB
Bus Hrs.	Any Time
V/T/C ✓	V/T/C - Outside
Opportunity to discuss	Approval of members
BOD/NCLT	BOD/NCLT/Req <sup>n</sup>
Exp State (✓ x)	✓
National Holiday x	✓
	Dispensed ✓

Sec 101 - Notice = Length + To Whom + Contents  
 Length = 21 clear days + 2 = 23  
 By Post = 21 + 2 + 2 = 25 days      Sec 8 = 14 days Co. Notice  
 Shorter Notice = Members Prior Approval (95%)  
 To Whom = Members (E + P) + Legal Rep<sup>n</sup> Co. + Aud<sup>r</sup> + Dis + Dip<sup>s</sup> + Chairpersons (NRC + SRC + Audit COD)  
 Maharaja Exports v/s Apparel K<sup>t</sup> Prom<sup>n</sup> Council  
 Accidental Omission = Meeting is valid.  
 Contents = Day + Date + Time + Venue + Business [OB + SB (Exp State)] + Directors interest disclose  
 Sh-holding Disclose ← Adta. ← Contract → B2td.  
 Dis/P<sup>r</sup>/Mg<sup>r</sup> Holding 2% or more

Arbair Ali v/s Konkarn Chemicals (P) Ltd.  
 UPC (Under Postal Certificate) = Not a Conclusive evidence for dispatch of notice.  
 Who is authorised to issue Notice? = BR Authorise ← Dis/CS officer

Rule 18 - Electronic Notice = Secured + Confirmation of receiving  
 E-mail + 30 days before dispatch of notice (mail Id taken) + Subject Column ← Date Type of meeting  
 + URL (Uniform Resource Locator) + Pdf/Edf + Phy Notice = Elec Notice +

Mem<sup>o</sup> request, then Physical notice also + E-mail fail (Resend immediately) & resend fail, then physical notice in 72 hrs. on 1<sup>st</sup> attempt + No E-mail by M<sup>o</sup>, then no contrav<sup>n</sup> + Website Upload. Note - Sec 101 + 102 ≠ IFSC Pub + All Put = If AOA provides otherwise

Sec 103 - Quorum of RM = Min members   
 Pub  $\begin{cases} \leq 1000 - 5 \\ > 1000 \leq 5000 - 15 \\ > 5000 - 30 \end{cases}$  Personally  $\begin{cases} MV \\ RV \\ PX \end{cases}$

+ AOA may provide for Higher Quorum. Prof Sh - Quorum if no Dir for 2 yrs = County  
 + Joint Holders (Counted as 1) for reckoning Quorum + SS-2 - Quorum throughout ✓  
 + Lack of Quorum = Next Week Same Day Same Time Same Place  
 ↳ [Newspaper Adv atleast 3 days before date of adj AGM]  
 Adj Meeting = No Quorum = 2 Present is Valid Quorum

+ 1 Person = Quorum ⇒ 3 Cases  $\begin{cases} NCLT AGM \\ NCLT EGM \end{cases}$  class = 1 Person is holding all shares of such class.  
Note - IFSC Pub + All Put: Co ≠ 103 (if AOA provides otherwise). Item validly taken up

Sec 104 - Chairperson (CP) of RM = Essential + Presiding officer + Responsibilities   
 Time to Discuss

Reg 45 ⇒ Co. CP = Meeting CP  
 Reg 46 ⇒ Co. CP or ✓ but absent or ✓ but unwilling = Dis CP (15 min)   
 Reg 47 ⇒ Dis CP elect + Members CP elect   
 Note ⇒ Sec 97 + 98 = NCLT appoint CP. Tie (or) Casting Vote   
 Note = IFSC Pub + All Put: Co. ≠ 104 (if AOA provides otherwise). Declas<sup>n</sup> of Result   
 Resol<sup>n</sup> Close   
 Adjournment   
 Minutes sign

Sec 105 - Proxy = Person so appointed + Proxy Form (MGT-11)

Who can appoint = M<sup>o</sup> = Attend + Vote ⇒ Proxy  $\begin{cases} ESV \\ PSX \end{cases}$  → Vote + Proxy + Quorum  
 ↳ Sh Cap x Member = No Proxy unless provided AOA.  
 ↳ Rep ✓ = Sec 112 (Count) + Sec 113 (BC)   
 ↳ POA Holder of Member   
 Proxy needn't be Member except Sec 8 Co. [Sec 8 Co ⇒ Proxy = Mem<sup>o</sup>]

Notice - Member may appoint Proxy X ⇒ Penalty ₹ 5000.

Max No. of Proxies held by Individ = Max 50 (+) Sh-holding ≤ 10% Total Share Capital  
 Only Indiv to be appointed as Proxy MD/CP/CEO/CFO/CS ✓

Proxy Form Sign = Mem<sup>o</sup> + Joint Mem<sup>o</sup> + Representative + POA Holder + Liquidator (Stamped + Dated) → Tata Iron & Steel Co. = Undated PF is valid.

Limitations of Proxy = Run Without Bullet + Quorum x + Vote by Hand x + RM Minutes inspect  
 + Can't speak + Can't be part of discussion + Can't inspect Proxies List

Period for Deposit of Proxy = Mem<sup>o</sup>  $\xrightarrow{\text{MGT-11}}$  Co.   
 atleast 48 hrs. before AGM   
 AOA  $\begin{cases} \text{Atleast 72 hrs before X} \\ \text{Atleast 24 hrs before ✓} \end{cases}$

Canvassing X + Penalty Upto ₹ 1 Lac + Valid Canvassing if   
 Written req. from Mem<sup>o</sup> + Same List by Co. to other Members.

Revocation of Proxy = New Proxy Deposit + Member himself   
 + T<sup>o</sup> by Member + Transmission [Cousins w/s International Bricks Co. Ltd.]   
 by Member

Register of Proxy = Company Maintain + Valid & Rejected Proxies [Records]   
 + Not to close register before 48 hrs.

Fattu Ka Ryan = Alternative Proxy + Multiple Proxy + SPA > CPA

Sec 106 - Restriction on Voting right of members

Company may restrict + Only on 1 ground = Calls in Articles  
+ Any other ground in AOA = Void-abinitio

Sec 106(3) - Different use of Voting right by members.

Pooling Agreement - Agreement among members + Deposited with Co.

Rolta India Ltd v/s Venira Industries Ltd = Pooling agreement among members in relation to Election of Director is Valid.

Burdard v/s Earle (1902) - Member + Right to Vote = On all resolutions unless expressly restricted by law.  
Nell v/s Long Bottom (1894) - OR consider + Tie = Casting Vote to Chairperson.

Sec 107 - Voting by Show of Hands

First Instance by hands + Chairman's declaration is conclusive + Members can't object to the authenticity of Chairman's declaration, instead they may request company to consider the same business by Poll (in compliance of Sec 109).

- Note 1 - Dir + Sh-holder = Vote in R.M.V
- Note 2 - Re-Mosby Bridge Co. (1879) = Members personally present are entitled to vote by show of hands.
  - Member + Representative + Attorney Holders
- Note 3 - 1 Hand = 1 Vote (No relevance of no. of shares held).
- Note 4 - IFSC Pub + All Pvt. Co ≠ If AOA provides otherwise.

Sec 109 - Voting by Poll => Voting in R.M ≠ By Hands = By Poll

Request for Poll = Chairperson or Members - Sh x = 1/10th voting power  
Sh v = 1/10th voting power  
Members with p.w. cap ≥ ₹ 5 lac.

Demand for Poll can be drawn at any time

Time for Vote by Poll - Election of Chairperson = Immediately  
Other Items = 48 hrs. of demand made.

Campbell v/s Mand (1836) = Member ≠ In R.M = At time of Poll = Vote

Rule 21

- Co. appoints Scrutinizer + M&T-12 (Polling Paper) + Recording of Names (M or P)
- + Locked Poll Paper box + Valid votes to be taken
- + Scrutinizer Report + M&T-13 Report + Signed
- + To Chairman in 7 days of Poll = Final Declaration of result by Chairperson

Yes	No	Yes	No	X
Yes	No	Yes	No	✓

D/B - Proxy & Representative

MR T-11	x
No vote on Show of Hands	✓
Intimation to Company 48 hrs before h.M	x
Not to speak	✓
Quorum x	✓

