

### Question 1

The management of the business and affairs of a company is conducted through meetings. It is therefore imperative that a company should ensure that its meetings comply with the provisions of the Companies Act 71 of 2008 to be valid. Carefully read through the two questions below and see if you are able to provide the correct legal advice by using the following steps:

1. Identify the specific legal problem that appears from the given facts while keeping in mind what is asked.
2. Identify the applicable principles and provisions of the Companies Act 71 of 2008.
3. Consider whether any case is relevant, and if so discuss the relevant principles.
4. Apply the provisions and legal principles to the given facts.
5. Conclusion: Clearly answer the specific question asked.

*Now try to answer the following questions. Remember in this discussion form you may also raise any other topic related to study unit 1 you wish to discuss.*

### Question 1(a)

Themba lives in Knysna. He is a shareholder of Electrotech Limited. He received notice of an annual general meeting of Electrotech Limited to be held in Pretoria. He cannot attend the meeting on that day, but feels strongly about certain of the proposed resolutions set out in the notice of the meeting, and wants to express his views on these matters to the board of directors. Themba also wishes to vote against certain of the resolutions which the company proposed to pass. Advise Themba of two methods under the Companies Act 71 of 2008 that he could use to exercise his right to vote and to express his views at the annual general meeting of Electrotech Limited.

### Answer

#### Legal problem/question

It has to be determined whether a shareholder (Themba) can participate in a shareholder meeting without being physically present.

#### **Identify the relevant provisions in the Companies Act 71 of 2008**

- a. **Section 58** deals with the **appointment of a proxy**.
- b. A person may be appointed to represent the shareholder (Themba) at the meeting. *It is important to note that the person who is appointed as the proxy does not have to be a shareholder of the company. See section 58(1).*
- c. The proxy may participate in, speak and vote at a shareholders meeting.
- d. The appointment must be contained in a written form dated and signed by Themba. See section 58(2)(a).
- e. The appointment of a proxy is **valid** for one year. See section **58(2)(b)**.

Conclusion: *Themba can participate in the proposed meeting by appointing a proxy.*

In your analysis of the given facts, you should have noted that you are dealing with a public (Ltd) company. This is important because this brings section 61(10) into play.

- a. Meetings of **public companies** registered in South Africa **must be accessible** by **electronic participation**. See **section 61(10)**.
- b. This can take the form of **telephone communication** or by **video conference**. See the exact wording of **section 63(2)**.

# Sample Company Law Questions And Answers

**Liying Dong**



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Annual General Meetings 17 Accounts and Audit 18 Prevention of Oppression and Mis Management 19 Inspection and Investigation 20 Registration Office and Fees 21 Removal of Name of Companies from Register of Companies 22 Compromises Arrangements Reconstruction and Amalgamation 23 Winding up 24 Winding up of Unregistered Companies and Companies Incorporated Outside India 25 Miscellaneous      Company Law (According to NEP - 2020) Dr. Satish Kumar Saha, ,Anju Agarwal,2022-12-13 1 A Brief History of Indian Company Legislation 2 Introduction of the Company Meaning Definition and Kinds 3 Promotion Formation and Incorporation of Company 4 Memorandum of Association 5 Articles of Association 6 Prospectus 7 Share and Share Capital 8 Membership of Company 9 Transfer and Transmission of share 10 Borrowing Powers and Debentures 11 Appointment and Qualifications of Directors 12 Managerial Personnel 13 Meeting of Board of Directors and Its Powers 14 Annual General Meeting 15 Compromise Arrangement Amalgamation and Protection of Minority Rights 16 Prevention of Oppression and Mismanagement 17 Winding up of a Company 18 Miscellaneous Appendix Appendix      **Comparative Company Law** Carsten Gerner-Beuerle,Michael Schillig,2019 Comparative Company Law provides a systematic and coherent exposition of company law across jurisdictions augmented by extracts taken from key judgments legislation and scholarly works It provides an overview of the legal framework of company law in the US the UK Germany and France as well as the legislative measures adopted by the EU and the relevant case law of the Court of Justice The comparative analysis of legal frameworks is firmly grounded in legal history and legal and economic theory and bolstered by numerous extracts including extracts in translation that offer the reader an invaluable insight into how the law operates in context The book is an essential guide to how company law cuts across borders and how different jurisdictions shape the corporate lifespan from its formation by way of incorporation to its demise corporate insolvency and eventual dissolution In addition it offers an introduction to the nature of the corporation the framework of EU company law incorporation and corporate representation agency problems in the firm rights of stakeholders and shareholders neutrality and defensive measures in corporate control transactions legal capital piercing the corporate veil and corporate insolvency and restructuring law      *Unlocking Company Law* Susan McLaughlin,2015-03-05 Unlocking Company Law will help you grasp the main concepts of Company Law with ease Containing accessible explanations in clear and precise terms that are easy to understand it provides an excellent foundation for learning and revising The information is clearly presented in a logical structure and the following features support learning helping you to advance with confidence Clear learning outcomes at the beginning of each chapter set out the skills and knowledge you will need to get to grips with the subject Key Facts boxes throughout each chapter allow you to progressively build and consolidate your understanding End of chapter summaries provide a useful check list for each topic Cases and judgments are highlighted to help you find them and add them to your notes quickly Frequent activities and self test questions are included so you can put your knowledge into practice Sample essay questions with annotated answers prepare you for assessment Glossary of legal terms clarifies important definitions

This edition has been updated to include key recent changes and developments in company law both case law and statutory. Two recent Supreme Court decisions on piercing the corporate veil *VTB Capital plc v Nutritek International Corp* and others and *Prest v Petrodel Resources Limited* Others are examined as is Popplewell J's detailed judgment on directors' duties in *Madoff Securities International Limited In Liquidation v Raven* and others. Important new provisions for binding votes and detailed disclosure of directors' remuneration changes to the company charges registration and narrative reporting regimes and new rules facilitating private company share reductions buy backs are outlined as are imminent developments included in the 2014 Deregulation Bill stemming from the Government Red Tape Challenge. Commitment of the EU and UK Government to improving corporate governance of small and medium sized enterprises (SMEs) makes core company law the focus of this book more relevant than ever. The books in the Unlocking the Law Series get straight to the point and offer clear and concise coverage of the law broken down into bite size sections with regular recaps to boost your confidence. They provide complete coverage of both core and popular optional law modules presented in an innovative visual format and are supported by a website which offers students a host of additional practice opportunities.

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