



COMPANY SECRETARIAL AND CORPORATE GOVERNANCE

Board Meetings - What has Changed?

by

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Board meetings are an essential part of running your business. Recent changes to legislation mean that it is now an offence if minutes of board meetings are not recorded and retained.

The laissez faire approach often adopted by companies is no longer acceptable. Furthermore, if your company holds board meetings by electronic means, there are now certain criteria for the location of these meetings. Alternatively, your company may pass a board resolution in writing in place of holding a meeting.

The Companies Act 2014 (the "Act") provides for these changes which we outline below.

Minutes

Minutes are often treated as an afterthought however, for the first time, it is an offence if a company and any officer fails to record and retain them. Furthermore a company must facilitate the inspection and copying of minute books by the Director of Corporate Enforcement.

Company directors should also bear in mind that minutes are a formal written record of the business transacted at a meeting and can be submitted in court as evidence of the business being run properly. Therefore each director present at the meeting recorded by the minutes should take time to consider the content and provide their input before the minutes are signed by the Chairperson. Board minutes constitute evidence that meetings have been duly held and convened, that all proceedings recorded have taken place and that all appointments recorded are valid.

By keeping adequate minutes, your company and its officers will ensure that it complies with its obligations and avoid the possibility of committing a category 4 offence.

Meetings held using electronic communications: where should they take place?

Directors can participate in board meetings by telephone, video or using other forms of electronic communication, provided that there is sufficient sound and audio quality. For the first time the criteria for determining where these meetings take place is set out in legislation. There are three criteria to consider: firstly, where the largest group of participants is located; secondly, if participants are scattered across various locations, then the next option is to stage the meeting where the chairperson is located; finally, if the first two options don't apply, the group may determine the location for itself.

Written Resolution

Where it is not practical for the directors of a company to hold a meeting, and where all of the directors agree on the proposed action, it is possible for them to pass a written resolution in place of holding a meeting.

As long as the written resolution is signed by all the directors of a company then it is as valid as if it had

been passed at a full board meeting. It can be signed in counterpart and takes effect from when it is signed by the last director.

Impact

While the Act now requires that board minutes be recorded and retained, it also permits for flexibility and transparency by allowing the meetings to be held using electronic means while giving guidance on the location of these meetings. In addition, further flexibility is provided for via the written resolution alternative.

Our experienced team will be happy to assist you to ensure that your company complies with these obligations. Please contact a member of our team at cosec@lkshields.ie.

About the Authors