

**KARPAGAM ACADEMY OF HIGHER EDUCATION**

(Deemed to be University)

(Established Under Section 3 of UGC Act 1956)

Pollachi Main Road, Eachanari Post, Coimbatore - 641021

(For the candidates admitted from 2016 onwards)

**DEPARTMENT OF COMMERCE**

16CCP401	CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE	Semester IV			
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**Course Objective:**

- ❖ The Course intends to provide the students with an overview of the company administration.
- ❖ This course will enable the students to know about the role and responsibilities of Board of Directors, Company Secretary and other Managerial Personnel of the Company

**Learning Outcomes:**

- ❖ To make the students understand the duties of the Company Secretary
- ❖ To enable the students to attain knowledge about the scope, role and functions of the Corporate Secretary and apply them within their own organization
- ❖ understanding of how to draft correspondence relating to the meetings

**Unit – I**

Company Administration – Hierarchy – Share Holders – Membership – Termination – Rights and Duties – Board of Directors – Qualification – Appointment – Powers – Duties – Other Managerial Personnel

## **Unit – II**

Company Secretary – Meaning – Types – Qualities – Appointment – Dismissal – Power – Rights – Duties and Liabilities – Role of a Secretary in the Administration of a Company

## **Unit – III**

Meeting – Law Governing Meetings – Requisites of a Valid Meeting – Chairman of a Meeting – Appointment – Duties – Powers – Notice – Agenda – Minutes – Quorum – Motion – Resolution – Methods of Voting

## **Unit – IV**

Kinds of Company Meetings – Board of Directors Meeting – Share holder Meeting – Statutory Meeting – Annual General Meeting – Extraordinary General Meeting – Duties of a Company Secretary relating to the Meetings

## **Unit – V**

Drafting of Correspondence relating to the Meetings – Drafting of Notices – Agenda and Minutes of the Meetings of Shareholders and Directors – Drafting of Chairman's Speech – Annual Report and Auditors Report

## **Text Book**

1. **Kuchhal, M.C. 2008.** '*Secretarial Practice*'. New Delhi. Vikas Publishing House Private Limited.

## **REFERENCE BOOKS**

1. **Kapoor, N.D. 2015.** '*Elements of Company Law*'. New Delhi. Sultan Chand and Sons.
2. **Ashok K. Bagriai. 2007.** '*Company Law*'. New Delhi. Vikas Publishing House Private Limited.



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**Coimbatore – 641 021.**

**LECTURE PLAN**  
**DEPARTMENT OF COMMERCE**

**STAFF NAME : K. KAVITHA**

**SUBJECT NAME : CORPORATE ADMINISTRATION AND  
SECRETARIAL PRACTICE**

**SUB.CODE : 16CCP401**

**SEMESTER : IV**

**CLASS: II M.COM (CA)**

S.No	Lecture Duration Period	Topics to be Covered	Support Material/Page No.
		<b>UNIT – I</b>	
1	1	Company Administration Meaning and Definition of Company	R 1 : 1 – 5
2	1	Hierarchy	T 1 : 4 – 5
3	1	Meaning of Share Holders and Membership	R 1 : 143 – 146
4	1	Rights and Liabilities of Members	R 1 : 147 – 150
5	1	Duties of Members	W 1
6	1	Termination of Membership	R 1 : 147
7	1	Meaning and Definition - Board of Directors	T 1 : 292 – 293
8	1	Qualification of Directors	T 1 : 296
9	1	Appointment of Directors	T 1 : 297 – 302
10	1	Powers and Duties of Directors	T 1 : 315 – 318
11	1	Managing Director Meaning and Definition	T 1 : 335 – 338

		Statutory Restrictions on Managing or Whole – time Directors Appointment	
12	1	Other Managerial Personnel Manager	T 1 : 339 – 340
13	1	Recapitulation and Discussion of important questions	
<b>Total no. of hours planned for Unit – I</b>			<b>13 Hours</b>
<b>UNIT – II</b>			
1	1	Company Secretary – Meaning and Definition	T 1 : 1 – 3
2	1	Types of Company Secretary	R 1 : 42 – 43
3	1	Qualities of Company Secretary	T 1 : 12 – 13
4	1	Appointment of Company Secretary	R 1 : 51 – 53
5	1	Dismissal of Company Secretary	T 1 : 14
6	1	Rights of Company Secretary	T 1 : 10 – 11
7	1	Power of Company Secretary	T 1 : 10 – 11
8	1	Duties of Company Secretary	T 1 : 7 – 10
9	1	Liabilities of Company Secretary	T 1 : 11 – 12
10	1	Role of a Secretary in the Administration of a Company	R 1 : 341 – 342
11	1	Recapitulation and Discussion of important questions	
<b>Total no. of hours planned for Unit – II</b>			<b>11 Hours</b>
<b>UNIT- III</b>			
1	1	Meeting –Meaning and Classification of meetings	T 1 : 372
2	1	Law Governing Meetings	T 1 : 401
3	1	Requisites of a Valid Meeting	T 1 : 401 – 406
4	1	Chairman of a Meeting	T 1 : 406 - 407
5	1	Appointment of Chairman	T 1 : 406 - 407

6	1	Duties of Chairman	T 1 : 407 - 408
7	1	Rights and Powers of Chairman	T 1 : 406 - 407
8	1	Notice Minutes of Meeting Quorum of Meeting	T 1 : 305 – 307 T 1 : 310 – 313 T 1 : 307 - 308
9	1	Motion Resolution Methods of Voting	T 1 : 320 – 322 T 1 : 322 – 327 T 1 : 408 - 413
10	1	Recapitulation and Discussion of important questions	
<b>Total no. of hours planned for Unit – III</b>			<b>10 Hours</b>
<b>UNIT- IV</b>			
1	1	Kids of Company Meetings	R1 : 285 - 286
2	1	Board of Directors Meeting – Meaning, Frequency of Board Meetings Notice of the Meeting	T 1 : 350 - 352
3	1	Agenda of Board Meetings Quorum of Board Meetings Validity of Act of Directors Committee of the Board	T 1 : 352 - 354
4	1	Proceedings of Board Chairman of the Meeting Procedure of Board Meetings Minutes of Board Meetings	T 1 : 356 - 358
5	1	Share holder Meeting Statutory Meeting Annual General Meeting Extra Ordinary General Meeting	T 1 : 372
6	1	Statutory Meeting, Notice of the Meeting Statutory Report Procedure at the Statutory Meeting	T 1 : 373 - 376

7	1	Annual General Meeting – Meaning Statutory Requirements Boards Report or the Director’s Report	T 1 : 376 - 380
8	1	Extraordinary General Meeting Authority to call Extraordinary General Meeting, Explanatory Statement	T 1 : 383 - 385
9	1	Secretarial work relating to Board Meeting	T 1 : 361 - 362
10	1	Secretarial work relating to Statutory Meeting	T 1 : 375 - 376
11	1	Secretarial work relating to Annual General Meeting	T 1 : 380 - 383
12	1	Secretarial work relating to Extraordinary General Meeting	T 1 : 385 - 386
13	1	Recapitulation and Discussion of important questions	
		<b>Total no. of hours planned for Unit – IV</b>	<b>13 Hours</b>
	<b>UNIT- V</b>		
1	1	Drafting of Correspondence relating to the Meetings	R 1 : 285 - 286
2	1	Drafting of Notices	T 1 : 350 - 352
3	1	Drafting of Agenda of the Meetings of Shareholders	T 1 : 352 - 356
4	1	Drafting of Minutes of the Meetings of Shareholders	T 1 : 356 - 360
5	1	Drafting of Agenda of the Meetings of Directors	T 1 : 372
6	1	Drafting of Minutes of the Meetings of Directors	T 1 : 373 - 375
7	1	Drafting of Chairman’s Speech	T 1 : 376 - 380
8	1	Drafting of Annual Report	T 1 : 383 - 385
9	1	Drafting of Auditors Report	T 1 : 361 - 362
10	1	Recapitulation and Discussion of Important questions	
11	1	Discussion of Previous Year End Semester	

		Exam Question Papers	
12	1	Discussion of Previous Year End Semester Exam Question Papers	
13	1	Discussion of Previous Year End Semester Exam Question Papers	
	Total no. of hours planned for Unit – V		13 Hours
Total Planned Hours			60 Hours

**TEXT BOOK**

1. **Kuchhal, M.C. 2008** “*Secretarial Practice*”. New Delhi. Vikas Publishing House Pvt. Ltd.,

**REFERENCE BOOKS**

1. **Kapoor, N.D. 2015.** “*Elements of Company Law*”. New Delhi. Sultan Chand and Sons

**WEBSITE**

1. **<http://www.odce.ie/Portals/0/Documents/Company%20law%20and%20you/Shareholders/Individual%20Booklets/4.2Members.pdf>**

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**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: I (Company Administration) BATCH-2016-2018**

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**UNIT – I**

**UNIT – I:**

Company Administration – Hierarchy – Shareholders – Membership – Termination – Rights and Duties – Board of Directors – Qualification – Appointment – Powers – Duties – Other Managerial Personal.

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**COMPANY ADMINISTRATION**

The traditional form of business consists of Sole Proprietorship, Hindu Undivided Family (HUF) and Partnership Firms. Sole trading concern is carried out by a single owner there he was able to contribute only a small amount of money, and therefore his business unit is also small. In order to overcome this difficult there emerged a new form of business unit called Partnership firm, where in which an additional sum of amount is contributed by them when compared to sole trader. This helped the business to develop to some extent.

In order to enlarge their business they needed a huge sum of money which they cannot get from their friends and relatives. Thus to overcome this barrier a new form of business unit come into existence with a name called Joint Stock Companies.

The term company is derived from the Latin word companis, in which “com” means come together and “panis” means bread. It refers to the association of persons who took their meals together.

**EVALUATION / HISTORICAL BACKGROUND**

British people were the first to introduce company in India. They entered into the nation for the purpose of trade. During the British rule many large companies operated in India but they were incorporated in England.



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We all know that the companies in India are regulated by the Companies Act 1956. This act is the most important corporate legislation that empowers the Central Government to regulate the following: Formation of the companies, Financing of the companies, Functioning of the companies winding up of companies. It was enacted in 1956. This act enables companies to be formed by registration, and set out the responsibilities of companies, their directors and secretaries

### **MEANING – COMPANY**

A Company in common parlance, means a group of persons associated together for the attainment of some common end, social or economic. The term “Company” also referred to a body corporate. In other words, it is a body incorporated in accordance with the provisions of a specified Act. It is viewed to be a person created by law – a juridical person. It is treated as an artificial person, as such natural person it can also enter into a contract inspite of signature a common seal is used by the recognized authority. Members can come and go but the company exists for ever. Neither change in the membership of the company nor the death of its members has any impact on the continuity of its life. The liability of the members is also limited to the value of the shares they hold.

### **DEFINITION**

According to sec. 3 (l)(i) of the Companies Act, 1956, accompany means “ a company formed and registered under this act or an existing company”. In the words of Lord Justice Lindley, “BY a company we mean, “an association of many persons who contribute money or money’s worth to a common stock and employ it in some trade or business and also share the profit and loss, as the case may be, arising there from”. According to Haney “A company is an incorporated

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**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: I (Company Administration) BATCH-2016-2018**

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association; it is an artificial person created by law, having a separate entity, with a perpetual succession and a common seal”.

### **FEATURES OF THE COMPANY**

#### **Separate Legal Entity**

A company is an artificial person which is created by law. As it does not have any physical appearance, it enjoys a separate personality of its own, different from the members composing it. This helps the company to enter into the valid contract with others. As it has separate legal powers, in case of any controversies it can sue others and can be sued by other in its own name and not in the names of its members.

#### **Perpetual Succession**

Perpetual succession means continuity of life. In Sole Proprietorship and Partnership there is possibility of business closure when a person quits the business or in case of his death. But it is not so in the case of companies, as it continues its business even though a members of the business come or go or death of its members

#### **Common Seal**

Usually a contract becomes valid only when it is duly signed by a proper person. But a company is only an artificial person and it does not have any physical appearance. Obviously it cannot sign. It needs human agents to act. Any contract entered into by a company, to be valid, must bear the seal in the name of the company and it must be signed by the authorised authority.

#### **Limited Liability**

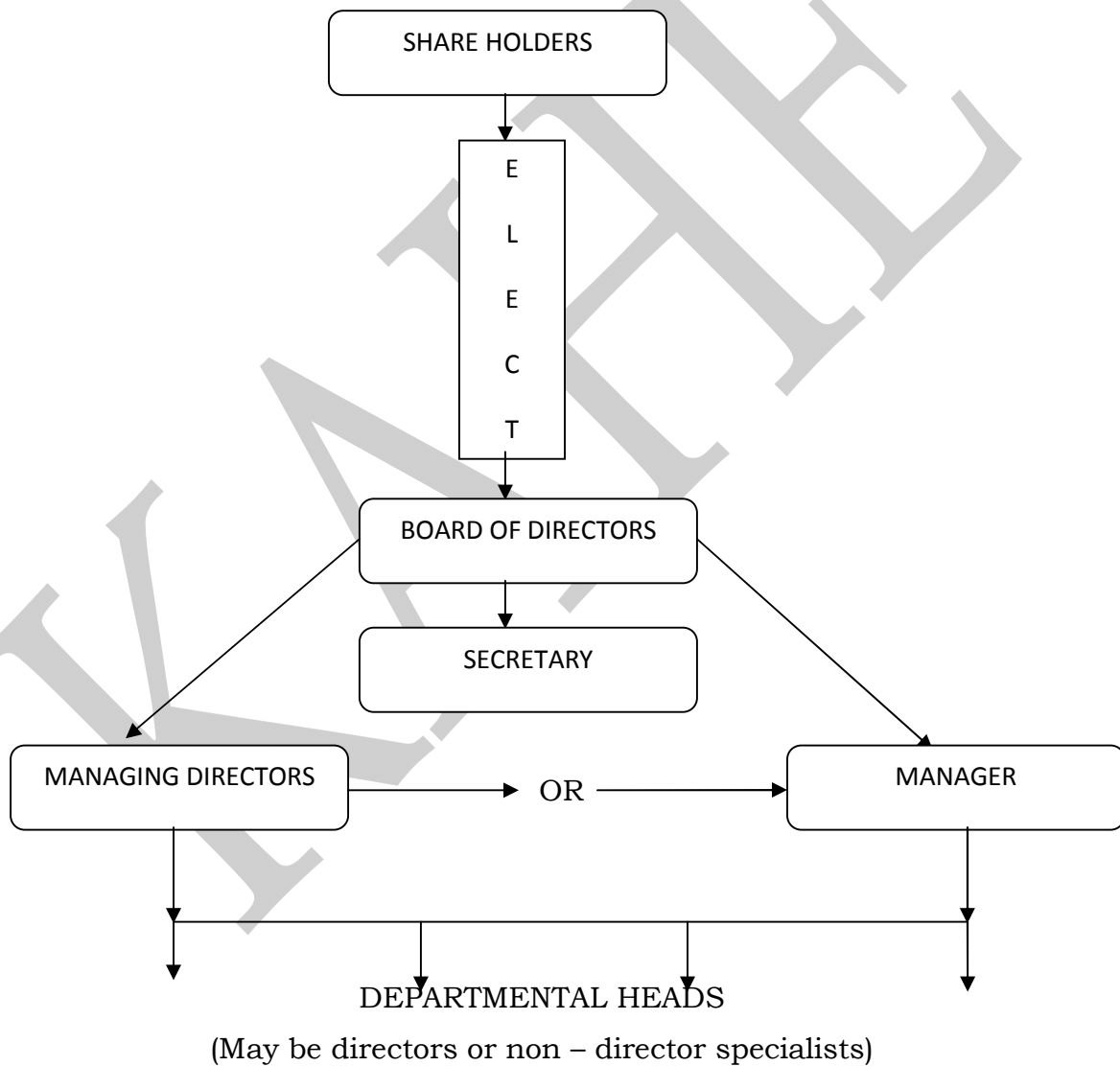
The liability of the members of the company is limited only upto the value of unpaid share amount. When once the full value of the share is paid by the shareholder then he is no more liable to pay any amount to the company.

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: I (Company Administration) BATCH-2016-2018**

**HIERARCHY**



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**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: I (Company Administration) BATCH-2016-2018**

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### **Shareholders**

Share holders are the real owners of the company. A shareholder is a person who buys and holds shares in a company having a share capital. They become a member once their name is entered on the register of members.

### **Board of Directors**

The shareholders, who are the owners of the company, are scattered over a very wide area and hence, it is not possible for them to take active part in the day-to-day management of the company. The owners or the shareholders of the company elect from amongst themselves some persons good in management as their representatives to manage day-to-day affairs of the company. The persons or representatives elected by the shareholders to manage or direct the day-to-day affairs of the company are individually known as "directors", and are collectively called the "Board of Directors" or the "Board".

### **Managing Directors**

The Directors of the company do not attend the office of the company every day and hence they appoint a person amongst the directors for the purpose of carrying out their policy decision taken at the board meeting. This person is called a managing director or whole time director as he is entrusted with substantial powers of management of the company. Managing Director is a director who is entrusted with substantial powers of management, which would not be otherwise available to him.

### **Manager**

A manager can only be an individual and not a firm or a body corporate. To be deemed the manager of a company, the individual must be in charge of the whole business of the company. A director or any other person occupying the position of a manager is also called manager even though he may be called by any

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**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: I (Company Administration) BATCH-2016-2018**

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name. Thus, a person who is not a director may also be appointed as a manager. A person can be the manager of only one company at a time.

A manager is appointed in the same manner as a managing director. He may be appointed for a period of not more than five years at a time, he is deemed to have vacated his office after the expiry of the period. He may be delegated certain powers of management by the board and he works under its superintendence, control and direction.

### **SHARE HOLDER**

The capital of the company is usually divided into certain small unit. These units are called shares. Shares means share in the Capital of the company. The person who hold these units where called as shareholders even though it is an single unit. Share holders are treated as the real owners of the company. A shareholder is a person who buys and holds shares in a company having a share capital. They become a member once their name is entered on the register of members. On the basis of liabilities a company is divided into three categories

1. Companies limited by shares - which means he is liable upto the unpaid amount of the shares held by him
2. Companies limited by guarantee – in such circumstances shareholder is limited to the amount he has voluntarily undertaken to contribute to meet any deficiency at the time of its winding up. Such a company may or may not have a share capital and it is not necessary that a member should be also a shareholder of the company.
3. Unlimited Companies – the liability of the members is unlimited.

### **MEMBER**

A member is one of the company's owners whose name has been entered on the register of members. Members delegate certain powers to the company's

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**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: I (Company Administration) BATCH-2016-2018**

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directors to run the company on their behalf. It is not necessary that the member should be the shareholder of the company because most of the companies limited by guarantee do not have share capital, thus member may or may not be a shareholder. Any person who is competent may become member of a company.

**Difference between Shareholder and member**

1. A shareholder who is registered can become a member of the company but a member may or may not be a share holder.
2. A person who owns a bearer share warrant is a shareholder but he is not the member of the company as his name is struck out of from the register of members.
3. A legal representative or a deceased member is not a member until he applies for registration. He is however, a shareholder even though his name does not appear on the register of members.

**TERMINATION OF MEMBERSHIP**

A person may cease to be the member of a company

1. If he transfers his shares to another person.
2. If his shares are forfeited.
3. If the company sells his shares under some provision in its Articles.
4. If he is adjudicated insolvent. The shares of an insolvent vest in the Official Receiver or Assignee. When the Official Receiver or Assignee transfers the shares to another person, the insolvent ceases to be a member on the registration of the transferee as a member.
5. If he dies.
6. If he rescinds the contract to take shares on the ground of misrepresentation in the prospectus or on the ground of irregular allotment.
7. If redeemable preference shares are redeemed.

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**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: I (Company Administration) BATCH-2016-2018**

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8. If his shares are sold in execution of a decree of the Court.
9. If he surrenders shares.
- 10.If the share warrants are issued to him in exchange of fully paid shares.
- 11.If the company is being wound up.

### **RIGHTS OF SHAREHOLDERS**

The rights, any shareholder has in any particular company generally depend on the provisions of the Companies Act 1956, the company's articles of association, the terms of issue of the shares (which are usually in the articles, but sometimes are in a resolution) and any shareholders' agreement. Devising the right share capital structure is a complex business.

The general situation is that in return for investing in a company a shareholder gets a bundle of rights in the company which may vary according to the type of shares acquired. The main rights which usually attach to shares are:

#### **To attend general meeting and vote**

Typically shares carry one vote each but there may be non-voting shares or shares with multiple votes. Some shares may carry the right to vote only in particular circumstances.

Each and every shareholder has right to attend any meeting of shareholders such as Annual General meeting, Extraordinary general meeting and vote in the meeting.

#### **To a share of the company's profits**

Every shareholders have right to participate in the profit of the company, in the name of dividend. The distribution of profits is paid by means of a dividend of a certain amount paid on each share. A dividend may be paid only if the company has made profits and to the extent that it decides to distribute them. In the absence of any provision to the contrary, dividends must be paid in proportion to



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**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: I (Company Administration) BATCH-2016-2018**

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the shares held by each shareholder, but it is becoming increasingly common for articles to provide that the company's shares are divided into different classes and for the directors (or shareholders) to be able to vary the dividends allocated to these classes.

**To a final distribution on winding up**

They have also right to get share during the winding up of the company. If the company is wound up and all the creditors are paid, the remaining assets are available for division among the members. This may be in two stages: (1) a return of capital; (2) distribution of surplus capital. Some shares may be given a priority as to one or both of these, or excluded from participation in any surplus.

**To receive a copy of the company's annual accounts**

The share holders have right to get a copy of the audited annual accounts of the company in order to know the exact position of the company. This may help them to take decision whether to sell or retain the shares. If they think that the company is having a weak financial position they can sell their shares and they can retain it in the case of vice versa.

**Other Rights**

1. Right to receive Share Certificate
2. Right to transfer shares
3. Right to receive notice of the meeting
4. Right to apply to the Company Law Board for calling an extraordinary meeting of the company.

**DUTIES OF SHAREHOLDERS**

The main duty of shareholders is to pass resolutions at general meetings by voting through their shareholding capacity. This duty is particularly important as it allows the shareholders to exercise their ultimate control over the company and



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**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: I (Company Administration) BATCH-2016-2018**

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how it is managed. Shareholders can vote in one of two ways: on a show of hands or through a poll vote where each vote will be proportionate to the amount of shares held by each shareholder. A show of hands is usually the preferred method of voting that takes place at general meetings.

### **Roles of the Shareholders**

Major decisions which would have an effect on the shareholders' rights are usually required, through the Companies Act 2006, to be approved by the shareholders at a general meeting called by the directors of the company.

Only certain acts can be done by the shareholders such as; removing a director from office, changing the name of the company, or authorising a service contract for a director which gives him job security for more than two years. In general, shareholders have little power over the directors and how they run the company, but their main role is to attend meeting and discuss what ever is on the agenda to ensure the directors do not go beyond their powers.

To fulfil the role of being a shareholder, a shareholder may require a general meeting to be called rather than simply have all decisions made through written resolutions. The directors will in fact call a general meeting, despite not being able to vote at the meeting, as this duty is solely for the shareholders. However, it is quite possible that directors will be shareholders as well and so will vote in the board meetings for directors and in the general meetings for shareholders. The directors may call a general meeting at any time for any reason and are entitled to attend and speak as are the shareholders.

### **COMPANY DIRECTORS**

A company is an artificial person created by law and as such it is not possible for it to deal with other parties. It must act only through some human agency. The shareholders, who are the owners of the company, are scattered over

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**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: I (Company Administration) BATCH-2016-2018**

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a very wide area and hence, it is not possible for them to take active part in the day-to-day management of the company

The owners or the shareholders of the company elect from amongst themselves some persons good in management as their representatives to manage to day-to-day affairs of the company. The persons or representatives elected by the shareholders to manage or direct the day-to-day affairs of the company are individually known as "directors", and are collectively called the "Board of Directors" or the "Board".

The Board of Directors entrust the day-to-day management of the company to a chief executive, who may be a managing director or manager, and delegate to him the necessary powers. The managing director or manager is the chief executive of the company. He exercises the powers given to him under the articles and carries out the duties entrusted to him by the Board of Directors.

It is true that the managing director or manager looks after the day-to-day management of the company. But he cannot attend to the work of management single handed. So he takes the assistance of several executives or professional managers. He has a secretary to help him in the day-to-day management of the company. He has several department heads, such as Production Manager, Purchase Manager, Sales Manager, Financial Manager, and Personnel Manager, etc. to look after the affairs of their respective departments. He uses the services of an auditor to report on the financial affairs of the company. He may also use the services of solicitors on legal matters.

Thus, the agencies which control & manage the affairs of the company are:

- a) Directors
- b) Managing Director or Manager
- c) Secretary

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**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: I (Company Administration) BATCH-2016-2018**

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d) Auditor

e) Legal Advisor

### **DIRECTORS**

#### **Definition:**

Section 2(13) of the companies Act, defines a director as ."any person occupying the position of director, by whatever name called", As per the above definition, if one performs the functions of a director, he would be considered as a director from the point of law. It is immaterial by what name his is called. Thus, a director may be defined as a person having control over the direction, conduct, management and superintendence of the affairs of the company. The directors of a company who are collectively known as the board of directors or simply a board, frame the general policy of the company, direct its affairs, appoint the officers of the company and ensure that they carry out their duties properly. As per Section 253 of the Act, a director of a company can only be a person and not an association or body corporate.

#### **QUALIFICATION OF DIRECTOR:**

The Act does not prescribe any share qualification for directors. However 66 of table 'A' provides that the qualification of a director shall be holding of one share of the company. The articles of every company usually require that a person elected as a director must have a specified number of shares to be eligible for appointment as director. Such qualification is called share qualification. The prospectus of the company must state the number of qualification shares to be held by a director according to its articles.

Where the share qualification is fixed by the articles, Section 270 of the Act provides that:-

a) It must be disclosed in the prospectus

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**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: I (Company Administration) BATCH-2016-2018**

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- b) Qualification share must be acquired by the person elected as a director within two months of his appointment unless he already holds the required number of shares
- c) Nominal value of qualification share should not exceed Rs.5,000/-
- d) Only the share included in the share certificate in his name are counted as qualification share
- e) Only individuals can be appointed as directors of the company

If a director fails to acquire qualification shares within two months after his appointment, he vacates office automatically soon after the prescribed period of two months from the date of his appointment. If he acts as director after the expiry of two months without qualification shares, he is liable to fine of up to Rs.500/- for everyday during which he continues as a director.

**DISQUALIFICATION OF A DIRECTOR:**

As per Section 274 of the Act, the following persons are not eligible for being appointed as directors of any company.

- a) A person found by the court to be of unsound mind.
- b) An undischarged insolvent
- c) A person who has applied to be adjudged an insolvent
- d) A person who has been convicted of an offence involving moral turpitude and sentenced to imprisonment for not less than six months and a period of five years has not elapsed from the date of expiry of the sentence.
- e) A person who has failed to pay calls for six months from the date when the calls fell due.

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**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: I (Company Administration) BATCH-2016-2018**

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- f) A person who has been disqualified by an order of the court to act as director of a company on the ground of fraud or misfeasance in connection with another company.

**APPOINTMENT OF DIRECTOR: -**

Legally, no firm or association or company can be appointed as director, only individuals can. Any individual competent to contract who holds the minimum qualified shares, if any, may be appointed as director of a company.

The first directors of a company are appointed by the subscribers to the memorandum and their names are mentioned in the articles. If the articles neither contain the names of the first directors nor any provision for appointing them, the subscriber to the memorandum who are individuals, shall be deemed to be the first directors.

Such director shall retire at the first Annual General Meeting of the company, when directors will be appointed in accordance with the provisions of Section 225.

If the articles does not provide any provisions for the retirement of all the directors at every annual general meeting, at least two – thirds of the total number (any fraction to be rounded off as one) of directors of a public company shall be rotational directors, i.e., liable to retire by rotation and shall be appointed by the shareholders in general meeting.

The directors of the company may be appointed in the following ways:

- 1) By the promoters of the company
- 2) By the subscribers to the memorandum of association of the company
- 3) By the shareholders in a general meeting.
- 4) By the board of directors

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**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: I (Company Administration) BATCH-2016-2018**

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- 5) By the Central Government
- 6) By the Principle of proportional representation
- 7) By third parties

**1) By the promoters of the Company: -**

At the time of company formation, the promoters generally name the first directors of company. The promoters select prominent persons to act as the first directors, and mention their names in the articles of the company.

**2) By the Subscribers to the Memorandum: -**

Sometimes the articles of the company confer a right on the subscribers to the memorandum, to appoint the directors of the company. The subscribers to the memorandum shall be deemed to be the first directors of the company until the directors are appointed at the next general meeting.

**3) By the Shareholder in a General Meeting: -**

The first directors are appointed by the promoters or by the subscribers to the memorandum. The subsequent directors are elected by the shareholders at the general meeting.

**4) By the Board of Directors: -**

The board of directors may appoint directors in the following ways:

- a) As additional directors (Sec. 260): The board of directors may appoint additional directors within the maximum strength fixed for the board by the articles. The board can make such an appointment only if the articles provide for that. The additional directors will hold office till the holding of the next annual general meeting of the company.
- b) In a casual Vacancy (Sec. 262): -In case, the office of the director appointed by the shareholders has fallen vacant before his term of office expires, the vacancy may be filled up by the board of directors,



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**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: I (Company Administration) BATCH-2016-2018**

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provided the articles of the company permit such a procedure. A casual vacancy may arise due to reasons such as death, resignation, disqualification, or failure of an elected director to accept the office or due to any other reason.

- c) As an Alternate Directors (Sec. 313): -The board of directors can appoint the alternative director. This alternative director has to act for the original director during his absence for a period of more than three months. The alternate director can continue as director only for the period for which the original was eligible. Further, on the return of the original director, the alternate director must vacate the office of directorship.

**5) By the Central Government (Sec. 408)**

The Central Government may appoint the Board of directors when the Company Law Board decides that it is necessary to safeguard the interests of the company or its share holders or the public if: -

- a) not less than 100 members of the company apply to the Company Law Board to make such an appointment, or
- b) members holding not less than one-tenth of the total voting power make an application to the Company Law Board for making such an appointment, or
- c) on its own initiative.

They are appointed for a maximum period of three years. They are not required to hold qualification shares and are not liable to retire by rotation, but they may be removed by the Central Government at any time and other persons may be appointed by it in their place.

**6) By Third Parties: -**

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**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: I (Company Administration) BATCH-2016-2018**

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Sometimes, the articles give a right to financial corporations, debenture holders and banking companies which have lent money to the company to nominate directors on the board of the company with a view to ensuring that the funds advanced by them are used by the company for the purpose for which they were borrowed. The number of directors so nominated should not exceed one-third of the total strength of the board and they are not to retire by rotation. .

**7) By Proportional Representation:-**

Normally directors are appointed on the basis of election in the Annual general meeting. But section 265 of the Act allows a public company or a private company which is the subsidiary of a public company to provide in its articles for the appointment of not less than two-thirds of the total number of directors by the principle of proportional representation. If the company decides to appoint directors under this method, the directors must be appointed for a period of three years at a time.

**POWERS OF DIRECTORS**

**General Powers**

The powers of the board are subject to the provisions of the Companies Act and the memorandum and articles of association of the company. It is only the board which can exercise powers conferred on it but not as a director of a company, in his individual capacity.

The board of director has the power to control the work of officers of the company such as the managing director, manager, secretary etc., and the shareholders cannot interfere in the management of the company. The directors have the powers to manage the affairs of the company and they also have a right to recommend the payment of dividend.



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**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: I (Company Administration) BATCH-2016-2018**

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The board must not commit any act which is against the provisions of the companies act, memorandum and articles of association or powers given to the board by the shareholders.

### **Statutory Powers**

The directors have specific powers which can be exercised by them only by a resolution at a board meeting. They are: -

1. The powers to make calls, to issue debentures, to forfeit shares, to borrow otherwise than on debentures, to invest funds of the company, to make loans, etc.
2. The power to appoint a secretary I a manager etc
3. The power to fill up a causal vacancy in the office of directors subject to regulations in the articles
4. The power to fill up a causal vacancy in the office of an auditor
5. The power to appoint the managing director of the company if he is already the managing director of another company
6. The power to appoint alternate directors if so authorized by the articles
7. The power to enter into a contract on behalf of the company with other parties
8. The power to make a contribution to the National Defence fund without any limit

### **Restrictions on the Powers of the Directors**

The following powers cannot be exercised by the Board without the consent of the shareholders in the general meeting

1. To sell, lease or otherwise dispose of the whole or substantially the whole of the undertaking of the company.

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**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: I (Company Administration) BATCH-2016-2018**

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2. To extend time for repayment of any debt due by a director.
3. To borrow money where the money to be borrowed together with that already borrowed is in excess of the aggregate of the paid up capital and free reserves
4. To contribute to charitable funds in excess of the prescribed limit.

**DUTIES OF DIRECTORS: -**

The duties of directors may be classified in to two broad categories. They are statutory duties

General Duties

Statutory Duties:

**General Duties:-**

The general duties of the directors refer to their duties under the general law. The general duties of the director of a company are:-

**a) Duty of good faith**

They must act bona fide in the interest of the company. They should not make any secret profits

**b) Duty of reasonable care**

They must discharge their duties with reasonable care, skill and diligence.

**c) Duty not to delegate**

They must perform the duties by themselves. They can delegate only certain functions as permitted by the articles.

**d) Duty of regularity**

They must attend every Board Meeting without fail.

**Statutory Duties**

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**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: I (Company Administration) BATCH-2016-2018**

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Statutory duties of directors refer to all those duties which the directors are required to perform under the Companies Act. Some of the statutory duties of the directors of a company are as follows: -

1. To determine the amount of minimum subscription
2. To see that all money received from applications for shares is deposited in a scheduled bank until it is returned to the applicants under Section 69 or until the Certificate to commence business is obtained
3. To prepare a statutory report and file a copy of it with the register
4. To forward a copy of the statutory report to every member of the company at least 21 days before the date on which the statutory meeting is held
5. To call an extraordinary general meeting of the company on the requisition of the specified number of members
6. To approve the balance sheet and profit and loss account before they are submitted to the auditors for their report.
7. To prepare and place at the annual general meeting an annual report of the company along with the balance sheet and profit and loss account
8. To pay dividends only out of divisible profit of the company
9. To exercise only such powers for which they are empowered by the company, by the memorandum and articles of association.
10. To manage the affairs of the company efficiently
11. To purchase and pay for qualification shares within the specified time

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**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: I (Company Administration) BATCH-2016-2018**

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12. To see that the board meetings are held at least once in every three months and four times in a calendar year.
13. To disclose to the company their interest, if any, in any contract entered into by the company

**LIABILITIES OF DIRECTORS:**

The liabilities of the directors of a company may be considered under the followings heads:

1. Liability to outsiders
2. Liability to the company
3. Liability to the shareholders
4. Criminal Liability

**1) Liability to Outsiders:**

The directors may incur personal liability to third parties in consequence of contracts made on company's behalf: -

- a) If they enter into a contract which is ultravires the rules of the company
- b) If they enter into a contract which is although within the powers of the company, is outside the scope of their own authority as defined in the articles
- c) If they fail to sign a negotiable instrument without mentioning the company's name
- d) If they act in their own name
- e) If they have issued a prospectus which does not contain the particulars required by the Act
- f) If they have made any mis-statement in the prospectus
- g) If they are guilty of committing a fraud

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**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: I (Company Administration) BATCH-2016-2018**

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- h) If they have made irregular allotment in contravention of the provision of the Act
- i) If their liability has been made unlimited in pursuance, of Section 322 and 323
- j) If the court orders that the directors are personally liable for all the or any of the debts or liabilities of the company for fraudulent trading on the part of the company

**2) Liability to Company:**

The directors are liable to the company in the following circumstances.

- a) If they are negligent in the performance of their duties
- b) If they commit an act which is ultra vires their powers or when they Pay dividend out of the capital
- c) If they commit any illegal act
- d) If they commit any breach of trust or misfeasance

**3) Liability to Shareholders:**

The position of directors in respect of the property of the company is that of a trustee. If they commit any breach of trust and if as result of that, the company suffers loss, they have to make good that loss. Further, if the directors are negligent and fail to use reasonable care and skill and because of this, the shareholders suffer a loss, they have a right to claim damages from the directors.

**4) Criminal Liability:**

Directors may incur criminal liability for the following activities

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**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: I (Company Administration) BATCH-2016-2018**

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- a) Misstatement in the prospectus. In such case, directors may be awarded two years imprisonment and a fine of Rs.5,000/- for the filing of prospectus containing, false statement.
- b) Failure to file Return of Allotment
- c) For fraudulently obtaining credit for the company
- d) For acting as a director after removal by court
- e) Failure to furnish necessary information to auditor of the company
- f) Failure to pay dividend within 42 days from the date of declaration.
- g) Failure to file copies of Special resolutions with the Registrar within 30 days of passing the resolution.
- h) Failure to lay before the Annual General Meeting audited profit and loss account and Balance sheet
- i) Destruction of important documents
- j) Failure to issue share certificates within the prescribed period
- k) Holding the office of directors in more than 15 companies excluding private companies.

### **MANAGING DIRECTOR**

The Directors of the company do not attend the office of the company every day and hence they appoint a person amongst the directors for the purpose of carrying out their policy decision taken at the board meeting. This person is called a managing director or whole time director as he is entrusted with substantial powers of management of the company.

The companies Act Defines a managing director Sec.267 as "a director who by virtue of an agreement with the company or of a resolution passed by the company in the general meeting or by the board of directors, or by virtue of its memorandum or articles of association, is entrusted with substantial powers of

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**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: I (Company Administration) BATCH-2016-2018**

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management which would not otherwise be exercisable by him, and includes director occupying the position of Managing Director by whatever name called".

**Appointment of Managing Director: -**

A managing director may be appointed: -

- a) By an agreement with the company, or
- b) By a resolution of company in a general meeting or
- c) By the board of directors, or
- d) Under a memorandum, or
- e) Under the articles of the company

**Restrictions on Managing Director's Appointment and Re-appointment:**

1. The approval of the Central Government is required for the appointment or re-appointment of a managing director
2. The sanction of the Central Government is required for any change in the managing director's agreement in the provisions of the memorandum or articles relating to his appointment or re-appointment
3. A person cannot be appointed as a managing director for a term exceeding five years at a time
4. A person cannot be appointed as a managing director of more than two public companies at a time
5. The rule regarding the retirement of directors by rotation is not applicable to the managing directors. Therefore, he may be called a non-retiring director so long as he acting as a managing director
6. No person can be appointed as a managing director who is an undischarged insolvent or who suspends or has at any time suspended payment to his creditors, or has at any time been convicted by a court of an offence involving moral turpitude.



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**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: I (Company Administration) BATCH-2016-2018**

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7. The managing director works in two capacities, one as a director and another as a manager of the company. The duties assigned to him should be such as to involve the exercise of substantial powers of management.
8. The managing director enters into an agreement with the company. The agreement provides his terms and conditions of service, powers, duties, etc.
9. As a managing director is also one of the directors of the company other provisions of the Act relating to directors will also be applicable to the managing director.
10. If a company has a managing director, it cannot have a manager.
11. Appointment should be as per the conditions laid down in schedule XIII which has been introduced by the Amendment Act of 1988

**Distinction between a Director and Managing Director:**

The main points of distinction between a director and managing director are as follows:

1. The directors take responsibility for framing the policy of the company whereas the managing director takes responsibility for implementing it.
2. The directors do not take part in the day-to-day affairs of management of the company, whereas the managing director actually takes part in the daily management of the company.
3. The directors are appointed by the shareholders of the company at the general meeting, whereas the managing director's is appointed by the directors at the board meeting.
4. The maximum number of companies for which a person can act as director at a time is 15, whereas the maximum number in the case of a managing director is only two.



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**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: I (Company Administration) BATCH-2016-2018**

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5. For all companies, public and private, the appointment of directors is compulsory, whereas the appointment of a managing director is not compulsory.
6. The directors are appointed for a period not exceeding three years at a time while the managing director is appointed for a period not exceeding five years at a time
7. The directors are subject to retirement by rotation whereas the managing director is exempted from this provision.
8. The directors are considered as agents of the shareholders of the company, whereas, the managing director is considered as an agent of the board of directors
9. The directors do not hold any office of profit but only receive honorarium for attending meeting, but the managing director holds a regular office of profit and receives a regular salary.
10. Directors do not enter into any agreement with the company regarding their powers, duties etc., whereas the managing director enters into an agreement with the company which provides for the terms and conditions of service, his powers, duties etc.
11. The directors cannot exercise their powers individually but only collectively i.e., through the board meeting. But the managing director when entrusted with special powers of management by the board can act individual

**Distinction between a whole-time Director and Managing Director:**

According to the explanation given in the Amendment Act 1974, Whole-time director includes "a director in the whole time employment of the company". For example, if a director is appointed as "controller of finance accounts" of the company, he becomes a whole- time director. Thus, the Act itself makes a

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**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: I (Company Administration) BATCH-2016-2018**

---

distinction between a managing director and a whole- time director. They differ from each other in the following respects:

1. A managing director is entrusted with substantial powers of management whereas a whole-time director is just an employee of the company and does not enjoy substantial powers of management.
2. The appointment of a managing director does not require the consent of the shareholders whereas the appointment of a whole time director requires the sanction of shareholders by means of a special resolution.
3. A company cannot appoint a managing director and manager simultaneously, but it can appoint a whole time director along with a managing director or a manager.
4. A managing director can act as such in two-companies, at the same time, but a whole- time director cannot act as a whole-time director in more than one company
5. A managing director can be appointed for a maximum period of five years at a time, whereas there is no such restriction in the case of whole-time director.

## **MANAGER**

### **Definition:**

Section 2(24) of the Act States that manager means "an individual, who subject to the superintendence, control and direction of the Board of Directors, has the management of the whole, or substantially the whole of the affairs of the company includes a director or any other person occupying the position of a manager by whatever name called whether under a contract of service or not".

A manager can only be an individual and not a firm or a body corporate. To be deemed the manager of a company, the individual must be in charge of the whole business of the company

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**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: I (Company Administration) BATCH-2016-2018**

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E.g., general manager. A mere head of a department or a branch manager would not be a manager. A director or any other person occupying the position of a manager is also called manager even though he may be called by any name. Thus, a person who is not a director may also be appointed as a manager. A person can be the manager of only one company at a time.

A manager is appointed in the same manner as a managing director. He may be appointed for a period of not more than five years at a time, he is deemed to have vacated his office after the expiry of the period. He may be delegated certain powers of management by the board and he works under its superintendence, control and direction.

**Distinction between a Manager and a Managing Director:**

Though there are certain points of similarity between the manager and the managing director (viz., both must be individuals, both are appointed for a period of five years at a time and both cannot act for more than two companies at a time), there are certain points of distinction between the two. They are:

1. A manager may be a director or may not be a director of the company but a managing director must be a director of the company.
2. A manager is entrusted with management of the whole or a substantial part of the affairs of the company, while a managing director has substantial powers of management and need not necessarily be in charge of the entire management
3. A manager functions under the control and direction of the board, while a managing director functions under the control and supervision of the board

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**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: I (Company Administration) BATCH-2016-2018**

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4. A manager is appointed by the board of directors, while a managing director is appointed by the company in general meeting or by the board of directors or by the articles of the company.
5. A manager is only an employee of the company and cannot be a member of the board whereas, a managing director is a member of the board and can participate in board meetings.
6. The remuneration of manager must not exceed 5% of the net profits while the remuneration of a managing director must not exceed 5% of the net profits if there is one managing director or where there is another such director, 10% altogether

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**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401    UNIT: I (Company Administration)    BATCH-2016-2018**

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**POSSIBLE QUESTIONS**

**PART - A (1 mark)**

**(Online examinations)**

**PART – B (6 Marks)**

1. Define Company. Explicate its Characteristics.
2. State the Hierarchy in Company Administration. Also Explain the rights of the Share Holders.
3. Define Director. Explain that how a director of the Company is appointed?
4. Describe the provisions of the Companies Act relating to the following:
  - (i) Appointment of Board of Directors
  - (ii) Vacation of office by Directors
  - (iii) Removal of Directors
5. Describe the provisions of the Companies Act relating to the following:
  - a. Qualification of Directors
  - b. Disqualification of Directors
  - c. Restriction on Directorship
6. Define 'Director'. Explain the powers and duties of Directors.
7. Define 'Director'. Explain the powers and liabilities of Directors.
8. Describe the provisions of the Companies Act relating to the following:
  - a. Restrictions on Managing Director's Appointment and Re-appointment
  - b. Differentiate Director and Managing Director
9. How are the first and subsequent directors are appointed. When is the office of

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**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: I (Company Administration) BATCH-2016-2018**

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the director vacated?

10. Explain in detail that who can become a member and how?
11. Describe the rights and duties of Managing Director.
12. Describe the rights and duties of Managing Director.

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**CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE - 16CCP401**

<b>S. No.</b>	<b>QUESTIONS</b>	<b>OPT. 1</b>	<b>OPT. 2</b>	<b>OPT. 3</b>	<b>OPT.4</b>	<b>ANSWER</b>
<b>Unit -I</b>						
1	The traditional form of business does not consists of _____	Company	Sole Proprietorship	Hindu undivided Family	Partnership Firm	<b>Company</b>
2	the companies in India are regulated by the	Companies Act 1956	Companies Act 1961	Companies Act 1946	Companies Act 1986	<b>Companies Act 1956</b>
3	Company is an _____	natural Person	artificial person	normal person	non-natural	<b>artificial person</b>
4	A group of persons associated together for the attainment of some common end, social is a _____	Partnership firm	Sole proprietorship	co-operative society	company	<b>company</b>
5	The term “Company” also referred to a _____	local authority	body corporate	juridical person	natural person	<b>body corporate</b>
6	Perpetual succession means _____	continuity of life	life time of the company	duration	Time	<b>continuity of life</b>

7	Any contract entered into by a company, to be valid, must bear _____	the seal in the name of the company	the seal in the name of the director	the seal in the name of the Manager	the seal in the name of the Secretary	<b>the seal in the name of the company</b>
8	The minimum number of members for a public limited company is _____	2	3	7	10	<b>7</b>
9	The existence of a company comes to a close _____	on the death of all its promoters	on death of all the directors of the Board	on transfer of shares by most of its original members	on winding up of the company	<b>on winding up of the company</b>
10	A preference share has priority in _____	dividend only	only in return of capital at the time of winding up	voting rights	both dividend and return of capital on winding up	<b>dividend only</b>
11	Shareholders are the _____ of the Company	Creditors	Owners	Debtors	Financiers	<b>Owners</b>
12	The persons or representatives elected by the shareholders to manage the day-to-day affairs of the company are individually known as _____	Members	Group	Board	Crowd	<b>Board</b>
13	Appointment of director to be voted _____	individually	group	set	crowd	<b>individually</b>



14	_____ continues its business even though members of the business come or go or death of its members	Partnership firm	Sole proprietorship	co-operative society	company	<b>company</b>
15	Any person occupying the position of a director is:	not director	director	chief executive	officer	<b>Director</b>
16	A manager is appointed for a period of not more than _____	3 years	Seven Years	Five years	Two years	<b>Five years</b>
17	Shares means share in the _____ of the company.	Liability	Capital	Assets	Loan	<b>Capital</b>
18	The first directors of a company are appointed by the _____	Subscribers to the memorandum	Central Government	Shareholders	Debenture holders	<b>Subscribers to the memorandum</b>
19	At least _____ of the total number of directors of a public company shall be rotational directors	one – third	two – fourth	two – fifth	two – third	<b>two – third</b>
20	Only _____ can be appointed as directors of the company	a firm	a body corporate	individuals	HUF	<b>individuals</b>
21	Director has to acquire qualification shares within _____ after his appointment	six months	three months	one month	two months	<b>two months</b>

22	The approval of the _____ is required for the appointment or re-appointment of a managing director	Central Government	Promoters	Shareholders	Board of Directors	<b>Central Government</b>
23	Company limited by shares means a company having the liability of its members:	limited to the amount,if any, unpaid on the shares respectively held by them	unlimited to the amount,if any,unpaid on shares respectively held by them	specific liability	Unlimited Liability	<b>limited to the amount,if any, unpaid on the shares respectively held by them</b>
24	A manager can only be _____	a firm	a body corporate	an individual	HUF	<b>an individual</b>
25	A person can be the manager in _____ company at a time	three	ten	twenty	one	<b>one</b>
26	The business of the Company is regulated and controlled by the _____	Central Government	Company Law Board	Shareholders	Board of Directors	<b>Board of Directors</b>
27	The person who holds the share or shares of a company is called _____	a shareholder	a debentureholder	creditors	debtors	<b>a shareholder</b>
28	Preference shares are shares, which have _____	preferential rights	voting right	right to attend meeting	right to call for meeting	<b>preferential rights</b>

29	_____ are those, which are not preference shares	Preference shares	Equity shares	debenture	redeemable preference shares	<b>Equity shares</b>
30	Equity shares are also called as _____	preferential shatrs	Ownership shatrs	creditorship shares	debenture	<b>Ownership shatrs</b>
31	Any excess profit paid over the preference shares are distributed to _____	equity shareholders	board of directors	debenture holders	chairman	<b>equity shareholders</b>
32	The rate of dividend on preference shares remains _____	flexible	minimum	fixed	maximum	<b>fixed</b>
33	Equity share capital is considered as _____ capital	riskfree	safe	secured	risk	<b>risk</b>
34	Bonus shares are shares issued only to _____	existing shareholders	new shareholders	creditors of the company	financial institutions	<b>existing shareholders</b>
35	A _____ is a document issued by a company under its common seal specifying the number of shares held by a member	share transfer certificate	register	share certificate	list of members	<b>share certificate</b>
36	A shareholder is a person who buys and holds shares in a company having a _____	profit	share capital	members	capital	<b>share capital</b>

37	Members of the company may delegate certain powers to the company's _____ to run the company on their behalf	secretary	governement	directors	chairman	<b>directors</b>
38	Any person who is _____ may become member of a company	competent	lunatic	insolvent	unsoundmind	<b>competent</b>
39	The subsequent directors are elected by the _____ at the general meeting	directors	shareholders	secretary	chairman	<b>shareholders</b>
40	The directors have right to recommend the payment of _____	sharecapital	dividend	interest	profit	<b>dividend</b>
41	The duties of directors may be classified in to _____ categories	four	five	two	three	<b>two</b>
42	The position of directors in respect of the property of the company is that of a _____	agent	security	promoters	trustee	<b>trustee</b>
43	If there is any misstatement in the prospectus., in such case, directors may be awarded _____ imprisonment and a fine of Rs.5,000/-	two years	ten years	five years	seven years	<b>two years</b>
44	The companies Act defines a managing director under Section _____	265	262	267	269	<b>267</b>

45	The sanction of the _____ is required for any change in the managing director's agreement	State Government	Shareholders	Board of Directors	Central Government	<b>Central Government</b>
46	A person cannot be appointed as a managing director of more than _____ public companies at a time	two	five	three	seven years	<b>two</b>
47	The directors are appointed for a period not exceeding _____ at a time	two years	five years	three years	seven years	<b>three years</b>
48	The managing director is considered as an _____ of the board of directors	servant	brokers	dealers	agent	<b>agent</b>
49	The directors are considered as agents of the _____ of the company	Creditors	shareholders	debentureholders	bankers	<b>shareholders</b>
50	A company can appoint a _____ along with a managing director or a manager.	secretary	part time secretary	chairman	whole time director	<b>whole time director</b>
51	The appointment of a managing director does not require the consent of the _____	employees	manager	shareholders	member	<b>shareholders</b>
52	A managing director must be a _____ of the company.	director	Member	employee	manager	<b>director</b>

53	The remuneration of manager must not exceed _____ of the net profits	3%	10%	2%	5%	<b>5%</b>
54	A manager is appointed by the _____	managing director	board of directors	secretary	chairman	<b>board of directors</b>
55	A managing director is a _____ of the board and can participate in board meetings	servant	employee	member	officer	<b>member</b>
56	A manager is only an _____ of the company and cannot be a member of the board	employee	servant	agent	dealer	<b>employee</b>
57	The 2013 Act increases the limit for number of directorships that can be held by an individual from 12 to	13	14	15	16	<b>15</b>
58	The _____ in the draft rules has prescribed the minimum number of independent directors in case of public companies	central government	Company Law Board	promoters	state government	<b>central government</b>
59	The 2013 Act requires every listed public company to have at least _____ of the total number of directors as independent directors	one-fourth	two – fourth	one-third	two-third	<b>one-third</b>

60	The _____ Act makes an attempt to distinguish between the liability of an independent director and non-executive director from the rest of the board	2003	2013	2015	1993	<b>2013</b>
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**CLASS : II M.COM CA**

**COURSE NAME: CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

**UNIT: I (Company Secretary)**

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## **UNIT - II**

### **Unit – II**

Company Secretary – Meaning – Types – Qualities – Appointment – Dismissal – Power – Rights – Duties and Liabilities – Role of a Secretary in the Administration of a Company

### **MEANING**

The word "Secretary" is derived from the Latin word "Secretarius" which means Confidential Officer. A secretary is defined by the Oxford Dictionary as "one whose office is to write for another, especially one who is employed to conduct correspondence, to keep records and to transact various other businesses for another person or for a society, corporation or public body".

The Companies Act 1956, as amended by the Amendment Act of 1988, defines a secretary as "any individual possessing the prescribed qualifications appointed to perform the duties which may be performed by a Secretary under the Act and any other ministerial and administrative duties".

Therefore the Secretary is one of the principal officers of the company with the requisite qualifications to undertake secretarial work and management of the affairs of the company as per the provisions of the Act and instructions laid down by the Board of Directors. The Board, however, cannot alter the duties of the secretary as they are determined by the law.



**CLASS : II M.COM CA**

**COURSE NAME: CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

**UNIT: I (Company Secretary)**

---

## **TYPES OF SECRETARIES**

There are various types of secretaries, such as 'private secretary, secretary to a club, cooperative society, government company, etc., A brief description of these types is as follows:

### **PRIVATE SECRETARY**

A private secretary is usually appointed by an important person such as a minister in the government, member of parliament, manager, business magnate or professional men like doctors, lawyers, etc, ' His work is to attend to the correspondence and other personal work or office work of the employer. Sometimes, the private secretary may also be entrusted with certain duties of a private nature such as handling banking transaction, arranging meeting, parties, and drafting reports and speeches.

### **SECRETARY OF ASSOCIATION OR A CLUB**

Non-profit making associations like charitable institutions, cultural associations and professional association, sports and athletic clubs may appoint a full-time secretary to conduct the day-to-day activities of the association or club. As an honorary secretary cannot generally be expected to devote his entire time to the work of the association or the club, paid secretaries are appointed.

The important functions of the secretary of an association are:

1. The attend to administrative functions such as correspondence, maintenance of accounts and records, supervision of staff and arranging for the audit of the accounts.
2. To conduct activities of the club or association such as registration of new members, collection of fees, etc.

**CLASS : II M.COM CA**

**COURSE NAME: CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

**UNIT: I (Company Secretary)**

- 
3. To convene meetings of members or executive committees and to prepare the required documents and minutes of the meetings.
  4. To advise the managing committee on various matters relating to the association and to execute the decisions of the managing committee

### **SECRETARY OF A CO-OPERATIVE SOCIETY**

Generally, full-time secretaries are appointed in cooperative society. In some cases, one of the members of the managing committee may be elected to act as secretary.

The functions of the secretary of a cooperative society are:

1. To assist the managing committee in managing the affairs of the society.
2. To execute the decisions taken by the managing committee.
3. To maintain proper records and registers.
4. To arrange meetings and to attend conferences on behalf of the society.

### **SECRETARY OF A GOVERNMENT DEPARTMENT**

Each department of the government is under the control of a secretary, e.g., Secretary, Finance Department and Secretary, Education Department. He is also executive head and adviser to the minister who is concerned with that particular department.

The duties of a government secretary are:

1. Administrative and executive functions such as overall control and day-to-day administration of the office, guiding the subordinate

**CLASS : II M.COM CA**

**COURSE NAME: CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

**UNIT: I (Company Secretary)**

officers of the department, coordinating the various activities of the department as well as the activities of allied department.

2. Advisory functions, which include advising the minister on all matters regarding decisions and supplying whatever information is needed by the minister.

**SECRETARY OF A LOCAL BODY**

Usually, municipal corporations and Panchayats appoint a paid secretary who will functions as an office executive. He is a link between the authorities and the staff. His functions are many and varied. He has to supervise and coordinate all activities of the office, prepare budgets, statements, arranging meetings, draft minutes, etc.,

**SECRETARY OF A TRADE UNION**

Generally, every trade union appoints a secretary .He is a powerful person wielding much influence over the organized labourers. He is required to hold meeting of the union, to record their proceedings, to maintain accounts and statutory books and to conduct the correspondence on behalf of the union. He advises the 'union on various matters connected with labour .In case of disputes, he negotiates with the employers on behalf of the labour and makes efforts to settle the disputes.

**COMPANY SECRETARY**

The secretary of a company guides the management in the day-to-day work of Company Law and mercantile law and of accounts, taxation, holding of meetings, drafting of reports. Resolutions etc. His duties are of ministerial and administrative character and he is not concerned with the directions. control or management of the affairs of the company. He is an officer of the

**CLASS : II M.COM CA**

**COURSE NAME: CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

**UNIT: I (Company Secretary)**

company and his duties are multifarious but primarily they consist of duties to the Board, duties to the shareholders and duties to the company. Because of the vast expansion of joint stock forms of organisation, the position of secretary has become pre-eminent in the industrial and commercial world and has secured esteemed position and a high social status.

Section 2(45) of the companies Act of 1956, " A company secretary is a person who is a member of the Institute of the Company Secretaries of India or any other individual possessing the prescribed qualifications, appointed to perform the duties imposed on him by the companies Act, the ministerial or administrative duties and managerial functions that are delegated to him by the Board"

The Companies [Amendment] Act 1955-provides that a company can appoint a secretary with 'limited executive' power of management delegated by the Board of Directors in addition to his routine duties. If the, Board entrusts the Secretary with routine duties, he is called, -'Routine Secretary', and if he is entrusted with limited executive managerial powers, he is called 'Executive Secretary'.

### **ROUTINE SECRETARY**

A Secretary is called a Routine Secretary because his position can be compared to the position of the head of a clerical department doing only such work as he is directed to do by the board. A routine secretary is just the mouth-piece of the Board of Directors. He has to do only what he is directed to do by the directors. He does not have any discretion of his own, and so, cannot do anything on his own.

The duties of a routine secretary relate to:

**CLASS : II M.COM CA**

**COURSE NAME: CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

**UNIT: I (Company Secretary)**

1. To supervise issues of shares and debentures.
2. Registration of transfer and transmission of shares
3. Attending to work relating to board meetings and general meetings.
4. Preparing dividend warrants and maintaining the statutory and other books of the company.
5. Filing the necessary return of the company with the Registrar of the companies

**EXECUTIVE SECRETARY**

When a secretary of a company, in addition to the performance of the routine office work, also acts as the Chief Executive Officer of the company, he becomes an executive secretary. In this case, he exercises managerial and administrative powers and performs many executive and managerial functions delegated to him by the board. So, he is called an Executive secretary.

An executive secretary, besides performing the routine office work of a secretary, also performs a number of other responsible jobs. The other important duties of an executive secretary are:

1. To Organise and Control the whole office.
2. To carry on the correspondence work relating to the various departments of the Company.
3. To attend to all matters relating to the Cost and company accounts.
4. To negotiate contracts with third parties on behalf of the Company.
5. To act as a Liaison officer, i.e., Establishing links between the company and outsiders.
6. To act as an adviser and guide to the board of directors on all

**CLASS : II M.COM CA**

**COURSE NAME: CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

**UNIT: I (Company Secretary)**

important matters of policy and administration.

### **SECRETARY IN WHOLE – TIME PRACTICE**

The Companies (Amendment) Act, 1988, has introduced for the first time in the Companies Act the concept of ‘Secretary in whole – time practice’ by inserting a new section (45 A) in Section 2. As per Section 2 (45A) a ‘Secretary in whole – time practice’ means a ‘secretary who shall be deemed to be in practice within the meaning of Section 2(2) of the Company Secretaries Act, 1980, and who is not in full time employment’. Under sec. 6 of the Company Secretaries Act, 1980, no member of the Institute shall be entitled to practice unless he has obtained a certificate of practice from the Council of the Institute under the Company Secretaries Regulations, 1982. The following areas have been carved out in the Companies Act for a ‘whole – time practicing secretary’

- Signing of statutory declaration as to compliance of legal formalities in respect of registration of a company [Sec. 33(2)] – not an exclusive area, only an alternative to other specified persons
- Signing of statutory declaration as to compliance of legal formalities in respect of Commencement of business [Sec. 149] – not an exclusive area, only an alternative to other specified persons
- Certificate of the Annual Return filed by a company whose shares are listed on a recognized stock exchange (Sec. 161) – an exclusive areas, additionally to other specified persons.



**CLASS : II M.COM CA**

**COURSE NAME: CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

**UNIT: I (Company Secretary)**

- 
- Certification of Managerial remuneration in conformity with schedule XII (Sec. 269) – not an exclusive area, only an alternative to other specified persons.

### **Secretarial Compliance Certificate**

The companies (Amendment) Act, 2000 has amended Section 383 A to the effect that every company not required to employ a whole time secretary and having a paid up share capital of Rs. 10 lakh or more should file with the Registrar of Companies a “Secretarial Compliance Certificate” from a Company Secretary in whole time practice in such form and within such time and subject to such conditions as may be prescribed, as to whether the companies has complied with all provisions of the Companies Act. A copy of such certificate should also be attached with the Directors’ Report.

It is worth nothing that companies which employ a whole – time secretary, though not required by law to do so, will have to file with the Registrar the above referred certificated provided they have paid up share capital of s. 10 lakhs or more (but not less than two crores).

The Council of the Institute of Company Secretaries of India has notified that the number of companies of which Secretarial Compliance Certificate can be issued by a company secretary in whole-time practice or a firm of company secretaries is restricted to fifty in the calendar year per each company secretary or a partner in a firm of company secretaries. This becomes operative for any Compliance Certificate to be signed on or after 1<sup>st</sup> January 2003.

### **QUALITIES OF THE COMPANY SECRETARY:**

**CLASS : II M.COM CA**

**COURSE NAME: CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

**UNIT: I (Company Secretary)**

In addition to the statutory qualifications, a company secretary should possess certain other qualities if he is to discharge his multifarious duties efficiently. The qualities are:

**Sound General Education:**

A sound general education helps the secretary in grasping the subject without taking much of his time and effort.

**Personal Qualities**

A Company Secretary must also possess certain personal qualities in order to enable him to discharge his multifarious obligations efficiently. Besides having a good personality, he must be a man of integrity, pleasing temperament, charming manners, strong commonsense, tact and ready wit. He must have a sense of responsibility and regard for discipline. He must be a man of decision and energy, have self – control, sympathy for others and a strong true sense of justice. He must be in tune with the culture and life style of the company.

**Command over Languages:**

As a large part of the secretary's work consists of correspondence and preparation of report and précis, it is necessary that he should have a command over language. Further, he should also be conversant with certain specialized business terms and expressions suited to his work. If his company has foreign connections, it is better for him to have a knowledge of one or two foreign languages.

**Knowledge of Office Administration:**

For the efficient organisation of the office, the secretary should know the best system of filing and indexing and should have a knowledge of labour



**CLASS : II M.COM CA**

**COURSE NAME: CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

**UNIT: I (Company Secretary)**

saving devices, recruitment of office staff, methods of remuneration, delegation of work etc.,

**Knowledge of Accounting and Taxation:**

As company secretary is an executive office of the company, he must also have a basic knowledge of the principles of accounting and taxation, consisting of income tax and sales tax.

**Knowledge of Company Law:**

A thorough knowledge of the various provisions of the Companies, Act is essential for the secretary. Companies have to function within the legal framework of the companies Act, hence a thorough knowledge of the various provisions of Companies Act is essential for a secretary.

**Knowledge of various acts Relating to Staff:**

For the efficient handling of staff, the secretary should have thorough knowledge of various acts of legislation which are applicable to the staff, viz., the Factories Act, the Industrial Disputes Act, the Workmen's Compensation Act, the Employees' Provident Fund Act, the Payment of Wages Act, Income Tax Act, etc.

**Knowledge of Mercantile Law:**

Apart from the knowledge of the law relating to staff, a working knowledge of the laws relating to contracts, negotiable instruments, sale of goods, insurance etc, may be of immense help to the secretary in discharging his duties.

**Knowledge of the Industry:**

He should have a thorough knowledge of the business of his company and knowledge of the industry in which his company is engaged. This would

**CLASS : II M.COM CA**

**COURSE NAME: CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

**UNIT: I (Company Secretary)**

help him to give proper guidance to the chairmen and the board on various intricacies of business.

**General Knowledge:**

General Knowledge helps the secretary in guiding the chairman and board of directors, and in performing his duties confidently. Hence, apart from knowledge of the industry, the secretary should have general knowledge like current happenings, economic conditions, political and social condition, market conditions, etc.

**Impressive personality**

The various qualifications and qualities mentioned above are essential, but not sufficient. Besides these, for a company secretary to be successful executive, he must have a good personality which is a comprehensive term consisting of so many personal virtues and talents such as charming manners, organizing ability, imagination, initiative, strong common sense, originality, efficiency and intelligence, a sense of responsibility, alertness, self-discipline, foresight, industriousness, courtesy and high moral character.

**QUALIFICATIONS OF THE SECRETARY**

In the case of companies with a paid-up share capital of less than Rs. 2 crores any individual possessing any of the following qualifications may be appointed as its whole-time secretary to perform the duties of secretary.

- (I) Membership of the Institute of Company Secretaries of India (ICSI).
- (II) Pass in the intermediate examination conducted by the Institute of Company Secretaries in India (ICSI).
- (III) Post-Graduate degree in commerce or corporate secretaryship

**CLASS : II M.COM CA**

**COURSE NAME: CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

**UNIT: I (Company Secretary)**

awarded by any university in India.

- (IV) Degree in Law awarded by any university.
- (V) Membership of the Institute of Cost and Works Accountants of India.
- (VI) Membership of the Institute of Chartered Accountants of India.
- (VII) Post-graduate in Company Law and Secretarial Practice granted by the University of Udaipur.
- (VIII) Membership of the Association of Secretaries and Manager, Calcutta.
- (IX) Diploma in Corporate Laws and Management granted by the India Law Institute, New Delhi.
- (X) Post-graduate degree or diploma in Management Sciences granted by Any University.
- (XI) Post-graduate degree or diploma granted by Indian Institutes of Management, Bangalore, Calcutta, Lucknow, Ahmedabad or Calicut.

The qualifications possessed by a person holding the office as the secretary of a company immediately before 30th October 1980 shall be deemed to be the qualification, which he shall be required to possess in order to be eligible to continue in that company.

The Company (Secretary qualification) Rules stated above, do not apply to a limited company which is formed for the promotion of commerce, arts and science, religion, charity etc., and which makes priority payment of dividends to its members (i.e. a company to which a license is granted under Section 25 of the Companies Act).

### **APPOINTMENT OF A COMPANY SECRETARY**

As per the Indian Companies Act, 1956, it was not compulsory for companies to appoint a secretary. However, in practice all companies

**CLASS : II M.COM CA**

**COURSE NAME: CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

**UNIT: I (Company Secretary)**

appointed secretaries. As per Rule 2(1) of Companies [Appointment and Qualification of Secretary (Amendment)] Rules, 1993 it is obligatory for a company having a paid-up capital of not less than Rs. 50 Lakhs to appoint a whole-time secretary. As per Rule 2(1) above for companies having paid-up capital of less than Rs. 50 lakhs it is not obligatory to appoint a whole-time secretary. Further, when the board of directors of any such company comprises only two directors, neither of them shall be secretary of the company. The Act also states that no individual can hold the office 'of 'secretary in more than one such company. Further, only an individual possessing such qualifications as the central Government may prescribe can be appointed as secretary of a company. Now, a company having paid-up capital of Rs. 2 crores must have a whole time secretary. [This came into force from 11th June 2002].

The promoters of the company generally first appoint a secretary who assists them in formation of the company by attending to all preliminary work such as preparation of various documents and statements required for registering the company, arranging the meetings of the promoters, preparation of minutes, etc.,. He is often referred to as Protem Secretary (i.e. secretary for the time being) and his name may be included in the Articles of Association of the Company. If the board of directors decides to appoint another person as secretary other than the Protem Secretary after incorporation of the company, the first secretary who is appointment by the promoters cannot sue the company. However, he should be given proper notice in such a case, otherwise, he can sue the

**CLASS : II M.COM CA**

**COURSE NAME: CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

**UNIT: I (Company Secretary)**

company for damages. Hence, to secure his position, the first secretary who has been acting, as Protem Secretary must, immediately after the incorporation, get his appointment confirmed by a resolution at the first board meeting.

The procedure for appointing a company secretary other than the first secretary .is as follows:

1. A resolution has be passed at the board of directors' meeting appointing a secretary on certain terms and conditions.
2. The particulars of appointment must be filed in duplicate with the Registrar within 30 days of the appointment.
3. If the person appointed as secretary functions as secretary in any other company, he has to notify the other company within 20 days of his appointment.
4. Any director interested in the appointment of secretary must disclose his intent and must not take part in the discussion or voting on the resolution.
5. If the person appointed, as secretary is the director of a company or is a relative of a director, a special resolution h-as to be passed in the general board meeting for such an appointment.

The following persons are usually not qualified for appointment as the secretary in a public limited company:

1. A director of a company
2. The auditor of the company
3. Any other person who is not eligible to enter into a contract.

**CLASS : II M.COM CA**

**COURSE NAME: CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

**UNIT: I (Company Secretary)**

The reasons for disqualifying the above persons are that the post of a secretary is deemed to be a post of profit and the companies Act 1956 stipulates that no director can hold any place of profit. But by obtaining the consent of a company by assigning a special resolution a director can be appointed as a secretary. It should, however, be noted that in case a director is appointed as a secretary, he cannot continue as a director.

As regards auditor as a secretary of a company, the Act states that no employee of a company can act as auditor. As such we find that a secretary is an employee of a company and therefore, a person cannot be appointed both as a secretary and as auditor of a company.

### **REMOVAL OR DISMISSAL OF A COMPANY SECRETARY**

The Secretary may be removed from office by the board of directors, under the power expressly given in the articles or under their general powers which the articles generally give them. A secretary being a servant of the company, his suspension and dismissal are governed by the normal law applicable to employer and employee. The services of a secretary may be terminated by giving him notice as per the terms of the service agreement. If an agreement does not mention any specific period of notice, reasonable notice must be given.

The services of the secretary may be terminated without notice if he makes profits secretly. He may be dismissed for willful disobedience, misconduct, negligence, fraud; dishonesty, and permanent disability. The appointment of a receiver or manager in a debenture holder's action (suit) against the company, or making of an order by the court for compulsory



**CLASS : II M.COM CA**

**COURSE NAME: CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

**UNIT: I (Company Secretary)**

winding up of the company will operate as a termination of the services of the secretary.

### **POWER**

A Company secretary can exhibit the following powers

1. He has to perform function under various enactment such as Companies Act, Income Tax Act, Customs Tariff Act, etc.,
2. The responsibility delegated to him by the Board of Directors
3. He has the power to perform all kinds of functions which enables him to act as the head of the administration

The powers to the Secretary will be either given by the Board of Directors at their meeting or in the Shareholders meeting by the shareholders of the company. If he exercises any act without consent of the above authorities, he will be held responsible and not the company.

### **RIGHTS**

The rights of a company secretary mostly flow out of his service agreement with the company. These may be summarized as follows:

1. Right to supervise the secretarial department. Being head of the Secretarial department, he has the right to control and supervise the activities of the department under his control
2. Right to sign documents. As a principal officer within the meaning of The Companies Act, he has to sign documents requiring authentication of the company
3. Right to claim remuneration. The secretary is a servant (employee) of The company and has a right to claim his salary during its lifetime. Before his services are terminated, he can demand a reasonable

**CLASS : II M.COM CA**

**COURSE NAME: CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

**UNIT: I (Company Secretary)**

notice and claim damages for his wrongful dismissal. In the event of the winding up of the company he can claim his outstanding salary as a preferential creditor But the secretary has no right to:

1. Make allotment, or register transfer, of shares of the company unless he is specifically authorised by the directors in that behalf and the Articles of the company allow the directors to delegate this power to the secretary
2. Make any representation on behalf of the company or to enter into any contracts without express authority and consent of the directors;
3. Borrow in the name of the company

**DUTIES AND FUNCTIONS OF COMPANY SECRETARY**

The duties of a secretary vary from company to company, depending upon the nature on the business, size of the company and the powers enjoyed by and responsibilities entrusted with the secretary.

The duties of a company secretary may be classified under the following broad heads:

1. Statutory duties
2. General Duties
  - a. Duties in relation to directors
  - b. Duties in relation to shareholders
  - c. Duties towards organisation and office
  - d. Duties in relation to the public

**1. STATUTORY DUTIES**

The statutory duties of a company secretary are those prescribed by the Companies Act or by any other legislation such as the Income Tax Act,



**CLASS : II M.COM CA**

**COURSE NAME: CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

**UNIT: I (Company Secretary)**

Sales tax Act, Stamp Act, Employee state. Insurance Act, Industrial Disputes Acts, Contract Act, Monopolies and Restrictive Trade Practices Act, etc,

The most important part of his statutory duties relates to the various provisions of the Companies Act are:

1. Maintenance of books and registers of the company
2. Filing of the necessary returns with the Registrar of Companies
3. Supervising the issue, allotment, transfer and forfeiture of share and debentures.
4. Attending to meetings and recording their proceedings.
5. Safe Custody and proper use of the common seal of the company.

The Income-tax Act requires him to take steps for the deduction of income tax from dividends, interest and salary and its payment to the tax authorities.

Under the Stamp Act, he has to see that stamps of the requisite amount are affixed to documents, shares etc.,

Under the Sales-tax Act, he has to arrange for timely submission of returns and payment of tax. In addition, he has to comply with the provisions of any other Act, which is applicable to that particular company. For instance, a manufacturing company has to comply with the provisions of the Factories Act, the Industrial Disputes Act, Minimum Wages Act and other industrial laws. The secretary has to see that these provisions are complied with.

A company secretary is not only a servant of the company but also a servant of the law.

## **2. GENERAL DUTIES**

**CLASS : II M.COM CA**

**COURSE NAME: CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

**UNIT: I (Company Secretary)**

---

**Duties in Relation to Directors:**

The Secretary has to look after the correspondence with the director, convene board meetings under the direction, of the managing director, prepare minutes and execute the orders and instruction of the board. He has to advise the directors during the deliberations at the meeting regarding the provisions of various Acts. He acts as a guide to the board of directors.

The secretary is the confidential clerk of the board. While the directors lay down the broad policies of the company at board meetings, the secretary interprets these policies. He communicates board decisions to the staff and shareholders and because of this, he is called the mouthpiece of the board of directors. Further, the secretary has to keep the board posted with all developments relating to the activities of the company. As the secretary is the agent of the board of directors, he must carry out their instructions. In addition he keeps the common seal of the company and uses it as directed by the board.

**Duties in Relation to Shareholders.**

The secretary is also medium of communication between the company and shareholders. -As the shareholders are the owners of the company, the secretary has to safeguard their interest and should attend to their enquires regarding payment of dividend, issues of share, etc., In dealing with shareholders the secretary has to be very tactful and, at the same time, be courteous, friendly and helpful. He has to ensure that no confidential information of the company is made available to a section of the members, which may affect the interest of the company as a whole. . Further, he has to

**CLASS : II M.COM CA**

**COURSE NAME: CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

**UNIT: I (Company Secretary)**

organize and supervise correspondence with shareholders with regard to the following:

1. Application and allotment of shares.
2. Calls of shares.
3. Forfeiture of shares.
4. Transfer and transmission of shares.
5. Distribution of dividend
6. Notice and circulars to members
7. Meetings of shareholders
8. Inquiries and complaints from shareholders.

**Miscellaneous or other Duties:**

The other duties of a company secretary are:

1. He should not act without authority
2. He should discharge his duties honestly
3. He should Exercise reasonable care & diligence
4. He should Act in & emergency very cautiously in the interest of the company
5. He should not leak out the secrets or confidential matters of the company either to the share holders or to the Public.
6. He should represent the company on social functions.

**Duties towards Organization and Office.**

The secretary is generally recognized as the head of the office of the company and has control over departments such as shares, record and filing, accounts and statistics. He has to ensure that the office works with maximum efficiency. He has to supervise various activities of the office and

**CLASS : II M.COM CA**

**COURSE NAME: CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

**UNIT: I (Company Secretary)**

also coordinate the activities of the different departments. In order to get the best out of the staff, he has the overall duty to select, organize and guide personnel. This requires that he should devote particular attention to the terms and conditions of their service and also maintain personal contact with individual members of the staff.

**Duties in Relation to the Public.**

The secretary being in possession of all-important information about the various aspects of the company has to function as a medium of communication between the directors and the general public consisting of debenture holders, bankers, solicitors, creditors and the 'prospective investors. He has to be in touch with them and provide information that may be asked for. At the same time, he should take care to see that no confidential information is divulged to the public. Further, he should function as liaison officer between the shareholders and the directors, the company and the outsiders and should discharge his duties in the best interest of the company.

**LIABILITIES OF THE SECRETARY**

The liabilities of the company secretary may be divided into two categories:

- a) Statutory liabilities
- b) Contractual liabilities
- a) **Statutory Liabilities**

As the principal executive officer of the company, the secretary has certain statutory obligations under the .Companies Act, Income tax Act and

**CLASS : II M.COM CA**

**COURSE NAME: CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

**UNIT: I (Company Secretary)**

the Stamp Act, Sales .tax Act etc. If the secretary fails to carry out the statutory obligations or duties imposed on him by the various acts, certain liabilities are imposed on him by the Companies Act and other acts. Such liabilities are called the Statutory liabilities. In short, statutory liabilities refer to all those liabilities imposed on the secretary by the Companies Act and other acts for his failure to discharge his statutory duties.

The various statutory liabilities imposed on the company secretary are:

1. If he fails to hold a statutory meeting.
2. If he does not circulate the statutory report.
3. If he fails to hold the Annual General Meeting.
4. If he fails to submit to the Registrar of Companies copies of annual accounts and other statements.
5. If he fails to give notice of Board Meeting.
6. If he fails to record the minutes of Board and General Meeting.
7. If he does not maintain minute books at the registered office.
8. If he refuses to allow inspection of minutes by the members.
9. If he refuses to furnish copies of Minutes to members.
10. If he fails in making ready share certificates and debenture certificates within the stipulated period.
11. If he fails to maintain a register of directors, shareholders and debenture holders.
12. If he fails to comply with the provisions of the Act regarding the appointment of auditors and the auditor's report.

**CLASS : II M.COM CA**

**COURSE NAME: CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

**UNIT: I (Company Secretary)**

13. If he fails to rectify the mistake within a period of two months, in case the company has been registered by a name which is identical with or too closely resembles the name of an existing company.
14. If he fails in filing With the Registrar of the Companies relevant documents as required by the Act.
15. If he fails in registering the resolutions etc, as required.
16. If he fails to have the name of the company engraved on the seals, etc.
17. If he fails to make entries in the member's register on the issue of share warrants.
18. If he fails to comply with the provisions of this Act particularly regarding the appointment of auditor, audit reports, etc.
19. Under the Income Tax Act, 1961 the company secretary is responsible for collection and payment of income tax.
20. Under the Indian Stamp Act, the company secretary is responsible for verifying the correctness of documents needing stamps, etc.

**b) Contractual Liabilities**

Apart from the statutory liabilities, the company secretary has certain liabilities to the company arising out of his contract of service with the company. These liabilities are known as contractual liabilities.

1. He must carry out the orders given to him by the directors.
2. He must carry out the obligations of his service agreement with the company.
3. He should not disclose any confidential information of the company.

**CLASS : II M.COM CA**

**COURSE NAME: CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

**UNIT: I (Company Secretary)**

4. He should not do anything beyond his authority. If he acts beyond his authority, he will be held personally liable for any damage or loss suffered by the company or any third party as a result of his action.
5. He is expected to perform his duties with reasonable care and skill.
6. He is liable for damages caused to the company by his wilful misconduct and neglect of duties.
7. He is liable for any fraud on the part of any of his assistants if it is proved that he is a party to such fraud.

#### **LEGAL POSITION OF THE SECRETARY**

The Companies Act has recognised the secretary as the principal officer of the company and he is responsible for the secretarial and other purely ministerial and administrative work of the company. He has to file various returns and statements with the Registrar of Companies as per the requirements of the Companies Act. In case he fails to fulfil these statutory obligations, he will be held liable for such defaults.

In the eyes of law, the secretary is a mere servant of the company. He has to act in accordance with the order or directions of the board of directors. Without authority, he cannot enter into any contract with the third parties and cannot make any representation on behalf of the company. He is appointed by the board and derives his authority from the board. He is under the control of the board of directors and he has to carry out the orders of the board and cannot exercise independent discretion in the work for which he is responsible. Thus, the secretary is a mere servant and subordinate officer of the company without any managerial function.

#### **ACTUAL POSITION OR STATUS OF A COMPANY SECRETARY**



**CLASS : II M.COM CA**

**COURSE NAME: CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

**UNIT: I (Company Secretary)**

The actual position of a company secretary is not merely that of a servant or an agent, but something more than that. In actual practice, a company secretary occupies a position of importance in the administrative set-up of the company. He is not a mere tool in the hands of the board of directors or the mouth piece of the directors carrying out the orders of the directors. In the company set up, both the board of directors and the secretary play a complementary role to each other. The board of directors is responsible for the overall management of the company's business. It plans, decides and formulates the policies of the company. But the responsibility of the actual execution of the policies lies with the company secretary. It is the secretary who carries out the orders of the board of directors. That is why, it has been rightly remarked that while the directors are the brain of the company, the secretary is its eyes, ears and hands of the company.

The company secretary is in close touch with the work of the board and has access to the confidential matters of the company. He exercises his discretion in most matters relating to the routine affairs of the company. Similarly, in matters relating to staff, shareholders and outsiders, generally, the secretary is allowed to exercise his discretionary power. This power of discretion is given to the board because the directors may not be in a position to devote their time for taking decisions relating to matters which are of a routine nature. He is often consulted by the chairman and the board before taking any decision on policy matters or on any other important matter since he has an intimate knowledge of the company and is in constant touch with the staff, the shareholders and the public. He is in a better position to advise the board on various matters relating to the



**CLASS : II M.COM CA**

**COURSE NAME: CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

**UNIT: I (Company Secretary)**

functioning of the company. Further, as he possess a thorough knowledge of the various legislative enactments relating to companies, he is consulted by the board on various legal matters.

The company secretary acts in different capacities and discharges many duties and responsibilities. They are:

1. He acts as the agent of the board of directors and carries out the instructions of the board of directors.
2. He acts as the registrar of the company and attends to the secretarial functions, such as the filing of various returns and statements with the registrar of companies, registration of transfers and transmission of shares and the work of correspondence.
3. He serves as the business executive of the company and carries out the routine office work and also the managerial duties entrusted to him by the board.
4. He acts as an adviser and advises the directors and the chairman on important matters affecting the business of the company.
5. He acts as a liaison officer between the board of directors on the one side and the staff, shareholders and the general public on the other side.
6. He acts as a confidential officer and ensures that the confidential matters of the company are not leaked out.
7. He is also required to act as a public relations officer of the company and improve the image of the company in the minds of the public.

**THE ROLE OF THE COMPANY SECRETARY**

**CLASS : II M.COM CA**

**COURSE NAME: CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

**UNIT: I (Company Secretary)**

Generally speaking, the role of a secretary is three – fold viz. as a secretary officer, as an co – ordinator and as an administrative officer if so authorized. Similarly, the responsibility of company secretaries extends not only to a company, but also to its shareholders, depositors, creditors, employees, consumers, society and government.

The role of a company secretary

**(a) As an Statutory Officer**

The company secretary is an officer responsible for compliance with numerous legal requirements under different Acts including Companies Act, Income Tax Act, etc. Under the Companies Act he is responsible for the duties of a secretary and such other ministerial and administrative duties as may be assigned to him. The responsibility of the secretary has been increased by the Companies (Amendment) Act, 1988 to be an officer who is in default bracketed along with the managerial personnel and is liable to punishment by way of imprisonment, fine or otherwise for violation of the provisions of the Companies Act which hold the ‘officers in default’ liable. The various provisions and rules framed under the Companies Act make it obligatory for the secretary to sign the annual return filed with the Registrar (Sec. 161(1)), make declarations regarding commencement of business (Sec. 149), authenticate the Balance Sheet and Profit and Loss Account (Sec. 215) and to make declaration under Sec 33(2) of the Act before incorporation of a company confirming that all the requirements of Act. And the Rules there under have been complied with in respect of registration of a company and the Registrar may accept such a declaration as sufficient evidence of such compliance.

**CLASS : II M.COM CA**

**COURSE NAME: CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

**UNIT: I (Company Secretary)**

Under the Indian Stamp Act it is duty of a secretary to see that the documents such as letter of allotment, share certificate, debenture and mortgages are issued duly stamped. He is the principal officer under Section 2(35) of the Income Tax Act, 1961.

The important responsibilities of the company concerning to statutory as well as legal commitments vest within the hands of the Secretary.

**(b) As an Co-ordinator**

Company Secretary is considered as the link between the Company, Shareholders, Society and the Government. It is a crucial role. It has two aspects to consider one is internal and external co – ordination. In internal co – ordination he has to link Management level such as Chairman, Board of Directors, Managing Director, employees of the business, auditors. In the external aspect he has to make a link between Shareholders, Government and the Society.

**(c) As an Administrative Officer**

As an administrative officer he is the person who has to look after every aspect of the business such as financial, functional and other human relations inside the organization. He is the person who assists the board of directors to take decision with the help of collecting, analyzing and interpreting the information. The Board of Directors as the management people they will not visit the office regularly. So it is the duty of the secretary to look after the day –to – day affairs of the company and report to the Board of Directors.

He also has to assist the finance manager to take right decision regarding finance. Likewise he is the person to co – ordinate the worker,

**CLASS : II M.COM CA**

**COURSE NAME: CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

**UNIT: I (Company Secretary)**

motivate them to work with the help of the personnel officers. The Personnel administration includes recruitment, training, promotion, discharge and dismissal of the staff in case of any mischievous behavior. It is a very difficult role.

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**CLASS : II M.COM CA**

**COURSE NAME: CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

**UNIT: I (Company Secretary)**

**POSSIBLE QUESTIONS**

**PART - A (1 Mark)**  
**(Online examinations)**

**PART – B (6 Marks)**

- 1 Explain the types of Company Secretary.
2. Write short notes on
  - (i) Routine Secretary
  - (ii) Executive Secretary
  - (iii) Secretary in Whole – Time Practice
  - (iv) Secretarial Compliance Certificate
3. What are the Qualities of Company Secretary?
4. What qualifications should a Company Secretary possess? Can a director be appointed as a Company Secretary?
5. “Company secretary is a mere servant”. Is this view correct? Discuss his duties and functions under modern conditions.
6. What are the rights and liabilities of the Company Secretary?
7. Discuss in detail the legal position of Company Secretary.
8. “While the directors are the brain of a company, the secretary is its ears, eyes and hands”. In the light of this statement discuss the main duties of a Company Secretary.
9. Describe the provisions relating to
  - (a) Appointment of a Company Secretary
  - (b) Removal of a Secretary
  - (c) Power of a Secretary

**CLASS : II M.COM CA**

**COURSE NAME: CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

**UNIT: I (Company Secretary)**

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10. Define Company Secretary. Explain the Role of a Secretary in the Administration of a Company.

**KARPAGAM ACADEMY OF HIGHER EDUCATION**

**DEPARTMENT OF COMMERCE**

**II M. Com. (CA)**

**CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE - 16CCP401**

<b>S. No.</b>	<b>QUESTIONS</b>	<b>OPT. 1</b>	<b>OPT. 2</b>	<b>OPT. 3</b>	<b>OPT.4</b>	<b>ANSWER</b>
<b>Unit - II</b>						
1	Secretary is one of _____ officers of the company	the principal	the Chief	the Primary	the Major	<b>the principal</b>
2	The word "Secretary" is derived from the Latin word _____	Secretarius	Secretais	Secret	Secretarum	<b>Secretarius</b>
3	The word secretary means _____	personal officer	secret officer	executive officer	Confidential Officer.	<b>Confidential Officer.</b>
4	A _____ is usually appointed by an important person such as a minister in the government, professionals like doctors, lawyers, etc	secret officer	executive officer	Confidential Officer.	private secretary	<b>private secretary</b>
5	Generally, full-time secretaries are appointed in _____	Co-operative Society	Government Department	Trade union	Private Company	<b>cooperative society</b>
6	Each department of the government is under the control of a _____	minister	secretary	governor	collector	<b>secretary</b>

7	The secretary of a company _____ the management in the day-to-day work of Company Law and mercantile law and of accounts, etc.,	assist	help	guides	advise	<b>guides</b>
8	In addition to the performance of the routine office work, if he also acts as the Chief Executive Officer of the company, he becomes an _____	Routine Secretary	whole time secretary	executive secretary	part time secretary	<b>executive secretary</b>
9	A copy of the compliance certificate should be attached with _____, where the company does not have a whole-time Company Secretary	Directors' Report.	Auditors Report	Statutory report	annual report	<b>Directors' Report.</b>
10	The first secretary is often referred to as _____ Secretary	routine	executive	Protem	whole time	<b>Protem</b>
11	In the eyes of law, the secretary is a mere _____ of the company	servant	agent	dealer	broker	<b>servant</b>
12	A person may be a Secretary of more than one company, only if none of the companies has a paid - up share capital of _____	Rs. Twenty Lakhs or More	Rs. Fifty Lakhs or More	Rs. Forty Lakhs or More	Rs. Fifteen Lakhs or More	<b>Rs. Fifty Lakhs or More</b>
13	Company limited by shares means a company having the liability of its members: _____	limited to the amount,if any, unpaid on the shares respectively	unlimited to the amount,if any,unpaid on shares respectively held	specific liability	Unlimited Liability	<b>limited to the amount,if any, unpaid on the shares respectively</b>



14	Any person occupying the position of a director is _____	manger	director	managing director	additional director	<b>director</b>
15	If the, Board entrusts the Secretary with routine duties, he is called, _____	Routine Secretary	executive secretary	part time secretary	whole time secretary	<b>Routine Secretary</b>
16	Compliance Certificate can be issued by a company secretary in whole-time practice or a firm of company secretaries is restricted to _____ in the calendar year	forty	sixty	twenty	fifty	<b>fifty</b>
17	A routine secretary is just the _____ of the Board of Directors	mouth-piece	hand-piece	head-piece	tongue-piece	<b>mouth-piece</b>
18	The secretary has to do only what he is directed to do by the _____	chairperson	directors	manager	Shareholders	<b>directors</b>
19	_____ advises the 'union on various matters connected with labour	Secretary of Trade Union	Company Secretary	Secretary of a Local Body	Secretary of a Government Department	<b>Secretary of Trade Union</b>
20	The Board, however, cannot alter the _____ of the secretary as they are determined by the law	powers	duties	rights	liabilities	<b>duties</b>
21	_____ helps the secretary in guiding the chairman and board of directors, and in performing his duties confidently	Impressive personality	General Knowledge	Knowledge of the Industry	Knowledge of Mercantile Law	<b>General Knowledge</b>

22	The Companies Act also states that no individual can hold the office 'of 'secretary in more than _____ such company	five	fifteen	one	ten	<b>one</b>
23	A company having paid-up capital of Rs. 2 crores must have a _____ secretary	whole time	part time	routine	executive	<b>whole time</b>
24	If the person appointed as secretary functions as secretary in any other company,he has to notify the other company within _____ of his appointment	15 days	20 days	30 days	45 days	<b>20 days</b>
25	A Secretary cannot be appointed as _____	director	Chairman	auditor	managing director	<b>auditor</b>
26	The services of a secretary may be terminated by giving him _____ as per the terms of the service agreement	intimation	notice	instruction	letter	<b>notice</b>
27	A secretary being a servant of the company, his suspension and dismissal are governed by the normal law applicable to _____	owner and servant	management and staff	employer and employee	supervisor and employee	<b>employer and employee</b>
28	The services of the secretary may be terminated without notice if he makes _____ secretly	incomes	profits	records	books	<b>profits</b>
29	The rights of a company secretary mostly flow out of his _____ agreement with the company	loan	share	dividend	service	<b>service</b>

30	A company secretary is not only a servant of the company but also a servant of the _____	government	directors	law	Shareholders	<b>law</b>
31	Under _____, the secretary has to arrange for timely submission of returns and payment of tax	Income Tax Act	Sales-tax Act	Indian Stamp Act	Companies Act 1986	<b>Sales-tax Act</b>
32	As the _____ are the owners of the company, the secretary has to safeguard their interest	shareholders	debentureholders	creditors	debtors	<b>shareholders</b>
33	The _____ has to function as a medium of communication between the directors and the general public consisting of debenture holders, bankers, solicitors, creditors and the 'prospective investors'	chairperson	directors	Secretary	members	<b>Secretary</b>
34	_____ liabilities refer to all those liabilities imposed on the secretary by the Companies Act	General	Statutory	Universal	Common	<b>Statutory</b>
35	Under _____ the company secretary is responsible for collection and payment of income tax	Companies Act 1956	Indian Stamp Act	Income Tax Act, 1961	Finance Act	<b>Income Tax Act, 1961</b>
36	The Secretary has to file various returns and statements with the _____ of Companies as per the requirements of the Companies Act	director	Registrar	chairman	members	<b>Registrar</b>
37	In actual practice, a _____ occupies a position of importance in the administrative set-up of the company	Board of Directors	Chairman	managing director	company secretary	<b>company secretary</b>

38	In the company set up, both the board of directors and the: secretary play .a _____ role to each other	substitute	unlike	complementary	unusual	<b>complementary</b>
39	The board of directors is responsible for the overall management of the company's _____	business	shares	shareholders	meeting	<b>business</b>
40	The directors are the _____ of the company, the secretary is its eyes, ears and hands of the company.	head	nose	heart	brain	<b>brain</b>
41	It is the secretary who carries out the orders of the _____	chairperson	board of directors	shareholders	members	<b>board of directors</b>
42	The company secretary is in close touch with the work of the board and has access to the _____ matters of the company	public	civic	confidential	open	<b>confidential</b>
43	The secretary possess a thorough knowledge of the various legislative enactments relating to _____	firm	HUF	soleproprietorship	companies	<b>companies</b>
44	In matters relating to staff, shareholders and. outsiders, generally, the secretary is allowed .to exercise his _____	discretionary power	compulsory power	mandatory power	fixed power	<b>discretionary power</b>
45	The Secretary acts as the agent of the board of directors and carries out the instructions of the _____	manager	Managing Director	board of directors	chairman	<b>board of directors</b>

46	The Secretary is also required to act as a _____ of the company and improve the image of the company in the minds of the public	confidential officer	Public liaison officer	public relations officer	an adviser	<b>public relations officer</b>
47	The Secretary acts as a _____ and ensures that the confidential matters of the company are not leaked out	Public liaison officer	confidential officer	an adviser	an executive officer	<b>confidential officer</b>
48	The Secretary acts as a _____ between the board of directors on the one side and the staff, shareholders and the general public on the other side	liaison officer	an adviser	an executive officer	confidential officer	<b>liaison officer</b>
49	The Secretary acts as _____ and advises the directors and the chairman on important matters affecting the business of the company	an co-ordinator	an officer	an adviser	an executive officer	<b>an adviser</b>
50	Generally speaking, the role of a secretary is _____	three – fold	two - fold	five - fold	six - fold	<b>three – fold</b>
51	Under the _____ secretary is responsible for the duties of a secretary and such other ministerial and administrative duties as may be assigned to him	Income Tax Act	Companies Act	Indian Stamp Act	Customs Act	<b>Companies Act</b>
52	The important responsibilities of the company concerning to statutory as well as legal commitments vest within the hands of _____	The directors	the Secretary	the Chairman	the members	<b>the Secretary</b>

53	Under the _____ it is duty of a secretary to see that the documents such as letter of allotment, share certificate, debenture and mortgages are issued duly stamped	Companies Act 1956	Income Tax Act	Customs Act	Indian Stamp Act	<b>Indian Stamp Act</b>
54	In _____ co – ordination the secretary has to make a link between Shareholders, Government and the Society	domestic	internal	external	inner	<b>external</b>
55	In _____ co – ordination the secretary has to link Management level such as Chairman, Board of Directors, Managing Director, employees of the business, auditors	external	exterior	internal	outdoor	<b>internal</b>
56	_____ is considered as the link between the Company, Shareholders, Society and the Government	Board of Directors	Company Secretary	Chairman	Registrar	<b>Company Secretary</b>
57	The secretary has to report the day to day affairs of the company to the _____	managing director	Chairman	Secretary	Board of Directors	<b>Board of Directors</b>
58	As an _____, secretary is the person who has to look after every aspect of the business such as financial, functional and other human relations inside the organization	administrative officer	personnel officer	Co - ordinator	Statutory Officer	<b>administrative officer</b>
59	The personnel administration of the secretary is a _____ role	easy	difficult	simple	primary	<b>difficult</b>

60	The _____ administration of the secretary includes recruitment, training, promotion, discharge and dismissal of the staff in case of any mischievous behavior	official	legal	Personnel	individual	<b>Personnel</b>
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**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**UNIT: III (Meeting)**

**BATCH-2016-2018**

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### **UNIT - III**

#### **Unit – III**

Meeting – Law Governing Meetings – Requisites of a Valid Meeting – Chairman of a Meeting – Appointment – Duties – Powers – Notice – Agenda – Minutes – Quorum – Motion – Resolution – Methods of Voting.

#### **MEETINGS**

A company as a legal entity is capable of acting on its own name. Though it is an artificial person it has to act or perform only with the help of its members or directors of a company. They act as a representative of a company to take decisions through resolutions. Hence, the meeting is considered as an important aspect in the business point of view in order to transact business and implementation of business policies.

#### **MEETING – MEANING**

An assembly of relevant persons validly convened through proper notice for transacting business mentioned in an agenda is known as a meeting. In other words similar group or persons who are relevant to the business assemble in a common place to take up a decision in a single voice is also termed as meeting.

#### **LAW GOVERNING MEETINGS**

A meeting is said to be valid when it is properly convened and legally constituted. For transacting legally binding business, the meeting must be validly held. Any irregularity in convening or conducting the meeting shall invalidate the proceedings of the meeting. Such invalidation would cause considerable embarrassment to the company, its directors and shareholders. It becomes therefore very essential on the part of a company secretary to see that the provisions of the Companies Act and the Articles of the company regarding



CLASS : II M.COM CA

COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE

COURSE CODE : 16CCP401

UNIT: III (Meeting)

BATCH-2016-2018

meetings are carefully observed. In this connection it is important to note that the interests of third parties without notice (of the irregularity) are not affected by reason of any irregularity in convening and conducting the meeting and the Company is bound by the contracts entered into with them.

Section 171 – 186 of the Companies Act contain provisions relating to the holding of valid general meetings which must be compulsorily followed by every public company, in addition to any other rules provided in the articles of the Company (Section 170 (1) (i) ).

A private company is free to make its own regulations by its articles with respect to general meetings and the provisions of Sections 171 – 186 shall apply to such a company only if its articles do not provide otherwise (Section 170 (1) (ii)).

### **REQUISITES OF VALID MEETINGS**

The following conditions must be satisfied for a meeting to be called a valid meeting :-

It must be properly convened. The persons calling the meeting must be authorised to do so. Proper and adequate notice must have been given to all those entitled to attend. The meeting must be legally constituted. There must be a chairperson. The rules of quorum must be maintained and the provisions of the Companies Act, 1956 and the articles must be complied with. The business at the meeting must be validly transacted. The meeting must be conducted in accordance with the regulations governing the meetings.

The following are the requisites of a valid meeting as per the Companies Act :

#### **1. Proper Convening Authority**

A Valid meeting must be called by a proper authority. The proper authority to convene a general meeting of shareholders is the directors who should pass a resolution at a board meeting for the same. Of course in the event of default by the directors, the requisitionists of the Company Law Board shall become the proper authority to call such a meeting. It may be noted that the resolution to call a general meeting must be passed at a valid Board's meeting, otherwise the notice

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**UNIT: III (Meeting)**

**BATCH-2016-2018**

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calling the general meeting will itself become invalid and the proceedings of the meeting shall not be effective.

## **2. Proper Notice**

A meeting cannot be held unless a proper notice has been given to all persons entitled to attend the meeting at the proper time, containing the necessary information. A notice convening a general meeting must be given at least 21 days prior to the date of meeting. However, an annual general meeting may be called and held with a shorter notice, if it is consented by all the members entitled to vote at the meeting. In respect of any other meeting, it may be called and held with a shorter notice, if at least members holding 95 percent of the total voting power of the Company consent to a shorter notice. Notice of every meeting of company must be sent to all members entitled to attend and vote at the meeting. Notice of the AGM must be given to the statutory auditor of the company.

Accidental omission to give notice to, or the non-receipt of notice by, any member or any other person on whom it should be given will not invalidate the proceedings of the meeting. The notice may be given to any member either personally or by sending it by post to him at his registered address, or if there is none in India, to any address within India supplied by him for the purpose. Where notice is sent by post, service is affected by properly addressing, pre-paying and posting the notice. A notice may be given to joint holders by giving it to the jointholders first named in the register of members. A notice of meeting may also be given by advertising the same in a newspaper circulating in the neighbourhood of the registered office of the company and it shall be deemed to be served on every member who has to registered address in India for the giving of notices to him.

A notice calling a meeting must state the place, day and hour of the meeting and must contain the agenda of the meeting. If the meeting is a statutory or annual general meeting, notice must describe it as such. Where any items of special business are to be transacted at the meeting, an explanatory statement setting out all material facts concerning each item of the special business

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**UNIT: III (Meeting)**

**BATCH-2016-2018**

---

including the concern or interest, if any, therein of every director and manager, is any, must be annexed to the notice. If it is intended to propose any resolution as a special resolution, such intention should be specified.

A notice convening an AGM must be accompanied by the annual accounts of the company, the director's report and the auditor's report. The copies of these documents could, however, be sent less than 21 days before of the date of the meeting if agreed to by all members entitled to vote at the meeting.

### **3. Requisite Quorum**

Quorum refers to the minimum number of members who must be present at a meeting in order to constitute a valid meeting. A meeting without the minimum quorum is invalid and decisions taken at such a meeting are not binding. The articles of a company may provide for a quorum without which a meeting will be construed to be invalid. Unless the articles of a company provide for larger quorum, 5 members personally present (not by proxy) in the case of a public company and 2 members personally present (not by proxy) in the case of a private company shall be the quorum for a general meeting of a company.

It has been held by Courts that unless the articles otherwise provide, a quorum need to be present only when the meeting commenced, and it was immaterial that there was no quorum at the time when the vote was taken. Further, unless the articles otherwise provide, if within half an hour from the time appointed for holding a meeting of the company, a quorum is not present in the person, the meeting :-

if called upon the requisition of members, shall stand dissolved; in any other case, it shall stand adjourned to the same day in the next week, at the same time and place, or to such other day and time as the Board of Directors may determine.

If at the adjourned meeting also, the quorum is not present within half an hour from the time appointed for holding the meeting, the members present shall a quorum.

CLASS : II M.COM CA

COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE

COURSE CODE : 16CCP401

UNIT: III (Meeting)

BATCH-2016-2018

In case the Company Law Board calls or directs the calling of a meeting of the company, when default is made in holding an annual general meeting, the government may give directions regarding the quorum including a direction that even one member of the company present in person, or by proxy shall be deemed to constitute a meeting. Similarly the Company Law Board may, direct a meeting of the company (other than an annual general meeting) to be called and held where for any reason it is impracticable to call a meeting and direct that even one member present in person or by proxy shall be deemed to constitute a meeting.

### **CHAIRMAN OF A MEETING**

A Chairman is necessary to conduct the proceedings at a meeting. He is the presiding officer of the meeting.

### **APPOINTMENT OF CHAIRMAN**

Unless the Articles of a company otherwise provide, the members personally present at the meeting should elect one of themselves to be the chairman of the meeting on a show of hands. If a poll is demanded on the election of the chairman, it has to be taken forthwith. In such a case, the chairman elected on a show of hands must exercise all the powers of the chairman. If some other person is elected chairman as a result of the poll, he is the chairman for the rest of the meeting. The Articles may provide some other method of election of the chairman.

### **Chairman of meeting (Sec. 319)**

A member may be elected to be the chairman of a general meeting by a resolution of the company passed at the meeting.

### **Declaration by chairman on a show of hands (Sec. 320)**

- (1) On a vote on a resolution at a meeting on a show of hands, a declaration by the chairman that the resolution-
- (a) has or has not been passed, or
  - (b) passed with a particular majority, is conclusive evidence of that fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

CLASS : II M.COM CA

COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE

COURSE CODE : 16CCP401

UNIT: III (Meeting)

BATCH-2016-2018

- (2) An entry in respect of such a declaration in minutes of the meeting recorded in accordance with section 355 is also conclusive evidence of that fact without such proof.
- (3) This section does not have effect if a poll is demanded in respect of the resolution (and the demand is not subsequently withdrawn).

### **Chairing of directors' meetings**

- (1) The directors may appoint a director to chair their meetings.
- (2) The person so appointed for the time being is known as the chairman.
- (3) The directors may terminate the chairman's appointment at any time.
- (4) If the chairman is not participating in a directors' meeting within ten minutes of the time at which it was to start, the participating directors must appoint one of themselves to chair it.

### **Chairing general meetings**

- (1) If the directors have appointed a chairman, the chairman shall chair general meetings if present and willing to do so.
- (2) If the directors have not appointed a chairman, or if the chairman is unwilling to chair the meeting or is not present within ten minutes of the time at which a meeting was due to start-
- (a) the directors present, or
  - (b) (if no directors are present), the meeting, must appoint a director or shareholder to chair the meeting, and the appointment of the chairman of the meeting must be the first business of the meeting.
- (3) The person chairing a meeting in accordance with this article is referred to as "the chairman of the meeting".

The directors may appoint one of their members to be the chairman of the board of directors and may at any time remove him from that office. Unless he is unwilling to do so, the director so appointed shall preside at every meeting of directors at which he is present. But if there is no director holding that office or if the director holding it is unwilling to preside or is not present within five minutes

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**UNIT: III (Meeting)**

**BATCH-2016-2018**

---

after the time appointed for the meeting, the directors present may appoint one of their member to be chairman of the meeting.

The chairman, if any, of the board of directors or in his absence some other director nominated by the directors shall preside as chairman of the meeting, but if neither the chairman nor such other director (if any) be present within fifteen minutes after the time appointed for holding the meeting and willing to act, the directors present shall elect one of their number to be chairman and, if there is only one director present and willing to act, he shall be chairman.

If no director is willing to act as chairman, or if no director is present within fifteen minutes after the time appointed for holding the meeting, the members present and entitled to vote shall choose one of their numbers to be chairman.

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#### **DUTIES OF CHAIRMAN**

Without a chairman, a meeting is incomplete. The chairman is the regulator of the meeting. His duties include the following :-

- He must ensure that the meeting is properly convened and constituted i.e. that proper notice has been given, that the required quorum is present, etc.
- He must ensure that the provisions of the act and the articles in regard to the meeting and its procedures are observed.
- He must ensure that business is taken in the order set out in agenda and no business which is not mentioned in the agenda is taken up unless agreed to by the members.
- He must impartially regulate the proceedings of the meeting and maintain discipline at the meeting.
- He may exercise his powers of adjournment of the meeting, should he in good faith feel that such a step is necessary. The chairman has the power to

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**UNIT: III (Meeting)**

**BATCH-2016-2018**

---

adjourn the meeting in case of indiscipline at the meeting. A chairman however does not have the power to stop or adjourn the meeting at his own will and pleasure. If he adjourns the meeting prematurely, the members present may decide to continue the meeting and elect another chairman and proceed with the business for which it was convened.

- He must exercise his power to order a poll correctly and must order it to be taken when demanded properly.
- He must exercise his casting vote bonafide in the interest of the company.
- He must ascertain the sense of the meeting properly with regard to any question before it. He must do so by putting the motions in their proper form to voting and declaring the result of the voting.
- He must see that any disorderly persons are removed. Where it is impossible to maintain order, he must adjourn the meeting.
- He must see that reasonable and sufficient opportunity is given to the members present to express their views on the motion or resolution before the meeting. He must also allow the minority shareholders to have a reasonable time, he is entitled, if he thinks fit, to put a resolution to the meeting that the discussion be terminated.

### **RIGHTS AND POWERS OF CHAIRMAN**

The chairman of a general meeting is responsible for conducting the business at the meeting successfully. He has prime facie authority to decide all incidental questions which arise at the meeting and require immediate decision. The chairman is not merely dummy head but has discretion with regard to general conduct of the meeting. In order that he may properly perform his duties, the chairman is invested by law or the articles with certain powers.

### **RIGHTS AND POWERS OF CHAIRMAN**

1. To regulate the course of the proceedings at the meeting.



**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**UNIT: III (Meeting)**

**BATCH-2016-2018**

2. To decide who shall first address the meeting when simultaneously two or more persons, rise to speak.
3. To decide points of order submitted to him
4. To stop the speaker when his allotted time is over
5. To get disorderly persons removed from the meeting
6. To check irrelevant and personal references during the course of debate
7. To declare result of voting by show of hands which shall be conclusive evidence of the fact, unless a poll is demanded (Sec. 178)
8. To have a recount if he is uncertain who had voted for or against the motion
9. To order and take a 'poll' (Sec. 179)
10. To regulate the manner in which poll shall be taken (Sec. 185)
11. To appoint scrutinizers' for checking the votes on a poll
12. To remove a scrutinizer any time before the result of the poll is declared and to fill the vacancy so caused
13. To decide the fate of the motion by the exercise of casting vote, if the articles permit, in cases where the members are equally divided
14. To exclude certain matters from the minutes of the proceedings of the meeting if he is of the opinion that the matter (i) is defamatory of any person, or (ii) is irrelevant, or (iii) is detrimental to the interests of the company. (Sec. 193)

## **NOTICE**

Notice in common parlance refers as giving in a written form a certain set of instruction or information to a set or group of people in common. Its purpose is to convey the information to a group of people.

In companies notice is issued to Shareholders, Board of Directors, Creditors, Auditors etc., in order to convey the message of conducting certain meeting such as Shareholders meeting, Board of Directors meeting etc. The minimum full period of notice for all meetings is 14 days, even if a special resolution is to be proposed,



**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**UNIT: III (Meeting)**

**BATCH-2016-2018**

---

except for the Annual General Meeting of a Public Limited Company, which is 21 days. The company's articles may require a longer period.

A meeting can, however, be held on short notice, if so agreed by a majority of the members who hold at least 90% of the voting rights in a private company (or 95% in a PLC). Accidental omission to give notice to, or the non-receipt of notice by, any member or any other person on whom it should be given will not invalidate the proceedings of the meeting. The notice may be given to any member either personally or by sending it by post to him at his registered address, or if there is none in India, to any address within India supplied by him for the purpose. Where notice is sent by post, service is affected by properly addressing, pre-paying and posting the notice. A notice may be given to joint holders by giving it to the joint holders first named in the register of members. A notice of meeting may also be given by advertising the same in a newspaper circulating in the neighborhood of the registered office of the company and it shall be deemed to be served on every member who has to registered address in India for the giving of notices to him.

A notice calling a meeting must state the place, day and hour of the meeting and must contain the agenda of the meeting. If the meeting is a statutory or annual general meeting, notice must describe it as such. Where any items of special business are to be transacted at the meeting, an explanatory statement setting out all materials facts concerning each item of the special business including the concern or interest, if any, therein of every director and manager, is any, must be annexed to the notice. If it is intended to propose any resolution as a special resolution, such intention should be specified.

A notice convening an AGM must be accompanied by the annual accounts of the company, the director's report and the auditor's report. The copies of these documents could, however, be sent less than 21 days before of the date of the meeting if agreed to by all members entitled to vote at the meeting.

CLASS : II M.COM CA

COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE

COURSE CODE : 16CCP401

UNIT: III (Meeting)

BATCH-2016-2018

---

### **Contents of notice**

The notice must state the time, date and place of the meeting and the general nature of the business to be conducted. By sec283(6), the wording of any special resolution must also be included and the intention to move it as a special resolution. The members' rights to appoint proxies must also be stated (sec325, below).

### **Special notice (sec312)**

Where a resolution requires special notice (on removal of a director (or) removal of an auditor) 28 days' special notice must be given by the person proposing the resolution to the company. These provisions are almost identical to those under the old law. The company must notify the director or auditor concerned, and must give the members notice of such resolution in the same manner and at the same time as giving notice of the meeting. If that is not practicable, it must give at least 14 days' notice in a newspaper or in such other manner as is specified in the articles.

These provisions work well enough in the context of members giving notice of a proposal to remove a director at the forthcoming AGM of a public company, where the actual or approximate date of the meeting is known well in advance. To cover the more typical situation of a private company where there is a sudden and urgent proposal to remove a director (perhaps by the majority directors or shareholders), sec. 312(4) will be used.

If, after notice of the intention to move such a resolution has been given to the company, a meeting is called for a date 28 days or less after the notice been given, the notice is deemed to have been properly given, though not given within the time required. This obscurely worded sub-section, which has been carried over from the old Act, means that if, say, the majority director/shareholders want to remove a director from office, they can serve the special notice on the company, and then call the meeting on whatever period of notice is needed. (Full notice would be 14 days, but it could be held on short notice with the required majority)

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**UNIT: III (Meeting)**

**BATCH-2016-2018**

---

consent, above.) The notice of the meeting will contain notice of the proposed resolution to remove the director, and then the 28 days' special notice is 'deemed' to have been given under this sub-section.

### **AGENDA**

The term 'Agenda' means things to be done. In the present context it is a statement of the business to be transacted at the meeting. It also sets out the order in which the business to be dealt with. Though the Companies Act does not make it obligatory on the Secretary to send an agenda or to incorporate the same in the notice of Board Meeting, yet by convention it necessarily accompanies the notice calling the meeting. For, otherwise the members cannot come prepared for discussion on the points on which resolutions have to be passed. A separate agenda may be enclosed with the notice of the meeting or the notice itself may contain the agenda. Usually routine matters are listed first in the agenda leaving more important or controversial matters until later.

### **MINUTES**

Minutes are the Official record of the proceedings of a meeting of the Working Group, Task Group, Study Group, Standing Committee, or other committees within these groups. They are the official report of the business transacted at these meetings and are taken by the Secretary or Secretary Pro Tem of the respective group.

The minutes shall be a stand alone document and not a part of other documents such as reports. The Secretaries original rough notes are the temporary minutes until replaced by the transcribed minutes and both shall be marked as "TENTATIVE MINUTES" until approved. The original rough notes, transcribed minutes and approved minutes all are the official documents and all forms of the above minutes are the property of the IEEE 802.11 Working Group and not that of the secretary.

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**UNIT: III (Meeting)**

**BATCH-2016-2018**

---

Minutes shall provide an intelligible, reliable record of the official acts of the body, so at any time the legal status of various items can be ascertained. Minutes of a meeting serve three purposes:

- To refresh the memory of the members who were present at the meeting
- To inform those who were absent from the meeting
- To compile a history of the organization's acts and accomplishments.

A good process for making sure that the minutes are accurate is to:

- Make sure that someone is nominated to take the minutes. Generally, this will be the association's secretary and that responsibility will be allocated in the association's rules;
- Keep a record of proceedings during the meeting. It is important that the minutes record any resolutions or decisions made at a meeting. Minutes should be as brief as possible without jeopardizing accuracy and credibility of the record. It is up to the association whether it also wants minutes kept of any discussion. Some associations like to have detailed minutes that show the main points of discussion before a decision is made, while others prefer brief minutes that record only the decisions and actions.
- Make sure that attendances and any apologies are noted. This is usually done at the beginning of a meeting, although if people leave early or arrive late it is a good idea to also keep a note of this in the minutes.
- Present previous minutes for approval. Often, draft minutes for the previous meeting will be circulated in advance of the next meeting, giving people time to consider whether the minutes accurately reflect their recollection of the meeting. The minutes should be presented for approval at the next meeting of a similar kind, for example, minutes of a special general meeting should not be approved by the committee, but at the next general meeting. AGM minutes are usually tabled at the next AGM for approval. Members should be given the opportunity to propose corrections to the minutes or to seek to

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**UNIT: III (Meeting)**

**BATCH-2016-2018**

---

have additional details of what occurred recorded, and these can be allowed or disallowed on the vote of people who attended the previous meeting. Minutes should be approved on the basis that they are a correct record of the meeting.

- Identifying the approved minutes. After any approved changes to the minutes have been noted, it is a good idea to have an office-bearer for the association sign that the minutes are the approved minutes of the meeting. If the rules of the association don't allocate this responsibility, it is generally the chairperson of the meeting at which the minutes are approved who would sign and date the minutes. The chairperson should also initial any amendments and state that the minutes have been approved as a correct record of the meeting.
- Keeping the approved minutes. It is useful to keep the approved minutes in one place so that they can be easily accessed. Some associations keep the original copy pasted into a numbered ledger (book). Others use a ring binder. This may be dealt with in the association's rules. It might be useful for your records if originals or copies of any correspondence or other documents tabled at the meeting also are kept as attachments to the official minutes.

## **QUORUM**

Quorum is the minimum number of persons required to be present at a meeting to constitute a meeting and for transacting a legally binding business meeting without the minimum quorum is invalid and decisions taken at such a meeting are not binding. Unless the articles of a company provide for larger quorum, 5 members personally present (not by proxy) in the case of a public company and 2 members personally present (not by proxy) in the case of a private company shall be the quorum for a general meeting of a company.

The Act requires that a quorum be stated in the rules of the association for both general meetings and committee meetings. In the case of sub-committees, the

CLASS : II M.COM CA

COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE

COURSE CODE : 16CCP401

UNIT: III (Meeting)

BATCH-2016-2018

management committee may set the quorum. The quorum is usually set as a percentage of the membership rather than a set number, to allow for changing membership numbers.

If a quorum is not present, the meeting may:

- be reconvened to another date; or
- continue, but the chairperson declares (and the minutes show) that a quorum is not present. The decisions made at the meeting then carry the weight of recommendations to be ratified:
  - i. later during the course of the meeting (eg if another member arrives and quorum is achieved); or
  - ii. at the next convened meeting where a quorum is present.

### **PROVISIONS RELATING TO THE QUORUM FOR A GENERAL MEETING**

#### **Statutory provisions**

#### **Quorum at meetings (Sec318)**

- (1) In the case of a company limited by shares or guarantee and having only one member, one qualifying person present at a meeting is a quorum.
- (2) In any other case, subject to the provisions of the company's articles, two qualifying persons present at a meeting are a quorum, unless-
  - (a) Each is a qualifying person only because he is authorised under section 323 to act as the representative of a corporation in relation to the meeting, and they are representatives of the same corporation; or
  - (b) each is a qualifying person only because he is appointed as proxy of a member in relation to the meeting, and they are proxies of the same member.
- (3) For the purposes of this section a "qualifying person" means-
  - (a) an individual who is a member of the company,
  - (b) a person authorised under section 323 (representation of corporations at meetings)  
to act as the representative of a corporation in relation to the meeting, or

CLASS : II M.COM CA

COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE

COURSE CODE : 16CCP401

UNIT: III (Meeting)

BATCH-2016-2018

(c) a person appointed as proxy of a member in relation to the meeting.

### **Model Articles provisions**

Quorum for general meetings under articles 38 is that no business other than the appointment of the chairman of the meeting is to be transacted at a general meeting if the persons attending it do not constitute a quorum.

### **Table A provisions**

**Art. 40.** No business shall be transacted at any meeting unless a quorum is present. Two persons entitled to vote upon the business to be transacted, each being a member or a proxy for a member or a duly authorised representative of a corporation, shall be a quorum.

**Art. 41.** If such a quorum is not present within half an hour from the time appointed for the meeting, or if during a meeting such a quorum ceases to be present, the meeting shall stand adjourned to the same day in the next week at the same time and place or to such time and place as the directors may determine.

### **Alternative provisions**

Many companies state a higher quorum for their meetings. This may be particularly important where articles are drafted to ensure the ability of certain parties to attend any meeting.

Some company's articles add the following provisions:

(a) If a quorum is not present within half an hour from the time appointed for the start of a general meeting the meeting shall be adjourned to the same day in the next week at the same time and place, or to such other day and at such other time and place as the directors may determine; and if at the adjourned general meeting a quorum is not present within half an hour from the time appointed for its start, such adjourned general meeting shall be dissolved.

Incorporation Services Limited provides an expert service for all your company formation and company law requirements, including all company secretarial matters such as the calling and conduct of company meetings.

### **PROVISIONS RELATING TO THE QUORUM FOR A BOARD MEETING**



**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**UNIT: III (Meeting)**

**BATCH-2016-2018**

The quorum for a meeting of the Board of directors of a company is one-third of its total strength (any fraction contained in that one third being rounded off as one) or two directors, whichever is higher. If the number of interested directors exceeds or is equal to two thirds of the total strength, the number of the remaining directors, that is to say the number of directors who are not interested present at the meeting being not less than two, shall be the quorum.

Where all the directors are interested, the company should increase the strength of the Board of Directors by appointing disinterested directors or by appointing additional directors not interested in the contract concerned if the articles of the company so authorise. If neither of these steps are possible, the proposed contract in which all the directors are interested should be placed before the general meeting of the company.

The quorum should be present not only at the commencement of the meeting but also at every stage of the meeting to give validity to the business transacted thereat.

Board Resolutions are to be passed at board meetings as per the act were

- Sec 262 – filling a casual vacancy in the Board
- Sec 292- the power to make calls on shareholders
  - (aa) authorise the buy back referred to in the first proviso to clause (b) of sub section 2 of Sec 77A
  - (b) issue debentures borrow moneys otherwise than on debentures
  - (d) invest the company's funds
  - (e) make loans
- Sec 297- Board's sanction for certain contracts in which particular directors are interested
- Sec 299- Disclosure to the Board of Directors interest in a transaction of the company
- Sec 308- Disclosure to the board of a director's shareholding



**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**UNIT: III (Meeting)**

**BATCH-2016-2018**

---

- Sec 316 and 386- Approval to the appointment of a person as manager in more than one company
- Sec 372A(3)- Power to make inter corporate loans and investment.

### **MOTION**

Motion means a proposal to be discussed at a meeting by the members. A resolution may be passed accepting the motion, with or without modifications or a motion may be entirely rejected. A motion, on being passed as a resolution becomes a decision. A motion must be in writing and signed by the mover and put to the vote of the meeting by the chairman. Only those motions which are mentioned in the agenda to the meeting can be discussed at the meeting. However, motions incidental or ancillary to the matter under discussion may be moved and passed. Generally, a motion is proposed by one member and seconded by another member.

### **Putting forward and voting on a motion**

- A member of the meeting puts forward a clear and concise proposal for a decision or action to the meeting via the chairperson. This is called a motion.
- A second person agrees to 'second' the motion. This person is referred to as the seconder. This is not a vote in favour of the motion, but a vote to have the motion put before the meeting. If a motion is not seconded, it lapses.
- The Chairperson then opens up debate on the motion, often by saying 'does anyone wish to support/speak against the motion?' The mover of the motion can speak to the motion – outlining why he or she thinks the motion should be passed.
- Discussion follows, generally in the format of alternating speakers for and against the motion.
- After adequate debate, the person who originally moved the motion has a right of reply.
- The motion is read aloud and voted on.

CLASS : II M.COM CA

COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE

COURSE CODE : 16CCP401

UNIT: III (Meeting)

BATCH-2016-2018

- If the motion is passed, it becomes a resolution. A resolution passed by a simple majority of votes (ie more than half of the members who cast a vote) is known as an ordinary resolution. Most resolutions in the life of an association will be of this type. See also **Special resolutions**.
- The resolution is formally documented in the minutes, along with the name of mover and seconder.

Resolutions become binding on the association that makes them, as long as the people who made the decision have the authority to pass them. It is a good idea to always follow up a resolution with a clear understanding of how the resolution will be implemented, by whom and by which date.

Generally, the chairperson does not put forward motions, because he or she is primarily the facilitator of the meeting. However, they may put forward procedural motions that relate to the conduct, rather than content of a meeting. For example, moving acceptance of the minutes.

### **Amending a motion or resolution**

The mover, with the agreement of the meeting, can usually amend a motion. Alternatively, someone may wish to move an amendment to the original motion, which, if successful, creates a second motion.

Motions to amend motions can create confusing discussion if everyone is not clear on exactly which motion is being debated – the original motion, the amended motion, a motion to amend, or a motion to amend an amendment. It is important that the chairperson keeps proceedings as simple as possible. If a motion does not fully express the view of the meeting, it is sometimes easier to simply vote on it and let it be defeated.

Resolutions can be withdrawn or cancelled at the same meeting by following the same procedure that applies for moving and adopting a resolution.

### **RESOLUTION**

"Resolution" means a Resolution when, at a General Meeting of which the Notice required under the Act has been duly given, the votes cast (whether on a

CLASS : II M.COM CA

COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE

COURSE CODE : 16CCP401

UNIT: III (Meeting)

BATCH-2016-2018

show of hands or on a poll) in favour of the Resolution (including the casting vote, if any, of the Chairman) exceed the votes, if any, cast against the Resolution by Members entitled to vote thereon either in person or, where proxies are allowed, by Proxy. "Proxy" means an instrument in writing signed by a Member,

### **Kinds of Resolutions**

Resolutions mean decisions taken at a meeting. A motion, with or without amendments is put to vote at a meeting. Once the motion is passed, it becomes a resolution. A valid resolution can be passed at a properly convened meeting with the required quorum. There are broadly three types of resolutions :-

#### **1. Ordinary Resolution :**

An ordinary resolution is one which can be passed by a simple majority. I.e. if the votes (including the casting vote, if any, of the chairman), at a general meeting cast by members entitled to vote in its favour are more than votes cast against it. Voting may be by way of a show of hands or by a poll provided 21 days notice has been given for the meeting.

#### **2. Special Resolution :**

A special resolution is one in regard to which is passed by a 75 % majority only i.e. the number of votes cast in favour of the resolution is at least three times the number of votes cast against it, either by a show of hands or on a poll in person or by proxy. The intention to propose a resolution as a special resolution must be specifically mentioned in the notice of the general meeting. Special resolutions are needed to decide on important matters of the company. Examples where special resolutions are required are :-

- a. To alter the domicile clause of the memorandum from one State to another or to alter the objects clause of the memorandum.
- b. To alter / change the name of the company with the approval of the central government
- c. To alter the articles of association

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**UNIT: III (Meeting)**

**BATCH-2016-2018**

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- d. To change the name of the company by omitting "Limited" or "Private Limited". The Central Government may allow a company with charitable objects to do so by special resolution under section 25 of the Companies Act, 1956.

### **3. Resolution requiring Special Notice :**

There are certain matters specified in the Companies Act, 1956 which may be discussed at a general meeting only if a special notice is given regarding the proposal to discuss these matters at a meeting. A special notice enables the members to be prepared on the matter to be discussed and gives them time to indicate their views on the resolution. In case special notice of resolution is required by the Companies Act, 1956 or by the articles of a company, the intention to propose such a resolution must be notified to the company at least 14 days before the meeting. The company must within 7 days before the meeting give the notice of the proposed resolution to its members. Notice of the resolution is required to be given in the same way in which notice of a meeting is given, or if that is not practicable, the company may give notice by advertisement in a newspaper having an appropriate circulation or in any other manner allowed by the articles, not less 7 days before the meeting.

The following matters requiring Special Notice before they are discussed before the meeting :-

- a. To appoint at an annual general meeting appointing an auditor a person other than a retiring auditor.
- b. To resolve at an annual general meeting that a retiring auditor shall not be reappointed.
- c. To remove a director before the expiry of his period of office.
- d. To appoint another director in place of removed director.
- e. Where the articles of a company provide for the giving of a special notice for a resolution, in respect of any specified matter or matters.

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**UNIT: III (Meeting)**

**BATCH-2016-2018**

---

Please note that a resolution requiring special notice may be passed either as an ordinary resolution (Simple majority) or as a special resolution (75 % majority).

### **Circulation of Member's Resolution**

Generally, the Board of Directors prepare the agenda of the meeting to be sent to all members of the meeting. A member, by himself has very little say in deciding the agenda. However, there are provisions in the Companies Act which enable members to introduce motions at a meeting and give prior notice of their intention to do so to all other members of the company. If members having one twentieth of the total voting rights of all members having the right to vote on a resolution or if 100 members having the right to vote and holding paid-up capital of Rs1,00,000 or more, require the company to do so, the company must :-

1. Give to the members entitled to receive notice of the next annual general meeting, notice of any resolution which may be properly moved and is intended to be moved at that meeting; and
2. Circulate to members entitled to have notice of any general meeting sent to them, any statement of not more than 1,000 words with respect to the matter referred to in any proposed resolution, or any business to be dealt with at that meeting.

The expenses for this purpose must be borne by the requisitionists and must be tendered to the company. The requisition, signed by all the requisitionists, must be deposited at the registered office of the company at least 6 weeks before the meeting in the case of resolution and not less than 2 weeks before the meeting in case of any other requisition together with a reasonable sum to meet the expenses. However, where a copy of the requisition requiring notice of resolution has been deposited at the registered office of the company and an annual general meeting is called for a date six weeks or less after the requisition is deposited, the copy though not deposited within the prescribed time is deemed to have been properly deposited.

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**UNIT: III (Meeting)**

**BATCH-2016-2018**

---

The company is required to serve the notice of resolution and/or the statement to the members as far as possible in the manner and so far as practicable at the same time as the notice of the meeting ; otherwise as soon as practicable thereafter.

However, a company need not circulate a statement if the Court, on the application either of the company or any other aggrieved person, is satisfied that the rights so conferred are being abused to secure needless publicity or for defamatory purposes. Secondly a banking company need not circulate such statement, if in the opinion of its Board of directors, the circulation will injure the interest of the company.

### **Registration of Resolutions and Agreements**

A copy of each of the following resolutions along with the explanatory statement in case of a special business and agreements must, within 30 days after the passing or making thereof, be printed or typewritten and duly certified under the signature of an officer of the company and filed with the Registrar of Companies who shall record the same :-

1. All special resolutions
2. All resolutions which have been unanimously agreed to by all the members but which, if not so agreed, would not have been effective unless passed as special resolutions
3. All resolutions of the board of directors of a company or agreement executed by a company, relating to the appointment, re-appointment or renewal of the appointment, or variation of the terms of appointment, of a managing director
4. All resolutions or agreements which have been agreed to by all members of any class of members but which, if not so agreed, would not have been effective unless passed by a particular majority or in a particular manner and all resolutions or agreements which effectively bind all members of any class of shareholders though not agreed to by all of those members

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**UNIT: III (Meeting)**

**BATCH-2016-2018**

5. All resolutions passed by a company conferring power upon its directors to sell or dispose of the whole or any part of the company's undertaking; or to borrow money beyond the limit of the paid-up share capital and free reserves of the company; or to contribute to charities beyond Rs50000 or 5 per cent of the average net profits
6. All resolutions approving the appointment of sole selling agents of the company
7. All copies of the terms and conditions of appointment of a sole selling agent or sole buying or purchasing agent
8. Resolutions for voluntary winding up of a company

### **VOTING**

The word 'vote' means an expression of a wish or opinion in an authorized formal way for or against any proposal. After a 'proposed resolution' or a 'motion' has been discussed in the meeting by the members it is put to vote for ascertaining the sense of the house. The 'articles' prescribe regulations and procedure for voting at general meetings subject to the provisions of the Act.

### **METHODS OF VOTING**

Voting at a general meeting takes place by :

- (1) Show of hands
- (2) Poll

Voting by secret ballot is not allowed by the Companies Act, i.e., companies not carrying on business for profit or prohibiting the payment of a dividend to their members, such as clubs, chambers of commerce, etc., voting by ballot can be provided by their articles (Sec. 263 A).

#### **(1) Voting by Show of hands**

In the first instance, voting on a resolution takes place by show of hands unless a poll is demanded (Sec. 177). Those for and against a motion are requested in turn to indicate their option by raising their hands. In case of unanimity on the motion, persons present indicate their wish by acclamation,



**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**UNIT: III (Meeting)**

**BATCH-2016-2018**

---

i.e., applause of welcome or hand clapping. Upon a show of hands a member present by proxy has no right to vote unless the articles provide otherwise (Sec. 176 (1)), and each member present entitled to vote has one vote without regard to his number of shares. Where a company is a member of another company or where government is a member of a company, their properly appointed representative is deemed to be personally present and can vote on a show of hands a member holding proxies of other members will only has one vote hence a non – member should be appointed a proxy in such a case.

Unless a poll is demanded, a declaration by the chairman of the result of voting by show of hands that the resolution has been carried or lost unanimously or by a particular majority and an entry to that effect in minutes book of the company shall be conclusive evidence of the fact without proof of the number of votes recorded in favour of or against such resolution.

## **(2) Voting by Poll**

If there is dissatisfaction about the result of voting by show of hands, a 'poll' can be demanded. A 'poll' may also be demanded even before the declaration of the result on a show of hands (Sec. 179). The proper demand for a poll cancels the result of previous voting on a show of hands. On a poll each member is entitled to record the number of votes in proportion to equity shares held by him on a 'vote card' for or against resolution and voting by proxy is also allowed. Thus, on a poll both holding of proxies and the number of shares held by a member are important for voting purposes. The voting rights must be proportionate to investment on a poll. In the case of a company not having share capital every member is entitled to only one vote and voting by proxy is not allowed, unless provided by the articles, even on a poll. It may be noted that in the case of a company having share capital voting by proxy is allowed statutorily on a poll and this right does not depend upon the articles Sec. 176(1).

Who can demand Poll?



**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**UNIT: III (Meeting)**

**BATCH-2016-2018**

---

A poll may be ordered by the Chairman of his own motion. But he shall be bound to take a poll if demanded :

- (a) In case of a public company having share capital, by any member or members, having the right to vote on the resolution and present in person or by proxy, holding at least one – tenth of the total paid – up capital of that class, or holding shares of the paid – up value of at least Rs. 50,000;
- (b) In the case of a private company having share capital, by one member entitled to vote on the resolution and present in person or by proxy of not more than seven such members are personally present, and by two such members present in person or by proxy if more than seven such members are personally present;
- (c) In the case of any other company, by any member or members present in person or by proxy holding at least one – tenth of the total voting power regarding the particular resolution.

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**UNIT: III (Meeting)**

**BATCH-2016-2018**

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**POSSIBLE QUESTIONS**

**PART - A (1 mark)  
(Online examinations)**

**PART – B (6 Marks)**

1. What are the requisites and requirements of a valid meeting?
2. Explain the duties, rights and powers of a Chairman.
3. What is notice? Discuss the contents of Notice.
4. What is meant by Quorum? What are the statutory provisions relating to quorum for different kinds of Company Meetings?
5. Explain in detail the various kinds of Company Meetings.
6. Explain the legal provisions relating to Minutes.
7. Distinguish between a motion and a resolution.
8. Define the term Resolution. Illuminate the kinds of Resolution.
9. What is meant by Motion. Explain in detail the kinds of motion.
10. What is a poll? Explain the methods of voting.
11. Describe the law and procedure relating of voting at a Meeting. Draft a Proxy Form.
12. You are the secretary of Private Limited Company which has just received its Certificate of Incorporation. State in numbered paragraphs the formal business to be considered at the first meeting of the directors of the company. Draft the necessary resolutions for any three important items of business for this meeting.

**KARPAGAM ACADEMY OF HIGHER EDUCATION**

**DEPARTMENT OF COMMERCE**

**II M. Com. (CA)**

**CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE - 16CCP401**

<b>S. No.</b>	<b>QUESTIONS</b>	<b>OPT. 1</b>	<b>OPT. 2</b>	<b>OPT. 3</b>	<b>OPT.4</b>	<b>ANSWER</b>
<b>Unit - III</b>						
1	Get together of individuals or persons with some plan is known as _____	meeting	business meeting	company meeting	board meetng	<b>meeting</b>
2	When two or more persons gathered as per given notice to discuss some business matters is known as	company meeting	board meetng	general meeting	business meeting	<b>business meeting</b>
3	When the members of a company gather at a certain time and place to discuss business affairs it is called	general meeting	business meeting	company meeting	board meetng	<b>company meeting</b>
4	_____ act as a representative of a company to take decisions through resolutions	Directors	shareholders	secretary	chairman	<b>Directors</b>
5	PLC Stands for	Public Limited Company	Public Lifeinsurance Company	Public Limited Corporation	Public Lifeinsurance Corporation	<b>Public Limited Company</b>
6	A general meeting which is called to deal with urgent matters which require resolution in between Annual General Meeting's is called as _____	Extraordinary General Meeting	General Meeting	Annual General Meeting	Statutory Meeting	<b>Extraordinary General Meeting</b>

7	AGM indicates	Annual General Meeting	Additional General Meeting	All General Meeting	Actual General Meeting	<b>Annual General Meeting</b>
8	_____ should record the decisions taken and provide sufficient background to those decisions	The Agenda	The Notice	The Resolution	The minutes	<b>the minutes</b>
9	The minutes of board meetings will be _____ than the minutes of general meetings	less	higher	lengthier	shorter	<b>lengthier</b>
10	_____ meetings involve managerial decision making at various levels	committee	Management	board	team	<b>Management</b>
11	_____ is an periodic or one-off meeting	One-off informal meetings	Informal Meeting	Departmental Meeting	management meeting	<b>Departmental Meeting</b>
12	A _____ may be formed to take a high-level overview of a project	steering group	Departmental Meeting	management meeting	Annual General Meeting	<b>steering group</b>
13	_____ can take place anywhere at any time	Departmental Meeting	management meeting	One-off informal meetings	team meeting	<b>One-off informal meetings</b>

14	A _____ is free to make its own regulations by its articles with respect to general meetings	Public Limited Company	private company	soleproprietorship	firm	<b>private company</b>
15	The meeting must be _____	legally constituted.	illegally constituted	not again	not legal	<b>legally constituted.</b>
16	The proper authority to convene a general meeting of shareholders is _____	the secretary	the members	the creditors	the directors	<b>the directors</b>
17	The resolution to call a general meeting must be passed at a valid _____	Committee Meeting	Board's meeting	Annual Meeting	management meeting	<b>Board's meeting</b>
18	A meeting cannot be held unless a proper _____ has been given to all persons entitled to attend the meeting	notice	agenda	minutes	intimation	<b>notice</b>
19	A notice convening a general meeting must be given at least _____ prior to the date of meeting	14 days	7 days	21 days	30 days	<b>21 days</b>
20	If general meeting is held with a shorter notice, then notice must be sent to atleast _____ of the members	75%	95%	85%	99%	<b>95%</b>

21	_____ refers to the minimum number of members who must be present at a meeting in order to constitute a valid meeting	Proxy	Member	Quorum	Motion	<b>Quorum</b>
22	Unless the articles of a company provide for larger quorum, _____ should personally present in the case of a public company	2 members	7 members	5 members	3 members	<b>5 members</b>
23	Unless the articles of a company provide for larger quorum, _____ should personally present in the case of a private company	7 members	5 members	3 members	2 members	<b>2 members</b>
24	A proper meeting must have a _____ to chair the proceedings	chairperson	secretary	proxy	directors	<b>chairperson</b>
25	The chairman is the _____ of the meeting	head	chief	principal	executive	<b>head</b>
26	Generally, the chairman of the _____ is the Chairman of the general meeting	Management meeting	Committee Meeting	steering group	Board of Directors	<b>Board of Directors</b>
27	_____ is the presiding officer of the meeting	The secretary	the board of directors	Chairman	Manager	<b>Chairman</b>

28	_____ may terminate the chairman's appointment at any time	The directors	The Secretary	the central government	The Shareholders	<b>The directors</b>
29	Chairman must ensure that business is taken in the order set out in _____	agenda	notice	minutes	list	<b>agenda</b>
30	_____ will decide, that who shall first address the meeting	Secretary	Directors	Chairman	Shareholders	<b>Chairman</b>
31	The purpose of the _____ is to convey the information to a group of people	meeting	resolution	Motion	notice	<b>notice</b>
32	The minimum full period of notice for all meetings is _____	21 days	14 days	30 days	60 days	<b>14 days</b>
33	The term _____ means things to be done	Notice	minutes	Agenda	Motion	<b>Agenda</b>
34	_____ are the Official record of the proceedings of a meeting	Agenda	resolution	Special Notice	Minutes	<b>Minutes</b>
35	The minutes are taken by the _____	Manager	Managing Director	Secretary	Board	<b>Secretary</b>

36	The Secretaries original rough notes are called as _____	temporary minutes	rough draft	transcribed minutes	tentative minutes	<b>temporary minutes</b>
37	Temporary minutes are replaced by the _____	tentative minutes	transcribed minutes	temporary minutes	minutes	<b>transcribed minutes</b>
38	The both temporary minutes and transcribed minutes shall be marked as	transcribed minutes	minutes	tentative minutes	temporary minutes	<b>tentative minutes</b>
39	Minutes of the meeting _____ the memory of the members who were present at the meeting	refresh	creates	discuss	intimate	<b>refresh</b>
40	Minutes should be as _____ as possible	complex	simple	brief	long	<b>brief</b>
41	The minutes should be presented for approval at the _____ of a similar kind	current meeting	previous meeting	boards meeting	next meeting	<b>next meeting</b>
42	_____ is the minimum number of persons required to be present at a meeting	Quorum	proxy	agenda	Motion	<b>Quorum</b>
43	The quorum is usually set as a _____ of the membership	ratio	proportion	percentage	fraction	<b>percentage</b>



44	In the case of a company limited by shares or guarantee and having only one member, _____ person present at a meeting is a quorum	no qualifying	three qualifying	five qualifying	one qualifying	<b>one qualifying</b>
45	The quorum for a meeting of the Board of directors of a company is _____ of its total strength	two-third	one-third	three - fourth	two - fourth	<b>one-third</b>
46	Any person appointed on behalf of the member to attend the meeting is called as _____	proxy	quorum	Motion	resolution	<b>proxy</b>
47	Proxy form must be in _____	oral	typed	writing	both oral and typed	<b>writing</b>
48	A proxy is not entitled to vote except on a _____	show by hands	secret ballots	poll	gestures	<b>poll</b>
49	_____ means a proposal to be discussed at a meeting by the members	Conflict	Issue	Motion	resolution	<b>Motion</b>
50	A motion, on being passed as a _____ becomes a decision	resolution	motion	report	Minutes	<b>resolution</b>
51	A motion must be in writing and signed by the mover and put to the vote of the meeting by the _____	Members	employee	directors	chairman	<b>chairman</b>

52	If the motion is passed, it becomes a _____	resolution	order	instruction	rule	<b>resolution</b>
53	Generally, the chairperson does not put forward motions, because he or she is primarily the _____ of the meeting	convenor	facilitator	principal person	bridging agent	<b>facilitator</b>
54	Resolutions mean _____ at a meeting	discussions	providing information	decisions taken	giving suggestion	<b>decisions taken</b>
55	An ordinary resolution is one which can be passed by a _____ majority	maximum	simple	minimum	centpercent	<b>simple</b>
56	A special resolution is one which is passed by a _____ majority	75%	50%	49%	51%	<b>75%</b>
57	The intention to propose a resolution as a special resolution must be specifically mentioned in the _____ of the general meeting	resolution	report	statement	notice	<b>notice</b>
58	A poll may be ordered by the _____ of his own motion	directors	shareholders	secretary	Chairman	<b>Chairman</b>
59	The word _____ means an expression of a wish or opinion in an authorized formal way for or against any proposal	Quorum	motion	vote	discussion	<b>vote</b>

60	The _____ of the meeting to be prepared and sent to all members of the meeting	agenda	minutes	statement	report	<b>agenda</b>
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**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings) BATCH-2016-2018**

**UNIT – IV**

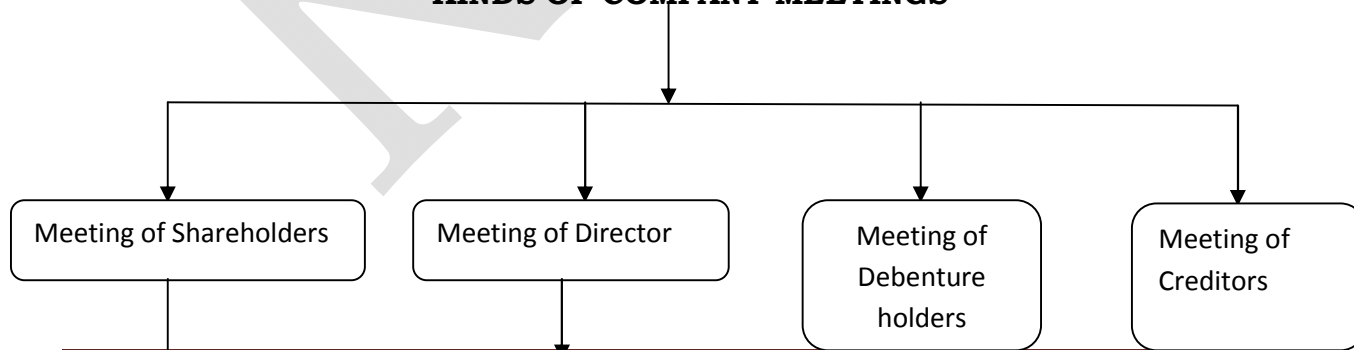
**Unit – IV**

Kinds of Company Meetings – Board of Directors Meeting – Share holder Meeting – Statutory Meeting – Annual General Meeting – Extraordinary General Meeting – Duties of a Company Secretary relating to the Meetings

**MEETINGS**

A company as a legal entity is capable of acting on its own name. Though it is an artificial person it has to act or perform only with the help of its members or directors of a company. They act as a representative of a company to take decisions through resolutions. Hence, the meeting is considered as an important aspect in the business point of view in order to transact business and implementation of business policies.

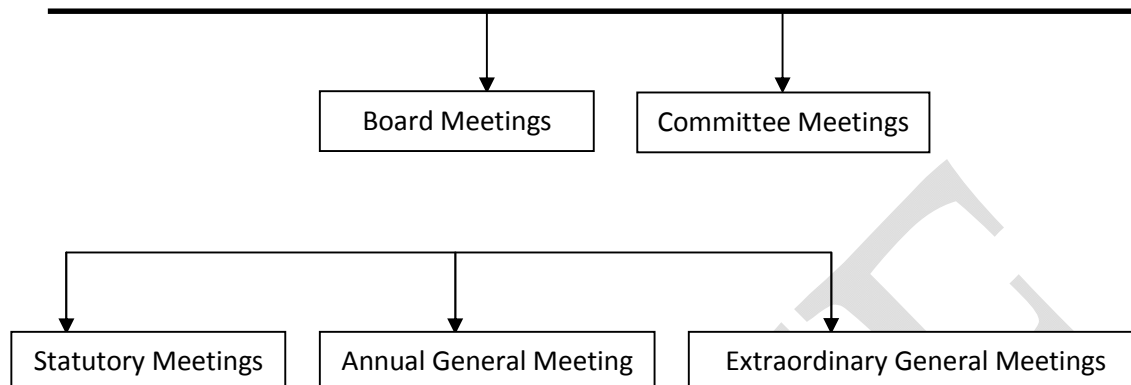
**KINDS OF COMPANY MEETINGS**



CLASS : II M.COM CA

COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE

COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings) BATCH-2016-2018



### KINDS OF COMPANY MEETINGS

#### I. Meeting of Shareholders

- Statutory Meeting
- Annual General Meeting
- Extraordinary General Meeting

#### II. Board of Directors Meeting

- Board Meetings
- Committee Meetings

#### III. Meeting of Debenture holders

#### V. Meeting of Creditors

### I. Share holder Meeting

#### Statutory Meeting

The first meeting of the shareholders of a public limited company which is mandatory as per the Companies Act is known as Statutory Meeting. This type of business is conducted only once in the life time of the company. Every public limited company either limited by guarantee or shares must compulsorily convene the statutory meeting within six months from the date the company was entitled to

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings) BATCH-2016-2018**

commence the business. The Meeting was informed by the chairman that the Statutory meeting of the company under Section 165 of the Companies Act, 1956 has to be convened. The Draft of the statutory report as placed before the meeting was passed. In this connection the following resolutions were passed. “RESOLVED FURTHER that the Statutory meeting of the shareholders of the company be convened on .....th day of ..... 2010 at ..... at the registered office of the company at 4:30 hours.” “RESOLVED FURTHER that Mr. ...., director be and is hereby authorized to issue notice calling the statutory meeting of the shareholders of the company and circulate the statutory report along with the notice of the meeting to all the shareholders of the company and deliver a certified copy of the statutory report to the Registrar forthwith after sending copies thereof to the shareholders of the company for registration.” Wait for other members reply.

### **Annual General Meeting**

A formal meeting, held annually, where, in the case of a company, those responsible for running it (the directors) meet with those who own it (the shareholders). The AGM for a public limited company (Plc) must be held annually and can be quite a high-profile affair. These meetings may be open to media scrutiny and require a lot of careful thought and planning. For private limited companies, the articles may stipulate that an AGM should be held, but there is no longer a statutory requirement to do so (Companies Act 2006). Similarly, with regard to charities, the AGM provides an opportunity for the members to meet with those running the charity (trustees and/or officers) to ask questions about the management of the charity prior to voting. The governing document will state

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings) BATCH-2016-2018**

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whether an AGM is required. The articles will stipulate whether an AGM is required for charitable companies.

### **Extraordinary General Meeting**

The members of a company have the right to require the calling of an extraordinary general meeting by the directors. The board of directors of a company must call an extraordinary general meeting if required to do so by the following number of members :-

- ✓ members of the company holding at the date of making the demand for an EGM not less than one-tenth of such of the voting rights in regard to the matter to be discussed at the meeting ; or
- ✓ if the company has no share capital, the members representing not less than one-tenth of the total voting rights at that date in regard to the said matter.

### **Statutory Meeting**

The first meeting of the shareholders of a public limited company which is mandatory as per the Companies Act is known as Statutory Meeting. This type of business is conducted only once in the life time of the company. Every public limited company either limited by guarantee or shares must compulsorily convene the statutory meeting within six months from the date the company was entitled to commence the business. The Meeting was informed by the chairman that the Statutory meeting of the company under Section 165 of the Companies Act, 1956 has to be convened.

The main purpose behind conducting this meeting is to provide an opportunity to the shareholders to know important details of its formation, regarding the issue of capital, details regarding the disbursement of capital for the business. Along with the notice of the meeting a report called Statutory report is to

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings)BATCH-2016-2018**

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be prepared and circulated to members atleast 21days before the date of the meeting.

**Procedure for conducting Statutory meeting and preparing statutory report of company**

- (1) Every company limited by shares, and every company limited by guarantee and having a share capital, shall, within a period of not less than one month nor more than six months from the date at which the company is entitled to commence business, hold a general meeting of the members of the company, which shall be called " the statutory meeting ".
- (2) The Board of directors shall, at least twenty-one days before the day on which the meeting is held, forward a report (in this Act referred to as " the statutory report ") to every member of the company :  
Provided that if the statutory report is forwarded later than is required above, it shall, notwithstanding that fact, be deemed to have been duly forwarded if it is so agreed to by all the members entitled to attend and vote at the meeting.
- (3) The statutory report shall be certified as correct by, not less than two directors of the company one of whom shall be a managing director, where there is one. After the statutory report has been certified as aforesaid, the auditors of the company shall, in so far as the report relates to the shares allotted by the company, the cash received in respect of such shares and the receipts and payments of the company certify it as correct.
- (4) The Board shall cause a copy of the statutory report certified as is required by section 165 to be delivered to the Registrar for registration forthwith, after copies thereof have been sent to the members of the company.



**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings)BATCH-2016-2018**

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- (5) The Board shall cause a list showing the names, addresses and occupations of the members of the company, and the number of shares held by them respectively, to be produced at the commencement of the statutory meeting, and to remain open and accessible to any member of the company during the continuance of the meeting.
- (6) The members of the company present at the meeting shall be at liberty to discuss any matter relating to the formation of the company or arising out of the statutory report, whether previous notice has been given or not; but no resolution may be passed of which notice has not been given in accordance with the provisions of this Act.
- (7) The meeting may adjourn from time to time, and at any adjourned meeting, any resolution of which notice has been given in accordance with the provisions of this Act, whether before or after the former meeting, may be passed ; and the adjourned meeting shall have the same powers as an original meeting.
- (8) If default is made in complying with the provisions of the act, every director or other officer of the company who is in default shall be punishable with fine which may extend to five thousand rupees.

### **Notice of the Meeting**

The directors are required to send notice of the meeting to all members of the company at least 21 days before the date of the meeting stating that it is the statutory meeting of the company. The fact that it is the statutory meeting must expressly be stated in the notice convening the meeting.

### **Statutory Report**

In order to enable the members to make the best use of this opportunity the directors are required to prepare and send to every member a document known as the "Statutory Report" at least 21 days before the day on which the meeting is to

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings)BATCH-2016-2018**

---

be held. If the report is sent later it will still be valid if it is so agreed to by a unanimous vote of the members entitled to attend and vote at the meeting [Sec. 165 (2)]. The report should be certified as correct by at least two directors, one of whom shall be the managing director where there is one and must also be certified by the auditors [Sec. 165 (4)] A copy of this report must be filed with the Registrar forthwith at the time of sending it to the members[Sec. 165 (5)]. .

**Contents of Statutory Report**

- (a) The total number of shares allotted, distinguishing shares allotted as fully or partly paid-up otherwise than in cash, and stating in the case of shares partly paid-up, the extent to which they are so paid-up, and in either case, the consideration for which they have been allotted
- (b) The total amount of cash received by the company in respect of all the shares allotted, distinguished as aforesaid
- (c) An abstract of the receipts of the company and of the payments made there out, upto a date within seven days of the date of the report, exhibiting under distinctive headings the receipts of the company from shares and debentures and other sources, the payments made there out, and particulars concerning the balance remaining in hand, and an account or estimate of the preliminary expenses of the company, showing separately any commission or discount paid or to be paid on the issue or sale of shares or debentures
- (d) The names, addresses and occupations of the directors of the company and of its auditors ; and also, if there be any, of its manager, and secretary ; and the changes, if any, which have occurred in such names, addresses and occupations since the date of the incorporation of the company
- (e) The particulars of any contract which, or the modification or the proposed modification of which, is to be submitted to the meeting for its approval,

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings)BATCH-2016-2018**

---

together in the latter case with the particulars of the modification or proposed modification

- (f) The extent, if any, to which each underwriting contract, if any, has not been carried out, and the reasons thereof
- (g) The arrears, if any, due on calls from every director and from the manager
- (h) The particulars of any commission or brokerage paid or to be paid in connection with the issue or sale of shares or debentures to any director or to the manager.

#### **Procedure at the Statutory Meeting**

At the commencement of the meeting, the chairman will ask the secretary to read the notice of the meeting. The Board should then place before the meeting a list showing the names, addresses and occupation of the members of the company and the number of shares held by them respectively. The list must remain open and accessible to any member during the continuance of the meeting [Sec. 165 (6)]. After the notice has been read, the chairman takes up the items of business according to the Agenda. He will request the members to take the Statutory Report, already circulated, as read. Thereafter he will address the meeting explaining the progress made by the company since its incorporation, the present position and the future prospects. After this he will invite discussions and questions pertaining to the Statutory Report and other related matters. After discussion of members he chairman proposes that the Statutory Report be approved. If there are any modifications in respect of any contracts, he will also propose that the modifications of contracts proposed in the Report be approved. Decisions about matters, of which previous notice has been given, are then taken by passing requisite resolutions. It may be noted that a matter for which no

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings) BATCH-2016-2018**

---

previous notice has been given can be discussed by the members but a resolution in respect of that cannot be passed.

If the members so consent, the statutory meeting may be adjourned. The chairman has no power to adjourn the Statutory meeting except with the consent of the meeting makes specific provisions regarding adjournment of statutory meeting. The sub – section provides that the meeting may e adjourned from time to time and at any adjourned meeting, any resolution of which notice has been given in accordance with the provisions of this Act, before and after the former meeting, may be passed; and the adjourned meeting shall have the same powers as an original meeting.

After all the items on the agenda are over, the meeting will be dispersed with a vote of thanks to the chair.

### **Annual General Meeting**

#### **Meaning**

A formal meeting, held annually, where, in the case of a company, those responsible for running it (the directors) meet with those who own it (the shareholders). The AGM for a public limited company must be held annually and can be quite a high-profile affair. These meetings may be open to media scrutiny and require a lot of careful thought and planning. For private limited companies, the articles may stipulate that an AGM should be held, but there is no longer a statutory requirement to do so (Companies Act 2006). Similarly, with regard to charities, the AGM provides an opportunity for the members to meet with those running the charity (trustees and/or officers) to ask questions about the management of the charity prior to voting. The governing document will state whether an AGM is required. The articles will stipulate whether an AGM is required for charitable companies.

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings)BATCH-2016-2018**

---

**Statutory Requirements :**

- Must be held by every type of company, public or private, limited by shares or by guarantee, with or without share capital or unlimited company, once a year. Every company must in each year hold an annual general meeting. Not more than 15 months must elapse between two annual general meetings. However, a company may hold its first annual general meeting within 18 months from the date of its incorporation. In such a case, it need not hold any annual general meeting in the year of its incorporation as well as in the following year only.
- In the case there is any difficulty in holding any annual general meeting (except the first annual meeting), the Registrar may, for any special reasons shown, grant an extension of time for holding the meeting by a period not exceeding 3 months provided the application for the purpose is made before the due date of the annual general meeting. However, generally delay in the completion of the audit of the annual accounts of the company is not treated as "special reason" for granting extension of time for holding its annual general meeting. Generally, in such circumstances, an AGM is convened and held at the proper time . all matters other than the accounts are discussed. All other resolutions are passed and the meeting is adjourned to a later date for discussing the final accounts of the company. However, the adjourned meeting must be held before the last day of holding the AGM.
- A notice of at least 21 days before the meeting must be given to members unless consent is accorded to a shorter notice by members,

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings)BATCH-2016-2018**

---

holding not less than 95% of voting rights in the company. The notice must state that the meeting is an annual general meeting. The time, date and place of the meeting must be mentioned in the notice. The notice of the meeting must be accompanied by a copy of the annual accounts of the company, director's report on the position of the company for the year and auditor's report on the accounts. Companies having share capital should also state in the notice that a member is entitled to attend and vote at the meeting and is also entitled to appoint proxies in his absence. A proxy need not be a member of that company. A proxy form should be enclosed with the notice. The proxy forms are required to be submitted to the company at least 48 hours before the meeting.

- The AGM must be held on a working day during business hours at the registered office of the company or at some other place within the city, town or village in which the registered office of the company is situated. The Central Government may, however, exempt any class of companies from the above provisions. If any day is declared by the Central government to be a public holiday after the issue of the notice convening such meeting, such a day will be treated as a working day.
- A company may, by appropriate provisions in its articles, fix the time for its annual general meeting and may also by a resolution passed in one annual general meeting fix the time for its subsequent annual general meetings.
- Companies licensed under Section 25 are exempt from the above provisions provided that the time, date and place of each annual general meeting are decided upon beforehand by the Board of

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings)BATCH-2016-2018**

---

Directors having regard to the directions, if any, given in this regard by the company in general meeting.

**In case of default in holding an annual general meeting, the following are the consequences**

1. Any member of the company may apply to the Company Law Board. The Company Law Board may call, or direct the calling of the meeting, and give such ancillary or consequential directions as it may consider expedient in relation to the calling, holding and conducting of the meeting. The Company Law Board may direct that one member present in person or by proxy shall be deemed to constitute the meeting. A meeting held in pursuance of this order will be deemed to be an annual general meeting of the company. An application by a member of the company for this purpose must be made to the concerned Regional Bench of the Company Law Board by way of petition in Form No. 1 in Annexure II to the CLB Regulations with a fee of rupees fifty accompanied by (i) affidavit verifying the petition, (ii) bank draft for payment of application fee.
2. Fine which may extend to Rs. 5,000 on the company and every officer of the company who is in default may be levied and for continuing default, a further fine of Rs. 250 per day during which the default continues may be levied.

**Business to be transacted at Annual General Meeting:**

At every AGM, the following matters must be discussed and decided. Since such matters are discussed at every AGM, they are known as ordinary business. All other matters and business to be discussed at the AGM are special business. The following matters constitute ordinary business at an AGM :-



**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings)BATCH-2016-2018**

---

- a. Consideration of annual accounts, director's report and the auditor's report
- b. Declaration of dividend
- c. Appointment of directors in the place of those retiring
- d. Appointment of and the fixing of the remuneration of the statutory auditors.

In case any other business (special business) has to be discussed and decided upon, an explanatory statement of the special business must also accompany the notice calling the meeting. The notice should also give the nature and extent of the interest of the directors or manager in the special business, as also the extent of the shareholding interest in the company of every such person. In case approval of any document has to be done by the members at the meeting, the notice must also state that the document would be available for inspection at the Registered Office of the company during the specified dates and timings.

### **Boards Report or the Director's Report**

The main objective of the Directors' Report is to provide authentic meaningful information to the shareholders and others, viz., employees, creditors, society, state etc., regarding the state of company's affairs and the result of a year's working along with the future prospects. It must be attached with the Balance Sheet and sent to the shareholders along with the notice calling for the annual general meeting. As per sec. 217, as amended by the Companies (Amendment) Acts of 1988, 1999 and 2000, the Directors's Report must deal with the following matters :

- (a) The state of company's affairs
- (b) The amount, if any, which the Board proposes to carry to any reserves in the Balance Sheet
- (c) The amount, if any, which the Board recommends should be paid by way of dividend



**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings)BATCH-2016-2018**

- 
- (d) Material changes and commitments, if any, affecting the financial position of the company which have been occurred between the end of the financial year of the company to which the Balance Sheet relates and the date of the report
- (e) The conservation of energy, technology, absorption, foreign exchange earnings and outgo, in such manner as may be prescribed.

### **Extraordinary General Meeting**

Any meeting other than the Statutory meeting and the annual general meeting of the company is called extraordinary general meeting. It is convened for transacting any urgent or special business which cannot be postponed till the next annual general meeting. The members of a company have the right to require the calling of an extraordinary general meeting by the directors. The board of directors of a company must call an extraordinary general meeting if required to do so by the following number of members :-

- ✓ members of the company holding at the date of making the demand for an EGM not less than one-tenth of such of the voting rights in regard to the matter to be discussed at the meeting ; or
- ✓ If the company has no share capital, the members representing not less than one-tenth of the total voting rights at that date in regard to the said matter.

The requisition must state the objects of the meetings and must be signed by the requisitioning members. The requisition must be deposited at the company's registered office. When the requisition is deposited at the registered office of the company, the directors should within 21 days, move to call a meeting and the meeting should be actually be held within 45 days from the date of the lodgement of the requisition. If the directors fail to call and hold the meeting as aforesaid, the

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings)BATCH-2016-2018**

---

requisitionists or any of them meeting the requirements at (a) or (b) above, as the case may be, may themselves proceed to call meeting within 3 months from the date of the requisition, and claim the necessary expenses from the company. The company can make good this sum from the directors in default. At such an EGM, any business which is not covered by the agenda mentioned in the notice of the meeting cannot be voted upon.

**Power of Company Law Board to Order Calling of Extraordinary General Meeting :**

If for any reason, it is impracticable to call a meeting of a company, other than an annual general meeting, or to hold or conduct the meeting of the company, the Company Law Board may, either on its own motion or on the application of any director of the company or of any member of the company, who would be entitled to vote at the meeting, order a meeting to be called and conducted as the Company Law Board thinks fit, and may also give such other ancillary and consequential directions as it thinks fit expedient. A meeting so called and conducted shall be deemed to be a meeting of the company duly called and conducted.

**Authority to call Extraordinary General Meeting**

**1. By the Directors**

The directors may, whenever they think fit, convene an extraordinary general meeting by passing a resolution to that effect in the Board's meeting.

**2. By the Directors on requisition**

The directors must convene an extraordinary general meeting on the requisition of members holding not less than one-tenth of the total voting rights on the matter of requisition. The requisition must state the matters for the consideration of which the meeting is to be called. It must be signed by the

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings)BATCH-2016-2018**

---

requisitionists and deposited at the registered office of the company. The directors should within 21 days from the date of the deposit of a valid requisition, move to call a meeting and should give 21 days notice to members for calling such a meeting and the meeting should actually be held within 45 days from the date of the requisition.

**3. By the requisitionist themselves**

If the directors fail to call the meeting within aforementioned time limits, the requisitionist or such of the requisitionist as represent not less than one-tenth of the total voting rights of all the members, may themselves convene a meeting within three months of depositing the requisition. Such a meeting should be called in the same manner, as nearly as possible, as that in which meetings are called by the Board. Any reasonable expenses incurred by the requisitionist must be repaid to them by the company, and any sum so paid shall be retained by the company out of any sums due or likely to become due to the directors in default.

**4. By the Company Law Board**

If for any reason it is impracticable to call or conduct an extraordinary general Meeting, the company law board may, either of its own motion or on the application of any director or any member who would be entitled to vote, order a meeting to be called, held and conducted in such manner as the Company Law Board thinks fit and may give such directions as it thinks expedient, including a direction that one member, present in person or by proxy shall be deemed to constitute a meeting.

**Explanatory Statement**

The notice convening an Extraordinary general meeting must be accompanied by an 'Explanatory Statement'. The object of such a statement is to

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings)BATCH-2016-2018**

---

explain to the members the reasons of passing a resolution so as to ensure its smooth adoption. Explanatory Statement is necessary for each item of 'special businesses'. In the case of annual general meetings, all business other than the ordinary business shall be considered as 'special business and in the case of extraordinary general meeting thereat shall be treated as 'special business' [Sec. 173(1)]. Where any items of business to be transacted at the meeting are deemed to be special, there must be annexed to the notice of the meeting a statement mentioning all material facts concerning the items of business, including in particular, the nature and extent of the interest of every director, and the manager, if any[Sec. 173(2)]if any such special business consists of according approval to any document by the meeting, the statement must specify the time and place where the document can be inspected [Sec. 173(3)]. The statement is to be approved by the chairman before it is actually issued.

### **BOARD OF DIRECTORS MEETING**

#### **Meaning**

The term "Board" is a collective name for the 'directors' under the Companies Act [Sec. 252 (3)]. The 'Board Meetings', therefore, means 'Meetings of Directors'. The Board Meetings are the most important meetings of the company. In practice, all the major decisions relating to company matters, even in regard to those for which approval of the shareholders in general meeting is required under the Act, are taken thereat. Therefore, the decisions taken at the Board's meeting are finally carried through in almost all cases.

#### **Definition**

Formal meeting of the board of directors of an organization, held usually at definite intervals to consider policy issues and major problems. Presided over by a chairperson (chairman or chairwoman) of the organization or his or her

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings) BATCH-2016-2018**

---

appointee, it must meet the quorum requirements and its deliberations must be recorded in the minutes. Under the doctrine of collective responsibility, all directors (even if absent) are bound by its resolutions.

### **FREQUENCY OF BOARD MEETINGS**

#### **Meetings of the Board**

The Board should meet at least once in every three months, with a maximum interval of 120 days between any two Meetings such that at least four Meetings are held in each year.

Each Meeting should be of such duration as would enable proper deliberations to take place on items placed before the Board.

#### **Meetings of Committees**

Committees should meet at least as often as stipulated by the Board or as prescribed by any other authority

### **NOTICE OF THE MEETING**

1. Notice in writing of every Meeting should be given to every Director by hand or by post or by facsimile or by e-mail or by any other electronic mode. Where a Director specifies a particular mode, the Notice should be given to him by such mode.
2. The Notice should specify the day, date, time and full address of the venue of the Meeting. A Meeting may be held at any time, on any day, including a public holiday, and at any place.
3. The Notice of a Meeting should be given even when Meetings are held on pre-determined dates or at pre-determined intervals.
4. Unless the Articles prescribe a longer notice period, Notice should be given at least fifteen days before the date of the Meeting.

Notice need not be given of an adjourned Meeting other than a Meeting that has

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings)BATCH-2016-2018**

---

Been adjourned "sine die". However, Notice of the reconvened adjourned

Meeting should be given to those Directors who did not attend the Meeting which had been adjourned.

5. No business should be transacted at a Meeting if Notice in accordance with this Standard has not been given.
6. The Agenda, setting out the business to be transacted at the Meeting, and Notes on Agenda should be given at least seven days before the date of the Meeting.
7. Each item of business should be supported by a note setting out the details of the proposal and, where approval by means of a Resolution is required, the draft of such Resolution should be set out in the note.
8. The Notice, Agenda and Notes on Agenda may be given at shorter periods of time than those respectively stated above, if the majority of members of the Board or of the Committee, as the case may be, agree. The proposal to hold the Meeting at a shorter notice should be stated in the Notice and the fact that consent thereto was obtained should be recorded in the Minutes. Notice, Agenda and Notes on Agenda should be given to all Directors or to all members of the Committee, as the case may be, at the address provided by them, whether in India or abroad, and should also be given to the Original Director, even when the Notice, Agenda and Notes on Agenda have been given to the Alternate Director.
9. Any supplementary item not originally included in the Agenda may be taken up for consideration with the permission of the Chairman and with the consent of the majority of the Directors present in the Meeting. However, no supplementary item which is of significance or is in the nature of Unpublished price sensitive information should be taken up by the Board without prior written Notice. The items of business to be transacted should be arranged in order of those items that are of a routine or general nature or which merely require to be noted

CLASS : II M.COM CA

COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE

COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings) BATCH-2016-2018

---

by the Directors, and those items which require discussions and specific approval.

Besides the items of business that are required by the Act or any other applicable law to be considered at a Meeting of the Board and all material items having a significant bearing on the operations of the company, there are certain items which, if applicable, should also be placed before the Board. An illustrative list of such items is given at **Annexure 'A'**.

There are certain specific items which should be placed before the Board at its first Meeting and there are certain items which should be placed before the Board at the Meeting held for consideration of the year-end accounts.

Illustrative lists of such items are given at **Annexures 'B' and 'C'** respectively

#### **Agenda of Board Meetings**

The term Agenda means **things to be done**. In the present context it is a statement of the business to be transacted at a meeting. It also sets out the order in which the business is to be dealt with. Though the Companies Act does not make it obligatory on the Secretary to send an agenda or to incorporate the same in the notice of Board meeting, yet by convention it necessarily accompanies the notice calling the meeting. For, otherwise, the members cannot come prepared for discussion on the points on which resolutions have to be passed. A separate agenda may be enclosed with the notice of the meeting or the notice itself may contain the agenda.

#### **Illustrative list of items of business for the Agenda for the First Meeting of the Board of Directors of the Company**

1. To appoint the Chairman of the Meeting.
2. To note the Certificate of Incorporation of the company, issued by the Registrar of Companies.



**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings)BATCH-2016-2018**

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3. To take note of the Memorandum and Articles of Association of the company, as registered.
  4. To note the situation of the Registered Office of the company.
  5. To confirm/note the appointment of the first Directors of the company.
  6. To read and record the notices of disclosure of interest given by the Directors.
  7. To consider the appointment of Additional Directors.
  8. To consider the appointment of the Chairman of the Board.
  9. To fix the financial year of the company.
  10. To consider the appointment of the first Auditors.
  11. To adopt the Common Seal of the company.
  12. To appoint Bankers and to open bank accounts of the company.
  13. To authorise printing of share certificates.
  14. To authorise the issue of share certificates to the subscribers to the Memorandum and Articles of Association of the company.
  15. To approve preliminary expenses and preliminary contracts.
  16. To consider the appointment of the Managing Director/Whole time Director/Manager and Company Secretary, if applicable and other senior officers.

**Illustrative list of items of business for Agenda of Meeting of the Board of Directors at which annual accounts, etc., are to be considered.**

(Besides regular Agenda items, such as confirmation of Minutes, granting leave of absence to Directors, reading Notices of disclosure of interest of Directors)

1. To consider and approve matters arising out of the accounts such as commission to Directors, write-offs, provisions, legal cases, etc.
2. To consider and approve transfers to Reserves and other appropriations.



**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings) BATCH-2016-2018**

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3. To consider recommendation of dividend.
  4. To consider and approve the Balance Sheet and the Profit & Loss Account as well as the abridged Accounts or statement of financial results.
  5. To approve the cash flow statement.
  6. To consider and take note of the Directors to retire by rotation at the Annual General Meeting.
  7. To consider the draft Notice of the Annual General Meeting and to authorise issuance thereof.
  8. To consider the appointment of Auditors and the payment of remuneration to them, to be proposed for members' consideration.
  9. To take note of the draft Auditor's report.
  10. To consider the draft Directors' Report and to authorise issuance thereof.
  11. To open a Bank Account for payment of dividend.
  12. To approve/note the closure of the Register of Members and the Share Transfer Books for the purposes of the Annual General Meeting.
  13. To approve the text of the advertisement inviting fixed deposits.
  14. To discuss the Compliance Certificate issued by a secretary in whole-time practice.

### **Quorum of Board Meetings**

1. Quorum should be present throughout the Meeting. No business should be transacted when the Quorum is not so present. The Quorum for a Meeting of the Board should be one-third of the total strength of the Board (any fraction contained in that one-third being rounded off as one), or two Directors, whichever is higher. Where the requirements for the Quorum, as provided in the Articles, are stricter, the Quorum should conform to such requirements.

If the number of Interested Directors exceeds or is equal to two-thirds of the

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings)BATCH-2016-2018**

---

total strength, the remaining Directors present at the Meeting, being not less than two, should be the quorum during such time.

2. Where the number of Directors is reduced below the minimum fixed by the Articles, no business should be transacted unless the number is first made up by the remaining Director(s) or through a general meeting.

If a Meeting of the Board could not be held for want of quorum, then, unless the Articles otherwise provide, the Meeting should automatically stand adjourned to the same day in the next week, at the same time and place or, if that day is a public holiday, to the next succeeding day which is not a public holiday, at the same time and place.

#### **Attendance at Meetings**

- An Attendance Register, containing the names and signatures of the Directors present at the Meeting, should be maintained.

If an attendance register is maintained in loose-leaf form, it should be bound at reasonable intervals and may be destroyed after eight years, with the approval of the Board.

- Leave of absence should be granted to a Director only when a request for such leave has been communicated to the Secretary or to the Board or to the Chairman.

#### **Validity of Act of Directors**

It must have been noted from the foregoing provisions that if a proper notice has not been given to all the directors or / and the quorum is not present throughout the meeting, the Board's meeting is invalid. This invalidity, however, does not affect the interests of third parties, who have no notice of the irregularity, on the principle of 'Indoor Management'.

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings) BATCH-2016-2018**

---

Thus, where the quorum of the Board was three and at a meeting of two, the secretary was asked to affix the seal to a mortgage, it was held that as between the company and the mortgage that had no notice of irregularity, the execution of deed was valid

A subsequent properly convened and legally constituted Board meeting can always ratify and confirm what was done at the prior irregular meeting, and it will then be valid.

Sec. 290 contains a very important provision regarding the validity of acts of directors.

The Section provides that acts of a director shall be valid notwithstanding that it may afterwards be discovered that his appointment was invalid by reason of any defect or disqualification or had terminated by virtue of any provision in the Act or in the articles of the company, but the acts done by such a director after his appointment has been shown to the company to be invalid or to have terminated shall not have any validity.

The acts of a director appointed at a meeting of which insufficient notice was given would be validated by the Section. Similarly, a call made by the directors one of whom had ceased to hold his qualification shares for a very short period was held to be valid.

### **Committee of the Board**

The directors, if permitted by articles, may delegate some of their powers to a committee of one or more of their number. Such delegation shall, however, be Subject to Section 292 of the Act. Usually committees are appointed for specific purposes e.g. a finance committee. While appointing a committee the Board must carefully define its powers and authority.

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings) BATCH-2016-2018**

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A committee may either be of a permanent nature, when it is called a 'standing committee', e.g., a committee to approve transfers, or be formed for some special matter of non-recurring nature, when it is known as a 'special committee', e.g. a committee to enquire into the economics of amalgamating the company with some other company.

Unless the articles otherwise provide, all acts of a committee must be done by the whole committee and a majority cannot act in the absence of any member. The Board is not bound, in any way, by the committee report, usual adopted.

### **Proceedings of Board**

It is the articles of a company which provide provision regarding proceedings of Board Meetings. Usually, the articles will be found to contain provisions on the lines of 'Table A' – Regulations 73 to 81. These regulations are reproduced below :

Regn. 73 (1) The Board of directors may meet for the despatch of business, adjourn and otherwise regulate its meeting, as it thinks fit.

(2) A director may and the managing director, manager or secretary on the requisition of a director shall, at any time, summon a meeting of the Board.

Regn. 74 (1) Save as otherwise expressly provided in the Act, questions arising at any meeting of the Board shall be decided by a majority of votes.

(2) In case of an equality of votes, the Chairman of the Board, if any, shall have a second or casting vote.

Regn. 75

The continuing directors may act notwithstanding any vacancy in the Board; but if and so long as their number is reduced below quorum fixed by the Act for a meeting of the board, the continuing directors or director may act for the purpose

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings) BATCH-2016-2018**

---

of increasing the number of directors to that fixed for the quorum or for summoning a general meeting of a company, but for no other purpose.

Regn. 76 (1) The Board may elect a Chairman of its meeting and determine the period for which he is to hold office.

(2) If no such Chairman is elected, or if at any meeting the Chairman is not present within five minutes after the time appointed for holding the meeting.

Regn. 77(1) The Board may, subject to provisions of the Act, delegate any of its powers to committees consisting of such member or members of its body as it thinks fit.

(2) Any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on it by the Board.

Regn. 78 (1) A committee may elect a chairman for its meetings.

(2) If no such Chairman is elected, or if at any meeting the Chairman is not present within five minutes after the time appointed for holding the meeting, the members present may choose one of their members to be Chairman for the meeting.

Regn. 79 (1) A committee may meet and adjourn as it thinks proper.

(2) Questions arising at any meeting of a committee shall be determined by a majority of votes of the members present, and in case of an equality of votes, the Chairman shall have a second or casting vote.

### **Chairman of the Meeting**

#### **➤ Meetings of the Board**

Every company should have a Chairman who would be the Chairman for Meetings of the Board. It would be the duty of the Chairman to see

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings)BATCH-2016-2018**

---

that the Meeting is duly convened and constituted in accordance with the Act or any other applicable guidelines, Rules and Regulations before it proceeds to transact business. The Chairman should then conduct the proceedings of the Meeting and ensure that only those items of business as have been set out in the Agenda are transacted and generally in the order in which the items appear on the Agenda. The Chairman should encourage deliberations and debate and assess the sense of the Meeting. The Chairman should ensure that the proceedings of the Meeting are correctly recorded and, in doing so, he may include or exclude any matter as he deems fit.

In the case of a public company, if the Chairman himself is interested in any item of business, he should entrust the conduct of the proceedings in respect of such item to any other dis-interested Director and resume the Chair after that item of business has been transacted.

➤ ***Meetings of Committees***

The Board, while constituting any Committee, should also appoint the Chairman of that Committee, unless such appointment is to be made in pursuance of any other applicable guidelines, Rules or Regulations.

**Procedure of Board Meetings**

Before opening the proceedings of the meeting, chairman satisfies himself that the meeting is properly convened and that the quorum is present. When the proceedings start the Chairman requests the secretary to read the 'minutes' of the last meeting. As soon as the 'minutes' are read and approved as correct, the Chairman will sign the 'minutes'. He will, thereafter, take up the items for discussion according to the order set forth on the Agenda, but with the consent of

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings) BATCH-2016-2018**

---

the meeting he may alter the order. During discussion the Chairman gives full opportunity to all the directors to express their option on the subject matter. After this if there is any difference of opinion, the motion is put to vote. If the majority votes are cast in favour of the motion, resolution to this effect will be passed. A director interested in any resolution is not allowed to cast his vote on that particular resolution and this fact is recorded in the minutes -----“that Mr.\_\_\_\_ being interested did not participate nor did he vote on the Resolution”. After all the items on the Agenda are over the Chairman declares the meeting closed. Throughout the meeting the secretary keeps on taking notes of the proceedings on the basis of which he will out the ‘minutes’ of the meeting.

#### **Minutes of Board Meetings**

- Within fifteen days from the date of the Meeting of the Board or Committee or of an adjourned Meeting, the draft Minutes thereof should be circulated to all the members of the Board or the Committee, as the case may be, for their comments.

The Directors should forward their comments on the draft Minutes within seven days from the date of circulation thereof, so that the Minutes are finalised and entered in the Minutes Book within the specified time limit of thirty days.

- The Minutes of proceedings of a Meeting should be entered in the Minutes Book within thirty days from the conclusion of the Meeting. In case a Meeting is adjourned, the Minutes should be entered in respect of the original Meeting as well as the adjourned Meeting within thirty days from the date of the respective Meetings. In respect of a Meeting adjourned for want of Quorum, a statement to that effect



**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings)BATCH-2016-2018**

---

should be recorded in the Minutes Book by the Chairman or any Director present at the Meeting.

- The date of entering the Minutes should be specified in the Minutes Book by a Director or the Secretary.
- The Chairman should initial each page of the Minutes, sign the last page of the Minutes and append to such signature the date on which he has signed the Minutes.

While the law requires that Minutes of the proceedings should be entered in the Minutes Book within thirty days of the Meeting, there is no prescribed time limit within which such Minutes have to be signed. They could be signed beyond a period of thirty days if the succeeding Meeting is held after a period of thirty days from the date of the earlier Meeting. However, it is also not obligatory to wait for the next Meeting in order to have the Minutes of the previous Meeting signed. Such Minutes may be signed by the Chairman of the Meeting at any time before the next Meeting is held.

The Minutes of Meetings of the Board can be inspected only by the Directors. While the Auditor or Cost Auditor of the company or Secretary in whole-time practice appointed by the company can also inspect the Minute Books in the course of audit or certification, a member of the company has no right to inspect the Minutes of Meetings of the Board or any Committee thereof. Officers of the Registrar of Companies, or other Government or regulatory bodies duly authorised in this behalf under law, during the course of an inspection, can also inspect the Minutes.

- Minutes should not be pasted or attached to the Minutes Book.



**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings) BATCH-2016-2018**

---

- Minutes, if maintained in loose-leaf form, should be bound at intervals coinciding with the financial year of the company.

The pages of the Minutes Book should be serially numbered and there should be proper locking device to ensure security and proper control to prevent irregular removal of the loose leaves.

- Extracts of the Minutes should be given only after the Minutes have been duly signed. However, certified copies of any Resolution passed at a Meeting may be issued even pending signing of the Minutes by the Chairman, if the draft of that Resolution had been placed at the Meeting and was duly approved.
- Minutes of an earlier Meeting should be noted at the next Meeting.
- Any alteration, other than grammatical or minor corrections, in the Minutes as entered, should be made only by way of express approval taken in the subsequent Meeting in which such Minutes are sought to be altered.
- The Minutes of Meetings of any Committee should be circulated to the Board along with the Agenda for the Meeting of the Board next following such Meeting of the Committee and should be noted at the Board Meeting.

If the Minutes of Meetings of any Committee are pending noting by the Committee at the time of circulating the Agenda for the Meeting of the Board, such Minutes should be circulated to the Board in draft form.

#### **Recording in the Minutes**

- In addition to the names of Directors present at the Meeting, the names of persons in attendance and the names of invitees, if any,

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings) BATCH-2016-2018**

---

should be recorded in the Minutes. Apart from the Resolution or the decision, the Minutes should mention the brief background of the proposal and the rationale for passing the Resolution or taking the decision.

- The names of the Directors who dissented or abstained from the decision should be recorded. Similarly, the fact that an interested Director did not participate in the discussion or vote should be recorded in the Minutes. Wherever any approval of the Board or of the Committee is taken on the basis of certain papers laid before the Board or the Committee, proper identification by initialling of such papers by the Chairman or any Director should be made and a reference thereto should be made in the Minutes.

#### **Preservation of Minutes and other Records**

- The Minutes of all Meetings should be preserved permanently.
- Where, under a scheme of arrangement, a company has been merged or amalgamated with another company, the Minutes of all Meetings of the Board and Committees of the transferor company should be preserved permanently by the transferee company, notwithstanding the fact that the identity of the transferor company may not survive such arrangement.
- Office copies of Notices, Agenda and Notes on Agenda and other related papers should be preserved in good order for as long as they remain current or for ten years, whichever is later, and may be destroyed thereafter under the authority of the Board.

#### **III Meetings of Debenture Holders**

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings)BATCH-2016-2018**

---

If a company wants to make any change in the terms of security or if they wish to modify the rate of interest of debentures or if they decide to change the rights the authority of the company will call for debenture holders meeting. This is done to protect the interest of the debenture holders because they were the ultimate persons who would be affected by the changes.

#### **IV. Meeting of the Creditors**

Likewise if they want to make a scheme of arrangements with its creditors then meeting will be conducted by the authority exclusively with the creditors of the company. These type of meeting would not be frequently held.

#### **Secretarial work relating to Board Meeting**

The duties of the company secretary relating to Board's meetings, may be as follows :

##### **In calling the Board meeting :**

1. The Secretary in consultation with the Chairman or on the requisition of a director, fixes the date and time of the meeting, if it has not already been fixed at the previous meeting
2. He has to prepare the agenda (in consultation with the Chairman) and the notice of the Board meeting.
3. He has to issue the notice along with the agenda to each director. He should comply with the requirement of the articles as to length of notice while dispatching notices.
4. He has to issue invitation letters to Chief Accountants, Branch manager, Solicitor, Auditors, etc., who are to attend the whole or any part of the meeting by invitation
5. The secretary has to keep in readiness periodical financial and trading returns showing up – to – date position.

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings)BATCH-2016-2018**

---

6. He should collect necessary documents, contracts, pending transfers and the related certificates for sealing and signing by directors
7. He has to keep in readiness detailed information and relevant documents, etc., regarding special business, if any, for producing before the meeting.
8. He has to prepare the directors' attendance book.
9. He has to prepare the Minute Book of Board meetings, and keep ready the company's seal, copies of memorandum and articles of association, the last annual report and accounts, trust deeds and other documents likely to be required at the meeting
10. He should make suitable arrangements for the boarding and lodging for directors as also for the necessary seating arrangements, stationery, etc., for the Board Meeting.

### **Duties of a Company Secretary relating to the Meetings**

#### **Secretarial work relating to Statutory Meeting**

The duties of the Company Secretary relating to the Statutory Meeting are as follows :

#### **Before the Meeting :**

1. It is the duty of the secretary to keep in mind the time limit prescribed by the Act for holding the Statutory Meeting.
2. He should prepare the ' statutory report' in the prescribed form and the notice of the meeting
3. He should convene a meeting of the Board of Directors to consider and approve the statutory report and the notice
4. The secretary should then arrange for printing of the statutory report and the notice and dispatching them to the members at least 21 days before the

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings)BATCH-2016-2018**

---

date of the meeting. A certified copy of the report must also be filed with the Registrar.

5. He should prepare an agenda of the meeting in consultation with the chairman
6. He has also to prepare a list of members showing names, addresses and the number of shares held by each one of them for placing before the meeting
7. He has to make necessary seating arrangements, etc., for holding the meeting

**At the Meeting :**

8. He has to help the chairman in ascertaining the quorum and to read the notice of the meeting
9. If directed by the chairman, he has to read the statutory report
10. He has to produce the list of members at the meeting
11. He has to assist the chairman on any points of procedure and to supply Necessary Explanation when required
12. He is to take full notes of the proceedings of the meeting

**After the Meeting :**

13. He has to draft the minutes of the meeting on the basis of notice taken by him and to get the same approved and signed by the chairman of the same meeting within 30 days of the conclusion of the meeting.

**Secretarial work relating to Annual General Meeting**

The duties of a secretary relating to the holding of annual general meeting may be enumerated as follows :

**Before the meeting :**

1. Arrange for the presentation of a Profit and Loss Account and the Annual Balance Sheet

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**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings)BATCH-2016-2018**

---

of the company and also for its subsidiaries and branches, if any, as per the provisions of the Act, when the financial year of the company is over.

2. See that the Board approves the Balance Sheet and Profit and Loss Account and name of directors who will sign the Balance Sheet
3. See that the duly authorized Balance Sheet and Profit and Loss Account are audited and certificate by the auditors.
4. See that the Balance Sheet approved by the Board is signed by the directors authorized to sign the same.
5. Prepare a draft of the Director's Report in consultation with the Chairman
6. Arrange a Board meeting to consider the following business :
  - (a) To consider and recommend the rate of dividend on equity or / and preference shares to be declared and passed by the members at the annual general meeting;
  - (b) To sign the Director's Report already prepared by the secretary;
  - (c) To obtain sanction of the Board to the proposals to be considered and passed at the annual general meeting on matters like names of directors who are liable to retire by rotation, names of directors who are to seek re-election and change in the auditors of the company
  - (d) To fix date, time and place of the annual general meeting and to authorize the secretary for arranging the printing of the notice, annual accounts, directors' report, auditors' report, proxy forms, admission cards etc.,
  - (f) To authorize the secretary to close the register of members and share transfer register, issue the notice of closure of transfers and to see the preparation of dividend list and dividend warrants
  - (f) To authorize the bank to open a separate dividend account;

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings)BATCH-2016-2018**

---

(g) To decide whether a report of the proceedings at the general meeting is to be published and if so, in which particular newspapers

7. If the company's securities are quoted, notify the Stock Exchange(s) concerned of the date of Board of Directors meeting at which the recommendation of a dividend is to be considered, and after the Board meeting has been held advise the Stock Exchange(s) of the decisions taken by the Board in that regard
8. Arrange for the printing of notices of the meeting, Balance Sheet, the Profit and Loss Account, Directors' Report, form of proxy, admission cards, dividend notices and dividend warrants
9. Send out the notices along with all relevant documents to the members, directors and auditors under certificate of posting at least 25 days before the date of annual general meeting so that 21 clear days' notice is given to the members pursuant to Sections 53 and 171 and also publish the notice in newspapers. Copies of the notice and Directors' Report are also sent to the Stock Exchanges for their information
10. Close the 'share transfer register' and notify the same in newspapers and look after the preliminary work of dividend distribution (i.e., preparing the dividend lists and dividend warrants).
11. Prepare the agenda of the meeting and the Chairman's speech in consultation with the Board.
12. Check up proxies received and all valid proxies to be entered in the proxy register. Close and sign the proxy register in due time.
13. Keep ready for making available at the meeting the following documents and records:

(i) Attendance book to be signed by the shareholders before the



**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings)BATCH-2016-2018**

---

commencement of the meeting

- (ii) Minutes book of the Annual General Meeting
  - (iii) Proxy Register along with all the proxy forms lodged with the company serially numbered
  - (iv) Register of Directors' shareholdings
  - (v) Register of contracts, companies and firms in which directors are directly or indirectly interested
  - (vi) Register of Members and Index of Members
  - (vii) Memorandum and Articles of Association of the company as amended up – to – date.
  - (viii) Spare copies of the Directors' Report, Annual Accounts, Agenda and Chairman's speech
  - (ix) Voting cards, if a poll is expected
  - (x) A copy of the Companies Act, 1956, as amended up – to – date
14. Make necessary seating arrangement for shareholders and others. He should make arrangements to segregate the ordinary shareholders from preference shareholders and proxies, and should make them sit in separate enclosures, as under the law the proxies cannot vote on a show of hands, and cannot speak at the meeting and the preference shareholders can vote only on matters which directly affect their rights
15. Arrange for tea etc.,

**At the Meeting :**

- 16. Arrange for collecting the Admission Cards at the gate of the meeting hall and see that no unauthorized person gets entry therein
- 17. Help the Chairman in ascertaining whether a quorum is present or not
- 18. Read the notice convening the meeting with the permission of the



**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings)BATCH-2016-2018**

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Chairman

19. Read the Auditors' Report, and also to read the Director's Report unless it is taken as read
20. Advise the Chairman regarding points that may be raised and assist him in the case of poll, if necessary
21. Take note of the proceedings of the meeting and resolutions passed thereat

**After the Meeting :**

22. Brief the press, where necessary
23. Prepare the minutes and get them signed by the Chairman of the same meeting within 30 days of the conclusion of the meeting
24. Make necessary changes in the Register of Directors and notify the same to the Registrar within 30 days of the meeting.
25. Send intimations of appointment to the directors and auditors
26. See that the Balance Sheet, Profit and Loss Account, special resolutions adopted unanimously are filed with the Registrar within 30 days of the meeting
27. Arrange for the issue of dividend warrants, if any, within 42 days from the date of declaration of dividend
28. Prepare the 'annual return' and file it with Registrar along with necessary fee within 60 days of the meeting

**Secretarial work relating to Extraordinary General Meeting**

The duties of a secretary relating to the holding of Extraordinary general meeting may be enumerated as follows :

**Before the meeting :**

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings) BATCH-2016-2018**

---

1. Where the meeting is sought to be convened by the Board on its own without requisition from the members, the Secretary must advise the Board, if it is not already aware, on the urgency of the matter, i.e., the matter cannot be deferred till the next annual general meeting and convene a Board meeting in consultation with the Chairman for fixing the date, time, place and agenda for the extraordinary general meeting
2. If a requisition is received from members, the secretary has to convene a Board meeting in consultation with the chairman to consider the question of holding the extraordinary general meeting
3. If the Board decides to hold meeting, the secretary has to assist the Board in preparing the draft resolutions and the explanatory statement
4. Next, the Secretary has to draft a notice for calling the meeting the paying particular attention to the following points :
  - (a) The notice must state whether it is a requisitioned meeting
  - (b) It must contain the text of resolutions which is / are proposed to be passed with or without modification
  - (c) It should also state whether the resolution is to be passed at a special or ordinary resolution
  - (d) The notice must be accompanied by an explanatory statement mentioning all material facts concerning the items of business
5. He must arrange for the printing of notices of the meeting and the Explanatory Statement, proxy forms and admission cards
6. He should see that the notices along with the Explanatory Statement, proxy forms etc., are duly posted to the registered address of each member well in time so that at least 21 clear days notice to given to them. The notice must also be advertised in press.

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings)BATCH-2016-2018**

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7. The secretary should prepare the agenda of the meeting in consultation with the Chairman.
  8. He has to prepare a list of proxies and make necessary arrangements for taking poll,
  9. He has to make necessary seating arrangement for shareholders and others. He should make arrangements to segregate the ordinary shareholders from preference shareholders and proxies and should make them sit in separate enclosures, as under the law the proxies cannot vote on a show of hands, and cannot speak at the meeting and the preference shareholders can vote only on matters which directly affect their rights

**At the meeting**

10. He has to arrange for collecting the Admission Cards at the gate of the Meeting Hall
11. He has to give necessary explanations and supply documents as required by the Chairman
12. He has to ascertain the quorum and read the notice of the meeting
13. He has to take down detailed notes of the proceedings of the meeting

**After the Meeting :**

14. He has to prepare the minutes of the meeting and get them approved and signed by the chairman of the same meeting within 30 days of the conclusion of the meeting
15. He has to file the copies of the special resolutions, if any, passed at the meeting with the Registrar within 30 days
16. He has to execute the resolution passed at the meeting.

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**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings) BATCH-2016-2018**

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**POSSIBLE QUESTIONS**

**PART - A (1 mark)**

**(Online examinations)**

**PART – B (6 Marks)**

1. Explain the three types of General Meetings of the Share Holders.
2. What do you understand by the term Statutory Meeting. Discuss the procedure for conducting Statutory meeting and preparing statutory report of company.
3. What is Statutory Meeting? Write out the contents of Statutory Report.
4. What is Annual General Meeting? Explain the Statutory Requirements for conducting AGM.
5. What do you understand by the term Extraordinary General Meeting? Who can call for and convene Extraordinary General Meeting.
6. Enumerate the legal provisions regarding the Board Meeting.
7. Describe the provisions relating to the following :
  - (i) Frequency of Board Meeting
  - (ii) Board Resolution
  - (iii) Minutes of Board Meeting
8. Explain Secretary's duties in connection with Annual General Meeting.
9. Explain Secretary's duties in connection with Extraordinary General Meeting.
10. Explain Secretary's duties in connection with Board Meeting.

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401 UNIT: IV (Kinds of Company Meetings) BATCH-2016-2018**

---

11. What are the requisites of a valid board meeting? When a board meeting is said to be duly convened and properly constituted?
12. Indicate clearly the law relating to holding of a Statutory Meeting.
13. Draft a notice for the Annual General Meeting of PRS Company Ltd., setting out in serial order the ordinary business to be transacted at the meeting along with the duties of company secretary prior to, during and after an Annual General Meeting.

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**DEPARTMENT OF COMMERCE**

**II M. Com. (CA)**

**CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE - 16CCP401**

S. No	QUESTIONS	OPT. 1	OPT. 2	OPT. 3	OPT. 4	ANSWER
<b>Unit - IV</b>						
1	A Company may hold its first annual general meeting within a period of _____ months from the date of incorporation.	6 months	3 months	9 months	18 months	<b>18 months</b>
2	First annual general meeting should not to be more than _____ months from the close of financial years	9 months	6 months	12 months	10 months	<b>9 months</b>
3	The gap between two annual general meetings must not be more than _____ months.	15 months	18 months	17 months	20 months	<b>15 months</b>
4	The registrar has the power to extend the time of meeting by _____ months in special cases	4 months	6 months	3 months	5 months	<b>3 months</b>
5	The annual general meeting is sometimes called as _____	Management meeting	Ordinary general meeting	steering group	Statutory Meeting	<b>Ordinary general meeting</b>
6	The matters that are discussed in every annual general meeting is known as _____	special businesses	specific businesses	common businesses	Ordinary business	<b>Ordinary business</b>
7	In case of special business an _____ statement should accompany the notice of the meeting	financial	statutory	Explanatory	legal	<b>Explanatory</b>
8	If any company fails to hold the annual general meeting then, the company and its officers are punishable upto _____ fine	Rs. 50,000	Rs. 500	Rs. 5,000	Rs. 25,000	<b>Rs. 50,000</b>

9	The traditional form of business does not consists of , Hindu undivided Family (HUF) and Partnership Firms	Company	Sole Proprietorship	Hindu undivided Family	Partnership Firms	<b>Sole Proprietorship</b>
10	Registration of a joint stock company is _____	compulsory	optional	compulsory for public limited companies	optional for public limited companies and	<b>compulsory</b>
11	An assembly of relevant persons validly convened through proper notice for transacting business mentioned in an agenda is known as a _____	group	meeting	association	conference	<b>meeting</b>
12	The first meeting of the shareholders of a public limited company which is mandatory as per the Companies Act is known as _____	Annual General Meeting	board meetng	Statutory Meeting	extraordinary general meeting	<b>Statutory Meeting</b>
13	This type of business is conducted only_____ in the life time of the company	once	thrice	twice	four times	<b>once</b>
14	Every public limited company either limited by guarantee or shares must compulsorily convene the statutory meeting within _____ months from the date the company was entitled to commence the business	six	three	nine	five	<b>six</b>
15	Along with the notice of the statutory meeting a report called _____ is to be prepared and circulated to members	annual report	Auditors Report	Statutory report	directors report	<b>Statutory report</b>
16	The notice of the meeting should be circulated to members atleast _____ before the date of the meeting.	7 days	14 days	30 days	21 days	<b>21 days</b>
17	The statutory report shall be certified as correct by, not less than _____ of the company.	three directors	two directors	one director	one - third	<b>two directors</b>

18	At the commencement of the meeting, the chairman will ask _____ to read the notice of the meeting	the secretary	the assistant	the director	the board	<b>the secretary</b>
19	After the notice has been read, the chairman takes up the items of business according to the _____	boards decision	shareholders wish	Agenda	notice	<b>Agenda</b>
20	_____ has no power to adjourn the Statutory meeting	Shareholder	Manager	managing director	The chairman	<b>The chairman</b>
21	The AGM for a public limited company must be held _____	at every six months	annually	at every ten months	every fifteen months	<b>annually</b>
22	Statutory meeting is compulsory in case of a _____	Public Limited Company	Sole Proprietorship	Private Limited Company	Partnership Firms	<b>Public Limited Company</b>
23	A proxy need not be a _____ of that company	manager	employee	member	number	<b>member</b>
24	A proxy form should be enclosed with the _____	Minutes	notice	agenda	resolution	<b>notice</b>
25	The proxy forms are required to be submitted to the company at least _____ before the meeting.	12 hours	24 hours	48 hours	60 hours	<b>48 hours</b>
26	Any meeting other than the Statutory meeting and the annual general meeting of the company is called _____	Management meeting	Committee Meeting	steering group	extraordinary general meeting	<b>extraordinary general meeting</b>



27	The notice convening an Extraordinary general meeting must be accompanied by an _____	Expalnatory Statement	profit and loss account	annual report	Financial Statements	<b>Expalnatory Statement</b>
28	Explanatory Statement is necessary for each item of _____	special businesses	ordinary business	meeting	every meeting	<b>special businesses</b>
29	The Board should meet at least once in every _____ months	two	one	three	four	<b>three</b>
30	The Board should meet at least with a maximum interval of _____ between any two Meetings	60 days	120 days	30 days	80 days	<b>120 days</b>
31	Board meeting should be helsd at least _____ times in each year	three	two	one	four	<b>four</b>
32	When the proceedings start the Chairman requests the secretary to read the _____ of the last meeting.	minutes	notice	agenda	reolution	<b>minutes</b>
33	As soon as the 'minutes' are read and approved as correct, _____ will sign the 'minutes'	The secretary	the board of directors	the Chairman	the members	<b>the Chairman</b>
34	The Minutes of proceedings of a Meeting should be entered in the _____	form	notice	Minutes Book	register	<b>Minutes Book</b>
35	The proceedings of a Meeting should be recorded in the Minutes Book within _____ from the conclusion of the Meeting	fifteen days	fortyfive days	thirty days	ninety days	<b>thirty days</b>

36	The date of entering the Minutes should be specified in the _____ by a Director or the Secretary	Minutes Book	register	notice	resolution	<b>Minutes Book</b>
37	The Minutes of Meetings of the Board can be inspected only by the _____	Auditor	Directors	Chairman	Secretary	<b>Directors</b>
38	Extracts of the Minutes should be given only after the Minutes have been duly _____	signed	approved	typed	verified	<b>signed</b>
39	The names of _____ who dissented or abstained from the decision should be recorded	the member	auditors	the Directors	the additional directors	<b>the Directors</b>
40	An _____ Director should not participate in the discussion or vote.	interested	additional	retired	disinterested	<b>interested</b>
41	The Minutes of all Meetings should be preserved _____	permanently	temporarily	for five years	for three years	<b>permanently</b>
42	If a company wants to make any change in the terms of security or if they wish to modify the rate of interest of debentures, the company will call for _____ meeting	debenture holders	shareholders	creditors	extraordinary	<b>debenture holders</b>
43	Debenture holders meeting is held in order to protect the interest of the _____	shareholders	creditors	bankers	debenture holders	<b>debenture holders</b>
44	If the authorities want to make a scheme of arrangements with its creditors then meeting will be conducted by the authority exclusively with the _____ of the company	creditors	shareholders	debentureholders	secretary	<b>creditors</b>

45	_____ has to prepare the agenda (in consultation with the Chairman) and the notice of the Board meeting.	The secretary	the board of directors	The Manager	The Managing director	<b>The secretary</b>
46	The agenda and the notice of the Board meeting should be prepared by the secretary in consultation with the _____	Chairman	board	auditor	manger	<b>Chairman</b>
47	It is the duty of the secretary to keep in mind the time limit prescribed by the Act for holding _____	the debentureholder meeting	the shares	the Statutory Meeting	the extraordinary meeting	<b>the Statutory Meeting</b>
48	A certified copy of the report must also be filed with _____	the Registrar	the local government	the central government	the auditor	<b>the Registrar</b>
49	The secretary has to prepare a _____ showing names, addresses and the number of shares held by each one of them for placing before the meeting	list of directors	list of members	list of chairman	list of registers	<b>list of members</b>
50	If directed by the chairman, the secretary has to read the _____	statutory report	agenda	notice	minutes	<b>statutory report</b>
51	The secretary has to see that the duly authorized Balance Sheet and Profit and Loss Account are audited and certificate by the _____	board	auditors	chairman	creditors	<b>auditors</b>
52	The secretary is the one to authorize the bank to open a separate _____ account	dividend	current	joint	savings	<b>dividend</b>
53	The secretary has to close the 'share transfer register' and notify the same in _____	notice	television media	radio	newspapers	<b>newspapers</b>

54	The secretary has to look after the preliminary work of _____ distribution	profit	capital	dividend	loss	<b>dividend</b>
55	The changes made in the Register of Directors should be notified with the Registrar within _____ of the meeting	30 days	90 days	60 days	15 days	<b>30 days</b>
56	The annual return prepared should be filed with Registrar along with necessary fee within _____ of the meeting	60 days	15 days	45 days	90 days	<b>60 days</b>
57	The secretary has to execute the _____ passed at the meeting	motion	decision	resolution	conclusion	<b>resolution</b>
58	The Secretary has to arrange for collecting the _____ at the gate of the Meeting Hall	Admission Cards	Voting card	membership card	proxy form	<b>Admission Cards</b>
59	The Secretary has to prepare a _____ and make necessary arrangements for taking poll	list of directors	list of members	list of shareholders	list of proxies	<b>list of proxies</b>
60	The Secretary has to prepare the minutes of the meeting and get them approved and signed by the _____ of the same meeting within 30 days of the conclusion of the meeting	directors	chairman	manager	managing director	<b>chairman</b>

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

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**UNIT – V (Drafting of Correspondence relating to the Meetings)**

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**UNIT - V**

**Unit – V**

Drafting of Correspondence relating to the Meetings – Drafting of Notices – Agenda and Minutes of the Meetings of Shareholders and Directors – Drafting of Chairman’s Speech – Annual Report and Auditors Report.

**DRAFTING OF CORRESPONDENCE RELATING TO THE MEETINGS**

**Introduction**

Writing in its broad sense - as distinct from simply putting words on paper - has three steps: thinking about it, doing it, and doing it again (and again and again as often as time will allow and patience will endure). The first step, “thinking” involve choosing a subject, exploring ways of developing it, and devising strategies of organization and style. The second step, “doing” is usually called “drafting”; and the third, “doing again”, is “revising”. Writing is a complex activity. The ability to communicate clearly is crucial. It is similarly important in the non-working aspects of life. The written word (whether on paper or a PC screen) is still a major channel of communication.

Writing clearly, whether essays, letters, memos or reports, is a key skill. One could be more confident and competent in expressing in an understanding manner. You could usefully develop your ability to structure your writing, whether of essays or reports by looking at how use the basic forms of written communication and whether you are writing, attention to your writing style is likely to help you communicate better.

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

---

**UNIT – V (Drafting of Correspondence relating to the Meetings)**

---

The ability to communicate clearly in writing is important in virtually all aspects of life. This implies that for a variety of practical reasons it's through the mastery of writing that the individual comes to be fully effective in intellectual organization, not only in the management of everyday affairs, but also in the expression of ideas and arguments. The mere fact that something is written conveys its own message, for example of permanence and authority. Certain people write and certain things get written. It is for such reasons that writing comes to be associated with status and power. By writing we can have control not only of information but of people. Learning to write well in a foreign language is one of the most difficult challenges facing the language learner. Finding the right word, using an appropriate style, respecting conventional formats and correct spelling are just a few areas to consider. Effective writing plays an increasingly important role in today's world. A clear and concise style ensures that essential information is both understood and acted upon.

**Drafting of Notices**

Notice of every meeting of company must be sent to all members entitled to attend and vote at the meeting. Notice of the AGM must be given to the statutory auditor of the company.

A notice calling a meeting must state the place, day and hour of the meeting and must contain the agenda of the meeting. If the meeting is a statutory or annual general meeting, notice must describe it as such. Where any items of special business are to be transacted at the meeting, an explanatory statement setting out all material facts concerning each item of the special business including the concern or interest, if any, therein of every director and manager is

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

---

**UNIT – V (Drafting of Correspondence relating to the Meetings)**

---

any, must be annexed to the notice. If it is intended to propose any resolution as a special resolution, such intention should be specified.

A notice convening an AGM must be accompanied by the annual accounts of the company, the director's report and the auditor's report.

It is equally important that a notice should be drafted in a manner that it must communicate the message to shareholders, director's and auditor's. So it should be in a simple language and easily understandable from shareholder to auditor.

It should convey the information directly without complicated words and sentences. If it is not so then it will create a major problem in conducting the meeting. Because before arriving the meeting the shareholders and others should have thorough knowledge about of the meeting like agenda, business that should be discussed etc.,

The notice should contain the following

- At the top of the notice, kind of meeting should be mentioned (Notice of Annual General Meeting).
- Next to the title the name and registered address of the company should be entered.
- Subsequently, the day, date, time and place of meeting with clear address where the meeting is to held is to be declared
- Followed by that, ordinary business that should be transacted in the meeting should be given
- After that the special business that is to be discussed should be given
- The notice become legally valid only if it is signed proper authority along with the company's seal

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

---

**UNIT – V (Drafting of Correspondence relating to the Meetings)**

---

- Followed that is should give notes for certain important matters such as appointment of proxy, register of members etc.,
- It should also contain the explanatory statement
- At the end of the annexure an authority should sign along with place and date.

**Specimen Notice of Annual General Meeting**

**NOTICE OF ANNUAL GENERAL MEETING**

**XYZ INDIA LIMITED**

Registered Office: 45 A, Sir Mathuradas VasANJI Road, Andheri East, Mumbai 400 093

**NOTICE** IS HEREBY GIVEN that the Fifty-eighth Annual General Meeting of the Members of XYZ India Limited will be held on Tuesday, 29th April 2015 at 3.30 p.m. at M.C. Ghia Hall, Gen. J. Bhosale Marg, near Sachivalaya Gymkhana, Nariman Point, Mumbai 001 to transact the following business :

**Ordinary business**

1. To receive, consider and adopt the audited Balance Sheet as at 31st December 2014 and the Profit and Loss Account for the year ended on that date and the Reports of the Directors and Auditors thereon.
2. To consider and, if thought fit, to pass, with or without modification, the following Resolution as an Ordinary Resolution :

**"RESOLVED THAT** an Interim Dividend for the year ended 31st December 2014 of Rs. 10 per Equity Share of Rs. 10 paid to the Members whose names appeared on the Register of Members on 6th August 2014, be and the same is hereby approved and confirmed".



CLASS : II M.COM CA

COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE

COURSE CODE : 16CCP401

BATCH-2016-2018

**UNIT – V (Drafting of Correspondence relating to the Meetings)**

**“RESOLVED FURTHER THAT** a Final Dividend for the year ended 31st December 2014 of Rs. 35 per Equity Share of Rs. 10 be paid to:

i) those Members whose names appear on the Register of Members of the Company on 29th April 2015; and

ii) those whose names appear as beneficial owners as at the close of business on 17th April 2015, as per details to be furnished by the National Securities Depository Limited and Central Depository Services (India) Limited."

3. To consider and, if thought fit, to pass, with or without modification, the following Resolution as an Ordinary Resolution :

"RESOLVED that Mr. S. R. Sharma who retires by rotation and who is eligible for re-election be and is hereby re-appointed a Director."

4. To consider and, if thought fit, to pass, with or without modification, the following Resolution as an Ordinary Resolution :

**"RESOLVED that** Mr. J. M. James who retires by rotation and who is eligible for re-election be and is hereby re-appointed a Director."

5. To consider and, if thought fit, to pass, with or without modification, the following Resolution as an Ordinary Resolution :

"RESOLVED THAT M/s. A B C & Co. LLP, Chartered Accountants, be and are hereby appointed Auditors of the Company to hold office from the conclusion of this Meeting till the conclusion of the next Annual General Meeting as the retiring Auditors, M/s. S. R. B & Co. LLP have given the Company notice, in writing, expressing their unwillingness to be re-appointed as Auditors on their retirement at the ensuing Annual General Meeting.

CLASS : II M.COM CA

COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE

COURSE CODE : 16CCP401

BATCH-2016-2018

---

UNIT – V (Drafting of Correspondence relating to the Meetings)

---

**“RESOLVED FURTHER THAT** the Board of Directors be and is hereby authorised to fix the remuneration payable and the reimbursement of out-of-pocket expenses, if any, to the said Auditors.”

**Special Business**

6. To consider and, if thought fit, to pass, with or without modification, the following Resolution as a Special Resolution :

**“RESOLVED THAT** the Company hereby accords its approval and consent under Sections 198, 269, 309 and 314 of the Companies Act, 1956 and all other applicable provisions, if any, and provisions of the Companies Act, 2013 as and when notified and made applicable, to the appointment of Ms. Joshna (Alternate to Mr. A. Ajay) as Wholetime Director of the Company for the period from 1st May 2014 to 9th February 2015 and to her receiving remuneration, benefits and amenities as Wholetime Director of the Company upon the terms and conditions and stipulations contained in an Agreement to be entered into between the Company and Ms. Joshna, a draft whereof is placed before the Meeting and which, for the purposes of identification, is initialled by the Chairman of the Meeting. Provided that the aforesaid approval and consent shall not be impaired by reason of Mr. A. Ajay returning to the State of Maharashtra and Ms. Joshna being appointed as Alternate Director to Mr. Ajay”

**“RESOLVED FURTHER THAT** the remuneration including benefits, amenities and perquisites as set out in the said draft Agreement shall nevertheless be paid and allowed to Ms. Joshna as the minimum remuneration for any financial year in case of absence or inadequacy of profits for such year, subject to the approval of the Central Government, if required but shall not in any such year exceed the

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

---

**UNIT – V (Drafting of Correspondence relating to the Meetings)**

---

ceiling laid down in this behalf in Schedule XIII to the Companies Act, 1956, from time to time”.

**“RESOLVED FURTHER THAT** the Board of Directors be and is hereby authorised to take such steps and do all such acts, matters and things as may be considered necessary, proper and expedient to give effect to this Resolution.”

7. To consider and, if thought fit, to pass, with or without modification, the following Resolution as a Special Resolution :

"RESOLVED THAT the Company hereby accords its approval and consent under Sections 198, 269, 309 and 314 of the Companies Act, 1956 and all other applicable provisions, if any, and provisions of the Companies Act, 2013 as and when notified and made applicable, to the re-appointment of Mr. M. G. Raj (presently Alternate to Mr. J. M. James) as Wholetime Director of the Company for the period from 6th September 2014 to 5th September 2015 and to his receiving remuneration, benefits and amenities as Wholetime Director of the Company upon the terms and conditions and stipulations contained in an Agreement to be entered into between the Company and Mr. Raj, a draft whereof is placed before the Meeting and which, for the purposes of identification, is initialled by the Chairman of the Meeting.

Provided that the aforesaid approval and consent shall not be impaired by reason of Mr. J. M. James returning to the State of Maharashtra and Mr. Raj being appointed as Alternate Director to Mr. James or Mr. Raj being appointed as Alternate Director to any other Director or Mr. Raj filling in any casual vacancy or being appointed as Additional Director or as a Director in his own right by the Company in General Meeting.

CLASS : II M.COM CA

COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE

COURSE CODE : 16CCP401

BATCH-2016-2018

**UNIT – V (Drafting of Correspondence relating to the Meetings)**

**“RESOLVED FURTHER THAT** the remuneration including benefits, amenities and perquisites as set out in the said draft Agreement shall nevertheless be paid and allowed to Mr. Raj as the minimum remuneration for any financial year in case of absence or inadequacy of profits for such year, subject to the approval of the Central Government, if required but shall not in any such year exceed the ceiling laid down in this behalf in Schedule XIII to the Companies Act, 1956, from time to time.

**RESOLVED FURTHER THAT** the Board of Directors be and is hereby authorised to take such steps and do all such acts, matters and things as may be considered necessary, proper and expedient to give effect to this Resolution."

8. To consider and, if thought fit, to pass, with or without modification, the following Resolution as a Special Resolution :

**"RESOLVED THAT** pursuant to the provisions of Sections 198, 309(4) and other applicable provisions, if any, of the Companies Act, 1956, and provisions of the Companies Act, 2013 as and when notified and made applicable, the Company's Directors other than the Managing

Director or Wholtime Directors or Directors who are employees of XYZ or companies of the XYZ Group, in addition to sitting fees paid to them for attending the Meetings of the Board of Directors or its Committees, be paid every year for a period of five years from 1st January

2014, commission of an amount as may be determined by the Board of Directors from time to time, subject to a ceiling of one per cent of the net profits of the Company computed in the manner laid down in Section 198(1) of the Companies Act, 1956, with authority to the

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

---

**UNIT – V (Drafting of Correspondence relating to the Meetings)**

---

Board of Directors to distribute the commission amongst such Directors in such manner as the Board of Directors may from time to time decide."

By Order of the Board

COMPANY SECRETARY

Registered Office:

45/A, Sir Mathuradas VasANJI Road

Andheri East

Mumbai 400 093

Mumbai, 3rd March 2014

**NOTES**

1. A Member entitled to attend and vote is entitled to appoint a proxy to attend and vote instead of himself. A proxy need not be a Member of the Company. The Proxy form, in order to be effective, must be received at the Registered Office of the Company not less than 48 hours before the Annual General Meeting.
2. The Register of Members of the Company shall remain closed from Friday, 18th April 2015 to Tuesday, 29th April 2015 (both days inclusive).
3. The relevant Explanatory Statement in respect of Item Nos. 6 to 8 of the Notice is annexed to and forms part of the Notice.
- 4 (i) The Company has transferred all unclaimed dividends upto the financial year ended 31st March 1995 to the General Revenue Account of the Central Government as required under Section 205A of the Companies Act, 1956. Members who have not encashed their dividend warrants for the said years are requested to claim the amount from the Registrar of Companies, Maharashtra.  
(ii) Pursuant to Section 205A and 205C of the Companies Act, 1956, unclaimed dividends upto the First Interim Dividend for the year ended 31st December 2006

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

---

**UNIT – V (Drafting of Correspondence relating to the Meetings)**

---

have been transferred to the Investor Education and Protection Fund. In terms of Section 205A and 205C, any dividend remaining unclaimed for a period of seven years from the due date of payment is required to be transferred to the Investor Education and Protection Fund. Once unclaimed dividends are so transferred, Members will not be entitled to claim these dividends. Members who have not encashed their dividend warrants towards the Second Interim Dividend for the year ended 31st December 2006 or thereafter are requested to write to the Company's Registrars and Transfer Agents.

5. Members seeking any information or clarifications on the Annual Report are requested to send in written queries to the Company at least one week before the date of the Meeting. This would enable the Company to compile the information and provide replies at the Meeting.

**PROFILE OF DIRECTORS BEING APPOINTED**

As required by Clause 49 of the Listing Agreement, the particulars of Directors who are proposed to be appointed are given below:

1. Name :  
Age :  
Qualifications :  
Experience :

2. Name :  
Age :  
Qualifications :  
Experience :

3. Name :

CLASS : II M.COM CA

COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE

COURSE CODE : 16CCP401

BATCH-2016-2018

**UNIT – V (Drafting of Correspondence relating to the Meetings)**

Age :

Qualifications :

**EXPLANATORY STATEMENT**

1. Item No.

Pursuant to Section 102(1) of the Companies Act, 2013

The following Explanatory Statement sets out all material facts relating to Item Nos. 6 to 8 of the accompanying Notice of the Annual General Meeting to be held on 29th April 2015:

Ms. Joshna was appointed as Alternate to Mr. A. Ajay with effect from 1st May 2014 by a Resolution passed by the Board of Directors at its Meeting held on 30th April 2014. Ms. Joshna, being an employee of the Company, was appointed Wholtime Director from the said date, subject to the approval of the Shareholders and the Central Government. The approval of the Central Government has since been received.

**Special Resolution.**

The remuneration paid and the perquisites provided to her are set out below :

- i) Salary - Rs. 126,000 per month
- ii) Increments - Such increments as may be fixed by the Board of Directors from time to time in the salary range of Rs. 126,000 to Rs. 300,000 per month.
- iii) Special Allowance of Rs. 34,800 per month and such higher amount as may be decided by the Board from time to time.
- iv) Performance Bonus with a target payout of Rs. 527,760 for the financial year ending 31st December 2014 and a payout range of 0% to 200% of target amount to be paid at the end of the financial year, as may be determined by the Board of Directors.



**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

---

**UNIT – V (Drafting of Correspondence relating to the Meetings)**

---

- v) Housing - The Company to provide rent free partially furnished, airconditioned, residential accommodation and partial reimbursement of salary of servant with telephone, gas and electricity, the monetary value of which may be evaluated as per the Income-tax Rules, 1962.
- vi) Medical Aid - Medical aid benefits for self and family as applicable to the Officers of the Company, subject to the condition that the cost of medical benefits to the Company shall not exceed one month's salary per year.
- vii) Free use of the Company's car and reimbursement of salary of driver for use on the Company's business as well as for own use.
- viii) The Company to pay the premium for the Personal Accident Insurance Policy taken for Ms. Joshna along with other Officers of the Company.

(All the above perquisites shall be evaluated as per Income-tax Rules, wherever applicable. In the absence of any such Rule, perquisites shall be evaluated at actual cost.)

**MINIMUM REMUNERATION**

**OTHER TERMS AND CONDITIONS**

**2. Item No. 7**

The above remuneration (including perquisites) shall be paid to Ms. Potts as the minimum remuneration in the event of absence or inadequacy of profits in any financial year of the Company.

- a) She shall not be paid any sitting fees for attending Board/Committee Meetings.
- b) She shall not become interested or otherwise concerned directly or through her husband and / or minor children in any selling agency without prior approval of the Central Government.



CLASS : II M.COM CA

COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE

COURSE CODE : 16CCP401

BATCH-2016-2018

UNIT – V (Drafting of Correspondence relating to the Meetings)

c) The appointment may be terminated by the Company or by Ms. Joshna by giving not less than three months' prior notice in writing. The Directors are of the opinion that Ms. Joshna knowledge and experience was of benefit to the Company. The Board, therefore, recommends the acceptance of the resolution set out in item No. 6 of the Notice convening the Meeting.

The said draft agreement referred to in the resolution is available for inspection by the Members at the Registered Office of the Company on any working day between 11 a.m. and 1 p.m. prior to the date of the Annual General Meeting.

No Director is concerned or interested in the resolution set out in item No. 6 of the Notice convening the Meeting.

By Order of the Board

Registered Office:

45/A, Sir Mathuradas VasANJI Road

Andheri East

Mumbai 400 093

Mumbai, 3rd March 2015

COMPANY SECRETARY

XYZ INDIA LIMITED

PROXY FORM

XYZ INDIA LIMITED

ATTENDANCE SLIP

Registered Office : 45/A, Sir Mathuradas VasANJI Road, Andheri East, Mumbai 400 093

Reg. Folio No. / DP Id No. / Client Id No.

.....

.....

I/We

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.....of.....

CLASS : II M.COM CA

COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE

COURSE CODE : 16CCP401

BATCH-2016-2018

UNIT – V (Drafting of Correspondence relating to the Meetings)

.....  
.....  
.....  
.....i  
n the district  
of.....  
..... being a member/members of the above  
named Company hereby appoint  
.....  
.....of.....  
.....  
in the district of.....or failing him  
.....  
of.....in the district  
of.....  
.....  
as my/our proxy to vote for me/us on my/our behalf at the FIFTY-EIGHTH  
ANNUAL GENERAL MEETING of the Company to be held on 29th April 2015 and  
at  
any adjournment(s) thereof.

Signed this.....day of.....  
Signature.....

Note: This form in order to be effective should be duly stamped, completed and  
signed and must be deposited at the Registered Office of the Company, not less  
than 48 hours before the Meeting.

Registered Office : 54/A, Sir Mathuradas Vasanji Road, Andheri East, Mumbai 400  
093

Fifty-eighth Annual General Meeting - 29th April 2014

Reg. Folio No. / DP Id No. / Client Id No. ....

I certify that I am a registered shareholder / proxy for the registered shareholder of  
the Company.

I hereby record my presence at the FIFTY-EIGHTH ANNUAL GENERAL MEETING  
of the Company at M.C. Ghia Hall, Near Sachivalaya  
Gymkhana, General J. Bhosale Marg, Mumbai 400 021 on Tuesday, 29th April  
2015.

CLASS : II M.COM CA

COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE

COURSE CODE : 16CCP401

BATCH-2016-2018

**UNIT – V (Drafting of Correspondence relating to the Meetings)**

Member's/Proxy's name in full Member's/Proxy's Signature

Note : Please fill in this attendance slip and hand it over at the ENTRANCE OF THE MEETING HALL

15 paise

Revenue

Stamp

**Drafting of Agenda of the Meetings of Shareholders**

**An agenda** is a list of meeting activities in the order in which they are to be taken up, by beginning with the call to order and ending with adjournment. It usually includes one or more specific items of business to be discussed. It may, but is not required to, include specific times for one or more activities.

Creating an effective agenda is one of the most important elements for a productive meeting. Here are some reasons why the meeting agenda is so important. The Agenda communicates important information such as:

- 1) Topics for discussion
- 2) Presenter or discussion leader for each topic
- 3) Time allotment for each topic (advisable);
- 4) Provides an outline for the meeting (how long to spend on which topics)
- 5) Can be used as a checklist to ensure that all information is covered
- 6) Lets participants know what will be discussed if it's distributed before the meeting. This gives them an opportunity to come to the meeting prepared for the upcoming discussions or decisions.
- 7) Provides a focus for the meeting (the objective of the meeting must be clearly stated in The agenda) to follow it during the meeting!

**Points on a typical agenda may include:**

- Welcome/open meeting

CLASS : II M.COM CA

COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE

COURSE CODE : 16CCP401

BATCH-2016-2018

---

**UNIT – V (Drafting of Correspondence relating to the Meetings)**

---

- Apologies for absence
- Approve minutes of the previous meeting
- Matters arising from the previous meeting
- A list of specific points to be discussed — this section is where the bulk of the discussion as well as *decisions* in the meeting usually takes place
- Any other business (AOB) — allowing a participant to raise another point for discussion.
- Arrange/announce details of next meeting
- Close meeting

**Drafting of Minutes of the Meetings of Shareholders**

The Minutes are usually written from the notes taken by the chairman and secretary during the course of the meeting. They must be drafted in such a manner that there is no ambiguity in interpretation. The minutes must be recorded in paragraphs serially numbered. Each paragraph should preferably be given a heading.

**Contents :**

The minutes must incorporate the following facts

- The nature of the meeting – annual general meeting or extraordinary general meeting
- The number of the meeting, say, the eighth Annual General Meeting
- The name of the Company
- The date, time and place of the meeting
- The names of the Chairman and Secretary

CLASS : II M.COM CA

COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE

COURSE CODE : 16CCP401

BATCH-2016-2018

---

**UNIT – V (Drafting of Correspondence relating to the Meetings)**

---

- The names of the members present at the meeting with a view to indicating the presence of a quorum. Where the attending members are very large in number, it would suffice to state that all the shareholders were present or that so many(actual number) members are present
- All the resolutions passed at the meeting. They will of course be in the same order at the agenda
- Vote of thanks
- Chairman's signature with date in his own hand. The secretary should also initial the minutes

The minutes should also state matters on which no formal decisions were made, e.g., that the notice was read, that the auditors' report was read, that the directors' report and accounts were read or were taken as read. If certain matters could not be discussed because of want of time, that fact must also be stated therein.

**Drafting of Agenda of the Meetings of Directors**

**An agenda** is a list of meeting activities in the order in which they are to be taken up, by beginning with the call to order and ending with adjournment. It usually includes one or more specific items of business to be discussed. It may, but is not required to, include specific times for one or more activities.

Creating an effective agenda is one of the most important elements for a productive meeting. Here are some reasons why the meeting agenda is so important. The Agenda communicates important information such as:

- 1) Topics for discussion

CLASS : II M.COM CA

COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE

COURSE CODE : 16CCP401

BATCH-2016-2018

---

UNIT – V (Drafting of Correspondence relating to the Meetings)

---

- 2) Presenter or discussion leader for each topic
- 3) Time allotment for each topic (advisable);
- 4) Provides an outline for the meeting (how long to spend on which topics)
- 5) Can be used as a checklist to ensure that all information is covered
- 6) Lets participants know what will be discussed if it's distributed before the meeting.

This gives them an opportunity to come to the meeting prepared for the upcoming discussions or decisions.

- 7) Provides a focus for the meeting (the objective of the meeting must be clearly stated in The agenda) to follow it during the meeting!

**Points on a typical agenda may include:**

- Welcome/open meeting
- Apologies for absence
- Approve minutes of the previous meeting
- Matters arising from the previous meeting
- A list of specific points to be discussed — this section is where the bulk of the discussion as well as *decisions* in the meeting usually takes place
- Any other business (AOB) — allowing a participant to raise another point for discussion.
- Arrange/announce details of next meeting
- Close meeting

**Drafting of Minutes of the Meetings of Directors**

At every business meeting the secretary of the board or any other appointed person usually takes **minutes** during meetings. The task of that person is to note down all the important points made at the meeting and later prepare a summary

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

---

**UNIT – V (Drafting of Correspondence relating to the Meetings)**

---

of what was said and decided. Minutes are the official record of an organization. It is crucial that they are accurate since they are the legal record of the proceedings and actions of the organization.

There is no standardized level of content and format for board minutes so when writing minutes, you should follow the standard format which differs according to the kind of an organisation and meeting or the format set by the organisation, but typical minute format should include the following components:

- The name of the organization
- Subject
- Date, time and place of the meeting
- List of participants and if there is a quorum
- Summary of the chairperson's introduction
- Summary of opinions, suggestions and all motions made
- Any conflicts of interest or abstainments from voting
- Action points decided upon, people assigned to each action and deadlines given,
- When the meeting ended
- Date and time of next meeting
- Who developed the minutes.

Written minutes are distributed to board members before each meeting for member's review. Minutes for the previous meeting should be reviewed right away in the next meeting. Any changes should be amended to the minutes and a new version submitted before the next meeting where the new version is reviewed to be accepted. Minutes should be retained in a manual and shared with all board members.

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

---

**UNIT – V (Drafting of Correspondence relating to the Meetings)**

---

**Procedure to Write and Keep Meeting Minutes**

**Content**

**First paragraph:** Kind of meeting (regular, special, etc.); the name of the organization; the date, time and place of the meeting; the name of the presiding officer and secretary; approximate number of members present; establishment of a quorum; and recording of the action taken on the minutes of the previous meeting.

**The body**

Should include, with each motion being a separate paragraph,:

- The exact wording of motions, whether passed or failed, and the way they were disposed of, along with the name of the maker
- If the vote was counted, the count should be recorded. Tellers reports, if there are any, are included. In roll call votes the record of each person's vote is included
- Notices of motions – previous notice is sometimes required e.g. amendments of the bylaws
- Points of order and appeals

**Last paragraph:** hour of adjournment

**N.B.** Not included

- The opinion or interpretation of the secretary
- Judgmental phrases e.g. “heated debate” “valuable comment”
- Discussion: Minutes are a record of what was done at the meeting, not what was said at the meeting
- Motions that were withdrawn
- Name of seconder is unnecessary

**Attachments**



**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

---

**UNIT – V (Drafting of Correspondence relating to the Meetings)**

---

The official copy of the minutes should have attached to it the original signed copy of:

- Committee Reports
- Officers Reports
- Written Motions
- Tellers Reports
- Correspondence

**Approval**

If the minutes have been distributed to the members before the next meeting then the approval process can be very short. The presiding officer simply states “Are there any corrections to the minutes as printed?” If there are none, or after all corrections have been made, the presiding officer may say “If there is no objection, the minutes will be approved as printed (or as corrected).”

**Signature**

After the minutes have been corrected and approved by the membership, they should be signed by the secretary and can be signed by the president. The word “approved” and the date of the approval should also be included.

**Points to be considered while drafting minutes:**

- Make sure that all of the essential elements are noted, such as type of meeting, name of the organization, date and time, name of the chair or facilitator, main topics and the time of adjournment. For formal and corporate meetings include approval of previous minutes, and all resolutions.
- Prepare an outline based on the agenda ahead of time, and leave plenty of white space

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

---

**UNIT – V (Drafting of Correspondence relating to the Meetings)**

---

for notes. By having the topics already written down, you can jump right on to a new topic without pause.

- Prepare a list of expected attendees and check off the names as people enter the room. Or, you can pass around an attendance sheet for everyone to sign as the meeting starts.
- To be sure about who said what, make a map of the seating arrangement, and make sure to ask for introductions of unfamiliar people.
- Don't make the mistake of recording every single comment, but concentrate on getting the gist of the discussion and taking enough notes to summarize it later. Remember that minutes are the official record of what happened, not what was said, at a meeting.
- Use whatever device is comfortable for you, a notepad, a laptop computer, a Tape recorder, a steno pad, shorthand. Many people routinely record important meetings as a backup to their notes.
- Be prepared! Study the issues to be discussed and ask a lot of questions ahead of time. If you have to fumble for understanding while you are making your notes, they won't make any sense to you later.
- Don't wait too long to type up the minutes, and be sure to have them approved by the chair or facilitator before distributing them to the attendees.
- Don't be intimidated, you may be called upon many times to write meeting minutes, and the ability to produce concise, coherent minutes is widely admired and valued.

**Drafting of Chairman's Speech**

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

---

**UNIT – V (Drafting of Correspondence relating to the Meetings)**

---

Before proceeding to regular business at the annual general meeting the chairman usually makes a brief prefatory speech. In his address the chairman makes expression of condolence or congratulations and points out the repercussions of various economic and political problems on the company's working. He also comments on the Directors' Report and explain the future development schemes of the company.

**Drafting of Annual Report**

In order to enable the members to make the best use of this opportunity the directors are required to prepare and send to every member a document known as the "Statutory Report" at least 21 days before the day on which the meeting is to be held. If the report is sent later it will still be valid if it is so agreed to by a unanimous vote of the members entitled to attend and vote at the meeting [Sec. 165 (2)]. The report should be certified as correct by at least two directors, one of whom shall be the managing director where there is one and must also be certified by the auditors [Sec. 165 (4)] A copy of this report must be filed with the Registrar forthwith at the time of sending it to the members[Sec. 165 (5)]. .

The statutory report shall set out

- (a) the total number of shares allotted, distinguishing shares allotted as fully or partly paid-up otherwise than in cash, and stating in the case of shares partly paid-up, the extent to which they are so paid-up, and in either case, the consideration for which they have been allotted

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

---

**UNIT – V (Drafting of Correspondence relating to the Meetings)**

---

- (b) the total amount of cash received by the company in respect of all the shares allotted, distinguished as aforesaid ;
- (c) an abstract of the receipts of the company and of the payments made there out, upto a date within seven days of the date of the report, exhibiting under distinctive headings the receipts of the company from shares and debentures and other sources, the payments made there out, and particulars concerning the balance remaining in hand, and an account or estimate of the preliminary expenses of the company, showing separately any commission or discount paid or to be paid on the issue or sale of shares or debentures
- (d) the names, addresses and occupations of the directors of the company and of its auditors ; and also, if there be any, of its manager, and secretary ; and the changes, if any, which have occurred in such names, addresses and occupations since the date of the incorporation of the company ;
- (e) the particulars of any contract which, or the modification or the proposed modification of which, is to be submitted to the meeting for its approval, together in the latter case with the particulars of the modification or proposed modification ;
- (f) the extent, if any, to which each underwriting contract, if any, has not been carried out, and the reasons therefor ;
- (g) the arrears, if any, due on calls from every director and from the manager ; and
- (h) the particulars of any commission or brokerage paid or to be paid in connection with the issue or sale of shares or debentures to any director or to the manager.

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

---

**UNIT – V (Drafting of Correspondence relating to the Meetings)**

---

- (4) The statutory report shall be certified as correct by not less than two directors of the company one of whom shall be a managing director, where there is one. After the statutory report has been certified as aforesaid, the auditors of the company shall, in so far as the report relates to the shares allotted by the company, the cash received in respect of such shares and the receipts and payments of the company, certify it as correct.
- (5) The Board shall cause a copy of the statutory report certified as is required by this section to be delivered to the Registrar for registration forthwith, after copies thereof have been sent to the members of the company.
- (6) The Board shall cause a list showing the names, addresses and occupations of the members of the company, and the number of shares held by them respectively, to be produced at the commencement of the statutory meeting, and to remain open and accessible to any member of the company during the continuance of the meeting.
- (7) The members of the company present at the meeting shall be at liberty to discuss any matter relating to the formation of the company or arising out of the statutory report, whether previous notice has been given or not ; but no resolution may be passed of which notice has not been given in accordance with the provisions of this Act.
- (8) The meeting may adjourn from time to time, and at any adjourned meeting, any resolution of which notice has been given in accordance with the provisions of this Act, whether before or after the former meeting, may be passed ; and the adjourned meeting shall have the same powers as an original meeting.
- (9) If default is made in complying with the provisions of this section, every director or other officer of the company who is in default shall be punishable with fine which may extend to five thousand rupees.
- (10) This section shall not apply to a private company.

**Drafting of Auditors Report**

CLASS : II M.COM CA

COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE

COURSE CODE : 16CCP401

BATCH-2016-2018

UNIT – V (Drafting of Correspondence relating to the Meetings)

**[ON THE LETTER HEAD OF THE COMPANY]  
SPECIMEN OF NOTICE OF STATUTORY MEETING**

**Notice** is hereby given that in pursuance of the provision of Section 165 of the Companies Act, 1956, the Statutory Meeting of the Company will be held at the Registered Office of the Company at [Address of the Registered Office] on [day], the [date] at [Time] to consider and adopt the Statutory Report and to discuss any other matter pertaining to the formation of the Company.

Please find enclosed a copy of the Statutory Report.

**By order of the Board**

**[Name of the Company]**

**Place:**

**Date :**

**Director**

1. A member entitled to attend and vote at the meeting is entitled to appoint one or more proxies to attend and vote instead of himself and such proxy need not be a member.
2. The proxies in order to be effective should be duly stamped, completed and signed and must be received by the Company at its registered office, not less than 48 hours before the commencement of the Meeting.
3. The explanatory statement pursuant to section 173 (2) of the Companies Act, 1956 is annexed hereto.

**THE EXPLANATORY STATEMENT**

( Pursuant to section 173 (2) of the Companies Act, 1956 )

The Members of the Company are hereby informed that this Company was incorporated on [date of incorporation] and got the Certificate of Commencement of Business on [date of commencement of business] from the office of Registrar of Companies, [concerned state]. In pursuance of Section 165 of the Companies

CLASS : II M.COM CA

COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE

COURSE CODE : 16CCP401

BATCH-2016-2018

**UNIT – V (Drafting of Correspondence relating to the Meetings)**

Act, 1956, every Public Limited Company is required to hold a Statutory Meeting within a period of not less than one month and not more than six months from the date on which the Company is entitled to commence business. This meeting is being called to ensure the Statutory Compliance of the aforesaid provisions of Companies Act, 1956. Therefore, the members are hereby requested to make it convenient to attend the meeting.

**By order of the Board**

**[Name of the Company]**

**Place:**

**Date :**

**Director**

**1) Appointment of Cost Auditor:**

Kind of Meeting : Board Meeting Type of Resolution : Resolution with simple majority“ RESOLVED that subject to the approval of the Central Government,pursuant to Section 233B of the Companies Act 1956, .....Cost Accountants be appointed Cost Auditor for auditing thecompany's cost accounting records for the financial year ..... on a remuneration of Rs .....”

**2) Appointment of First Auditors:**

Kind of Meeting : Board Meeting Type of Resolution : Resolution with simple majority“ RESOLVED that M/s ..... be and are hereby appointed auditors of the company to hold office till the conclusion of the first Annual General Meeting at a remuneration of Rs .....”

**3) Adoption of common seal:**

Kind of Meeting: Board Meeting Type of Resolution: Resolution by simple majority“RESOLVED that the proposed common seal of the company submitted to the meeting, be and is hereby adopted as the common seal of the company and



**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

---

**UNIT – V (Drafting of Correspondence relating to the Meetings)**

---

that the common seal be kept in the custody of Shri.....secretary of the company.”

**4) Approving report of the board u/s.217:**

Kind of Meeting: Board Meeting Type of Resolution: Resolution with simple majority“ RESOLVED that the report of the Board of Directors for the yearended ..... as per draft placed before the board and initialed by theChairman be and is hereby approved and the Chairman be and ishereby authorized to sign the report on behalf of the Board for issuingit to members along with the other documents.”

**5) Appointment of a whole-time Company Secretary:**

Kind of Meeting: Board Meeting Type of Resolution: Resolution with simple majority

“ RESOLVED that Mr. .... who possesses the requiredqualifications under the Companies (Appointment and Qualification of Secretary) Rules 1988 be and is hereby appointed as a secretary onthe terms and conditions contained in the draft letter of appointment,a copy of which duly initialed by the chairman for the purpose of identification was tabled and approved at the meeting.”

**6) Appoint a person as an auditor, other than the retiringauditor:**

Kind of Meeting: General Meeting Type of Resolution: Ordinary Resolution (special notice is required forthe resolution)“ RESOLVED that pursuant to the provisions of Section 225 of theCompanies Act 1956 M/s ..... Chartered Accountants of .....be and are hereby appointed auditors of the company in place of retiring auditors M/s ..... to hold office from the conclusion of the AGM until the conclusion of the next AGM at a remuneration of Rs..... plus out of pocket expenses .”



CLASS : II M.COM CA

COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE

COURSE CODE : 16CCP401

BATCH-2016-2018

---

UNIT – V (Drafting of Correspondence relating to the Meetings)

---

**7) Shifting of Registered office from one state to another:**

Kind of Meeting: General Meeting Type of Resolution: Special Resolution“ RESOLVED that pursuant to Section 17 of the Companies Act 1956and subject to the confirmation of the Company Law Board, theregistered office of the company be shifted from ..... to..... and that the existing clause II in the Memorandum of Association of the company be altered accordingly.”

**8) Change the name of the Company:**

Kind of Meeting: General Meeting Type of Resolution: Special Resolution“ RESOLVED that pursuant to provisions of Section 21 of theCompanies Act 1956 and subject to the approval of the CentralGovernment the name of the company be changed from .....to .....”

**9) Employing a director's relative:**

Kind of Meeting: General Meeting

Type of Resolution: Special Resolution“ RESOLVED pursuant to Section 314(I-B) of the Companies Act 1956and subject to prior approval of the Central Government thatMr..... a relative of Mr..... a director of the company, beappointed as General Manager (Production) of the company at amonthly remuneration of Rs.....”“ Further resolved that the remuneration payable to Mr..... asaforesaid will be subject to such modification as may be required bythe Central Government and acceptable to the Board of Directors andMr.....”

**10) Commence new business:**

Kind of Meeting: General Meeting Type of Resolution: Special Resolution“ RESOLVED that pursuant to Section 149(2A) of the Companies Act1956 approval be and is hereby given to the commencement by thecompany of all or any of the business specified in clause ..... of theobject clause ..... of the Memorandum of Association of the company.”

CLASS : II M.COM CA

COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE

COURSE CODE : 16CCP401

BATCH-2016-2018

---

UNIT – V (Drafting of Correspondence relating to the Meetings)

---

**11) Increase in the Authorised share capital of the company:**

Kind of Meeting: General Meeting Type of Resolution: Ordinary Resolution“ RESOLVED that pursuant to Section 94 and other applicable provisions if any of the Companies Act 1956, the authorised share capital of the company be and is hereby increased from Rs ..... to Rs..... divided into ..... equity shares of Rs .....each by creation of .....new equity shares of Rs ..... each ranking paripassu with the existing shares of the company.”

**12) Adoption of Annual Accounts:**

Kind of Meeting: Annual General Meeting (AGM) Type of Resolution: Ordinary Resolution“ RESOLVED that the director’s report, audited balance sheet as on..... and profit and loss account for the year ended .....and auditor’s report thereon be and the same are hereby received, considered and adopted.”

**13) Opening a branch office of the Company:**

Kind of Meeting: Board Meeting Type of Resolution : Resolution with simple majority“ RESOLVED that a branch office of the company be opened at ..... which shall start functioning from ..... and Shri..... Managing Director of the Company be and is hereby authorised to appoint a Manager to look after setting up of the branch office and to manage day-to-day affairs of the said branch.”

**14) Appointment of additional director:**

Kind of Meeting: Board Meeting Type of Resolution: Resolution by simple majority“ RESOLVED that pursuant to Section 260 of the Companies Act, 1956 and Article No..... of the Articles of Association of the Company, Mr.....be and is hereby appointed as Additional Director of the Company.”

**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

---

**UNIT – V (Drafting of Correspondence relating to the Meetings)**

---

**15) Declare a dividend:**

Kind of Meeting: Annual General Meeting Type of Resolution: Ordinary Resolution“ RESOLVED that the dividend for the year ended ..... at the rate of Rs.... per share on the amount paid up on the equity capital of the company subject to deduction of tax at source be and is hereby declared for payment to those whose names appeared on the Register of Members as on the date of annual general meeting.”

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**CLASS : II M.COM CA**

**COURSE NAME : CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**COURSE CODE : 16CCP401**

**BATCH-2016-2018**

---

**UNIT – V (Drafting of Correspondence relating to the Meetings)**

---

**POSSIBLE QUESTIONS**

**PART - A (1 mark)**

**(Online examinations)**

**PART – B (6 Marks)**

1. Draft a Specimen of Minutes of Annual General Meeting.
2. Draft a Specimen of the Chairman's speech with an example.
3. Draft a Specimen of Minutes of Statutory Meeting.
4. Draft a Specimen format for Auditor's Report.
5. Draft a Specimen for Proxy Form.
6. Explain the circumstances in which a qualified report is given.
7. Outline the general rules relating to : (a) Inspection of Minutes Books, and  
(b) Alteration of Minutes.
8. Enumerate the points that should be remembered in the preparation of Minutes.
9. Explicate the procedure for drafting of Notices of Meetings.
10. Draft a Specimen relating to Special Notice of Annual General Meeting.
11. Explain Secretary's duties in connection with Extraordinary General Meeting.
12. As a Company Secretary, what points should be remembered in the preparation of Minutes?

**KARPAGAM ACADEMY OF HIGHER EDUCATION**

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**II M. Com. (CA)**

**CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE - 16CCP401**

<b>S. No.</b>	<b>QUESTIONS</b>	<b>OPT. 1</b>	<b>OPT. 2</b>	<b>OPT. 3</b>	<b>OPT.4</b>	<b>ANSWER</b>
<b>Unit - V</b>						
1	The first step in writing involves, _____	thinking	drafting	planning	developing	<b>thinking</b>
2	Usually in writing doing is called as _____	drafting	developing	thinking	planning	<b>drafting</b>
3	Writing is a _____ activity	simple	easy	complex	effortless	<b>complex</b>
4	The ability to communicate clearly is _____	crucial	minor	slighh	petty	<b>crucial</b>
5	Writing clearly, whether essays, letters, memos or reports, is a _____	key skill	report	correspondence	certificate	<b>key skill</b>
6	Certain people write and certain things get _____	read	started	end	written	<b>written</b>

7	_____ writing plays an increasingly important role in today's world	Effective	weak	useless	inadequate	<b>Effective</b>
8	It is equally important that a notice should be drafted in a manner that it must communicate the _____ to shareholders, director's and auditor's	problem	message	issue	trouble	<b>message</b>
9	Drafting should convey the information _____ without complicated words and sentences	directly	indirectly	circutously	some way	<b>directly</b>
10	At the end of the annexure an authority should _____ along with place and date	enter	register	sign	enclose	<b>sign</b>
11	Doing again is also called as _____	doing once	revising	not again	incorrect	<b>revising</b>
12	The written word is still a _____ channel of communication	minor	negligible	major	small	<b>major</b>
13	At the _____ of the notice, kind of meeting should be mentioned	top	bottom	corner	middle	<b>top</b>
14	Next to the title in the notice name and registered address of _____ should be entered	the company	the secretary	board	the branch	<b>the company</b>

15	The day, date, time and place of meeting with clear _____ where the meeting is to held is to be declared in the notice.	notice	message	address	report	<b>address</b>
16	If special business to be transacted at the meeting, then he notice should also contain the _____	explanatory statement	minutes	report	agenda	<b>explanatory statement</b>
17	Proxy Form should be enclosed with _____	the minutes	the notice	the document	the report	<b>the notice</b>
18	Creating an effective agenda is one of the most important elements for a _____ meeting	productive	normal	ordinary	unhelpful	<b>productive</b>
19	_____ an outline for the meeting	Agenda	Minutes	Motion	report	<b>Agenda</b>
20	Agenda can be used as a _____ to ensure that all information is covered	database	checklist	proof	security	<b>checklist</b>
21	AOB stands for _____	An Order book	Any other business	Any order Book	Any other Board	<b>Any other business</b>
22	The _____ are usually written from the notes taken by the chairman and secretary during the course of the meeting	Minutes	motion	agenda	resolution	<b>Minutes</b>

23	The minutes must be recorded in _____ serially numbered	lines	paper	paragraphs	note	<b>paragraphs</b>
24	Each paragraph in minutes should preferably given by a _____	para	title	space	heading	<b>heading</b>
25	All the resolutions passed at the meeting should be in the same order at the _____	notice	agenda	declaration	resolution	<b>agenda</b>
26	If certain matters could not be discussed in the meeting, because of lack of time, that fact must also be stated in the _____	agenda	notice	Minutes	report	<b>Minutes</b>
27	An agenda is a list of meeting activities in the order in which they are to be taken up, by _____ with the call to order	end	middle	last	beginning	<b>beginning</b>
28	Minutes are the _____ record of an organization	formal	usual	official	normal	<b>official</b>
29	Written minutes are distributed to board members _____ each meeting for member's review	after	before	end of	inbetween	<b>before</b>
30	Minutes for the previous meeting should be reviewed right away in the _____ meeting	next	same	current	board	<b>next</b>



31	At every business meeting the secretary of the board or any other appointed person usually takes _____ during meetings	minutes	notes	records	drafts	<b>minutes</b>
32	The body of the minutes should include, with each motion being a separate _____	note	book	paragraph	line	<b>paragraph</b>
33	If the vote was counted, the count should be _____	stored	registered	verified	recorded	<b>recorded</b>
34	The _____ officer states “Are there any corrections to the minutes as printed?”	residing	presiding	visiting	assistant	<b>presiding</b>
35	After the minutes have been corrected and approved by the membership, they should be signed by the _____ and can be signed by the president	chairman	board	secretary	director	<b>secretary</b>
36	Formal and corporate meetings include approval of previous minutes, and all _____	minutes	resolutions	agenda	notice	<b>resolutions</b>
37	Before proceeding to regular business at the annual general meeting the chairman usually makes a brief _____ speech	clear	short	concise	prefactory	<b>prefactory</b>
38	The chairman also comments on the _____	Auditors' Report	Directors' Report	Minutes	resolution	<b>Directors' Report</b>

39	_____ explain the future development schemes of the company	The Chairman	The Secretary	The Manager	The Managing Director	<b>The Chairman</b>
40	The directors are required to prepare and send to every member a document known as the _____	Statutory Report	Directors' Report	Notice	minutes	<b>Statutory Report</b>
41	The report should be certified as correct by at least two directors, one of whom shall be the _____	Additional Director	manager	secretary	managing director	<b>managing director</b>
42	The notice become legally valid only if it is signed by proper authority along with the _____	shareholders sign	company's seal	agenda	minutes	<b>company's seal</b>
43	Ordinary business to be discussed _____ in the meeting	second	last	first	middle	<b>first</b>
44	Every resolution should get started with a word _____	Resolution	Decided That	Resolved that	Resolved	<b>Resolved that</b>
45	If the minutes have been distributed to the members before the next meeting then the approval process can be _____	short	very short	long	very long	<b>very short</b>
46	If there is no _____, the minutes will be approved as printed	Approval	consent	objection	say so	<b>objection</b>

47	The report should be certified as correct by at least _____	four directors	two directors	one directors	three directors	<b>two directors</b>
48	A copy of this report must be filed with the _____ forthwith at the time of sending it to the members	Registrar	Auditor	Company Law Board	Board	<b>Registrar</b>
49	The statutory report shall be certified as correct by not less than two directors of the company one of whom shall be a _____	Member	Secretary	Manager	managing director	<b>managing director</b>
50	The Chairman also explain the _____ development schemes of the company.	current	past	future	present	<b>future</b>
51	The written word (whether on paper or a PC screen) is still a major _____	Supportive document	channel of communication.	skill	proof	<b>channel of communication</b> .
52	AGM Stands for _____	Annual General Meeting	Any Government Meeting	Any General Meeting	After General Meeting	<b>Annual General Meeting</b>
53	Next to the title the name and registered address of the company should be entered in the _____	Minutes	Chairmans' Speech	Directors Report	Notice	<b>Notice</b>
54	The minutes should be presented for approval at the _____ of a similar kind	current meeting	previous meeting	boards meeting	next meeting	<b>next meeting</b>

55	Proxy form must be in _____	oral	typed	writing	both oral and typed	<b>writing</b>
56	Resolutions mean _____ at a meeting	discussions	providing information	decisions taken	giving suggestion	<b>decisions taken</b>
57	An ordinary resolution is one which can be passed by a _____ majority	maximum	simple	minimum	centpercent	<b>simple</b>
58	The _____ of the meeting to be prepared and sent to all members of the meeting	agenda	minutes	statement	report	<b>agenda</b>
59	Any person appointed on behalf of the member to attend the meeting is called as _____	proxy	quorum	Motion	resolution	<b>proxy</b>
60	In order to enable the members to make the best use of this opportunity the directors are required to prepare and send to every member a document known as the _____	Statutory Report	Directors' Report	Notice	minutes	<b>Statutory Report</b>

Register No.: .....

[16CCP401]

**KARPAGAM ACADEMY OF HIGHER EDUCATION**

**(Established Under Section 3 of UGC Act 1956)**

**COIMBATORE – 641021**

**(For the candidates admitted from 2016 onwards)**

**II M. Com. (CA)**

**FIRST INTERNAL EXAMINATION – JANUARY 2018**

**CORPORATE ADMINISTRATION AND SECRETARIAL PRACTICE**

**Time : 2 Hours**

**Maximum: 50 Marks**

**Date : 29.01.2018**

**PART – A (20\*1 = 20 Marks)**

**Multiple Choice Questions**

1. The traditional form of business does not consists of \_\_\_\_\_
  - a) Sole Proprietorship
  - b) Hindu undivided Family
  - c) Partnership Firms
  - d) Company
2. The companies in India are regulated by the \_\_\_\_\_
  - a) Companies Act 1956
  - b) Companies Act 1961
  - c) Companies Act 1946
  - d) Companies Act 1986
3. Company is an \_\_\_\_\_
  - a) natural Person
  - b) artificial person
  - c) normal person
  - d) non-natural
4. A group of persons associated together for the attainment of some common end, social
  - a) Partnership firm
  - b) Sole proprietorship
  - c) co-operative society
  - d) company
5. The existence of a company comes to a close \_\_\_\_\_
  - a) on the death of all its promoters
  - b) on death of all the directors of the Board
  - c) on transfer of shares by most of its original members
  - d) none of the above

6. A preference share has priority in \_\_\_\_\_
- a) dividend only
  - b) only in return of capital at the time of winding up
  - c) voting rights
  - d) both dividend and return of capital on winding up
7. Shareholders are the \_\_\_\_\_ of the Company
- a) Creditors
  - b) Owners
  - c) Debtors
  - d) Financiers
8. A company can appoint a \_\_\_\_\_ along with a managing director or a manager.
- a) secretary
  - b) part time secretary
  - c) chairman
  - d) whole time director
9. The appointment of a managing director does not require the consent of the \_\_\_\_\_
- a) employees
  - b) manager
  - c) shareholders
  - d) member
10. A managing director must be a \_\_\_\_\_ of the company.
- a) director
  - b) Member
  - c) employee
  - d) manager
11. The remuneration of manager must not exceed \_\_\_\_\_ of the net profits
- a) 3%
  - b) 10%
  - c) 2%
  - d) 5%
12. The first secretary is often referred to as \_\_\_\_\_ Secretary
- a) routine
  - b) executive
  - c) Protem
  - d) whole time
13. In the eyes of law, the secretary is a mere \_\_\_\_\_ of the company
- a) servant
  - b) agent
  - c) dealer
  - d) broker
14. Any person occupying the position of a director is \_\_\_\_\_
- a) manger
  - b) director
  - c) managing director
  - d) additional director
15. If the, Board entrusts the Secretary with routine duties, he is called, \_\_\_\_\_
- a) Routine Secretary
  - b) executive secretary
  - c) part time secretary
  - d) whole time secretary

16. The services of the secretary may be terminated without notice if he makes \_\_\_\_\_ secretly
- a) incomes
  - b) profits
  - c) records
  - d) books
17. The rights of a company secretary mostly flow out of his \_\_\_\_\_ agreement with the company
- a) loan
  - b) share
  - c) dividend
  - d) service
18. A company secretary is not only a servant of the company but also a servant of the \_\_\_\_\_
- a) government
  - b) directors
  - c) law
  - d) Shareholders
19. Under \_\_\_\_\_, the secretary has to arrange for timely submission of returns and payment of tax
- a) Income Tax Act
  - b) Sales-tax Act
  - c) Indian Stamp Act
  - d) Companies Act 1986
20. The secretary possess a thorough knowledge of the various legislative enactments relating to \_\_\_\_\_
- a) firm
  - b) HUF
  - c) sole proprietorship
  - d) companies

**PART – B ( 3 X 2 = 6 marks )**

**ANSWER ALL THE QUESTIONS**

21. Define 'Company'.
22. How a Director is appointed?
23. What do you mean by 'Routine Secretary' and Executive Secretary?

**PART – C ( 3 X 8 = 24 marks )**

**ANSWER ALL THE QUESTIONS**

24 a) Define Company. Explain the Characteristics of a Company.

(Or)

b) Define 'Director'. Explain the powers and liabilities of Directors.

25 a) Describe the provisions of the Companies Act relating to the following:

- (i) Appointment of Board of Directors
- (ii) Vacation of office by Directors
- (iii) Removal of Directors

(Or)

b) Explain the types of Company Secretary.

26 a) Enumerate the Qualities of a Company Secretary?

(Or)

b) What are the rights and liabilities of the Company Secretary?