

SECTIONS OF THE COMPANIES ACT NO. 71 (2008) (AS AMENDED)

61. Shareholders meetings.

(1) The board of a company, or any other person specified in the company's Memorandum of Incorporation or rules, may call a shareholders meeting at any time.

(2) Subject to [section 60](#), a company must hold a shareholders meeting-

(a) at any time that the board is required by this Act or the Memorandum of Incorporation to refer a matter to shareholders for decision;

(b) whenever required in terms of [section 70 \(3\)](#) to fill a vacancy on the board; and

(c) when otherwise required-

(i) in terms of [subsection \(3\)](#) or [\(7\)](#); or

(ii) by the company's Memorandum of Incorporation.

(3) Subject to [subsections \(5\)](#) and [\(6\)](#), the board of a company, or any other person specified in the company's Memorandum of Incorporation or rules, must call a shareholders meeting if one or more written and signed demands for such a meeting are delivered to the company, and-

(a) each such demand describes the specific purpose for which the meeting is proposed; and

(b) in aggregate, demands for substantially the same purpose are made and signed by the holders, as of the earliest time specified in any of those demands, of at least 10% of the voting rights entitled to be exercised in relation to the matter proposed to be considered at the meeting.

[Para. (b) substituted by s. 39 of Act No. 3 of 2011.]

(4) A company's Memorandum of Incorporation may specify a lower percentage in substitution for that set out in [subsection \(3\) \(b\)](#).

(5) A company, or any shareholder of the company, may apply to a court for an order setting aside a demand made in terms of [subsection \(3\)](#) on the grounds that the demand is frivolous, calls for a meeting for no other purpose than to reconsider a matter that has already been decided by the shareholders, or is otherwise vexatious.

(6) At any time before the start of a shareholders meeting contemplated in [subsection \(3\)](#)-

(a) a shareholder who submitted a demand for that meeting may withdraw that demand; and

(b) the company must cancel the meeting if, as a result of one or more demands being withdrawn, the voting rights of any remaining shareholders continuing

to demand the meeting, in aggregate, fall below the minimum percentage of voting rights required to call a meeting.

- (7) A public company must convene an annual general meeting of its shareholders-
 - (a) initially, no more than 18 months after the company's date of incorporation; and
 - (b) thereafter, once in every calendar year, but no more than 15 months after the date of the previous annual general meeting, or within an extended time allowed by the Companies Tribunal, on good cause shown.
- (8) A meeting convened in terms of [subsection \(7\)](#) must, at a minimum, provide for the following business to be transacted-
 - (a) presentation of-
 - (i) the directors' report;
 - (ii) audited financial statements for the immediately preceding financial year; and
 - (iii) an audit committee report;
 - (b) election of directors, to the extent required by this Act or the company's Memorandum of Incorporation;
 - (c) appointment of-
 - (i) an auditor for the ensuing financial year; and
 - (ii) an audit committee; and
 - (d) any matters raised by shareholders, with or without advance notice to the company.
- (9) Except to the extent that the Memorandum of Incorporation of a company provides otherwise-
 - (a) the board of the company may determine the location for any shareholders meeting of the company; and
 - (b) a shareholders meeting of the company may be held in the Republic or in any foreign country.
- (10) Every shareholders meeting of a public company must be reasonably accessible within the Republic for electronic participation by shareholders in the manner contemplated in [section 63 \(2\)](#), irrespective of whether the meeting is held in the Republic or elsewhere.
- (11) If a company is unable to convene a meeting as required in terms of this section because it has no directors, or because all of its directors are incapacitated-
 - (a) any other person authorised by the company's Memorandum of Incorporation may convene the meeting; or

- (b) if no person has been authorised as contemplated in [paragraph \(a\)](#), the Companies Tribunal, on a request by any shareholder, may issue an administrative order for a shareholders meeting to be convened on a date, and subject to any terms, that the Tribunal considers appropriate in the circumstances.

(12) If a company fails to convene a meeting for any reason other than as contemplated in [subsection \(11\)](#)-

- (a) at a time required in accordance with its Memorandum of Incorporation;
- (b) when required by shareholders in terms of [subsection \(3\)](#); or
- (c) within the time required by [subsection \(7\)](#),

a shareholder may apply to a court for an order requiring the company to convene a meeting on a date, and subject to any terms, that the court considers appropriate in the circumstances.

(13) The company must compensate a shareholder who applies to the Companies Tribunal in terms of [subsection \(11\)](#), or to a court in terms of [subsection \(12\)](#), respectively, for the costs of those proceedings.

(14) Any failure to hold a meeting as required by this section does not affect the existence of a company, or the validity of any action by the company.