
STATUTORY INSTRUMENTS

1990 No. 1504

The Companies (No. 2) (Northern Ireland) Order 1990

PART IV

OTHER AMENDMENTS OF COMPANY LAW

De-regulation of private companies

Written resolutions of private companies

48.—(1) Chapter IV of Part XII of the Companies Order (meetings and resolutions) is amended as follows.

(2) After Article 389 insert—

“Written resolutions of private companies

Written resolutions of private companies

389A.—(1) Anything which in the case of a private company may be done—

- (a) by resolution of the company in general meeting, or
- (b) by resolution of a meeting of any class of members of the company,

may be done, without a meeting and without any previous notice being required, by resolution in writing signed by or on behalf of all the members of the company who at the date of the resolution would be entitled to attend and vote at such meeting.

(2) The signatures need not be on a single document provided each is on a document which accurately states the terms of the resolution.

(3) The date of the resolution means when the resolution is signed by or on behalf of the last member to sign.

(4) A resolution agreed to in accordance with this Article has effect as if passed—

- (a) by the company in general meeting, or
- (b) by a meeting of the relevant class of members of the company,

as the case may be; and any reference in any statutory provision to a meeting at which a resolution is passed or to members voting in favour of a resolution shall be construed accordingly.

(5) Any reference in any statutory provision to the date of passing of a resolution is, in relation to a resolution agreed to in accordance with this Article, a reference to the date of the resolution, unless Article 389B(4) applies in which case it shall be construed as a reference to the date from which the resolution has effect.

(6) A resolution may be agreed to in accordance with this Article which would otherwise be required to be passed as a special, extraordinary or elective resolution; and any reference in any statutory provision to a special, extraordinary or elective resolution includes such a resolution.

(7) This Article has effect subject to the exceptions specified in Part I of Schedule 15A; and in relation to certain descriptions of resolution under this Article the procedural requirements of this Order have effect with the adaptations specified in Part II of that Schedule.

Rights of auditors in relation to written resolution

389B.—(1) A copy of any written resolution proposed to be agreed to in accordance with Article 389A shall be sent to the company's auditors.

(2) If the resolution concerns the auditors as auditors, they may within seven days from the day on which they receive the copy give notice to the company stating their opinion that the resolution should be considered by the company in general meeting or, as the case may be, by a meeting of the relevant class of members of the company.

(3) A written resolution shall not have effect unless—

(a) the auditors notify the company that in their opinion the resolution—

(i) does not concern them as auditors, or

(ii) does so concern them but need not be considered by the company in general meeting or, as the case may be, by a meeting of the relevant class of members of the company, or

(b) the period for giving a notice under paragraph (2) expires without any notice having been given in accordance with that paragraph.

(4) A written resolution previously agreed to in accordance with Article 389A shall not have effect until that notification is given or, as the case may be, that period expires.

Written resolutions: supplementary provisions

389C.—(1) Articles 389A and 389B have effect notwithstanding any provision of the company's memorandum or articles.

(2) Nothing in those Articles affects any statutory provision or rule of law as to—

(a) things done otherwise than by passing a resolution, or

(b) cases in which a resolution is treated as having been passed, or a person is precluded from alleging that a resolution has not been duly passed.”.

(3) After Article 390 insert—

“Recording of written resolutions

390A.—(1) Where a written resolution is agreed to in accordance with Article 389A which has effect as if agreed by the company in general meeting, the company shall cause a record of the resolution (and of the signatures) to be entered in a book in the same way as minutes of proceedings of a general meeting of the company.

(2) Any such record, if purporting to be signed by a director of the company or by the company secretary, is evidence of the proceedings in agreeing to the resolution; and where a record is made in accordance with this Article, then, until the contrary is proved, the requirements of this Order with respect to those proceedings shall be deemed to be complied with.

(3) Article 390(5) (penalties) applies in relation to a failure to comply with paragraph (1) as it applies in relation to a failure to comply with paragraph (1) of that Article and Article

391 (inspection of minute books) applies in relation to a record made in accordance with this Article as it applies in relation to the minutes of a general meeting.”.