

Module IV: Company Meetings and Winding Up

15. Company Meetings - Requisites of a Valid Meeting - Statutory Meeting - Annual General Body Meeting - Extra Ordinary Meeting - Board Meetings - Resolutions - Types

Company Meetings

A company meeting is a formal gathering of shareholders, directors, or other authorized persons to discuss company matters and make decisions.

Meetings are essential because a company, being an artificial person, can act only through decisions made by its members and directors.

Importance of Company Meetings

- Facilitate decision-making
- Ensure shareholder participation
- Review company performance
- Approve important business matters
- Maintain transparency and accountability

Example: Shareholders meet annually to review financial statements and approve dividends.

Requisites of a Valid Meeting

For a meeting to be legally valid, certain conditions must be satisfied.

Proper Authority

The meeting must be convened by a person or body authorized to do so.

Proper Notice

Adequate notice must be given to all entitled persons.

Quorum

The minimum required number of members must be present.

Competent Chairman

The meeting should be presided over by a properly elected chairman.

Proper Agenda

Business should be conducted according to the agenda.

Majority Decision

Decisions must be approved according to the prescribed voting requirements.

Example: If the required quorum is absent, the meeting cannot validly proceed.

Statutory Meeting

A statutory meeting was traditionally required for certain public companies to inform members about the company's formation and progress.

The Companies Act, 2013 has removed the requirement of statutory meetings and statutory reports. However, the concept is still important from an academic perspective.

Purpose

- Inform shareholders about company affairs
- Discuss formation-related matters
- Review preliminary activities

Annual General Body Meeting (AGM)

The Annual General Meeting is a compulsory yearly meeting of shareholders.

Every company (except certain exemptions) must hold an AGM to discuss important matters.

Objectives of AGM

- Consider financial statements
- Declare dividends
- Appoint auditors
- Elect directors
- Review company performance

Importance

- Ensures shareholder participation
- Promotes accountability
- Facilitates communication between management and owners

Example: Shareholders approve annual accounts during the AGM.

Extra Ordinary Meeting (EGM)

An Extra Ordinary General Meeting is any general meeting other than an AGM.

It is called when urgent matters require shareholder approval.

Reasons for Holding an EGM

- Alteration of Memorandum
- Alteration of Articles
- Merger proposals
- Major business decisions

Example: A company calling an EGM to approve a merger.

Board Meetings

Board meetings are meetings of the Board of Directors held to manage company affairs.

Directors discuss policies, strategies, and operational matters.

Functions of Board Meetings

- Approve business policies
- Review financial performance
- Make strategic decisions
- Appoint executives
- Ensure compliance

Example: The board meeting may approve a new business expansion project.

Resolutions

A resolution is a formal decision passed at a company meeting.

Resolutions express the collective decision of members or directors.

Types of Resolutions

Ordinary Resolution

An ordinary resolution is passed by a simple majority of votes.

Matters Requiring Ordinary Resolution

- Appointment of auditors
- Appointment of directors
- Approval of accounts

Example: Electing a director at an AGM.

Special Resolution

A special resolution requires a higher majority (generally at least 75% of votes cast).

Matters Requiring Special Resolution

- Alteration of Memorandum
- Alteration of Articles
- Change of company name
- Reduction of share capital

Example: Changing the company's registered objectives.

Difference Between Ordinary and Special Resolution

| Ordinary Resolution | Special Resolution |
|--------------------------|--------------------------------|
| Simple majority required | At least 75% majority required |
| Used for routine matters | Used for important matters |
| Easier to pass | More stringent requirements |

16. Company Secretary : Qualification - Appointment - Duties

Company Secretary

A Company Secretary (CS) is a key managerial personnel responsible for ensuring compliance with legal and regulatory requirements.

The Company Secretary acts as a link between the Board of Directors, shareholders, regulatory authorities, and other stakeholders.

Importance of Company Secretary

- Ensures legal compliance
- Advises the Board
- Maintains company records
- Facilitates corporate governance

Example: A Company Secretary ensures that annual returns are filed on time.

Qualification of Company Secretary

A person must possess the prescribed qualifications under law.

Generally, a Company Secretary should be a member of the: **Institute of Company Secretaries of India**

Essential Requirements

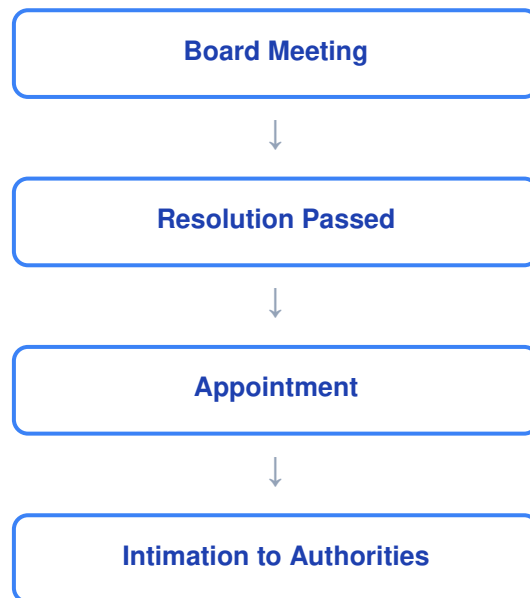
- Professional qualification
- Knowledge of company law
- Knowledge of corporate governance
- Compliance expertise

Appointment of Company Secretary

Certain classes of companies are required to appoint a whole-time Company Secretary.

The appointment is made by the Board of Directors.

Procedure



Duties of Company Secretary

Compliance Management

Ensures compliance with company law and regulations.

Conduct of Meetings

Organizes board meetings and shareholder meetings.

Maintenance of Records

Maintains statutory registers and records.

Corporate Governance Support

Advises the board on governance matters.

Communication

Acts as a communication bridge between stakeholders and management.

Filing of Documents

Files required documents with authorities.

Example: The Company Secretary prepares notices and agendas for board meetings.

17. Winding Up : Meaning - Modes of Winding Up - Winding Up by Tribunal - Liquidation under the Insolvency and Bankruptcy Code - Companies (Winding Up) Rules, 2020

Winding Up

Winding up is the legal process through which a company is dissolved and its existence is brought to an end.

During winding up, company assets are realized, liabilities are paid, and any remaining funds are distributed among shareholders.

Objectives of Winding Up

- Settle liabilities
- Distribute remaining assets
- Legally dissolve the company

Example: A company unable to continue business may undergo winding up.

Modes of Winding Up

Under the Companies Act, companies may be wound up through prescribed legal procedures. The major mode currently emphasized is winding up by the Tribunal.

Winding Up by Tribunal

The Tribunal may order winding up in specified situations.

Grounds for Winding Up by Tribunal

- **Inability to Pay Debts:** The company cannot meet its financial obligations.
- **Acting Against Public Interest:** The company conducts activities harmful to public welfare.
- **Fraudulent Activities:** The company is involved in fraud or unlawful conduct.
- **Tribunal's Just and Equitable Opinion:** The Tribunal believes winding up is fair and necessary.

Example: A company engaged in fraudulent investment schemes may be wound up by the Tribunal.

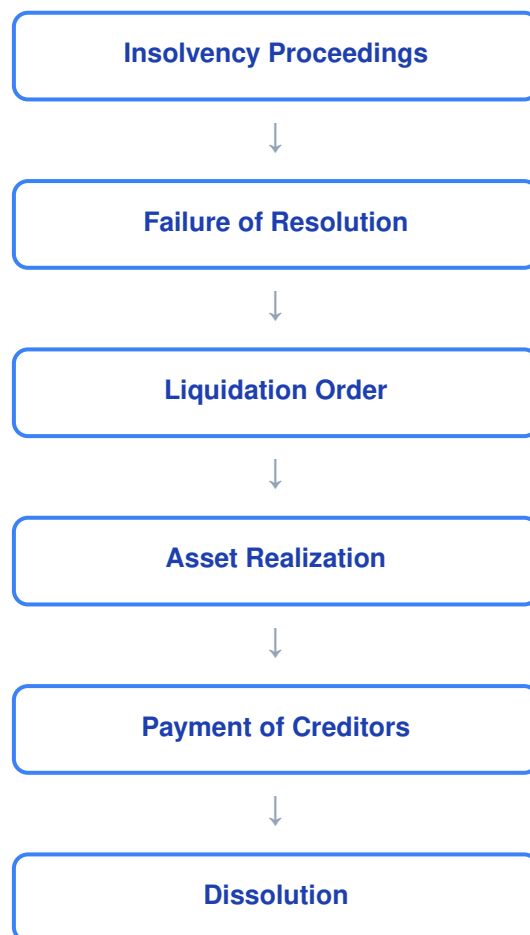
Liquidation under the Insolvency and Bankruptcy Code (IBC)

The Insolvency and Bankruptcy Code, 2016 provides a framework for resolving insolvency and liquidating companies. When revival is not possible, liquidation is initiated.

Objectives of IBC Liquidation

- Maximize asset value
- Protect creditors
- Ensure time-bound resolution
- Promote business confidence

Liquidation Process



Example: A heavily indebted company may enter liquidation under the IBC after resolution efforts fail.

Companies (Winding Up) Rules, 2020

The Companies (Winding Up) Rules, 2020 provide procedural guidelines for winding up proceedings.

Objectives

- Ensure orderly winding up
- Protect stakeholder interests
- Standardize procedures
- Improve efficiency

These rules govern documentation, notices, applications, and procedural aspects relating to winding up.

18. Liquidator: Powers - Duties and Liabilities - Consequences of Winding Up

Liquidator

A liquidator is a person appointed to conduct the winding up process.

The liquidator takes control of company assets, settles liabilities, and distributes remaining assets according to law.

Role of a Liquidator

- Collect assets
- Realize property
- Pay creditors
- Distribute surplus
- Complete winding up proceedings

Example: During liquidation, the liquidator may sell company machinery to repay creditors.

Powers of Liquidator

- **Take Custody of Assets:** The liquidator can take possession of company property.
- **Sell Company Assets:** Assets may be sold to generate funds.
- **Institute or Defend Legal Proceedings:** The liquidator may represent the company in legal matters.
- **Examine Company Records:** The liquidator can inspect books and documents.
- **Distribute Assets:** Remaining funds are distributed according to legal priorities.

Duties of Liquidator

- **Protect Company Assets:** Assets should be preserved and properly managed.
- **Prepare Reports:** Regular reports must be submitted to the Tribunal and stakeholders.
- **Settle Liabilities:** Creditors must be paid according to legal priorities.
- **Maintain Accounts:** Accurate records of liquidation transactions must be kept.
- **Ensure Fair Distribution:** Assets should be distributed fairly and lawfully.

Example: A liquidator prepares a statement showing how funds were used to pay creditors.

Liabilities of Liquidator

A liquidator may be held liable for:

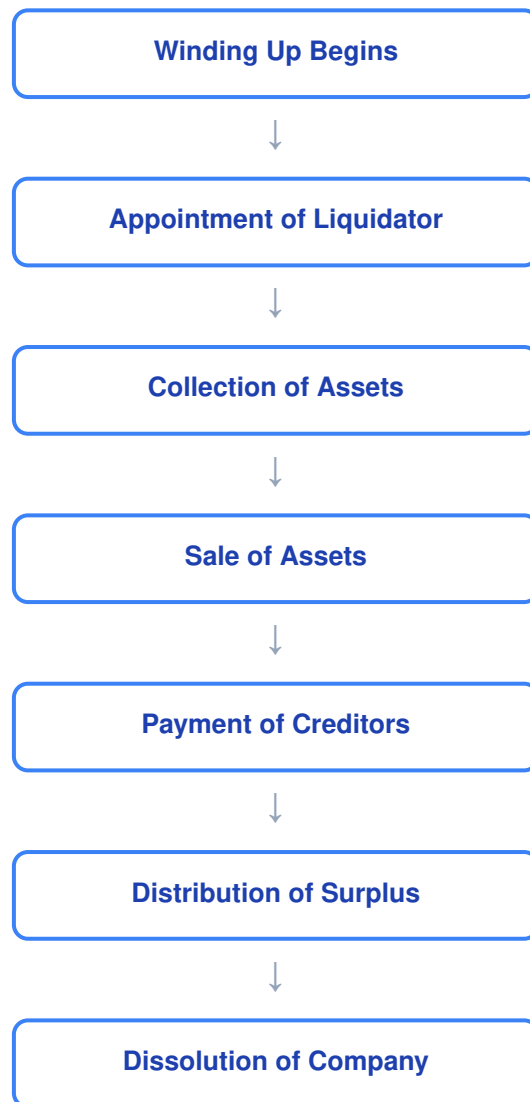
- **Negligence:** Failure to perform duties properly.
- **Misconduct:** Improper handling of company assets.
- **Fraud:** Intentional wrongful acts.
- **Breach of Duty:** Violation of legal obligations.

Example: A liquidator misappropriating company assets may face legal action.

Consequences of Winding Up

- **End of Company's Existence:** The company ultimately ceases to exist as a legal entity.
- **Realization of Assets:** Assets are converted into cash.
- **Payment of Debts:** Creditors are paid according to priority.
- **Distribution of Surplus:** Any remaining funds are distributed to shareholders.
- **Dissolution:** The company is formally dissolved after completion of winding up.
- **Termination of Management Powers:** Directors lose control over company affairs once the liquidator takes charge.

Winding Up Process at a Glance



Example: After all debts are paid and remaining assets are distributed, the company is dissolved and removed from official records.

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