

**DRAFT LEGISLATIVE AMENDMENTS TO THE COMPANIES ACT ON ANNUAL GENERAL MEETINGS AND ANNUAL RETURNS<sup>1</sup>**

**Annual general meeting**

**175.**—(1) A general meeting of every company to be called the “annual general meeting” shall in addition to any other meeting be held— after each financial year within —in every calendar year and not more than 15 months after the holding of the last preceding annual general meeting, but so long as a company holds its first annual general meeting within 18 months of its incorporation, it need not hold it in the year of its incorporation or in the following year.

- (a) four months in the case of a public company that is listed; and
- (b) six months in the case of any other company.

(1A) The Minister may, by order published in the Gazette, specify such other period in substitution of the period referred to in subsection (1)(a) or (b).

(2) ~~Notwithstanding subsection (1),~~†The Registrar may extend the period ~~of 15 months or 18 months~~ referred to in ~~that~~ subsection (1)(a) or (b), notwithstanding that the period is so extended beyond the calendar year —

- (a) upon an application by the company, if the Registrar thinks there are special reasons to do so; or
- (b) in respect of any prescribed class of companies.

(3) Subject to notice being given to all persons entitled to receive notice of the meeting, a general meeting may be held at any time and the company may resolve that any meeting held or summoned to be held shall be the annual general meeting of the company.

(4) If default is made in holding an annual general meeting —

- (a) the company and every officer of the company who is in default shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 and also to a default penalty; and
- (b) the Court may on the application of any member order a general meeting to be called.

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<sup>1</sup> This public consultation is being conducted on the draft legislative amendments before they have been reviewed by the Attorney-General's Chambers (AGC). The legislative amendments may be subject to further changes after AGC's review.

**When a Private company need not hold may dispense with an annual general meetings**

**175A.**—(1) A ~~private~~ company need not hold an annual general meeting for a financial year if –

(a) may, by it is a private company and there is in force a resolution passed in accordance with subsection (2) to, dispense with the holding of annual general meetings; or  
(b) it was a private company at the end of that financial year and either section 203(1) does not apply to it or section 203(1) has been satisfied by compliance with section 203(1)(b).

(2) Notwithstanding any other provision of this Act, a resolution referred to in subsection (1)(a) shall only be treated as passed at a general meeting if it has been passed by all of such members as, being entitled to do so, vote in person or, where proxies are allowed, by proxy present at the meeting.

(3) A resolution under subsection (1)(a) has effect for the year in which it is made and subsequent years, but does not affect any liability already incurred by reason of default in holding an annual general meeting.

(4) In any year in which an annual general meeting would be required to be held but for this section, and in which no such meeting has been held, any member of the company may, by notice to the company not later than ~~3 months before the end of the year~~ 14 days before the last day of the sixth month after the end of the financial year, require the holding of an annual general meeting in that year.

(5) The power of a member under subsection (4) to require the holding of an annual general meeting is exercisable not only by the giving of a notice but also by the transmission to the company at such address as may for the time being be specified for the purpose by or on behalf of the company of an electronic communication containing the requirement.

(6) If such a notice is given or electronic communication is transmitted, section 175(1) and (4) shall apply with respect to the calling of the meeting and the consequences of default.

(7) A resolution referred to in subsection (1)(a) shall cease to be in force if the company is converted to a public company.

(8) If the resolution referred to in subsection (1)(a) ceases to be in force, the company shall not be obliged under section 175 to hold ~~the an~~ annual general meeting next due in that year if, at the time the resolution ceases to have effect, less than 3 months ~~of the year~~ remains to the due date of that annual general meeting.

(9) Subsection (8) does not affect any obligation of the company to hold an annual general meeting in that year in pursuance of a notice given under subsection (4) or an electronic communication transmitted under subsection (5).

(10) Unless the contrary intention appears, if a company need not hold an annual general meeting for a financial year then for that financial year —

(a) a reference in any provision of this Act to the doing of anything at an annual general meeting shall, ~~in the case of a company that has dispensed with holding an annual general meeting in accordance with this section,~~ be read as a reference to the doing of that thing by way of a resolution by written means under section 184A; ~~and~~

(b) a reference in any provision of this Act to the date or conclusion of an annual general meeting ~~of a company that has dispensed with holding an annual general meeting in accordance with this section~~ shall, unless the meeting is held, be read as a reference to the date of expiry of the period within which the meeting is required by law to be held; and

(c) the reference in section 197(1) to lodging of a return with the Registrar after its annual general meeting shall be read as lodging of that return —

(i) after it has complied with section 203(1)(b); or

(ii) after the end of its financial year, if it is a dormant relevant company which is not required to comply with section 203(1).

(11) In this section, an address of a person includes any number or address used for electronic communication.

### **Passing of resolutions by written means**

**184A.**—(1) Notwithstanding any other provision of this Act, a private company or an unlisted public company may pass any resolution by written means in accordance with the provisions of this section and sections 184B to 184F.

(2) Subsection (1) shall not apply to a resolution referred to in section 175A(1)(a) or a resolution for which special notice is required.

(3) A special resolution is passed by written means if the resolution indicates that it is a special resolution and if it has been formally agreed on any date by one or more members of the company who on that date represent —

(a) at least 75%; or

(b) if the constitution of the company requires a greater majority for that resolution, that greater majority,

of the total voting rights of all the members who on that date would have the right to vote on that resolution at a general meeting of the company.

(4) An ordinary resolution is passed by written means if the resolution does not indicate that it is a special resolution and if it has been formally agreed on any date by one or more members of the company who on that date represent —

(a) a majority; or

(b) if the constitution of the company requires a greater majority for that resolution, that greater majority,

of the total voting rights of all the members who on that date would have the right to vote on that resolution at a general meeting of the company.

(4A) A resolution referred to in section 76(9B)(e) is passed by written means if the resolution indicates that it is a resolution referred to in that provision and if it has been formally agreed on any date by all the members of the company who on that date would have the right to vote on that resolution at a general meeting of the company.

(5) For the purposes of this section, a resolution of a company is formally agreed by a member if —

(a) the company receives from the member (or his proxy if this is allowed) a document that —

(i) is given to the company in legible form or a permitted alternative form;

(ii) indicates the member's agreement (or agreement on his behalf) to the resolution by way of the member's signature (or his proxy's signature if that is allowed), or such other method as the constitution may provide; and

(iii) includes the text of the resolution or otherwise makes clear that it is that resolution that is being agreed to; and

(b) the member (or his proxy) had a legible text of the resolution before giving that document.

(6) Nothing in subsection (3), (4) or (4A) shall be construed as requiring the requisite number of members to formally agree to the resolution on a single day.

(6A) For the purposes of this section, something is “in legible form or a permitted alternative form” if, and only if, it is sent or otherwise supplied —

(a) in a form (such as a paper document) that is legible before being sent or otherwise supplied and does not change form during that process; or

(b) in another form that —

(i) is currently agreed between the company and the person as a form in which the thing may be sent or otherwise supplied to the company; and

(ii) is such that documents sent or supplied in that form can (where particular conditions are met) be received in legible form or be made legible following receipt in non-legible form.

(7) Any reference in this Act or any other law to the passing or making of a resolution, or the passing or making of a resolution at a meeting, includes a reference to the passing of the resolution by written means in accordance with this section.

(8) Any reference in this Act or any other law to the doing of anything at a general meeting of a company includes a reference to the passing of a resolution authorising the doing of that thing by written means in accordance with this section.

(9) In this section and sections 184B to 184F, “unlisted public company” means a public company the securities of which are not listed for quotation or quoted on a securities exchange in Singapore or any securities exchange outside Singapore.

### **Registration and copies of certain resolutions**

**186.**—(1) A copy of —

(a) every special resolution; and

(b) every resolution, including any resolution passed under section 175A(1)(a), which effectively binds any class of shareholders whether agreed to by all the members of that class or not,

shall, except where otherwise expressly provided by this Act within 14 days after the passing or making thereof, be lodged by the company with the Registrar.

(2) Where the constitution of a company has not been registered a printed copy of every resolution to which this section applies shall be forwarded to any member at his request on payment of \$1 or such less sum as the company directs.

(3) In the event of any default in complying with subsection (1) the company and every officer of the company who is in default shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000 and also to a default penalty.

(4) In the event of any default in complying with subsection (2) the company and every officer of the company who is in default shall be guilty of an offence and shall be liable on conviction to a fine of \$50 for each copy in respect of which default is made.

### **Annual return by companies**

**197.**—(1) Every company shall lodge a return with the Registrar after its annual general meeting and —

(a) in the case of a listed company, within 5 months after the end of its financial year having a share capital and keeping a branch register in any place outside Singapore, within 60 days after its annual general meeting; and

(b) in any other case, within 30 days after its annual general meeting within 7 months after the end of its financial year.

Provided that in the case of a company having a share capital and keeping a branch register in any place outside Singapore, an additional month shall be added to the period specified in subsection (1)(a) or (b) as applied to that company.

(1A) The Registrar may extend the period stated in subsection (1)(a) or (b) upon an application by the company, if the Registrar thinks there are special reasons to do so.

(2) The return referred to in subsection (1) —  
(a) shall be in such form;  
(b) shall contain such particulars; and  
(c) shall be accompanied by such documents,  
as may be prescribed.

(3) The particulars to be contained in, and the documents that are to accompany, the return referred to in subsection (1) may differ according to the class or description of company prescribed.

~~(4) Notwithstanding subsection (1), if a company has dispensed with the holding of its annual general meeting under section 175A in relation to a calendar year, the annual return for that calendar year shall be lodged with the Registrar —  
(a) in the case of a company having a share capital and keeping a branch register in any place outside Singapore, within 60 days after the start date; or  
(b) in any other case, within 30 days after the start date.~~

~~(5) In subsection (4) —  
“balance sheet”, “consolidated financial statements”, “financial statements” and “parent company” have the same meanings as in section 209A;  
“calendar year” includes such period beyond the calendar year as may be extended by the Registrar under section 175(2) for holding the annual general meeting;  
“start date” means the later of the following dates:  
(a) the date on which the company sent a copy of its financial statements or, in the case of a parent company, a copy of the consolidated financial statements and balance sheet (including every document required by law to be attached thereto), to all persons entitled to receive notice of general meetings of the company under section 203(1); or  
(b) the date on which all resolutions of the company by written means (where such resolutions would have been passed at the annual general meeting if it had been held) were passed.~~

(6) If a company fails to comply with this section, the company and every officer of the company who is in default shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding \$5,000 and also to a default penalty.

## Financial year of a company

198A. — (1) A company's first financial year begins with its date of its incorporation.

(2) A proposed company shall give notice in the prescribed form by lodging with the Registrar together with its constitution at the time of lodgment for the incorporation of the proposed company, of the date of the end of its financial year, provided that no company shall have a first financial year longer than 18 months without the approval of the Registrar.

(3) The date of the end of the financial year of a company incorporated before the commencement of this section shall be the date it has previously provided to the Registrar, or if it had not previously provided such a date to the Registrar then the anniversary of its date of incorporation.

(4) A company's subsequent financial years are successive periods of twelve months beginning immediately after the end of the previous financial year and ending on the date of the end of its financial year.

(5) A company may by notice given to the Registrar before the end of a financial year, specify a new date of the end of its financial year to apply to the company's current financial year and subsequent financial years, provided that the notice will not be effective unless the Registrar approves if:

(a) the notice results in a current financial year longer than 18 months; or

(b) the notice is given less than five years after the end of an earlier financial year, if the end of that earlier financial year was changed under this section.

## **Financial statements and consolidated financial statements**

~~201.—(1) The directors of every company shall, at a date not later than 18 months after the incorporation of the company and subsequently at least once in every calendar year at intervals of not more than 15 months, lay before the company at its annual general meeting the financial statements for its financial year. for the period since the preceding financial statements (or in the case of the first financial statements, since the incorporation of the company) made up to a date—~~

~~(a) in the case of a public company that is listed, not more than 4 months before the date of the meeting; or~~

~~(b) in the case of any other company, not more than 6 months before the date of the meeting.~~

(2) Subject to subsections (12) to (15), the financial statements referred to in subsection (1) shall comply with the requirements of the Accounting Standards and give a true and fair view of the financial position and performance of the company.

~~(3) The Minister may, by order published in the *Gazette*, specify such other period in substitution of the period referred to in subsection (1)(a) or (b).~~

~~(4) Notwithstanding subsection (1), the Registrar may extend the periods of 18 months and 15 months referred to in that subsection and with respect to any year extend the period referred to in subsection (1)(a) or (b), notwithstanding that the period is so extended beyond the calendar year —~~

~~(a) upon an application by the company, if the Registrar thinks there are special reasons to do so; or~~

~~(b) in respect of any prescribed class of companies.~~

(5) Subject to subsections (12) to (15), the directors of a company that is a parent company at the end of its financial year need not comply with subsection (1) but must cause to be made out and laid before the company at its annual general meeting —

(a) consolidated financial statements dealing with the financial position and performance of group for its financial year~~for the period beginning from the date the preceding financial statements were made up to (or, in the case of first financial statements, since the incorporation of the company) and ending on a date —~~

~~(i) in a case where the parent company is a public company that is listed, not more than 4 months before the date of the meeting; or~~

~~(ii) in any other case, not more than 6 months before the date of the meeting; and~~

(b) a balance-sheet dealing with the state of affairs of the parent company at the end of its financial year,

each of which complies with the requirements of the Accounting Standards and gives a true and fair view of the matters referred to in paragraph (a) or (b), as the case may be, so far as it concerns members of the parent company.

~~(6) Subsections (3) and (4) shall, with the necessary modifications, apply to the periods referred to in subsection (5)(a)(i) and (ii) as they apply to the periods referred to in subsection (1)(a) and (b).~~

(7) The directors shall (before the financial statements referred to in subsection (1) and the balance-sheet referred to in subsection (5)(b) are made out) take reasonable steps —

(a) to ascertain what action has been taken in relation to the writing off of bad debts and the making of provisions for doubtful debts and to cause all known bad debts to be written off and adequate provision to be made for doubtful debts;

(b) to ascertain whether any current assets (other than current assets to which paragraph (a) applies) are unlikely to realise in the ordinary course of business their value as shown in the accounting records of the company and, if so, to cause —

(i) those assets to be written down to an amount which they might be expected so to realise; or

(ii) adequate provision to be made for the difference between the amount of the value as so shown and the amount that they might be expected so to realise; and

(c) to ascertain whether any non-current asset is shown in the books of the company at an amount which, having regard to its value to the company as a going concern, exceeds the amount which would be recoverable over its useful life or on its disposal and (unless

adequate provision for writing down that asset is made) to cause to be included in the financial statements such information and explanations as will prevent the financial statements from being misleading by reason of the overstatement of the amount of that asset.

(8) The financial statements shall be duly audited before they are laid before the company at its annual general meeting as required by this section, and the auditor's report required by section 207 shall be attached to or endorsed upon those financial statements.

(9) The directors of the company shall —

(a) take reasonable steps to ensure that the financial statements are audited as required by this Part not less than 14 days before the annual general meeting of the company, unless all the persons entitled to receive notice of general meetings of the company agree that the financial statements may be audited as required by this Part less than 14 days before the annual general meeting of the company; and

(b) cause to be attached to those financial statements the auditor's report that is furnished to the directors under section 207(1A).

(10) In subsections (8) and (9), "financial statements", in relation to a company, means —

(a) in the case where the company is not a parent company, the financial statements required to be laid before the company at its annual general meeting under subsection (1); or

(b) in the case where the company is a parent company, the consolidated financial statements of the group and the balance-sheet of the parent company required to be laid before the company at its annual general meeting under subsection (5).

(11) Where at the end of a financial year a company is the subsidiary company of another corporation, the directors of the company shall state in, or in a note as a statement annexed to, the financial statements laid before the company at its annual general meeting the name of the corporation which is its ultimate parent corporation.

(12) The financial statements or consolidated financial statements of a company need not comply with any requirement of the Accounting Standards for the purposes of subsection (1) or (5), if the company has obtained the approval of the Registrar to such non-compliance.

(13) Where financial statements or consolidated financial statements prepared in accordance with any requirement of the Accounting Standards for the purposes of subsection (1) or (5), would not give a true and fair view of any matter required by this section to be dealt with in the financial statements or consolidated financial statements, the financial statements or consolidated financial statements need not comply with that requirement to the extent that this is necessary for them to give a true and fair view of the matter.

(14) In the event of any non-compliance with a requirement of the Accounting Standards referred to in subsection (13), there shall be included in the financial statements or consolidated financial statements, as the case may be —

(a) a statement by the auditor of the company that he agrees that such non-compliance is necessary for the financial statements or consolidated financial statements, as the case may be, to give a true and fair view of the matter concerned;

(b) particulars of the departure, the reason therefor and its effect, if any; and

(c) such further information and explanations as will give a true and fair view of that matter.

(15) The Minister may, by order published in the *Gazette*, in respect of companies of a specified class or description, substitute other accounting standards for the Accounting Standards, and the provisions of this section and sections 207 and 209A shall apply accordingly in respect of such companies.

(16) The financial statements laid before a company at its general meeting (including any consolidated financial statements annexed to the balance-sheet of a parent company) shall be accompanied, before the auditor reports on the financial statements under this Part, by a statement signed on behalf of the directors by 2 directors of the company containing the information set out in the Twelfth Schedule.

(17) Any document (other than any financial statements or a balance-sheet prepared in accordance with this Act) or advertisement published, issued or circulated by or on behalf of a company (other than a banking corporation) shall not contain any direct or indirect representation that the company has any reserve unless the representation is accompanied —

(a) if the reserve is invested outside the business of the company — by a statement showing the manner in which and the security upon which it is invested; or

(b) if the reserve is being used in the business of the company — by a statement to the effect that the reserve is being so used.

(18) The provisions of this Act relating to the form and content of the statement of directors and the annual financial statements shall apply to a banking corporation with such modifications and exceptions as are determined either generally or in any particular case by the Monetary Authority of Singapore established under section 3 of the Monetary Authority of Singapore Act (Cap. 186).

(19) In respect of a company that is registered as a charity or approved as an institution of a public character under the Charities Act (Cap. 37), the requirements of this section as to the form and content of a company's financial statements or consolidated financial statements being in compliance with the Accounting Standards shall apply subject to any modification prescribed under section 13(1)(f) of that Act in respect of such a company.

(20) For the purposes of subsections (1) and (5), a reference to the preceding financial statements includes the profit and loss account, balance-sheet and consolidated accounts required to be laid before the company at its annual general meeting under section 201 in force before the date of commencement of section 116 of the Companies (Amendment) Act 2014.

(21) For the purposes of subsections (1) and (5), a reference to the requirement to lay financial statements before a company includes the laying of the profit and loss account, balance-sheet and consolidated accounts prepared in accordance with section 201 in force immediately before the date of commencement of section 116 of the Companies (Amendment) Act 2014, where such profit and loss account, balance-sheet and consolidated accounts have been prepared in respect of a financial year which ended before the date of commencement of section 116 of the Companies (Amendment) Act 2014.

(22) Subsection (16) shall not apply to any company in respect of any financial year which ended before the date of commencement of section 116 of the Companies (Amendment) Act 2014; and section 201(5) to (8), (11), (12) and (15) in force immediately before that date shall continue to apply to such company for that financial year.

(23) Without prejudice to the generality of section 197(2), a company referred to in subsection (22) shall, when lodging a return with the Registrar under section 197, attach a copy of the report prepared in accordance with section 201(5) in force immediately before the date of commencement of section 116 of the Companies (Amendment) Act 2014.

### **Retention of documents laid before company at annual general meeting**

**201AA.**—(1) Every company shall cause to be kept at the company's registered office, or such other place as the directors think fit —

(a) a copy of each of the documents that was laid before the company at its annual general meeting under section 201 for a period of not less than 5 years after the date of the annual general meeting, being a date on or after the date of commencement of section 117 of the Companies (Amendment) Act 2014; or

(b) ~~if for any financial year in which section 175A(1)(a) or (b) applies to~~ the company ~~has dispensed with the so that it is not required to~~ holding of its an annual general meeting ~~under section 175A~~—

(i) a copy of the financial statements; or

(ii) in the case of a parent company, a copy of the consolidated financial statements and balance-sheet (including every document required by law to be attached thereto), and a copy of the auditors' report where such financial statements or consolidated financial statements are duly audited, that were sent to all persons entitled to receive notice of general meetings of the company in accordance with section 203(1) for a period of not less than 5 years after the date on which the documents were sent, being a

date on or after the date of commencement of section 117 of the Companies (Amendment) Act 2014.

(2) If default is made in complying with subsection (1), the company and every officer of the company who is in default shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months and also to a default penalty.

(3) The Registrar or an authorised officer may at any time require the company to furnish any document kept under subsection (1), and may, without fee or reward, inspect, make copies of or extracts from such document.

(4) Any person who —

(a) without lawful excuse, refuses to produce any document required of him by the Registrar or an authorised officer under subsection (3); or

(b) assaults, obstructs, hinders or delays the Registrar or the authorised officer in the course of inspecting or making copies or extracts from the document, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both.

(5) In this section, “authorised officer” means an officer of the Authority authorised by the Registrar for the purposes of this section.

**When Directors-directors need not lay financial statements before company if resolution under section 175A in force**

**201C.** ~~Subject to section 203(1), while a resolution by a private company under section 175A is in force —~~

~~(a)~~ The directors of ~~the a private~~ company need not comply with the requirement in section 201 to lay before the company at its annual general meeting financial statements or consolidated financial statements of the company if —; and

(a) a resolution by the private company under section 175A(1)(a) is in force; or

(b) it satisfies section 175A(1)(b);

~~(b)~~ and the reference in section 207(1) to financial statements required to be laid before the company in general meeting shall then be read as a reference to the documents required to be sent to persons entitled to receive notice of general meetings of the company under section 203(1).

## Members of company entitled to financial statements, etc.

**203.**—(1) A copy of the financial statements or, in the case of a parent company, a copy of the consolidated financial statements and balance-sheet (including every document required by law to be attached thereto), which is duly audited and which (or which but for section 201C) is to be laid before the company in general meeting accompanied by a copy of the auditor's report thereon shall be sent to all persons entitled to receive notice of general meetings of the company —

(a) unless subsection (2) applies, not less than 14 days before the date of the meeting; or

(b) if a resolution under section 175A(1)(a) is in force or if section 175A(1)(b) is to apply to the company, not later than 5 months after the end of that financial year~~not less than 28 days before the end of the period allowed for the laying of those documents.~~

(2) The financial statements, or consolidated financial statements, balance-sheet and documents referred to in subsection (1) may be sent less than 14 days before the date of the meeting as required under subsection (1)(a) if all the persons entitled to receive notice of general meetings of the company so agree.

(3) Any member of a company (whether he is or is not entitled to have sent to him copies of the financial statements, or consolidated financial statements and balance-sheet) to whom copies have not been sent and any holder of a debenture shall, on a request being made by him to the company, be furnished by the company without charge with a copy of the last financial statements, or consolidated financial statements and balance-sheet (including every document required by this Act to be attached thereto) together with a copy of the auditor's report thereon.

(3A) If default is made in complying with subsection (1) or (3), the company and every officer of the company who is in default shall, unless it is proved that the member or holder of a debenture in question has already made a request for and been furnished with a copy of the financial statements, or consolidated financial statements and balance-sheet, and all documents referred to in subsection (1) or (3), each be guilty of an offence and shall each be liable on conviction to a fine not exceeding \$5,000 and also to a default penalty.

(4) In a case referred to in subsection (1)(b), any member or auditor of the company may, by notice to the company not later than 14 days after the day on which the documents referred to in subsection (1) were sent out, require that a general meeting be held for the purpose of laying those documents before the company.

(5) Section 175A(5) shall apply, with the necessary modifications, to the giving of a notice under subsection (4).

(6) The directors of the company shall, within 14 days after the date of giving of the notice referred to in subsection (4), convene a meeting for the purpose referred to in that subsection.

- (7) If default is made in convening the meeting under subsection (6) —
- (a) each director in default shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000; and
  - (b) the Court may, on application of the member or auditor, order a general meeting to be called.

### **Appointment and remuneration of auditors**

**205.**—(1) The directors of a company shall, within 3 months after incorporation of the company, appoint an accounting entity or accounting entities to be the auditor or auditors of the company, and any auditor or auditors so appointed shall, subject to this section, hold office until the conclusion of the first annual general meeting.

(2) A company shall at each annual general meeting of the company appoint an accounting entity or accounting entities to be the auditor or auditors of the company, and any auditor or auditors so appointed shall, subject to this section, hold office until the conclusion of the next annual general meeting of the company.

(3) Subject to subsections (7) and (8) and section 205AF, the directors may appoint an accounting entity to fill any casual vacancy in the office of auditor of the company, but while such a vacancy continues the surviving or continuing auditor or auditors, if any, may act.

(4) An auditor of a company may be removed from office by resolution of the company at a general meeting of which special notice has been given, but not otherwise.

(5) Where special notice of a resolution to remove an auditor is received by a company —

(a) it shall immediately send a copy of the notice to the auditor concerned and to the Registrar; and

(b) the auditor may, within 7 days after the receipt by him of the copy of the notice, make representations in writing to the company (not exceeding a reasonable length) and request that, prior to the meeting at which the resolution is to be considered, a copy of the representations be sent by the company to every member of the company to whom notice of the meeting is sent.

(6) Unless the Registrar on the application of the company otherwise orders, the company shall send a copy of the representations as so requested and the auditor may, without prejudice to his right to be heard orally, require that the representations be read out at the meeting.

(7) Where an auditor of a company is removed from office in pursuance of subsection (4) at a general meeting of the company —

(a) the company may, at the meeting, by a resolution passed by a majority of not less than three-fourths of such members of the company as being entitled to do so vote in person or, where proxies are allowed, by proxy immediately appoint another accounting entity nominated at the meeting as auditor; or

(b) the meeting may be adjourned to a date not earlier than 20 days and not later than 30 days after the meeting and the company may, by ordinary resolution, appoint another accounting entity as auditor, being an accounting entity notice of whose nomination as auditor has, at least 10 days before the resumption of the adjourned meeting, been received by the company.

(8) A company shall, immediately after the removal of an auditor from office in pursuance of subsection (4), give notice in writing of the removal to the Registrar and, if the company does not appoint another auditor under subsection (7), the Registrar may appoint an auditor.

(9) An auditor appointed in pursuance of subsection (7) or (8) shall, subject to this section, hold office until the conclusion of the next annual general meeting of the company.

(10) If the directors do not appoint an auditor or auditors as required by this section, the Registrar may on the application in writing of any member of the company make the appointment.

(11) Subject to subsection (7), an accounting entity shall not be capable of being appointed auditor of a company at an annual general meeting unless it held office as auditor of the company immediately before the meeting or notice of its nomination as auditor was given to the company by a member of the company not less than 21 days before the meeting.

(12) Where notice of nomination of an accounting entity as an auditor of a company is received by the company whether for appointment at an adjourned meeting under subsection (7) or at an annual general meeting, the company shall, not less than 7 days before the adjourned meeting or the annual general meeting, send a copy of the notice to the accounting entity nominated, to each auditor, if any, of the company and to each person entitled to receive notice of general meetings of the company.

(12A) Where a ~~resolution under section 175A is in force~~ company need not hold an annual general meeting for a financial year and the auditor or auditors of the company is or are to be appointed by a resolution by written means under section 184A by virtue of section 175A(10), references in subsections (11) and (12) to the date of an annual general meeting shall be read as references to the time —

(a) agreement to that resolution is sought in accordance with section 184C; or

(b) documents referred to in section 183(3A) in respect of the resolution are served or made accessible in accordance with section 183(3A), as the case may be.

(13) If, after notice of nomination of an accounting entity as an auditor of a company has been given to the company, the annual general meeting of the company is called for a date 21 days or less after the notice has been given, subsection (11) shall not apply in relation to the accounting entity and, if the annual general meeting is called for a date not more than 7 days after the notice has been given and a copy of the notice is, at the time notice of the meeting is given, sent to each person to whom, under subsection (12), it is required to be sent, the company shall be deemed to have complied with that subsection in relation to the notice.

(14) [*Deleted by Act 36 of 2014 wef 01/07/2015*]

(15) [*Deleted by Act 36 of 2014 wef 01/07/2015*]

(16) The fees and expenses of an auditor of a company —

(a) in the case of an auditor appointed by the company at a general meeting — shall be fixed by the company in general meeting or, if so authorised by the members at the last preceding annual general meeting, by the directors; and

(b) in the case of an auditor appointed by the directors or by the Registrar under this section or under section 205AF — may be fixed by the directors or by the Registrar, as the case may be, and, if not so fixed, shall be fixed as provided in paragraph (a) as if the auditor had been appointed by the company.

(17) If default is made in complying with this section, the company and every director of the company who is in default shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.