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PROCESS OF ALTERATION IN Article of Association

(Section 14 of Companies Act, 2013)

Date: 10th February, 2020



SHORT SUMMARY:

The articles of association of a company are its by-laws or rules and regulations which govern the management of its internal affairs and the conduct of its business. They are framed with the object of carrying out the aims and objects as set out in the Memorandum of Association

This section corresponds to section 31 of the Companies Act, 1956, section 20 of the Indian Companies Act, 1913, section 10 of the English Companies Act, 1948 and section 9 of the English Companies Act, 1985. It has been made effective from 1-4-2014 vide Notification No. SO 902(E), dated 26-3-2014

INTRODUCTION:

Any Company which intended to make any change to the Article of Association (AOA) of its company, will have to comply with the provisions of Section- 14 of Companies Act, 2013 and any other applicable provisions of the Act and applicable rules.

Company can alter its Article by way of addition, deletion, modification, substitution, or in any other way, only if it wants.

Note: * Every alteration made in the articles of a company shall be noted in every copy of the memorandum or articles, as the case may be

STEPS FOR ALTERATION IN ARTICLE OF ASSOCIATION:

STEP – I: Convene Board Meeting of Directors: (As per section 173 and SS-1)

To alter the Article of association of Company By giving Notice of at least 7 days.

STEP –II: Held Board Meeting: (As per section 173 and SS-1)

- At the Board meeting, the given resolutions in respect of alteration in AOA must be passed.
 - Get Approval to Alteration in Article of Association and recommending the proposal for members' consideration by way of special resolution.
 - Fixing the date, time, and venue of the general meeting and authorizing a director or any other person to send the notice for the same to the members.
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STEP- III: Issue Notice of General Meeting: (Section 101)

Notice of EGM **shall** be given at least 21 days before the actual date of EGM. EGM can be called on Shorter Notice with the consent of atleast majority in number and ninety five percent of such part of the paid up share capital of the company giving a right to vote at such a meeting:

- All the Directors.
- Members
- Auditors of Company

The notice shall specify the place, date, day and time of the meeting and contain a statement on the business to be transacted at the EGM

STEP- IV: Hold General Meeting: (Section 101)

- Check the Quorum.
 - Check whether auditor is present, if not. Then Leave of absence is Granted or Not. (As per Section- 146).
 - Pass Special Resolution.[Section-114(2)]
 - Approval of Alteration in AOA.
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STEP- V: Filing of form with ROC: (Section 117)

File Form MGT-14 (Filing of Resolutions and agreements to the Registrar under section117) with the Registrar along with the requisite filing within 30 days of passing the special resolution, along with given documents:-

- Certified True Copies of the Special Resolutions along with explanatory statement;
 - Copy of the Notice of meeting send to members along with all the annexure;
 - A printed copy of the Altered Article of Associations
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A. Whether Stamp Duty required to pain on Alteration in Article of Association (AOA)?

The Act does not contemplate new articles of association, and where it purports to be so, it is nothing more than a special resolution and as such does not require to be stamped.

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B. Whether mistake in Article of Association can be ratify by the Court?

A mistake, whether clerical or any other, in the articles of a company can only be rectified by altering the articles by special resolution in accordance with this section. It cannot be set right by application to Court. *Evans v. Chapman*, (1902) 96 LT 381; *Scott v. Frank F. Scott (London) Ltd.*, (1940) 3 All ER 509 : (1941) 11 Com Cases 127 (CA). See also SARKAR SPECIFIC RELIEFACT, Edn. 1997 section 26(l).

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