

SERIES
543

PROCESS OF ALTERATION IN OBJECT OF COMPANY

(Object clause of Memorandum of Association)



Date: 10th February, 2020

Section 13(9) read with Rule 32 of the Companies (Incorporation) Rules,
2014

SHORT SUMMARY:

This Article contains the procedure for change in Object clause of the Company Under Companies Act, 2013 with detailed documentation required. I hope this document would be of some help w.r.t. professional workings. Memorandum of association is the charter of the company and defines the scope of its activities. Memorandum of association defines the relation of the company with the rights of the members of the company interest and also establishes the relationship of the company with the members.

The Memorandum of Association (MOA) of a company has object clauses that determine the purpose and range of activities of a company. After incorporation of a company, it may want to change object clause. This requires alteration in the MOA of the company and section 13 of the Companies Act 2013 covers the same. Every clause on the MOA can be altered (with the exception of capital clause which requires an ordinary resolution to be passed) by passing a special resolution as mentioned in section 13. We cover the basic process to change the object clause of MOA of a company as per Companies Act 2013.

Chapter II Incorporation of Company and Matters Incidental Thereto
Provisions of the Companies Act, 2013: Section 13: Alteration of
Memorandum.

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

STEPS FOR ALTERATION IN OBJECT CLAUSE OF MEMORANDUM OF ASSOCIATION:

STEP-I- Convene A Board Meeting: (As per section 173 and 55-1)

- Issue Notice of Board Meeting to all the directors of company at least 7 days before the date of Board Meeting.
 - Attach Agenda
 - Notes to Agenda
 - Draft Resolution
-

STEP: II- Hold the Board Meeting:

- Proposed new Objects of the company.
- Pass Board Resolution after Selection of Object.
- Get Approval to change in the objects clause 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.

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 MOA.
-

STEP-V- Filing and fees:

File FORM NO. MGT-14 (Filing of Resolutions and agreements to the Registrar under section 117) with the Registrar along with the requisite filing within 30 days of passing the special resolution, along with given documents:-

ATTACHMENTS:

- 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 Memorandum Article of Associations.
- Copy of Attendance Sheet of General Meeting.
- Shorter Notice Consent, if any.

STEP-VI- Follow up:

- The Registrar shall then accordingly register the alteration and issue a certificate which will be the conclusive evidence that all the requirements with respect to the alteration have been duly complied with by the company.
- The alteration shall be complete and effective only on the issue of certificate by the Registrar.
- Incorporate the alteration in every copy of the memorandum.

DRAFT

SAMPLE BOARD RESOLUTION FOR

Change in Object Clause of the Company

“RESOLVED THAT pursuant to the provisions of Section 13 and other applicable provisions, if any, of Companies Act, 2013, (including any statutory modifications or re-enactment thereof, for the time being in force), and the rules framed there under, consent of the Board of Directors of the Company be and is hereby accorded, subject to the approval of the Registrar of Companies, NCT of Delhi & Haryana and subject to the approval of Shareholders in General Meeting, to append following sub clause (4) after sub clause (3) of clause III (A) of the Memorandum of Association of Company:

(4) “To carry on the Manufacturing and Business
.....”

FURTHER RESOLVED THAT for the purpose of giving effect to this resolution, Mr. ABC, Director of the Company be and is hereby authorised, on behalf of the Company, to do all acts, deeds, matters and things as deem necessary, proper or desirable and to sign and execute all necessary documents, applications and returns for the purpose of giving effect to the aforesaid resolution along with filing of necessary E-form as return of appointment with the Registrar of Companies, NCT of Delhi and Haryana.”

SAMPLE SHAREHOLDERS RESOLUTION FOR:

Change in Object Clause of the Company

“RESOLVED THAT pursuant to the provisions of Section 13 and other applicable provisions, if any, of Companies Act, 2013, (including any statutory modifications or re-enactment thereof, for the time being in force), and the rules framed there under, consent of the shareholders of the Company be and is hereby accorded, subject to the approval of the Registrar of Companies, NCT of Delhi & Haryana, to append following sub clause (4) after sub clause (3) of clause III (A) of the Memorandum of Association of Company:

(4) “To carry on the Manufacturing and Business
.....”

FURTHER RESOLVED THAT for the purpose of giving effect to this resolution, Mr. ABC, Director of the Company be and is hereby authorised, on behalf of the Company, to do all acts, deeds, matters and things as deem necessary, proper or desirable and to sign and execute all necessary documents, applications and returns for the purpose of giving effect to the aforesaid resolution along with filing of necessary E-form as return of appointment with the Registrar of Companies, NCT of Delhi and Haryana.”

DIVESH GOYAL

Practicing Company Secretary
GOYAL DIVESH & ASSOCIATES

Mob: +918130757966

csdiveshgoyal@gmail.com

(Author – CS Divesh Goyal, GOYAL DIVESH & ASSOCIATES Company Secretary in Practice from Delhi and can be contacted at csdiveshgoyal@gmail.com).

Disclaimer: The entire contents of this document have been prepared on the basis of relevant provisions and as per the information existing at the time of the preparation. Although care has been taken to ensure the accuracy, completeness and reliability of the information provided, I assume no responsibility therefore. Users of this information are expected to refer to the relevant existing provisions of applicable Laws. The user of the information agrees that the information is not a professional advice and is subject to change without notice. I assume no responsibility for the consequences of use of such information. IN NO EVENT SHALL I SHALL BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL OR INCIDENTAL DAMAGE RESULTING FROM, ARISING OUT OF OR IN CONNECTION WITH THE USE OF THE INFORMATION