

**CONDUCTING BOARD MEETING AND  
PROCEDURE FOR PASSING OF BOARD  
RESOLUTION BY PHYSICAL PRESENCE  
AND BY AUDIO-VISUAL MEANS  
AND MINUTES OF BOARD MEETING**

**110**

{Sections 92(1)(f), 117, 118, 173, 174, 179, 184 of the Act read with Secretarial Standard-1 and the Rules 3, 8, and 9 of the Companies (Meetings of Board and its Powers) Rules, 2014 and Rule 25 of the Companies (Management and Administration) Rules, 2014}

**Synopsis**

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**Relevant Sections, Rules and Forms at a Glance**

<b>Particulars</b>	<b>Section(s), Rule(s) and Name of e-Form(s)</b>
The Companies Act, 2013	Sections 92(1)(f), 117, 118, 173, 174, 179, 180, 184, 189, 403 and Schedule I
Secretarial Standards-1 of ICSI <sup>1</sup>	Clauses 1, 2, 3, 4, 5, 7 and 8
The Companies (Management and Administration) Rules, 2014	Rules 11, 24 and 25
The Companies (Meetings of Board and its Powers) Rules, 2014	Rules 3, and 8
The Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014	Rule 4
The Companies (Registration Offices and Fees) Rules, 2014	Rules 7, 8 and 12
e-Forms to be filed	MGT-14

- 1** *The clauses of Secretarial Standard-1 specified by the Institute of Company Secretaries of India as approved by the Central Government is not applicable on*
- *one person company in which there is only one director on its board,*
  - *a company licensed under section 8 of the Companies Act, 2013 or corresponding provisions of any previous enactment thereof,*
  - *a specified IFSC public company, and {Notification No GSR 8(E) dated 04.01.2017}*
  - *a specified IFSC private company {Notification No GSR 9(E) dated 04.01.2017}*

## 110.1 PROCEDURE WITH MAJOR CHECK POINTS

S. No.	Procedure
1.	<p>Note that—</p> <ul style="list-style-type: none"> <li>• the board of directors of a company is entitled- <ul style="list-style-type: none"> <li>- to exercise all such powers as the company is authorised to exercise</li> <li>- to do all such acts and things as the company is authorised to do subject to the provisions contained in that behalf-</li> <li>- in the Companies Act, 2013, or</li> <li>- in the memorandum or articles of association of the company, or</li> <li>- in any regulations not inconsistent therewith, or</li> <li>- regulations made by the company in general meeting {<i>Section 179(1) of the Act</i>}</li> </ul> </li> <li>• the board shall not exercise any power or do any act or thing which is to be exercised or done by the company in general meeting pursuant to this Act or memorandum or articles of the company or otherwise {<i>Proviso to section 179(1) of the Act</i>}</li> <li>• every company, except one person company in which there is only one director, a company licensed under section 8 of the Act or corresponding provisions of any previous enactment thereof, specified IFSC public company and specified IFSC private company, shall observe Secretarial Standards with respect to board meeting specified by the Institute of Company Secretaries of India as approved by the Central Government {<i>Section 118(10) of the Act</i>}.</li> <li>• the participation of directors in a meeting of the Board shall be either in person or through video conferencing or other audio-visual means, as may be prescribed, which are capable of recording and recognising the participation of the directors and of recording and storing the proceedings of such meetings along with date and time {<i>Section 173(2) of the Act</i>}.</li> <li>• the matter of board meeting has not been specified by the Central Government as not to be dealt with in a meeting through video conferencing or other audio-visual means.</li> <li>• the meeting of Board shall be called for items of business that are specified under the Companies Act, 2013 and Secretarial Standard I, issued by the Institute of Company Secretaries of India.</li> <li>• the following list of items of business prescribed under the Act and under Secretarial Standard I which <b>cannot be exercised by the board by passing resolutions by circulation:</b> <p><b>(A) Items of business as per section 179(3)<sup>1</sup> of the Companies Act, 2013—</b></p> <ul style="list-style-type: none"> <li>(a) to make calls on shareholders in respect of money unpaid on their shares;</li> </ul> </li> </ul>

<sup>1</sup> *In case of Specified IFSC public company or Specified IFSC private company, the Board can exercise powers by means of resolutions passed at the meetings of the Board or through resolutions passed by circulation. {Exemption Notification No. GSR 8 (E) for public company and GSR 9(E) for private company both dated 04.01.2017}.*

S. No.	Particulars
	<p>The subscribers, who are individuals in the Memorandum of Association (MOA) shall be deemed as first directors until the directors are duly appointed by the members in accordance with Section 152 of the Companies Act, 2013 and rules made thereunder (Section 152 of the Act).</p> <ul style="list-style-type: none"> <li>• Not the person intended/proposed to be appointed a director of a company has a valid Director Identification Number (DIN) under section 174 or any other number as may be prescribed under section 174 of the Companies Act, 2013, however, in case of first directors of a new company, the DIN up to 3 (three) persons can be obtained through incorporation with integrated form SPICe+ (INC-32) (Section 152 of the Act read with rule 152 of the Companies Incorporation Rules, 2014).</li> <li>• Not a total number of directors, at least one director has stayed in India for a total period of not less than 182 days during the financial year. Provided that in case of newly incorporated company, residential status shall be determined proportionately. However, it is not required in case the director is appointed by the Central Government or State Government (Section 152 of the Act).</li> <li>• A person, who is intended to be appointed, shall not be eligible for appointment, if he/she has any disqualification for appointment under section 164 of the Act (Section 164 of the Act read with company provisions of government company and regulations in COA 2012 about COA 2012).</li> <li>• A person proposed to be appointed as a director in a company other than a company registered under Section 8 (non-profit company) of the Companies Act, 2013 (Section 152 of the Act)             <ul style="list-style-type: none"> <li>- shall not hold office as a director including any alternate directorship in more than 20 companies including directorship in dormant companies.</li> <li>- shall not hold office in more than 10 public companies including the private companies which are holding or subsidiary of public companies.</li> </ul> </li> </ul>
1.	In case of one person company, an individual being sole member is deemed to be the first director of the company, if the articles of association has not mentioned the names of first directors (Section 152 of the Act).
2.	Forms created in writing, on or before appointment, from the appointed director to act as director in the company as Form 208-2 (Part 2 of the Companies Incorporation and Qualification of Directors Rules, 2014).
3.	Form created in writing, on or before appointment, from the appointed director as Form 208-3 regarding that he/she is not disqualified under Section 164 of Companies Act, 2013, to act as a Director (Section 164 of the Act read with rule 17 of the Companies Incorporation and Qualification of <b>Directors</b> Rules, 2014).
4.	The particulars of first directors to be integrated with Form SPICe+ (INC-32) at the time of incorporation of company.

For the detailed procedure, please refer Company Law Procedures & Compliances by Dr. Sanjeev Gupta, 2nd edn, 2021. You can buy from your bookseller or online at [www.bharatlaws.com](http://www.bharatlaws.com)

**[COMPANY LAW Procedures & Compliances \(in 2 vols.\)](#)**