



COMPANIES ACT 2016: PRACTICE NOTE NO. 9/2024

CLARIFICATION ON PROCEDURES RELATING TO NOTIFICATION OF APPOINTMENT AND REMOVAL OF DIRECTORS UNDER SECTION 58 OF THE COMPANIES ACT 2016

This Practice Note is issued pursuant to section 20C of the Companies Commission of Malaysia Act 2001.

OBJECTIVE

2. This Practice Note serves to clarify the procedures and requirements related to the notification of appointment and removal of directors pursuant to section 58 of the Companies Act 2016 [Act 777] ("CA 2016").

BACKGROUND

Appointment and removal of directors

3. As a general rule, members of the company are empowered to appoint and remove directors of the company. However, where there is a casual vacancy or a need to appoint additional directors, directors can be appointed by the board of directors.

4. Subsection 58(1) states that a company shall notify the Registrar, the particulars of director within fourteen (14) days from the date–

- (a) after its incorporation; and
- (b) any change thereof.

5. Any delay in notification under section 58 of the CA 2016 will attract late lodgment fees.

PROCEDURES RELATING TO THE NOTIFICATION UNDER SECTION 58 OF THE COMPANIES ACT 2016

Resolutions accompanying the notification

6. In cases of appointment or removal of a director, the notification lodged to the Registrar under Section 58 shall be accompanied with the relevant extract of resolution pertaining to the appointment or removal. For the purposes of Section 58, the extract of resolution shall fulfill the following requirements—

(a) Appointment of directors

- (i) In the case of an appointment of a new director at a general meeting, the notification shall be accompanied with an extract of the resolution passed at the general meeting of the company. The extract of resolution shall be signed by at least one of the existing board of directors (other than the newly appointed director) and the existing secretary.
- (ii) In the case of an appointment of a new director to fill a casual vacancy or as an additional director to existing board of directors, an extract of the resolution of the board of directors shall be sufficient to accompany the notification. The extract of the resolution shall be signed by at least one of the

existing board of directors (other than the newly appointed director) and the existing secretary.

(b) Removal of directors

- (i) Notification of removal of directors shall be accompanied with an extract of resolution passed at the general meeting of the company. The extract of resolution must be signed by a director at the material time when the resolution was passed and by the company secretary; or
- (ii) In the case where the removal of the whole of the board of directors, the extract of resolution of general meeting of the company shall be signed by:
 - A. any one of the directors so removed or secretary at the material time when the resolution was passed; or
 - B. the newly appointed director and the secretary at the material time when the resolution was passed; or
 - C. the newly appointed secretary at the material time when the resolution was passed.

7. In line with paragraph 6(b)(ii), a special notice is required of a resolution to remove a director or to appoint another person instead of the director at the same meeting as provided under Section 206(3) of the CA 2016. The resolution to remove the director shall not take effect until the director's successor has been appointed as provided under subsection 196(3) of the CA 2016. Please note that

the company must have the minimum number of directors in office in compliance with Section 196 of the CA 2016.

8. Paragraph 6(b)(ii) would also cater in circumstances where none of the directors' whereabouts can be contacted or the secretary has resigned under subsection 237(2) of the Companies Act 2016.

EFFECT OF THIS PRACTICE NOTE

9. This Practice Note serves to clarify the procedures and requirements relating to the notification of appointment and removal of directors pursuant to Section 58 of the CA 2016.

10. The Practice Note 16/2013 which was issued on 15 November 2013 under the Companies Act 1965 [Act 125] is repealed.

REGISTRAR

COMPANIES COMMISSION OF MALAYSIA

31 December 2024