

Replaceable Rules

The following document sets out the provisions of the Corporations Act that apply as replaceable rules (s141).

Replaceable rules do not apply to sole member/director companies if the member/director is the same person. Please see s198E, 201F, 202C of the Corporations Act, for special provisions that apply to these companies.

Readers should note that the Corporations Act outlining these rules may be altered and companies should always refer to a current version of the Corporations Act for a definitive reference to the replaceable rules at any given time.

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Check back on our site for updated revisions as the law changes.

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Officers and employees

1. Voting and completion of transactions – directors of proprietary companies (s194)

If a director of a proprietary company has a material personal interest in a matter that relates to the affairs of the company and:

(a) under section 191 the director discloses the nature and extent of the interest and its relation to the affairs of the company at a meeting of the directors; or

(b) the interest is one that does not need to be disclosed under section 191;

then:

(c) the director may vote on matters that relate to the interest; and

(d) any transactions that relate to the interest may proceed; and

(e) the director may retain benefits under the transaction even though the director has the interest; and

(f) the company cannot avoid the transaction merely because of the existence of the interest.

If disclosure is required under section 191, paragraphs (e) and (f) apply only if the disclosure is made before the transaction is entered into.

Note: A director may need to give notice to the other directors if the director has a material personal interest in a matter relating to the affairs of the company (see section 191).

2. Powers of directors (s198A)

(1) The business of a company is to be managed by or under the direction of the directors.

Note: See section 198E for special rules about the powers of directors who are the single director/shareholder of proprietary companies.

(2) The directors may exercise all the powers of the company except any powers that this Act or the company's constitution (if any) requires the company to exercise in general meeting.

Note: For example, the directors may issue shares, borrow money and issue debentures.

3. Negotiable instruments (s198B)

(1) Any 2 directors of a company that has 2 or more directors, or the director of a proprietary company that has only 1 director, may sign, draw, accept, endorse or otherwise execute a negotiable instrument.

(2) The directors may determine that a negotiable instrument may be signed, drawn, accepted, endorsed or otherwise executed in a different way.

4. Managing Director (s198C)

(1) The directors of a company may confer on a managing director any of the powers that the directors can exercise.

(2) The directors may revoke or vary a conferral of powers on the managing director.

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5. Company may appoint a Director ([s201G](#))

A company may appoint a person as a director by resolution passed in general meeting.

6. Directors may appoint other directors ([s201H](#))

Appointment by other directors

(1) The directors of a company may appoint a person as a director. A person can be appointed as a director in order to make up a quorum for a directors' meeting even if the total number of directors of the company is not enough to make up that quorum.

Proprietary company--confirmation by meeting within 2 months

(2) If a person is appointed under this section as a director of a proprietary company, the company must confirm the appointment by resolution within 2 months after the appointment is made. If the appointment is not confirmed, the person ceases to be a director of the company at the end of those 2 months.

Public company--confirmation by next AGM

(3) If a person is appointed by the other directors as a director of a public company, the company must confirm the appointment by resolution at the company's next AGM. If the appointment is not confirmed, the person ceases to be a director of the company at the end of the AGM.

7. Appointment of managing directors ([s201J](#))

The directors of a company may appoint 1 or more of themselves to the office of managing director of the company for the period, and on the terms (including as to remuneration), as the directors see fit.

8. Alternate directors ([s201K](#))

(1) With the other directors' approval, a director may appoint an alternate to exercise some or all of the director's powers for a specified period.

(2) If the appointing director requests the company to give the alternate notice of directors' meetings, the company must do so.

(3) When an alternate exercises the director's powers, the exercise of the powers is just as effective as if the powers were exercised by the director.

(4) The appointing director may terminate the alternate's appointment at any time.

(5) An appointment or its termination must be in writing. A copy must be given to the company.

Note: ASIC must be given notice of the appointment and termination of appointment of an alternate (see subsections [205B\(2\)](#) and [\(5\)](#)).

9. Remuneration of directors ([s202A](#))

(1) The directors of a company are to be paid the remuneration that the company determines by resolution.

Note: Chapter 2E makes special provision for the payment of remuneration to the directors of public companies.

(2) The company may also pay the directors' travelling and other expenses that they properly incur:

- (a) in attending directors' meetings or any meetings of committees of directors; and
- (b) in attending any general meetings of the company; and
- (c) in connection with the company's business.

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10. Director may resign by giving written notice to company ([s203A](#))

A director of a company may resign as a director of the company by giving a written notice of resignation to the company at its registered office.

11. Removal by members - proprietary company ([s203C](#))

A proprietary company:

- (a) may by resolution remove a director from office; and
- (b) may by resolution appoint another person as a director instead.

12. Termination of appointment of managing director ([s203F](#))

- (1) A person ceases to be managing director if they cease to be a director.
- (2) The directors may revoke or vary an appointment of a managing director.

13. Terms and conditions of office for secretaries ([s204F](#))

A secretary holds office on the terms and conditions (including as to remuneration) that the directors determine.

Inspection of books

14. Company or directors may allow member to inspect books ([s247D](#))

The directors of a company, or the company by a resolution passed at a general meeting, may authorise a member to inspect books of the company.

Directors' meetings

15. Circulating resolutions of companies with more than 1 director ([s248A](#))

Resolutions

(1) The directors of a company may pass a resolution without a directors' meeting being held if all the directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.

Copies

(2) Separate copies of a document may be used for signing by directors if the wording of the resolution and statement is identical in each copy.

When the resolution is passed

(3) The resolution is passed when the last director signs.

Note: Passage of a resolution under this section must be recorded in the company's minute books (see section 251A).

16. Calling directors' meetings ([s248C](#))

A directors' meeting may be called by a director giving reasonable notice individually to every other director.

Note: A director who has appointed an alternate director may ask for the notice to be sent to the alternate director (see [subsection 201K\(2\)](#)).

17. Chairing directors' meetings ([s248E](#))

(1) The directors may elect a director to chair their meetings. The directors may determine the period for which the director is to be the chair.

(2) The directors must elect a director present to chair a meeting, or part of it, if:

(a) a director has not already been elected to chair the meeting; or

(b) a previously elected chair is not available or declines to act, for the meeting or the part of the meeting.

18. Quorum at directors' meetings ([s248F](#))

Unless the directors determine otherwise, the quorum for a directors' meeting is 2 directors and the quorum must be present at all times during the meeting.

Note 1: For special quorum rules for public companies, see section [195](#).

Note 2: For resolutions of 1 director proprietary companies without meetings, see section [248B](#).

19. Passing of directors' resolutions ([s248G](#))

(1) A resolution of the directors must be passed by a majority of the votes cast by directors entitled to vote on the resolution.

(2) The chair has a casting vote if necessary in addition to any vote they have in their capacity as a director.

Note: The chair may be precluded from voting, for example, by a conflict of interest.

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Meetings of members

20. Calling of meetings of members by a director ([s249C](#))

A director may call a meeting of the company's members.

21. Notice to joint members ([s249J\(2\)](#))

Notice to joint members must be given to the joint member named first in the register of members.

22. When notice by post or fax is given ([s249J\(4\)](#))

A notice of meeting sent by post is taken to be given 3 days after it is posted. A notice of meeting sent by fax, or other electronic means, is taken to be given on the business day after it is sent.

22A. When notice under paragraph 249J(3)(cb) is given ([s249J\(5\)](#))

A notice of meeting given to a member under paragraph (3)(cb) is taken to be given on the business day after the day on which the member is notified that the notice of meeting is available.

23. Notice of adjourned meetings ([s249M](#))

When a meeting is adjourned, new notice of the resumed meeting must be given if the meeting is adjourned for 1 month or more.

24. Quorum ([s249T](#))

(1) The quorum for a meeting of a company's members is 2 members and the quorum must be present at all times during the meeting.

Note: For single member companies, see section [249B](#).

(2) In determining whether a quorum is present, count individuals attending as proxies or body corporate representatives. However, if a member has appointed more than 1 proxy or representative, count only 1 of them. If an individual is attending both as a member and as a proxy or body corporate representative, count them only once.

Note 1: For rights to appoint proxies, see section [249X](#).

Note 2: For body corporate representatives, see section [250D](#).

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