

I GENERAL DUTIES OF COMPANY SECRETARY

In larger companies where a full time employee (often the Chief Financial Officer or the General Counsel) is appointed as company secretary, the company secretary plays the role of the company's chief administrative officer and the person responsible for the company's compliance with its statutory duties. The secretary ensures that board procedures are followed and regularly reviewed. The board of directors will normally look to the secretary for guidance on procedures under the Act, the Memorandum and Articles of the company, the stock exchange rules (in the case of a public listed company) and other relevant legislation. The secretary usually administers and attends board meetings and prepares minutes of board proceedings.

In general, such a full time company secretary will:

- carry out the functions of chief administrative officer of the company;
- have a clear understanding of the Memorandum and Articles of the company and of the provisions of the Act in relation to the company;
- ensure that the registers required to be kept are established and properly maintained;
- organise and attend directors' and shareholders' meetings i.e. sending out notices, preparing agendas, compiling minutes of meetings, give advice at meetings on questions relating to procedure (e.g. quorum requirements, voting procedures, proxy provisions), statutory requirements, etc;
- supervise the issue of share capital including the preparation of allotment letters, issue of share certificates, handling of transfers and transmission of shares and forfeiture of shares;
- ensure that accounting records of the company are kept in compliance with the Act and that annual returns and reports are prepared in the form and filed within the time required by the Act;
- supervise the preparation of tax returns and the company's compliance with relevant tax requirements;
- ensure proper insurance coverage for the company;
- comply with instructions of the directors and communicate the instructions to relevant officers of the company.

II SPECIFIC DUTIES

In the case of smaller companies, the role of company secretary is often played by an external service provider such as a lawyer, accountant or chartered secretary who will carry out selected functions to keep the company in good standing. Even in the case of large companies with a full time company secretary, these functions are also outsourced to an external service provider. The common functions played by the external service provider are as follows:

1. Statutory Books

The secretary must ensure that the statutory registers of the company are kept and properly maintained. For details of statutory registers, see the "Books of the Company" tab.

2. Common Seal

The secretary should ensure safe custody and proper use of the common seal. Most company's articles of association will provide that the common seal of the company should only be used with the authority of the directors or of a committee of the directors authorised by the directors in that behalf, and every instrument in which the seal is affixed shall be signed by a director and countersigned by the secretary or by a second director or some other person appointed by the directors for the purpose.

3. Statutory Returns

The secretary has to ensure that all returns required to be filed with the Registrar of Companies are prepared and filed within the prescribed time.

4. Meetings and minutes

Although there is no specific provision that the secretary must attend company or directors' meetings, the duty is implied in Section 156(7) of the Act (which relates to the declaration of directors' interests in contracts, etc). Section 156(7) states that "The secretary of the company shall record every declaration under this section in the minutes of the meeting at which it was made."

5. Directors' meetings

The secretary's duties in relation to directors' meetings are:

5.1 Before the meeting:

- (a) to prepare the agenda for the board and to prepare and send the notice of meeting to all directors;
- (b) to prepare board papers, in consultation with management, to facilitate discussion at the meeting and distribute them to all directors;
- (c) to prepare the attendance sheet.

5.2 During the meeting:

- (d) to ensure that a quorum is present before proceedings commence, and to obtain the signatures of all attendees on the attendance sheet;
- (e) to attend the meetings, record proceedings and ensure that a director's declaration of interests (if any) is read and noted;
- (f) to ensure that all board papers are removed from the meeting room at the conclusion of the meeting; and
- (g) generally to ensure that the meeting is conducted properly in accordance with provisions of the Articles of the company.

5.3 After the meeting:

- (a) to prepare draft minutes of the meeting for the chairman's approval and comment;
- (b) to send copy of the minutes to all directors;
- (c) to file the prescribed forms with the Registrar of Companies in time e.g. for certain changes effected by the passing of resolutions at the meeting, such as change of directors, registered office, etc;
- (d) to notify other relevant authorities or bankers of the company of resolutions passed (where necessary); and
- (e) to ensure that the decisions of the board are carried out.

6. Members' meetings

The secretary also organises and attends shareholders' meetings. As in the case of a directors' meeting, the secretary would give notice of meetings, prepare the agenda and draft, prepare and record the minutes of the meeting.