



MEMO

To: Board of Directors

From: Company Secretary

Subject: **ALTERNATE DIRECTOR: PROVISION OF BOARD MINUTES**

The Finance Director's appointed Alternate Director has asked that he receive copies of the minutes of all Board meetings, regardless of whether or not he was present (in his capacity as Alternate or in his usual 'by invitation' attendance in his role as CFO).

His rationale is simply so that he is kept aware, and has it available to him in writing for reference, of what happened at Board meetings – so that he can attend to action items for which he is responsible and/or to be fully informed so that he can adequately perform as Alternate Director when relevant.

Rule 6.4 of our Constitution provides the criteria and terms relating to the appointment of an Alternate Director, and nothing is mentioned there about Board minutes.

Rule 9.4(a) requires that a 'notice of a meeting of Directors must be given to each Director and Alternate Director'.

However, the Constitution is silent in relation to whom minutes of Board meetings must be sent (or not sent – although under common law generally no-one other than Directors are entitled to a copy of Board minutes). There is nothing in the Corporations Act covering this also (again section 201K only covers the provision of notice of meetings). Therefore, technically, on the face of it there may be no obligation to provide the minutes to the Alternate Director – and in relation to action items he could simply be given the specific relevant information by the Finance Director.

However, I would suggest that if the Alternate Director is to receive notices of meetings then he should also be given the Board papers – and those papers would usually include the minutes of the previous Board meeting.

Furthermore, in my opinion, if the Alternate Director actually attends a Board meeting – in the capacity of Alternate – then I believe he should at least receive a copy of the minutes of that meeting. I agree, for other meetings he may not be legally entitled to see the minutes – but I can find no cases/references on this – so I would think it is perhaps a good idea if in fact the Board did provide a copy of all minutes to the Alternate so that, even if he gets nothing else, he is aware of what is happening/being decided at Board level in case he does have to attend and participate in a Board meeting as Alternate and then can meaningfully contribute with at least some background knowledge.



In summary, I would support providing a copy of all Board minutes to the Finance Director's appointed Alternate Director, whether or not he has attended a Board meeting as a 'fully accredited' Alternate with full voting rights, etc or 'by invitation' as CFO, and I recommend that the following resolution be approved:

“RESOLVED that the minutes of all Board meeting be sent to all Alternate Directors.”

DISCLAIMER

The comments in this memo reflect some commercial aspects and observations on the matter experienced or observed by the writer in practice as he understands them. The information is given as a guide only and does not represent a definitive or legal view of any of the issues raised, covered or referred to and the reader is urged to seek his own professional advice on all aspects of, or pertaining to, this and any related matter.