



MEMO

To: Board of Directors
From: Company Secretary
Subject: **CHANGE OF COMPANY NAME: PUBLIC COMPANY**

Choice of Name

As discussed, we can change the company's name to any name that is not already taken, subject to shareholders' approval.

The Corporations Act section 147 states that a name is available unless that name is:

- identical to another registered company name currently in use or reserved (ie by ASIC or under any other Australian or state legislation); or
- identical to a business name registered in any Australian state (unless that name owned by the company); or
- unacceptable to ASIC (ie, contains a restricted word or phrase, such as 'royal', 'bank' or 'chartered').

A search on name availability can be undertaken through the ASIC website.

Similar, but not identical names are generally allowed, but not plural/singular forms of the name sought. The onus, however, rests with the applicant to have regard for similar names or names which may possibly be mistaken for or confused with an already registered name, and registration of a name by ASIC does not make a company immune from action by another party.

Whilst no longer mandatory, the safest thing is to reserve a proposed name with ASIC (Form 410) before shareholders and/or 'the public' find out about it, so as to protect the name.

Procedure to Change

Under CA section 157(1)(a), to effect a name change in a public company requires shareholders' approval of a Special Resolution at a General Meeting [unless there is only one shareholder – in which case a Shareholder Resolution can be signed pursuant to CA section 249B(1)]

Therefore, to enable the Board to consider the next move, I have drafted the following documents for your consideration:

- Board minutes
- Notice for an Extraordinary General Meeting



- Proxy Form

So, to progress this matter we now need to:

1. Decide on the new name/reserve with ASIC and select the EGM date/venue (note - under CA section 249H(1) 21 days' clear notice is required for the EGM).
2. Draft a suitable Letter to Shareholders (*to explain the name change – and perhaps also give a brief company update/overview*).
3. Hold a Board Meeting for Directors to formally agree and recommend the proposal to shareholders, approve the calling of an EGM and the Notice of Meeting/Proxy Form.
4. Print and post the Letter and Notice/Proxy to shareholders.
5. Hold the EGM.
6. Subject to approval by at least 75% of shareholders, lodge Form 205 with ASIC within 14 days and pay the appropriate fee – CA section 157(2).

ASIC will then issue a replacement “Certificate of Registration on Change of Name” on the date the new name takes effect.

Post Name Change Actions

Following confirmation that the new name has been registered I suggest the following actions:

- Prepare new logo/letterhead
- Write to shareholders advising the change
- Advise bank, post office, phone company, service providers
- Inform clients/debtors/creditors/suppliers
- Put up new signs [including Registered Office sign, as required by CA section 144(2)]
- Replace stationery
- Amend website.

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.