



## MEMO

To: Board of Directors  
From: Company Secretary  
Subject: **REVOCATION OF PROXIES**

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Any shareholder who is unable to attend a shareholders' meeting may appoint someone else (an individual person or a company) to attend and vote (and ask questions) on his/their behalf [Corporations Act Section 249X]. This requirement is mandatory for public companies – and optional for proprietary companies, through adoption of Sec. 249X as a 'Replaceable Rule' or through their constitution. In my experience it would be most unusual for a constitution not to allow proxies – I have never seen such a one.

Where a company is appointed as proxy it should, in turn, appoint an individual as its spokesman/representative – Sec. 250D(1)(d).

### **Revocation of Proxy**

A shareholder who has appointed a proxy may intentionally revoke the authority of the proxy holder by:

- (i) lodging a written notice of revocation of the proxy appointment with the company's share registry at any time before the scheduled time of the meeting or, if adjourned or postponed, before it is reconvened, or
- (ii) handing the revocation to the Chairman or Company Secretary at the meeting prior to a vote being taken; or
- completing and lodging a new proxy form for the meeting not less than 48 hours prior to the commencement of the meeting, which will automatically revoke the prior proxy appointment.

Revocation of a proxy does not affect any matter on which a vote has been taken prior to the revocation.

### **Suspension of Proxy**

Note also that the proxy's authority may be suspended should the shareholder himself attend the meeting.

In this regard Sec. 249Y(3) states: *A company's constitution (if any) may provide for the effect that a member's presence at a meeting has on the authority of a proxy appointed to attend and vote for the member. However, if the constitution does not*



*deal with this, a proxy's authority to speak and vote for a member at a meeting is suspended while the member is present at the meeting.*

Most company constitutions provide for this; ours says in Rule 16.6: *A proxy or attorney has no power to act for a Member at a meeting at which the Member is present.*

This event does not actually revoke the proxy's appointment, it merely suspends the proxy's authority because the shareholder himself exercises his right to speak and/or vote in person during any time he is present at the meeting. The fact that the appointment is not revoked could be important if the shareholder leaves during the course of the meeting, or the meeting is postponed or adjourned and the shareholder cannot attend at the later time.

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*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.*