

STATUTORY REQUIREMENTS FOR SUBMISSION OF RESOLUTIONS BY MEMBERS TO AN OATA MEMBERS MEETING

As was explained by the OATA legal counsel during During the the 2020 AGM , the process for a voting member to submit a resolution to be voted on at a Members Meeting (whether Annual or Special). As a courtesy to members the process is being explained once again.

The process is set out in the *Corporations Act (Ontario)*. The OATA is a non-share capital corporation. It, therefore, has "members" rather than "shareholders" and so the provisions of the Act pertaining to non-share capital corporations and its members apply,

The relevant provisions of the Act are reproduced below, with the especially important sections underlined:

"Circulation of shareholders' resolutions, etc.

296 (1) On the requisition in writing of shareholders of a company holding not less than one-twentieth of the issued shares of the company that carry the right to vote at the meeting to which the requisition relates or not less than one-twentieth of the members of a corporation without share capital entitled to vote at the meeting to which the requisition relates, as the case may be, the directors shall,

(a) give to the shareholders or members entitled to notice of the next meeting of shareholders or members notice of any resolution that may properly be moved and is intended to be moved at that meeting; or

(b) circulate to the shareholders or members entitled to vote at the next meeting of shareholders or members a statement of not more than 1,000 words with respect to the matter referred to in any proposed resolution or with respect to the business to be dealt with at that meeting.

Notice

(2) The notice or statement or both, as the case may be, shall be given or circulated by sending it in writing to each shareholder or member entitled thereto in the same manner and at the same time as that prescribed by this Act for the sending of notice of meetings of shareholders or members.

Idem

(3) Where it is not practicable to send the notice or statement or both at the same time as the notice of the meeting is sent, the notice or statement or both shall be sent as soon as practicable thereafter.

Deposit of requisition, etc.

(4) *The directors are not bound under this section to give notice of any resolution or to circulate any statement unless,*

(a) the requisition, signed by the requisitionists, is deposited at the head office of the corporation,

(i) in the case of a requisition requiring notice of a resolution to be given, not less than ten days before the meeting,

(ii) in the case of a requisition requiring a statement to be circulated, not less than seven days before the meeting; and

(b) there is deposited with the requisition a sum reasonably sufficient to meet the corporation's expenses in giving effect thereto.

Where directors not bound to circulate statement

(5) *The directors are not bound under this section to circulate any statement if, on the application of the corporation or any other person who claims to be aggrieved, the court is satisfied that the rights conferred by this section are being abused to secure needless publicity for defamatory matters, and on any such application the court may order the costs of the corporation to be paid in whole or in part by the requisitionists even though they are not parties to the application.*

Where no liability

(6) *A corporation and a director, officer, employee or person acting on its behalf, except a requisitionist, is not liable in damages or otherwise by reason only of the circulation of a notice or statement or both in compliance with this section.*

Duty to deal with requisitioned matter

(7) *Despite anything in the by-laws of the corporation, where the requisitionists have complied with this section, the resolution, if any, mentioned in the requisition shall be dealt with at the meeting to which the requisition relates.*

Repayment of expenses

(8) *The sum deposited under clause (4) (b) shall be repaid to the requisitionists by the corporation unless at the meeting to which the requisition relates the shareholders or members by a majority of the votes cast reject the repayment to the requisitionists.*

Offence

(9) A director of a corporation who authorizes, permits or acquiesces in any contravention of any requirement of this section is guilty of an offence and on conviction is liable to a fine of not more than \$200.

The current number of voting members of the OATA is 735 which means that a requisition would have to be signed by no less than 37 voting members.

As explained by legal counsel at the last AGM Resolutions cannot be brought forward at the actual Meeting.

A member wishing to submit a resolution may wish to obtain his or her own legal advice in order to ensure full compliance with the requirements of the Act.