

Minutes of Statutory Company Meetings

A dispute can arise between the directors and shareholders or both of a company over the records and the authenticity of the Minutes of meetings of the company.

Recording of Minutes in a bound book or in loose sheets comes with its legal implications.

The Companies Law

According to the learned Author, Deji Sasegbon, in his book, Nigerian Companies & Allied Matters Law & Practice, the statutory Minutes of meeting(s) of a company are an authoritative record of the proceedings at such meetings.

Though the Minutes of the meeting of a company are an authoritative record of proceedings at such meeting, they constitute only prima facie (i.e. credible) evidence of what transpired at the meeting as other evidence can be provided to contradict or in some cases, throw more light on proceedings at such a meeting.

Section 241(1) of the Companies & Allied Matters Act, 1990 (?CAMA?) provides that it is mandatory for a company to record, in a book, kept for that purpose, all the proceedings at its general meetings (whether annual or extra-ordinary), the meetings of its directors and general managers.

Section 241(2) of CAMA goes further to provide that any minute purportedly signed by the Chairman of the meeting at which the deliberations were held or by the Chairman of the succeeding meeting, shall be credible evidence of the deliberations and the decisions reached at such a meeting.

The failure to keep proper Minute book(s) as required under the Law is an offence, which attracts a fine of N500 on conviction for each non-compliance.

Minutes in Bound Book or Loose Sheets

Prior to the enactment of CAMA and with recent judicial authorities, the judicial view was that Minute entries made in loose sheets of paper, whether kept in a file or fastened together in a

bound book subsequently, were not admissible/permitted evidence of the Minutes of the deliberations and

decisions taken at such a meeting. See *Onwuka v. Taymani & Ors* [1965] NCLR page 203; *Heart of Oaks Ass. v. James Lower & Sons Ltd*[1936] Ch.D page 26.

Section 633(1) & (2) of CAMA and the Supreme Court decisions of *Int. Agric. Ind. Ltd. v. Chika Brothers Ltd* [1990] 1 SC page 1 @ 6 changed the above legal position. Section 633(1) of CAMA permits the keeping of Minutes in either bound books or loose sheets.

However, where the Minutes are not kept in a bound book but by some other means like loose sheets, **adequate precaution must be taken to guard the Minutes from falsification and for facilitation of its discovery by interested persons in the company.**

In the case of *Nsirim v. Onuma Construction* [2001] 3 SC page 168 @ 173 the Nigerian Supreme Court interestingly held that the decisions of a company need not necessarily appear in a Minute book; the trial Court should uphold, when called upon to determine the question, a resolution of a company if the Court is satisfied that a meeting was convened and such a resolution was passed.

The Practice

The modern behaviour of keeping the Minutes of a company is to, in addition to having them in a bound book, circulate the Minutes widely amongst the members of the company where the company is a private company. Where the company is a public company, the Legal Counsel makes it a duty to publish as many of the resolutions of the company, as possible.

The above behaviour reduces disputes and challenges, as the members of the company would have received constructive notice of the Minutes and would be estopped from possibly challenging their authenticity at a latter date where that is not done at a prior opportunity.

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