CHAPTER 18 COMPANY LAW III

After studying this chapter students should be able to:

OUTLINE THE DIFFERENT TYPES OF COMPANY MEETINGS AND EXPLAIN HOW MEETINGS ARE CONVENED AND MANAGED

- A General Meeting is one to which all shareholders and directors are invited and can be called by its directors at any time.
- Every public company must hold an AGM. Private companies are not required by law to hold an AGM but may do so if they wish.
- Class Meetings are where only shareholders holding a particular class of share are entitled to attend.
- The purpose of company meetings is to enable shareholders to attend in person and discuss and vote on matters that affect the company.
- Notice of meetings must be given to every member and every director.
- Decisions are taken by passing resolutions. Voting may be by a show of hands or by poll.
- For a meeting to be correctly constituted, the correct notice must be given and there must be a quorum (minimum number) of shareholders in attendance.

DISTINGUISH BETWEEN DIFFERENT TYPES OF RESOLUTIONS AND APPRECIATE THE RIGHTS OF SHAREHOLDERS TO PROPOSE RESOLUTIONS

- An ordinary resolution is passed by a simple majority of shareholders voting in person or by proxy.
- A special resolution is passed by a majority of not less than 75 per cent of the shareholders who vote in person or by proxy.
- A private company may pass any decision by a written resolution.
- Resolutions are generally proposed by directors but there are some opportunities for shareholders to propose resolutions.
- In certain circumstances shareholders can require directors to convene a General Meeting.

SHOW AN UNDERSTANDING OF PROTECTION GIVEN BY LAW TO MINORITY SHAREHOLDERS

- A shareholder can bring a derivative claim on behalf of the company.
- A shareholder has the power to petition the court if shareholders, including himself, have been unfairly prejudiced.
- The Department for Business, Energy and Industrial Strategy has the power to order an investigation of companies where serious corporate illegalities are suspected.

EXPLAIN THE MEANING OF INSIDER DEALING AND MARKET ABUSE

- Market abuse involves the misuse of information, or the creation of a false or misleading impression, or the distortion of the market.
- Insider dealing is a criminal offence. It is where an individual uses price-sensitive information, which has not been made public, relating to the present or future value of company securities for his own profit.

DESCRIBE THE METHODS BY WHICH A COMPANY CAN BE WOUND UP

- A company may be wound up by a court order (compulsory liquidation) because the company is insolvent or it is just and equitable.
- A company may be wound up by voluntary liquidation of the shareholders, but only if the company is solvent. If the company is insolvent, there may be a creditors' voluntary winding up.
- A liquidator is appointed to collect in all the company's assets and distribute them to its creditors, with any surplus distributed between the shareholders.

DIFFERENTIATE AND EXPLAIN WRONGFUL AND FRAUDULENT TRADING

- Wrongful trading is where a company has been trading and at the time the directors knew, or ought to have known, that there was no reasonable prospect of the company avoiding insolvent liquidation.
- Fraudulent trading is a criminal offence and applies where the business of a company has been carried on with the intention of defrauding the creditors of the company or for some other fraudulent purpose.