

How the voting takes place

Show of hands (informal)

A corporation can work out how many members are for and against a proposed resolution by calling for a show of hands, and having the chair declare the result. This is the most common voting process.

Once proxy voting is sorted out, the chair will ask...

Who is in favour? and invite members to raise their hand.

Then they will ask... **Who is against?**

There's no need to count every single vote if the outcome is easy to see.

Poll (formal)

If the chair prefers, or if enough members demand it, a poll may be used instead of a show of hands. A poll is a vote that accurately counts the votes for and against a resolution.

Some corporations use ballot papers or wristbands to ensure only eligible people attend a meeting and vote. When members enter and register for the meeting they also collect their ballot paper or wristband. To cast a vote, the voting paper is filled in and placed into the ballot box. In the case of wristbands, members hold up their hand with a wristband so it can be confirmed that they are eligible to vote and that their vote can be counted.

Voting in other ways

Some corporation rule books allow members or directors to vote remotely by using teleconference, email or post. This can be useful for corporations with members in many locations that are far apart. Remember if this isn't in the rule book, voting must be by a show of hands or a poll. (Note that postal voting is complex due to the time delay and the possibility of mail going missing. It may also reduce the opportunity for members to engage directly with each other before a vote.)

Deciding by consensus

Some corporations don't like voting because it can create a majority and minority situation. Having people feel like they've 'lost' can cause conflict or dispute. Some corporations therefore use consensus decision-making.

But there are problems with it as it is not always possible to reach agreement on a decision, particularly on a sensitive matter. Most corporations are therefore moving away from consensus decision-making. If your corporation decides to use consensus it should always have a backup in its rule book, such as majority vote.

There are varying forms of how consensus is reached but the idea is to work together to find a decision that everyone supports or at least can live with. It's about finding common ground rather than a majority decision.

Declaring the result and recording it

No matter what voting method you use, the chair of the meeting declares if the resolution is passed or not.

- For a vote by **show of hands**—there's no need to count every single vote if the outcome is clear. The chair decides if the required number of votes was reached.
- For a **poll** vote—every single vote is accurately counted to work out if the required number of votes was reached.

The decision must be recorded in the minutes of the meeting. The minutes should record:

- the words of the resolution
- any declarations about a material personal interest or other conflict of interest, and how the matter was handled—for example, whether or not the person left the meeting while the matter was discussed and whether or not the person voted on the matter
- who presented/proposed the resolution
- who seconded it
- whether it was a special resolution
- main points of any discussion—this helps explain why a decision was made
- the result of the vote—remember: ordinary resolutions need a majority of votes and special resolutions need 75 per cent—for example:

The resolution was passed by a majority on a vote by show of hands.

A poll was taken and the special resolution was passed (81 per cent in favour and 19 per cent against).

- any follow-up action required and who is responsible for it.

Challenging the result

If a person challenges the result of the vote they must do so at the meeting. In most rule books, a challenge to a vote is determined by the chair at the meeting. If a person is dissatisfied with the way a vote was conducted they may be able to challenge the decision in a court, but a person seeking to do so should first seek legal advice.

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ORIC Oracle

Making decisions

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Corporations need to make decisions so they can do business and deliver services. Making decisions on behalf of a corporation can often require 'passing a resolution'. If a resolution is required, the type of resolution and who can make it will depend on what the decision is about.



Photo: Yawuru native title holders voting at a meeting. © Nyamba Buru Yawuru Ltd

Who decides?

If everyone needed to be involved in every decision of a corporation, doing business would be very slow. This is why different people or groups of people in a corporation have the power to make decisions on behalf of the corporation.

As a general guide the corporation's members should be involved in making decisions about very important matters for the corporation. However, it is not practical or possible for them to be involved in every decision, so they appoint directors to manage the business of the corporation on their behalf. When members choose (elect/appoint) directors, they are giving those directors responsibility to look after and make decisions about the corporation.

Equally it is not possible for the directors to make all the day-to-day decisions at a corporation so they will usually delegate their powers (approve other people to exercise their powers), or some of their powers, to the staff—such as paying bills and employing junior staff. When the directors hire a senior staff member they are giving them the responsibility to run and make decisions about the corporation's business. This is why it's important to choose people who you think will do the best job in looking after the corporation's interests as a whole.

Having decisions made by the right people within a corporation is therefore an important part of how a corporation carries out its business.

When are decisions made?

Resolutions at meetings

Most of the important corporation decisions are made at meetings—either general meetings (members' meetings) or directors' meetings. The business of the meeting needs to be in the notice of the meeting. If a special resolution is on the agenda for a general meeting the exact wording of the proposed special resolution must be set out in the agenda.

See more about special resolutions on the next page.

At meetings any resolutions are voted on and the decision is recorded in the minutes, which need to be signed by the chair of the meeting.

Depending on what the resolution was about there may be follow-up required. Staff may need to take action, or information may need to be lodged with the Registrar.

Resolutions without a meeting

Note: It is possible for both members and directors to pass resolutions without holding a meeting.

These are called 'circulating resolutions' because the proposed resolution is written down and circulated to all the people who are entitled to vote on it. The main difference is that to pass a circulating resolution requires every director or every member entitled to vote on the matter to sign the document saying they agree to the resolution (unanimous agreement). The resolution is passed when the last person signs it.

Corporations must make a record in their minute books within onemonth of the resolution being passed.

Any resolutions passed after the previous meeting was held should be noted at the next meeting.



MEMBERS' RESOLUTIONS

When do members get to decide?

There are certain matters that are important enough that they should be decided by all the corporation's owners—the members.

Resolutions passed by members are called members' resolutions. They can be ordinary resolutions or special resolutions, depending on the decision that has to be made. If you don't see the word 'special' in front of a 'resolution' then it's an ordinary resolution.

Decisions about ordinary/regular corporation matters

The corporation's members need to consider some matters as part of regular business and decide these by **ordinary resolution**.

For an ordinary resolution to pass, a **majority of votes** in favour of the resolution is required to pass it (unless your rule book replaces this rule with a different amount).

Some decisions need to be made at least once a year. The CATSI Act requires that they are part of the business (on the agenda) of every annual general meeting. They include:

- who will be the directors
- (if required) who will be the auditor of the corporation's financial report (money story), and how much they'll be paid

Other matters the members must be involved in deciding by ordinary resolution include:

- approval to give a financial benefit to a related party, such as a director
- the amount of remuneration to be paid to directors (only if the rule book says directors are paid)
- a resolution proposed by members (about something the members want to put to a vote).

For significant decisions, directors sometimes ask members to decide.

Decisions about big issues or change for the corporation

When a corporation needs to consider a big issue or change the members needs to pass a **special resolution**.

They are called special resolutions because the matter is so important that there needs to be stronger agreement (a bigger number of votes in favour) to pass than ordinary resolutions. A special resolution requires **75 per cent of the total votes** in favour of the resolution (not 75 per cent of all members).

A special resolution is required to:

- register a new corporation or amalgamate with another corporation
- change a corporation's name
- amend a corporation's rule book
- cancel a member's membership (for certain reasons only)
- transfer the corporation's registration to another law
- wind up a corporation, and decide how to distribute assets in a winding up.



DIRECTORS' RESOLUTIONS

When do directors get to decide?

In most corporations the rest of the decisions about the corporation such as its direction, activities, business ventures, budgets and employment of senior staff (if they have staff) are left to the directors.

Directors' resolutions are passed by the majority of directors (more than 50 per cent of the directors), but corporations can change their rule book to require a higher number or proportion of votes.

type of matter	who decides	type of resolution
regular important matters	▶ members	ordinary resolution (majority of votes)
big issues or change	▶ members	special resolution (75 per cent of votes)
leading and directing the corporation	▶ directors	ordinary resolution (majority of votes)

REMEMBER:

Corporations can replace many of the rules around decision-making in their rule book. To be sure what the rules are for your corporation, check your rule book.

Passing resolutions

Check what your rule book says about how members' or directors' resolutions are passed.

Before each resolution is put to a vote it is good practice that:

- before the item is discussed, attendees at the meeting declare if they have a conflict of interest in the matter. This is so that the other directors or members (depending on what type of meeting it is) can determine whether a conflict of interest exists and then decide how it should be handled
- a person presents/proposes the resolution ('moves' it)
- another person seconds the resolution
- the resolution is discussed.

The chair then announces how voting will be carried out. Every member (or director if it's a directors' resolution) usually has one vote.

If the corporation's rules allow members to appoint a proxy (this is in most cases a member nominated to attend and vote at a general meeting on another member's behalf), the chair also needs to say how proxy votes will be cast. (Note: a director cannot appoint a proxy to attend a directors' meeting on their behalf unless it is allowed in the corporation's rule book.)

▼ Photo: Representatives from Pilbara Aboriginal communities vote to reject the proposed changes to the WA Aboriginal Heritage Act. (Lucie Bell) © ABC

