



CS Sidharth Sharma
FCS, LL.B.

Special Notices under the Companies Act, 2013

The Term special Notice has not been defined under the Companies Act, 2013 but there are specific Sections which talks about the Special Notice. There are only two events specified under the companies act, 2013 where the Special Notice needs to be given which are mentioned hereunder:

1. Removal of Auditors under **section 140**
2. Removal of Directors under **section 169**

Apart from these two, if the Articles of Association of the Company mentions additional resolutions which require special notice then for the those additional resolutions, the AOA of the Company will prevail and accordingly special notice will be required in those cases also.

Section 115 deals with the Resolution Requiring Special Notice and read as under :

“Where, by any provision contained in this Act or in the articles of a company, special notice is required of any resolution, notice of the intention to move such resolution shall be given to the company by such number of members holding not less than one per cent of total voting power or holding shares on which such aggregate sum not exceeding five lakh rupees, as may be prescribed, has been paid-up and the company shall give its members notice of the resolution in such manner as may be prescribed”.

Rule 23 of Companies(Management and Administration)Rules,2014 provides the manner and procedure of providing the special notice by members and subsequent issuance of notice of general meeting by the company to its members.

Hence, the Key points are as under:

1. A special notice is given by the members to the company for moving specific resolution in the upcoming general meeting and that specific resolution necessarily need not to be the Special Resolution all the time.
2. A special notice required to be given to the company shall be signed, either individually or collectively by members. The Act does not provide any specific format for special notice by member to the company.

3. Special Notice is the Notice given by members holding not less than 1% of the total voting power

or

Holding the shares on which aggregate sum not exceeding Five Lakh Rupees has been paid up.

4. The special notice referred to in sub-rule (1) of Rule 23 of Companies (Management and Administration) Rules , 2014 shall be sent by members to the company not earlier than three months but at least fourteen days before the date of the meeting at which the resolution is to be moved. The day on which notice is given and day on which meeting to be held will remain exclusive while calculating 14 days or 3 months as the case may be.

5. The company shall immediately after receipt of the notice, give its members notice of the resolution at least seven days before the meeting , exclusive of the day of dispatch of notice and day of the meeting , in the same manner as it gives notice of any general meetings.

6. Where it is not practicable to give the notice in the same manner as it gives notice of any general meetings, the notice shall be published in English language in English newspaper and in vernacular language in a vernacular newspaper, both having wide circulation in the State where the registered office of the Company is situated and such notice shall also be posted on the website, if any, of the Company.

7. The notice shall be published at least seven days before the meeting, exclusive of the day of publication of the notice and day of the meeting.

So, In nutshell we can conclude that the Special Notice is the First step for proposing some specified Resolution either it may be for removal of directors under section 169 and removal of auditors under section 140 of the Companies Act,2013 or any other specific resolution which is to be proposed on special notice as per the AOA of the Company. Special Notice given by those Shareholders who fulfills above criteria and the company on response to the Special Notice issue the notice of General meeting to its members.

CONTACT

CS Sidharth Sharma

9811134037

Website

www.cssidharthsharma.com

Disclaimer: The content of the Article is only for the knowledge sharing and not for any legal use. Kindly refer to the relevant existing provisions of applicable Laws and regulations before making any opinion based on this article.