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Briefing Note

Guernsey company law update – what has changed?

This note provides an update on the various changes to the Companies (Guernsey) Law, 2008, as amended, brought in by the Companies (Guernsey) Law 2008 (Miscellaneous Amendments) Ordinance 2021, which became effective on 1 May 2021.

As an overview, the purpose of the amendments were to clarify certain areas of Guernsey company law and to ensure that our company law regime continues to measure up favourably against Guernsey's offshore competitors and remains a market leader for implementation of international business.

The principal updates are:

Company name changes

There is now added flexibility as to the manner in which a company may change its name. Previously the only way of effecting a name change was by way of special resolution of the shareholders of the company, whereas now the articles of incorporation may include any other means to effect the name change. This relaxation means that the 75% voting requirement may be circumvented if enshrined in the company's constitution.

Electronic board meetings

A company may now specify in its memorandum or articles of incorporation or decide by way of a board resolution the location for board meetings which are held remotely by telephone or video. The previous position was that the location would be wherever the chairman was physically present. This will assist with management and control issues where travel restrictions would otherwise present issues.

Notices of general meetings

Where shareholder meetings are to be held remotely by telephone or video, the notice will need to now

provide detail as to the means and manner by which a shareholder may attend.

Amalgamations, migrations and conversions of cells

There has been a relaxation of the signatures required for the following memoranda of incorporation: the memorandum of incorporation of a newly amalgamated company, the memorandum of incorporation of a company which has migrated into Guernsey and the memorandum of incorporation of a company which has been converted to a non-cellular company from a cell of a protected cell company. The memoranda of incorporation previously required all founder shareholders to sign and the revised requirement now only requires one shareholder to sign, to ease logistics.

Protected cell companies – cell conversions

Where a company proposes to convert a cell of a protected cell company into a non-cellular company, a poll may now be demanded.

Takeovers

Previously a takeover could not proceed until the last date on which the offer could be accepted notwithstanding the 90% threshold may have been reached before that date. That provision has been removed enabling a notice to dissenting shareholders to be given as soon as the 90% threshold is reached.

Conversion of shares into stock

The relevant provisions previously enabling a company to convert shares into stock have now been repealed.

Off-market share buy-backs

Shareholders may now approve off-market buy-backs of shares by way of ordinary resolution rather than

special resolution and any shares which are the subject of the buy-back will be excluded from voting.

Incorporated cell companies

Previously an incorporated cell company and each of its incorporated cells were required to have the same board of directors. This position has been relaxed so that it is only required to have at least one common director on each board.

Auditor qualification

There has been a change to the classes of entities which may act as auditor of a Guernsey company. The Committee for Economic Development will need to authorise those entities to act as auditor and an application fee will be payable if prescribed.

Compromise and arrangements

The prior position that 75% in value of the shareholders or creditors be required for a court to

sanction a compromise or arrangement has been clarified so that the shareholder requirement is 75% of the relevant shareholders' voting rights and the creditor requirement is 75% in value of the relevant debts.

How can Babbé help you?

Our team at Babbé are experienced in advising on company law legal issues. Please feel free to get in touch if we can be of assistance on these or any other company law matters.

This note is intended to provide general information, but for specific legal advice please contact one of our specialist lawyers.

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