Guidance for the remo under sect

In many companies, the power to directors or to a majority sharehol companies, removing a director requiring the board or majority sha

However, the powers granted u mechanisms for removing a director shareholder's statutory right to restatutory procedure to allow sharesolution at a general meeting of procedure to remove a director.

Note that a director may also he procedure under the Companies Athe terms of the agreement may constructive dismissal therefore of wrongful and/or unfair dismissal. these circumstances.

The Statutory Procedure

If the members of a company wish set out under sections 168 and 1 right to remove a director from general meeting of the company against such removal.

A shareholder wishing to remove mechanism is most often applie challenge to a director, in which c request a general meeting of remove/replace the director in que

1. Shareholders can require special notice of the property.

The directors are only red once the company has rec at least the required percer

Shareholders with 5% of t meeting (s.303 Companies

This means that if the individually hold the require find other shareholders who reached.

f a Director from office s Act 2006

office is granted to the board of articles of association. For these straightforward matter, usually on the director in question.

les of association are additional of association cannot exclude a Companies Act 2006 provides a director by passing an ordinary ance will focus on this statutory

service contract and whilst the nstanding any agreement in place, noval from office may amount to prmer director bringing a claim for advice may need to be sought in

n office, the statutory procedure is t 2006. Section 168 concerns the /her) by ordinary resolution at a rns the director's right to protest

w the steps laid out below. This themselves do not support the hing to remove a director need to ther with a draft resolution to

I a general meeting by giving

(if one is not already scheduled) eholders with voting rights holding al of the company.

lire the directors to call a general

remove the director does not pital of the company, he/she must he request until the required 5% is

1

Special notice of 28 clear director must be given to somebody instead of the removed.

director (and possibly app meeting. The company r proposed resolution in the meeting. If this is not prad days before the meeting b articles. Section 312(4) col meeting is called for a date is deemed to have been pr

The request to call a gener

- must state the gene
- should include the is intended to be m
- may be in hard cop
- must be authenticat

Notice must be sent to 2. representations against r

On receipt of the special company must send a cor Companies Act 2006).

The director then has a ri meeting is held.

The director concerned ma they are of a "reasonable director concerned may t notified of the representati that the director is abusin representations, the comseeking to prevent the requ at the general meeting.

If the company is required received too late and there meeting, the company mu and send a copy of the re general meeting is sent. If the company before the ge do so or due to the representations are read or

A resolution requiring spec the Companies Act 2006

special notice is also requi

esolution intending to remove the elevant shareholder(s). Note that ition under section 168 to appoint t which he/she is expected to be

in accordance with section 312 of he special notice to remove the company will convene a general give its members notice of the same time as it gives notice of the give members notice at least 14 ent or other means set out in the of the special notice, the general notice has been given, the notice in the time frame required.

s to be dealt with at the meeting; ution to remove the director which

m; and ons making it.

hed who has a right to make

solution to remove a director, the irector concerned (section 169(1)

s/her removal before the general

n writing to the company provided is or her proposed removal. The hareholders of the company are other aggrieved person), believes ction against removal by making ed person), may apply to court ntations are circulated or read out

ns, unless the representations are distribute them before the general representations have been made hareholder to whom notice of the ions is not sent to the members of ause there is not sufficient time to director may require that the

eneral meeting are excluded from the 28 day

ctor

¹ Clear days means that the day on which the n notice period calculation.

3. The Directors must call a

The directors should hold special notice and the promeeting at which the or convening the general mee

The written resolution propass an ordinary resolution general meeting.

4. General Meeting of the C

The general meeting must

As specified in step 2 abov

The resolutions are ordina those present at the meetir

If the director is removed compensation and damage in this way.

5. The Directors may choos

Following the general med hold a second board meeti been passed and make the

A director appointed at the general meeting is treated the director he or she repetermining when he or she as stated above, a person removal of the director at appoint the new director has

If a director is not appointed then the vacancy can be fill is removed, then he or sh comply with the Companie have at least one director.

6. Conflict with Articles

The statutory procedure of articles of association cor sections of the Companie cannot exclude a sharehold

7. Bushell v Faith clause

In respect of point 6 above of association to protect

nsider the request set out in the n(s), and then must call a general be moved. The procedure for

I by a private limited company to ne resolution must be passed at a

ary resolution(s).

may be heard at the meeting.

efore require a simple majority of ed.

g, then his or her entitlement to because they have been removed

rd meeting

Id (as a matter of good practice) he ordinary resolution(s) has/have npanies House.

place the director removed at the ome director on the day on which ed a director for the purposes of 1) Companies Act 2006). However to fill the vacancy arising from the pecial notice of the resolution to

removed at the general meeting, Please note that if a sole director I at the same meeting in order to t that all private companies must

a director even if a company's purports to exclude the relevant ng to the company. The articles nove a director.

mechanisms built into the articles

I. The case of Bushell v Faith



established that a clause w for the director whose ren 2006 has not sought to consider whether to include

A shareholders' agreeme directors/shareholders from the parties agree not to use

If a director is a shareholded may give the director a right

8. Compensation for loss of

The director (whether a sh this will not prevent the dir he/she is removed. The po be sufficient to discourage place.

9. Notification to Companie

Companies House must be from office on form TM01.

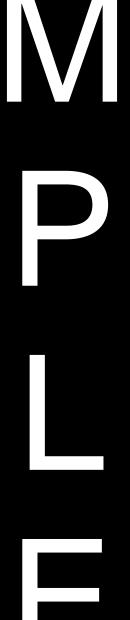
voting rights on such a resolution effective and the Companies Act oting rights. Companies need to eir articles.

m that may be used to protect erm of such an agreement is that nove one another from office.

of itself be unfairly prejudicial. This n 994 of the Companies Act 2006.

so have a service contract. Whilst d, it may provide compensation if service contract may or may not to remove the director in the first

of the date the director is removed



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