

## **Checklist regarding the election meeting**

### **A. General information**

1. **The following persons are eligible to participate:** all employees of the company (not only the employees eligible to vote), in compliance with § 5 Sect. 1 BetrVG as well as representatives of worker unions. Temporary workers assigned to tasks within the company are eligible to participate as well, regardless of their actual or planned working period (§ 14 Sect. 2 AÜG).<sup>1</sup>
2. **The following persons are not eligible to participate:** the employer and his representatives, as well as employees in leadership positions under § 5 Sect. 3 BetrVG. The employer or one of his representatives should however be reachable during the election meeting for possible queries (regarding the constitution of the list of voters for example). Persons under § 5 Sect. 2 BetrVG are not eligible to participate either.
3. No quorum, e.g. **no particular minimum number of participants is necessary** to carry out the election meeting.
4. **The following persons are eligible to vote:** All employees eligible to participate, but not all temporary workers. Only the temporary workers mentioned in the § 7 Line 2 BetrVG are eligible to vote. It concerns temporary workers, who have been assigned to tasks within the company for more than three months, or are, at least, employed by the company for an estimated period longer than three months.
5. The election meeting is held **during the working hours in principle**. The employer must exempt all employees who wish to participate in the election meeting from their usual tasks while continued payment of wages. The exemption must be done in a manner allowing the employees to attend the entire company meeting.
6. The main steps of the process and results of votes must be **recorded**.

### **B. Tasks to be carried out the inviting party**

1. Opening of the meeting and appointment of a recorder for the first part of the election meeting.
2. Explanation of the purpose and the process of the meeting. Indication that all employees, temporary workers and representatives of worker unions have a right to participate, but that neither the employer or his representatives nor employees in leadership positions may participate, in compliance with § 5 Sect. 3 BetrVG, as well as people under § 5 Sect. 2 BetrVG.
3. Proposal of a person to take up the responsibility of the meeting director.
4. Carrying out of an election of a meeting director (possible by open votes such as raising hands – the majority of **cast** votes is sufficient here, the majority of people present is not necessary, as it would be for the election of the election board).

### **C. Election of the election board**

1. The election board constituted by three persons (with substitute members if possible<sup>2</sup>) must be elected (by means of an open vote or a hidden vote). For this purpose, election proposals must first be gathered. Moreover, the number of attending people eligible to vote must be determined.
2. If there are only three election proposals, the vote can be carried out for each person individually or for all together. If there are more than three election proposals, votes must be cast for each person individually. The person elected is the one gathering the majority of votes of the employees **present** at

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Checklist regarding the process of the first election meeting

the election meeting.

3. After the election of the three members of the election board, the head thereof must be elected. Only members of the election board may be elected. Election proposals must be gathered for this election as well. Afterwards, votes are cast for each person individually. The person elected is the one gathering the majority of votes of the employees **present** at the election meeting. A deputy head of the election board must be elected as well.

### D. Organisation of the election meeting by the election board

1. Takeover of the meeting direction by the head of the election board.
2. Determination of a new (or confirmation of the previous) recorder.
3. Transmission of the sealed envelope containing the documents of the employer regarding the establishment of the list of voters to the election board by the inviting parties.
4. Establishment of the list of voters by the election board. A reading of the list of voters during the first election meeting is possible as well. In case of ambiguity, immediate clarification with the employer (must be carried out outside of the election meeting, since the employer has no right to participate), as well as with the present employees.
5. Determination of the list of voters by decision of the election board.
6. Formulation of the election notice by the election board.
7. Decision regarding the election notice, signature by the election board. **Then** formal introduction of the election process by placard of a copy of the election notice and, if applicable, reading or distribution of the election notice during the election meeting.
8. Receiving of written and oral election proposals (oral election proposals must be recorded with their supporters). Election proposals may only be made until the end of the first election meeting. A later submission is **never** admissible.
9. Verification of the present election proposals and, after corresponding decision, indication of flaws where necessary. Within this framework as well, clarification of multiple signatures by candidates or supporters and making a relevant decision by the concerning parties or by the election board. If remaining flaws are immediately corrected by action of the candidates or the supporter, a relevant statement can be added to the record. During the first election meeting, the sending of written messages to the election board is possible as well. After the verification, final statement by the election board regarding the valid or invalid election proposals through a decision.
10. Closing of the first election meeting after determination of the time.
11. **Immediately** after the end of the first election meeting, publication of the valid election proposals in the same manner as the election notice (at least placard on the same surfaces), in compliance with § 33 Sect. 4 WO.
12. Completion of the record and signature by the head of the election board and another member, If applicable, distribution of copies of the record to the list leaders or candidates.

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<sup>1</sup> Please take the explanations regarding the eligibility to vote of temporary workers under point A.4. into account as well.

<sup>2</sup> Electing substitute members is advised. Otherwise, a new company meeting regarding a second election will be necessary in case a member withdraws. However, substitute members do not benefit from any special lay-off protection as long as they have not taken active duty as members of the election board.