

Emergency Decree on Electronic Meetings B.E. 2563 Practice Issues and Implications on BOD Meetings and AGMs and EGMs of Companies During the Covid-19 Lockdown

FTCC Webinar

LawPlus Ltd.

14th May 2020

The information provided in this document is general in nature and may not apply to any specific situation. Specific advice should be sought before taking any action based on the information provided. Under no circumstances shall LawPlus Ltd. or any of their directors, partners and lawyers be liable for any direct or indirect, incidental or consequential loss or damage that results from the use of or the reliance upon the information contained in this document. Copyright © 2020 LawPlus Ltd.

Presentation Topics

- **Legal Requirements and Procedures for E-Meetings**
- **How to Call, Convene and Record E-Meetings**
- **How to Sign and File E-Meeting Documents – Legal and Technical Aspects**

Emergency Decree on Electronic Meetings B.E. 2563 ("EDEM")

- **Enactment Date: 18th April 2020**
- **Effective Date: 19th April 2020**
- **Repealed and replaced the Notification of the National Council for Peace and Order No. 74/2557 on Electronic Meetings B.E. 2557 dated 27th June 2014**
- **In response to the Covid-19 pandemic**
- **For efficiency and continuity of public administration and private operation**
- **No time limit**

What Is an E-Meeting under EDEM

- Meeting is required by law.
- Meeting is convened via electronic media.
- Attendees are not at the same place.
- Attendees can discuss or exchange opinions via electronic media.
- Meeting must meet the e-meeting security standards announced by the MDES (Ministry of Digital Economy and Society).

Legal Status of E-Meetings

- An alternative of meetings convened under the normal legal procedures.
- Chairman of the meeting can decide to call an e-meeting.
- E-meetings have the same legal effect as meetings convened under the normal legal procedures.
- Electronic data of e-meeting cannot be denied in evidence in civil, criminal or other lawsuits merely because it is electronic data.

EDEM Applies to E-Meetings of:

Private Sector

- ordinary partnerships
- limited partnerships
- limited companies
- public limited companies
- trade associations
- chambers of commerce

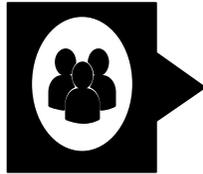
Public Sector

- government authorities
- local authorities
- state enterprises
- public organization
- other public offices

EDEM Does Not Apply to Meetings of:

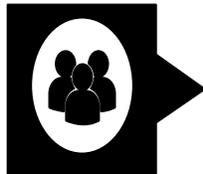
- the House of Representatives
- the Senate
- the Parliament
- Courts for preparation of judgments or orders
- Government authorities, local authorities, state enterprises, public organizations and other public offices for procurement procedures
- Other meetings to be prescribed under ministerial regulations

Meetings of Companies



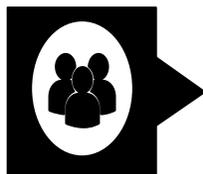
BOD Meeting

Board of Directors Meeting



AGM

Annual General Meeting of
Shareholders



EGM

Extraordinary General Meeting of
Shareholders

How to Call E-Meeting

- Notice calling e-meeting and supporting documents can be sent by post or email.
- Notice period under the law or the AOA must be complied.
- Their copies must be kept in printed copies or electronic files.

How to Convene E-Meeting – Manager / Person in Charge of E-Meeting Must:

- Arrange for attendees to identify themselves through electronic means before commencement of the meeting.
- Arrange for attendees to vote on an open voting or a confidential voting.
- Prepare a minutes of the meeting in writing.
- Record audio or audio and video records of all attendees throughout the meeting (except for the confidential meeting parts) and keep them as part of the minutes.
- Keep the electronic traffic data of all attendees for evidence and keep it as part of the minutes.

MDES (MICT) Standards for E-Meeting Security 2014 Conference Control System Must:

1. Enable attendees to communicate

2. Connect the meeting places (Chairman and attendees)

3. Have devices for importing data from one location to another, such as phones, cameras, microphones

4. Have a device to link or convert audio signals or audio and video signals as appropriate

MDES (MICT) Standards for E-Meeting Security 2014 Conference Control System Must:

5. Have a system controller who can monitor the system operation and solve technical problems for meeting attendees

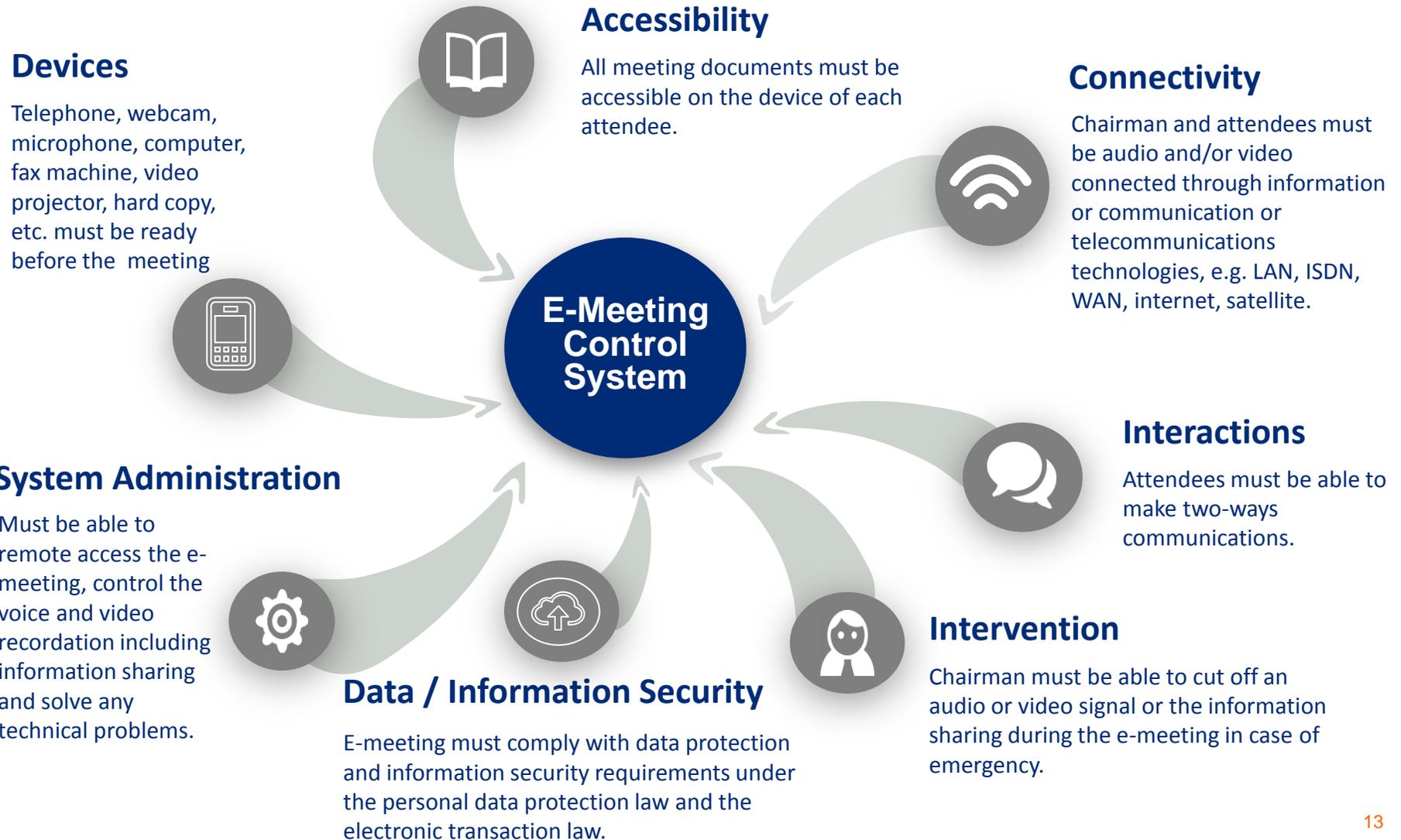
6. Allow the Chairman of the meeting or the system controller to jam audio or video signal or to stop sending data immediately if there is a need or an emergency

7. Enable all attendees to view the meeting information being presented at the meeting via their own devices throughout the meeting

- **New MDES Security Standards will soon be approved and published.**

How to Convene E-Meeting?

Functional Elements of E-Meeting Control System



E-meeting Recordation Standards 2014 of MDES (MICT)



Signing of E-Meeting Documents / Electronic Signatures

- Electronic signatures under the Electronic Transactions Act B.E. 2544 as amended.
- Information used for creating the electronic signature must associate with the owner of the signature / the signatory.
- Information used for creating the electronic signature, at the time the electronic signature being created, is under the control of the owner of the signature.
- Changes to the electronic signature can be checked electronically.
- Changes on the statement / data message signed by the electronic signature can be checked starting from the time when the electronic signature is signed.

Filing of E-Meeting Documents with Authorities

- Some government authorities still require wet signatures and normal legal procedures for e-meeting documents (notices, minutes, official filing forms).
- E-filing with some government authorities is possible.
- Electronic records of e-meetings are admissible as evidence in civil, criminal and other case proceedings.
- No specific retention period for e-meeting records and computer traffic data of the attendees.
- Applicable general statutory limit is 10 years.



[kowitz.somwaiya@lawplusltd.com](mailto:kowit.somwaiya@lawplusltd.com)

LAW PLUS

บริษัท ลอว์พลัส จำกัด LawPlus Ltd.



Unit 1401, 14th Floor, 990 Abdulrahim Place, Rama IV Road, Bangkok 10500, Thailand

Tel. +66 (0)2 636 0662, Fax +66 (0)2 636 0663

www.lawplusltd.com



ASIA-PACIFIC 2019

