
COMPANY MEETINGS AND RESOLUTIONS

Law, Practice and Procedure

SECOND EDITION

LESLIE KOSMIN QC
CATHERINE ROBERTS



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ὅτι μὲν τοίνυν ἀνάγκη νομοθέτην αὐτὸν εἶναι, δῆλον, καὶ κεῖσθαι νόμους, ἀλλὰ μὴ κυρίους ἢ παρεκβαίνουσιν, ἐπεὶ περὶ τῶν γ' ἄλλων εἶναι δεῖ κυρίους· ὅσα δὲ μὴ δυνατόν τὸν νόμον κρίνειν ἢ ὅλως ἢ εὖ, πότερον ἓνα τὸν ἄριστον δεῖ ἄρχειν ἢ πάντας; καὶ γὰρ νῦν συνιόντες δικάζουσι καὶ βουλευόνται καὶ κρίνουσιν, αὐταὶ δ' αἱ κρίσεις εἰσὶ πᾶσαι περὶ τῶν καθ' ἕκαστον. καθ' ἓνα μὲν οὖν συμβαλλόμενος ὅστις οὖν ἴσως χείρων· ἀλλ' ἐστὶν ἡ πόλις ἐκ πολλῶν, ὥσπερ ἐστίαςις συμφορητὸς καλλίων μιᾶς καὶ ἀπλῆς· διὰ τοῦτο καὶ κρίνει ἄμεινον ὄχλος πολλὰ ἢ εἰς ὅστις οὖν.

The best man, then, must legislate, and laws must be passed, but these laws will have no authority when they miss the mark, though in all other cases retaining their authority. But when the law cannot determine a point at all, or not well, should the one best man or should all decide? According to our present practice Assemblies meet, sit in judgment, deliberate, and decide, and their judgments all relate to individual cases. Now any member of the Assembly, taken separately, is certainly inferior to the wise man. But the state is made up of many individuals. And as a feast to which all the guests contribute is better than a banquet furnished by a single man, so a multitude is a better judge of many things than any individual.

Aristotle, *Politics* 1286a 22–31

Νῦν οὖν ἀτεχνῶς ἦκω παρεσκευασμένος βοᾶν, ὑποκροεῖν, λοιδορεῖν τοὺς ῥήτορας.

Now, indeed, I have come to the Assembly, fully prepared to brawl, interrupt and abuse the speakers.

Aristophanes, *Acharnians* 37–8

PREFACE TO THE SECOND EDITION

Since the publication of the first edition of this book there have been a number of significant legislative changes affecting CA 2006, Part 13 which regulates the law of meetings relating to companies. The Companies (Shareholders' Rights) Regulations 2009 brought into legal force a number of new statutory provisions in the CA 2006 relating to traded companies within the ambit of Part 13. At the same time and by means of the same statutory instrument the legislators took the opportunity to ameliorate some of the infelicitous drafting of original provisions found in CA 2006, Part 13. After eight commencement orders, transitional provisions (which in the main are no longer relevant) and further amending delegated legislation it is to be hoped that the main corpus of CA 2006, Part 13 will remain in its current form for some years to come.

With the necessity to update the first edition to take due account of the legislative additions and amendments we took the opportunity to cast a critical eye over the whole of the text. The increasing importance of written resolutions for private companies under the statutory regime that is prescribed by Chapter 2 of Part 13 and their juxtaposition with the continued efficacy of the *Duomatic* principle (applicable to all companies), prompted the writing of a whole new chapter devoted to informal decision-making and the *Duomatic* principle. In addition, it has generated a change to the title of this work, thereby emphasizing the growing importance of written resolutions in company decision making.

In the preparation of the second edition we have been greatly assisted by the many friends and colleagues in other jurisdictions who have drawn to our attention recent authorities relating to the law of meetings. As a result this edition of the book is strengthened by reference to case law drawn from several other jurisdictions including Australia, New Zealand, Hong Kong, the Isle of Man and the Cayman Islands. We hope that the references to some of these interesting authorities provide a stimulating and useful comparative aspect to the second edition.

The invitation from Oxford University Press to write a second edition of this book was most welcome. To the delight of our expert and committed editorial team at Oxford University Press, who have been encouraging and supportive throughout, the completed manuscript was submitted on time. Of course, the submission of a manuscript by authors does not conclude the process of publishing a book. A great deal of further important work was undertaken by our editorial and production team at Oxford University Press. We record our grateful thanks to all those who contributed their skills and efforts in different and complementary ways to the editorial and production processes required for the publication of the second edition.

The time taken to prepare the text of the second edition has been legion. We hope that the result of our efforts is a readable, informative and useful book on this important aspect of Company Law. We have taken all reasonable care in the preparation of the text and made

every effort to state the law on company meetings as it exists at 30 September 2012. We do not accept any responsibility for any errors or omissions that may be found in the text or for any loss that may be sustained by any person relying upon its contents. The text of the second edition is a guide to this interesting area of the law and nothing more.

LGK
September 2012
CR
Erskine Chambers
London
September 2012

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