

Lecture 35

Quorum

Quorum refers to the minimum number of members who must be present at a meeting in order to constitute a valid meeting. A meeting without the minimum quorum is invalid and decisions taken at such a meeting are not binding. The articles of a company may provide for a quorum without which a meeting will be construed to be invalid. Unless the articles of a company provide for larger quorum, 5 members personally present (not by proxy) in the case of a public company and 2 members personally present (not by proxy) in the case of a private company shall be the quorum for a general meeting of a company.

It has been held by Courts that unless the articles otherwise provide, a quorum need to be present only when the meeting commenced, and it was immaterial that there was no quorum at the time when the vote was taken. Further, unless the articles otherwise provide, if within half an hour from the time appointed for holding a meeting of the company, a quorum is not present in the person, the meeting :-

- ☐ if called upon the requisition of members, shall stand dissolved;
- ☐ in any other case, it shall stand adjourned to the same day in the next week, at the same time and place, or to such other day and time as the Board of Directors may determine.

If at the adjourned meeting also, the quorum is not present within half an hour from the time appointed for holding the meeting, the members present shall a quorum.

In case the Company Law Board calls or directs the calling of a meeting of the company, when default is made in holding an annual general meeting, the government may give directions regarding the quorum including a direction that even one member of the company present in person, or by proxy shall be deemed to constitute a meeting. Similarly the Company Law Board may, direct a meeting of the company (other than an annual general meeting) to be called and held where for any reason it is impracticable to call a meeting and direct that even one member present in person or by proxy shall be deemed to constitute a meeting.

Chairman

The chairman is the head of the meeting. Generally, the chairman of the Board of Directors is the Chairman of the meeting. Unless the articles otherwise provide, the members present in person at the meeting elect one of themselves to be the chairman thereof on a show of the hands. If there is no Chairman or he is not present within 15 minutes after the appointed time of the meeting or is unwilling to act as chairman of the meeting, the directors present may elect one among themselves to be the chairman of the meeting. If, however no director is willing to act as chairman or if no director is present within 15 minutes after the appointed time of the meeting, the members present should choose one among themselves to be chairman of the meeting. If, after the election of a chairman on a show of hands, poll is demanded and taken and a different person is elected as chairman, then that person will be the chairman for the rest of the meeting.

Duties of the chairman

Without a chairman, a meeting is incomplete. The chairman is the regulator of the meeting. His duties include the following :-

1. He must ensure that the meeting is properly convened and constituted i.e. that proper notice has been given, that the required quorum is present, etc.
2. He must ensure that the provisions of the act and the articles in regard to the meeting and its procedures are observed.
3. He must ensure that business is taken in the order set out in agenda and no business which is not mentioned in the agenda is taken up unless agreed to by the members.
4. He must impartially regulate the proceedings of the meeting and maintain discipline at the meeting.
5. He may exercise his powers of adjournment of the meeting, should he in good faith feel that such a step is necessary. The chairman has the power to adjourn the meeting in case of indiscipline at the meeting. A chairman however does not have the power to stop or adjourn the meeting at his own will and pleasure. If he adjourns the meeting prematurely, the members present may decide to continue the meeting and elect another chairman and proceed with the business for which it was convened.
6. He must exercise his power to order a poll correctly and must order it to be taken when demanded properly.
7. He must exercise his casting vote bonafide in the interest of the company.