[Review of] Leslie Kosmin QC and Catherine Roberts, Company Law Meetings and Resolutions: Law, Practice, and Procedure

COMPANY LAW MEETINGS AND RESOLUTIONS: LAW, PRACTICE, AND PROCEDURE. By Leslie Kosmin QC and Catherine Roberts

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The law and practice of company meetings and resolutions is difficult. Most of the issues arise in respect of Rumsfeldian "unknown unknowns" – technical questions of procedure that arise because one particular party wishes to drive through a certain agenda (regardless of whether such agenda carries majority support), and wishes to use any technical means necessary. Practitioners therefore need an easily accessible, authoritative guide to the law and practice of this area to be able to quickly find the rules. Some such works risk becoming too concerned with general meeting law (and not enough with the specifics of company law), and some provide too general an overview.

The third edition of this book by leading barristers (with academic connections) provides such a guide and is therefore to be welcomed. The book provides the right balance between content for a practitioner to be able to find the right area of law quickly, and an interesting discussion of relevant authorities to an academic standard. It is in five parts: the law of meetings of shareholders, the law of meetings of directors, commentary on companies legislation, commentary on "Table A" regulations under the Companies Act 1985, and commentary on the "Model Articles" in respect of the Companies Act 2006. It is noteworthy that these parts are quite uneven – whilst the first part runs to 339 pages, the second part is only 58 pages long. This is mostly because there is more to say on the former rather than the latter. Nevertheless, some further detail in that second part would be welcomed.

The first part proceeds logically, commencing with the concept of a shareholder meeting and base quora requirements. It moves on to providing notice to shareholders (generally and formal requirements), and provides important insights for practice as to the legal effect of a flaw in this process. It then explores different types of shareholder meeting. Thus it covers the annual general meeting, shareholder meetings requested by members, and meetings ordered by the court. It is implicit in the general notice requirements that a shareholder meeting will ordinarily be convened by the directors, yet at times this could perhaps be clearer, especially as meetings convened by other constituencies are discussed in detail. The first part then reviews the role of the chair, the tricky issue of the rules for validly selecting proxies and corporate representatives, then voting: first voting generally, then specific rules as to certain types of resolution. It covers specific rules for further types of meetings (class meetings and meetings to approve a Scheme of Arrangement), then written resolutions and the *Duomatic* principle. It concludes with a discussion of the obligation to take minutes of meetings and discussion of company communications. Authority is generally well used and cases are often discussed in depth. This is a very helpful overview that avoids the need to go and read the cases in depth after reading the summary, and replication of actual text (e.g. notice of the meeting) that caused the dispute really illuminates the meaning of the case. At times such discussion of cases alters the flow of the text to be more academic and perhaps of slightly less immediately practical application.

The second part covers notice and quorum for directors, the role of the chair, and minutes. As noted above, it seems that more could be said in this part. The real value, though, is of the annotations in the final three parts. Annotating the legislation itself ties the statutory schema to the subject matter of the first part of the book. Frequent cross references to the discussion elsewhere are of immense practical utility – as a way of both providing the same information through an alternative route, and reinforcing the relevance and importance of the analytical discussion. This is honed in the final two parts, which take a look at two different sets of default articles of association of the company – that applicable to companies incorporated under the 1985 regime and to companies incorporated under the 2006 regime. Under both regimes, a company could select its own articles of association, but if the company does not adopt a bespoke set of articles then the default regime applies. It has been argued that the smaller a company is, the more likely they are to use the default – as the value in adjusting the articles to meet the precise needs of the company are likely to be outweighed by the costs of such

adjustment for smaller companies. Further, UK company law leaves a surprisingly large amount of company law to a company's articles of association – including matters such as the balance of responsibilities between the directors and the shareholders. As such, understanding the terms that appear in the default constitution is very important. Such annotation – linked in to the underlying legal framework, and the analysis of that framework undertaken in the first part of the book, provide important insights into both how to solve practical problems arising, and the areas that are left to the shareholders and directors to agree in their corporate contract.

Scottish cases are discussed, and flagged as Scottish cases (e.g. para 1.09). However, the book quietly presents itself covering UK law, without necessarily differentiating between the two legal systems. Of course, the conventional wisdom is that English and Scottish company law align in this area, and thus it is not a major oversight to state the English position as the UK position. Nevertheless, certain areas are raised in which there could well be differences: for example, when discussing cases arising from derivative actions, and matters that arise from equity, the Scots reader would prefer that some recognition be provided of the differences that may apply for Scottish companies. This is not intended as a criticism, as the authors did not set out to identify unknown differences in company law, and indeed had they done so the balance of the work would be off. Nevertheless, to do so would have been particularly helpful for Scottish practitioners and those exploring Scottish company law. Even so, when next at a shareholder meeting, the reviewer will take his copy of this book with him, and feel ready to answer most questions that could arise.

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