

The reason for this commentary is that at the Annual General Meeting held on September 25, 2016 the members passed a motion directing:

the 2016-2017 Executive to draft a proposal regarding amendment and/or clarification of TISC's rules and procedure on proxy voting, including the procedures for collecting, counting, and reporting the results of any vote, and on whether proxy voting should be continued.

Commodore Michael Williamson asked me if I would like to make recommendations and this is what I've produced. You may be disappointed because you will find that it is long on commentary and short on recommendations; the reasons are:

1. While writing it I realised that, so far as I can ascertain, TISC has no "rules or procedure on proxy voting" (unless one counts the two references to it in its by-law). In order to create some, you need information as to proxy voting.
2. The motion assumes that the members will have a great deal of say in those "rules and procedure" on proxy voting (else why would a draft proposal about them be directed?) but it's not that easy. You will read that in certain areas of proxy voting the decisions are solely within the discretion of the Executive and the members cannot dictate them while in other areas, the members have wide discretion and the Executive cannot dictate to them.

Legislative framework

I realise that your eyes may glaze over at this subtitle but you'll see its importance shortly.

TISC was incorporated under Ontario's Corporations Act ("CA"), under Part III of which it is "a corporation without share capital". Outside the CA, the term commonly used to describe such a corporation is a "non-for-profit corporation" ("NFP"). Since this commentary pertains to TISC, when I refer to "corporation", I will mean a corporation without share capital unless I state otherwise. Bear in mind that the CA provisions governing not-for-profits are not the same as those governing for-profits.

By virtue of being on the Executive, each member of it is a Director of the corporation. TISC's powers and duties are governed by the following, in descending hierarchical order (as an example of that order, the CA states, "The directors of a corporation may pass by-laws not contrary to this Act or to the letters patent or supplementary letters patent to regulate..." and then set out a list of topics)

- Corporations Act The current legislation governing TISC is still the Corporations Act ("CA"), section 84 of which governs proxies in NFPs.
- Its Letters Patent TISC's Letters Patent state nothing about proxies (nor should they)
- Its By-law TISC's By-law ("BL") mentions proxies in section 5.1
 Notice of each meeting of Members must remind the voting Members that they have the right to vote by proxy.
 and section 5.3
 A voting Member may, by means of a written proxy, appoint a proxyholder to attend and act at a specific meeting of Members, in the manner and to the extent authorized by the proxy. A proxyholder must be a Member of the Club.

Recognising that the CA is far out of date (its last substantial revision was in 1953), the province passed the **Not-for-Profit Corporations Act, 2010** ("ONCA") in 2010. However, it has yet to be proclaimed into force, its proclamation being forecast many times since then but never happening. For quite a few years, Ontario's website used to state the year when proclamation was expected but it's given that up, the current statement being:

We are working to bring ONCA into force as early as possible, but it cannot come into force until:

- the Legislative Assembly passes a number of technical amendments to the legislation and related acts
- technology is upgraded to support these changes and improve service delivery

Once it comes into force, not-for-profit corporations will have three years to transition themselves to comply with ONCA; it has five sections devoted to proxies.

For the convenience of those of you who have trouble falling asleep at night, Appendix A contains the sections in the CA and ONCA dealing with proxies.

"Whether Proxy Voting Should be Continued"

Without even discussing the ethical considerations inherent in depriving members who cannot attend a meeting of their ability to have a say at that meeting, TISC must allow proxy voting because subsection 84(1) of the CA states:

Every [member]...entitled to vote at a meeting of [members] may by means of a proxy appoint a person, who need not be a [member], as the [member's] nominee to attend and act at the meeting in the manner, to the extent and with the power conferred by the proxy.

(The actual text of ss 84(1) uses the word "shareholder" and not "member" but there is another subsection in the CA that states that where that section applies to a NFP, "the word 'shareholder' means 'member'"—labyrinthine wording like this was just one of the many reasons for the ONCA being passed.)

As for the future, the ONCA will continue the right of members to use proxies, ss. 64(1) stating,

Every member entitled to vote at a meeting of the members may by means of a proxy appoint a proxyholder or one or more alternate proxyholders, who need not be members, as the member's nominee to attend and act at the meeting in the manner, to the extent and with the authority conferred by the proxy.

Social Members and Executive Members are not Entitled to Appoint Proxyholders

The following may be obvious to some but not to others, so I'm setting it out here for clarity.

The wording of each of the CA, our BL and the ONCA state that members who are entitled to vote at a meeting of members are entitled to appoint a proxyholder. Therefore:

- Social members, not being entitled to vote, are not entitled by law to appoint a proxyholder to represent them at a meeting. Why would a Social member want to appoint a proxyholder? Because voting is the only thing that Social members cannot do at a meeting; they are otherwise entitled to participate fully e.g. ask questions, propose motions, participate in discussions.
- Members of the Executive are not entitled to appoint proxyholders to represent them at their Executive meetings.

Did you notice that when dealing with Social members, I wrote that they are "not entitled at law" while when dealing with members of the Exec, I wrote that they are "not entitled"? The reason is:

- While Social members are not **entitled** under the CA or ONCA to appoint a proxyholder, there is nothing in the legislation prohibiting TISC from amending its BL to permit it.
- Members of the Executive, however, cannot be authorised by TISC to appoint proxyholders for their Executive meetings for the same reason that members of a legislative assembly cannot appoint proxyholders—officials elected to represent others cannot assign or delegate their right to sit in an assembly or vote at it.

TISC's Requirement for the Proxyholder to be a Member

I thought I'd better deal with this sooner than later: feel free to reward yourself if you noticed that both the CA and ONCA state that the proxyholder need not be a member, while section 5.3 of our BL states that, "A proxyholder must be a Member of the Club." Since that requirement in our BL is contrary to the CA, it is not enforceable.

How did this situation come about? I don't know. It's possible that the CA allowed such a provision when the club was incorporated but the CA was subsequently amended otherwise, or it's possible that the CA wording was the same at the time of the club's incorporation but the BL was amended to add this provision without anyone bothering to check the wording of the CA. For me to research how it occurred would be a waste of my time, so I haven't bothered.

The result of this situation is that now that the Executive members are aware of it, each of them has a personal duty under the CA to ensure that the club acts in accordance with the CA. And, to be absolutely clear, that's "personal duty" as in,

- section 331 of the CA: "every person who, being a director...or acting on its behalf, commits any act contrary to this Act, or fails or neglects to comply with any such provision, is guilty of an offence..."; and
- section 332 of the CA: "Where a ... member...is aggrieved by the failure of the corporation or a director...to perform any duty imposed by this Act, the ...member... may apply to the court for an order directing the corporation, director,... as the case may be, to perform such duty... "

TISC should amend its BL to be in conformity with the CA (under the CA, amending a BL involves the directors passing the amendment at one of their meetings and then presenting the amendment to the members for their confirmation by at least two-thirds of the votes cast at a general meeting called for that purpose).

As to the timing of that BL amendment, since the BL's provision is already automatically overridden by the CA there is only harm to members if TISC tries to enforce that BL provision instead of the CA provision, and the Exec could decide that there is no need to amend the BL immediately, provided that in the interim, it:

- passes a resolution acknowledging that the BL provision is not enforceable;
- removes any references to that BL provision in communications to the members (e.g. in the Notice of Meeting, form of proxy, notes re proxies) and replaces them with wording explaining that despite the wording of the BL, a non-member can be a proxyholder; and
- allows admittance to meetings by proxyholders who are not members.

The amending of the BL could then wait until some other amendments to the BL are necessary and be done at the same time, if expedient.

The Contents of a Proxy

The CA doesn't dictate the form of a proxy, ss. 84(3) merely requiring that a proxy be in writing and contain:

- "the date thereof" (proxies post-dated to the date of the meeting may not be valid because doing so would curtail the proxy from being validly revoked); and
- "the appointment and name of the nominee" (i.e. the proxyholder)

and stating that it may also contain:

- "a revocation of a former proxy"; and
- "restrictions, limitations or instructions as to the manner in which [to vote]."

Why so few requirements? The legislators want to make it easy for members to draft their own proxy. Why would members want to draft their own? Because:

- the corporation didn't provide a form of proxy or, if it has, they have lost their copy;
- they don't like the corporation's form of proxy.

It's readily apparent that inherent in the above are the facts that a corporation:

- is not required by law to provide a form of proxy for use by its members; and
- if, for the convenience of its members, it does provide a form of proxy, it is not entitled to require that that form of proxy be used.

Given that corporations are not required by law to provide a form of proxy to their members, should they? Most corporations easily decide in favour of providing a form of proxy because:

- it's a service to their members, and why does the corporation exist if not to benefit its members?;
- the requirements in the CA for the form of proxy are so minimal that there can be no fear of the corporation failing to meet them;
- if the form of proxy provided is adequate, the members will tend to use it rather than creating their own and the corporation will end up receiving standardised proxies that it knows will not only meet the requirements of the CA but will provide the benefits of the optional information allowed by the CA.

Dealing with the optional items for a form of proxy:

Termination The CA requires a corporation to hold a general meeting of its members at least annually and its ss. 84(2) states that a proxy "ceases to be valid one year from its date." A one-year expiry for a proxy used only once annually may not cause problems for some corporations but TISC's BL requires it to hold three general meetings per year. Any proxy forms provided by TISC that I've seen have stated that they are effective for a stated meeting; that's good. The risk comes from a member-created proxy that doesn't specify a meeting; it could not be rejected as being invalid for that omission and TISC would have to keep

The ONCA takes a different tack (note the nautical terminology); experience has shown that some corporations take advantage of the fact that their members don't know that they can draft their own proxy. Ss. 64(3) states, "Every proxy must be in a form that complies with the regulations." (since ONCA hasn't been proclaimed, no regulations have been either)

Section 65 of the ONCA states, A corporation shall send, or otherwise make available, a form of proxy to each member who is entitled to receive notice of the meeting concurrently with or before giving notice of the meeting.

The ONCA states:

- that a proxy is valid only at the meeting for which it is given (or any adjournment of that meeting);
- substantially the same methods of revocation.

it on file for a year and allow it to be used during that time. Unless of course, it's revoked before the next meeting.

Revocation Ss. 84(4) states,

In addition to revocation in any other manner permitted by law, a proxy may be revoked by instrument in writing executed by the [member] or by the [member's] attorney authorized in writing... and deposited either at the head office of the company at any time up to and including the last business day preceding the day of the meeting, or any adjournment thereof, at which the proxy is to be used or with the chair of such meeting on the day of the meeting, or adjournment thereof...

Since the CA overrides any contrary provisions in the Letters Patent, BL or a proxy itself, a provision in any of them stating that a proxy is irrevocable, is unenforceable.

A subsequent proxy which contains a statement revoking previous proxies is an "instrument in writing executed by the [member]" and so is valid as a revocation of previous proxies. Since 2008, any proxy forms provided by TISC that I've seen have definitively stated that the member revokes previous proxies for the specified meeting but the one provided for the Winter General Meeting this year is ambiguous. The proxy for that WGM contains a trapezoidal box in paragraph 2 to the right of the words, "revokes any proxy previously given by me for that meeting" and that box can be seen as needing to be ticked in order to revoke previous proxies. Needing to tick that box is a contradiction of the wording of paragraph 2.

Restrictions, limitations or instructions as to the manner in which [to vote]

Unintentional restrictions/limitations on how to vote:

A corporation providing a form of proxy must be careful to choose wording that doesn't inadvertently result in a restriction of the proxyholder. For example, in the past TISC has occasionally provided a form of proxy in which it tried to create instructions by allowing the member to tick the appropriate box to indicate whether the proxyholder should vote for or against a specific item on the Agenda. A problem can arise if the motion voted on at the meeting isn't the same wording as in the Notice of Meeting. At TISC meetings, I've seen the wording vary when:

- the Notice of Meeting didn't set out the exact wording of the motion to be made. I don't want to choose an actual example so here is one I've made up: the wording in the Notice of Meeting is to "buy new sails for 2 boats" instead of "buy___ suits of new Albacore sails out of _____ funds at a cost of not more than \$_____ including/excluding tax and delivery";
- even when the exact wording is set out in the Notice of Meeting, the member of the Exec making the motion at the meeting failed to use that exact wording;
- the motion was made at the meeting as per the wording in the Notice of Meeting but a motion amending it was moved.

If the wording on which the vote is taken differs from the instruction, it raises the question as to whether the instruction is still operative or whether it is now operating as a limitation. Does the instruction to vote in favour of a motion to buy 2 sets of sails at a cost of 2X authorise the proxyholder to vote in favour of

an amendment to buy 6 suits of sails at a cost of 6X? 10 suits at a cost of 10X? By now I'm sure you've got the gist of this but for those like me who are asked questions about procedure, the questions don't stop there; for example, would an instruction of that sort prevent the proxyholder from making a motion to amend the original motion? (e.g. to defer the purchase until the following year or to buy 10 sets of sails instead of 2)

Of the three types of instances I've witnessed, the Executive should be able to eliminate them by following principles of good governance; preparing adequately for the meeting and producing a properly worded Notice of Meeting. The third type of instance can be minimised, if not eliminated, by the Executive producing a form of proxy that confers a discretionary authority in respect of amendments to matters identified in the notice of meeting or other matters that may properly come before the meeting.

Intentional restrictions/limitations on how to vote:

I can't think of any reasons for TISC to insert restrictions or limitations in any form of proxy provided by it, whether the member can accept them or not. If the members want to insert some, they can do so on their own initiative.

Instructions as to how to vote:

Once a corporation is aware of the potential pitfalls of providing a form of proxy with instructions as to how to vote on each matter, it may wonder why it should do so. Two further questions can be used to answer that question:

- What advantages and disadvantages do members derive from being provided with a proxy with instructions, as opposed to one without?
 - Advantages: since a member is entitled to convey any instructions privately to the proxyholder (e.g. the member appoints X as her proxyholder, without any limitations or instructions and then tells X how to vote on certain items either verbally, by text or email), the main advantage to completing the instruction portion of a proxy might be that the member believes that having the instructions right on the proxy means the corporation will oversee the proxyholder's voting to ensure that the proxyholder does indeed vote in accordance with those instructions.
 - Disadvantages: As illustrated above under "Unintentional restrictions/limitations on how to vote", if the proxy is not properly drafted, the instructions could prove limiting and frustrate the member's intent.
- What advantages and disadvantages does the corporation derive from producing a proxy with instructions, as opposed to one without?
 - Advantages: once one understands that a proxy containing instructions does not constitute a mail-in ballot (a mail-in ballot is an actual vote, whereas a proxy is merely an authorisation and the vote is not registered until the proxyholder casts it), it seems to be of no advantage to the corporation.
 - Disadvantages: If the corporation's inadequate wording results in inoperative or invalid proxies, the members will be aggrieved. The corporation may be under a duty to ensure that each proxyholder votes in accordance with the instructions and that means more work and more time to count the votes.

Offering a Designate of the Executive as a Proxyholder

Let's get this clear right at the start; there is nothing in the CA or ONCA prohibiting the directors of a corporation from appointing one of their number as their designate and putting that person's name on the form of proxy it distributes to the members as a possible proxyholder. There is also nothing against that in terms of best practices for good governance, so long as the form contains the possibility of appointing some other proxyholder. So, once again, in order to decide whether to offer a Designate as a possible proxyholder, the corporation needs to weigh the advantages and disadvantages of such a practice.

Advantages:

- If the vote will be a close one, the proxies deposited before the meeting may determine whether the corporation will hold sufficient votes to get its motion passed or whether it needs to make efforts to persuade other supporters to attend;
- The corporation can be assured that the proxyholder will attend the meeting and will vote.

Disadvantages:

- The Executive must be organised enough to produce a Notice of Meeting containing, for every item, its position on the item (i.e. whether the Executive supports it or not), thus indicating to the members how they can expect the Designate of the Executive to vote on that item;
- The Executive can be said to be taking on a fiduciary duty to any members who appoint its Designate as their proxyholder in that it is representing to those members that the Designate will vote in accordance with the Executive's position. I would think that at a minimum this would require that the Executive:
 - appoint the Designate by resolution;
 - obtain the Designate's written agreement to make their best efforts to show up, to vote and to vote in accordance with the Executive's position;
 - monitor the voting by the Designate to ensure that it is actually in accordance with the Executive's position (admittedly, this wouldn't be possible on a ballot);
- When it comes to elections (of committee members or Directors), the Executive cannot ethically have a position as to who should be elected and thus must either produce a form of proxy that instructs the Designate to not vote during elections or that obtains the member's clear consent to empower the Designate to use or her own personal discretion during election votes.

Soliciting Proxies

There is nothing in the CA or ONCA prohibiting a member (even of the Executive) from soliciting proxies from other members, even where those others may have already given a proxy (obviously, it is vital that a solicited proxy have a clause revoking all other proxies for the same meeting).

Time Limits for Depositing a Proxy

Ss. 84(5) of the CA states,

The directors may by resolution fix a time not exceeding forty-eight hours, excluding Saturdays and holidays, preceding any meeting or adjourned meeting of [members] before which time proxies to be used at that meeting must be deposited with the company or an agent thereof, and any period of time so fixed shall be specified in the notice calling the meeting....

With respect to the setting of this time limit:

- the directors need to actually pass the resolution (no, they can't simply pass a resolution approving the form of the notice of meeting and point to that as being a resolution setting the time limit) and I, for one, would be surprised (but pleased) if TISC's Executive actually

passes such resolutions;

- if no such resolution is passed, any purported time limit is unenforceable and any proxies deposited at any time before the start of the meeting are required to be accepted by the corporation;
- if the corporation is a club like TISC which exists to serve its members rather than a for-profit one with numerous shareholders, it is a service to the members for it to accept proxies on the date of the meeting up until a time before the meeting after which to do so might result in having to delay the start of the meeting (or for it to accept them even if doing so means the meeting start will be delayed, on the basis that it is more important to not deprive a member of his or her vote than to start 5 or 10 minutes late);

With respect to publishing the time limit:

- if the time limit is not specified in the Notice of Meeting, it is not enforceable;

Number of Proxies Held

There is nothing in the CA or ONCA restricting the number of proxies that a proxyholder can hold, nor is there any specific wording in the authority granted to directors to pass by-laws that would allow a by-law to restrict the number of proxies that can be held.

Voting by Proxyholders

Surprise! The member showed up at the meeting

If the member who gave a proxy attends the meeting and votes, the proxyholder cannot vote that proxy. There are differing opinions as to what to do in that event:

- One is that the proxy needs to be revoked before the member can vote and so the Chair or Secretary should get a paper copy of the proxy and have the member strike it through diagonally and write "Revoked by me, [person's name] on [date]" and then inform the proxyholder;
- Another is that the attendance and voting by that member doesn't revoke the proxy; it is merely non-operative when the member votes. If the member were to not vote or to leave before the end of the meeting, the proxyholder could then vote on the member's behalf.

For what my opinion is worth, I think the second option is correct.

Votes of proxyholders must be taken

When there is a vote, those votes made by proxy must be counted, regardless of the method of voting (i.e. whether by show of hands, ballot, or recorded vote). The Chair cannot, for example, call for a vote in two phases in which phase 1 is to take the personal vote of those present and phase 2 is to take the votes cast by the proxyholders but then, after having counted the personal votes, announce that since the number of votes that can be cast by proxy cannot overturn the result of the personal votes, the votes of the proxyholders will not be taken. That would deprive the members who appointed those proxies of their right to cast a vote, a right they are entitled to regardless of whether their vote can affect the outcome.

Counting votes by proxyholders

Since by far the most common method of voting at TISC meetings is by a show of hands, TISC has to have a procedure for counting proxy

votes and this should be by way of a single show of hands and not in phases of non-proxy votes/proxy votes.

As I suggested some years ago, an easy method is to issue the proxyholder with hand-held signs/sheets of paper upon which is written the number of proxies held by the proxyholder. When it comes to a show of hands, proxyholders cast their personal vote by holding up a hand without the sign/sheet of paper and cast proxy votes by holding up the sign/sheet of paper. This method has the disadvantage that members who are able to see the sign/sheet will know the number of proxies being voted by a proxyholder but that is not fatal.

Reports of votes by proxyholders

This seems like the opportune time to point out that:

- proxyholders are not entitled to divulge to anyone other than the corporation, the name of any members who appointed them as proxyholder, their instructions or how they voted.
- The corporation is not entitled to divulge the names of members who submitted proxies or any instructions on the proxy and is not required to divulge the number of proxies held by any proxyholder (this also means that the person appointed to collect the proxies, usually the Secretary, is not entitled to divulge that information to other members of the Executive who do not need that information to run the meeting)

The results of a vote where there were votes by proxyholders is to be announced only once, that being after all the votes are cast. One does not report separately the results of the personal votes and the results of the votes of the proxyholders and then the final result. There

Absentee Voting

A proxy is merely one method of absentee voting; other methods are mail-in ballots and telephonic/electronic voting.

No matter how many instructions a proxy may contain, it is not, and never can be, a ballot. When a mail-in ballot has been received it is a vote cast. When a proxy has been received, there is no vote cast until the proxyholder attends and casts it. A mail-in ballot is subject to all the potential problems that a proxy with instructions has (since they are set out above, I won't repeat them).

The CA doesn't provide for telephonic/electronic voting. ONCA will.

The Next Steps

I've tried to create this commentary in such a way that you not only have the information necessary to make some decisions on proxy voting but that some decisions will be obvious. If you want me to I can discuss them with you as a whole (i.e. at an Exec meeting) and I would be willing to draft some guidelines based on those decisions.

I recommend that as part of its proposal, TISC proposes preparing a Primer for its members with information such as their right to not use the form of proxy provided by TISC and their right to appoint a proxyholder or if they agree to act as a proxyholder, their duties. If you wish, I will prepare such a Primer.

Appendix A (sections from the legislation pertaining to proxies)

Sections 83 and 84 of the Corporations Act ("CA")

[Don't be misled by the use of the word "shareholder". Subsection 133(1) of the CA states that where this section applies to a non-profit corporation, "shareholder" means "member"—labyrinthine wording like this was just one of the many reasons for the ONCA being passed.]

83 In this section and in sections 84 to 90,

“form of proxy” means a written or printed form that, upon completion and execution by or on behalf of a shareholder, becomes a proxy; (“formule de procuration”)

...

“proxy” means a completed and executed form of proxy by means of which a shareholder has appointed a person as the shareholder’s nominee to attend and act for the shareholder and on the shareholder’s behalf at a meeting of shareholders; (“procuration”)

...

84 (1) Every shareholder, including a shareholder that is a corporation, entitled to vote at a meeting of shareholders may by means of a proxy appoint a person, who need not be a shareholder, as the shareholder’s nominee to attend and act at the meeting in the manner, to the extent and with the power conferred by the proxy.

Execution and termination

(2) A proxy shall be executed by the shareholder or the shareholder’s attorney authorized in writing or, if the shareholder is a corporation, under its corporate seal or by an officer or attorney thereof duly authorized, and ceases to be valid one year from its date.

Contents

(3) In addition to the requirements, where applicable, of section 88, a proxy shall contain the date thereof and the appointment and name of the nominee and may contain a revocation of a former proxy and restrictions, limitations or instructions as to the manner in which the shares in respect of which the proxy is given are to be voted or that may be necessary to comply with the laws of any jurisdiction in which the shares of the company are listed on a stock exchange or a restriction or limitation as to the number of shares in respect of which the proxy is given.

Revocation

(4) In addition to revocation in any other manner permitted by law, a proxy may be revoked by instrument in writing executed by the shareholder or by the shareholder’s attorney authorized in writing or, if the shareholder is a corporation, under its corporate seal or by an officer or attorney thereof duly authorized, and deposited either at the head office of the company at any time up to and including the last business day preceding the day of the meeting, or any adjournment thereof, at which the proxy is to be used or with the chair of such meeting on the day of the meeting, or adjournment thereof, and upon either of such deposits the proxy is revoked.

Time limit for deposit

(5) The directors may by resolution fix a time not exceeding forty-eight hours, excluding Saturdays and holidays, preceding any meeting or adjourned meeting of shareholders before which time proxies to be used at that meeting must be deposited with the company or an agent thereof, and any period of time so fixed shall be specified in the notice calling the meeting or in the information circular relating thereto. R.S.O. 1990, c. C.38, s. 84.

Part VI of the Not-for-Profit Corporations Act, 2010

PART VI PROXIES

Definition

63. In this Part, “proxy” means an authorization by means of which a member has appointed a proxyholder to attend and act on the member’s behalf at a meeting of the members. 2010, c. 15, s. 63.

Proxies

64. (1) Every member entitled to vote at a meeting of the members may by means of a proxy appoint a proxyholder or one or more alternate proxyholders, who need not be members, as the member’s nominee to attend and act at the meeting in the manner, to the extent and with the authority conferred by the proxy. 2010, c. 15, s. 64 (1).

Signature

(2) A proxy must be signed,
(a) by the member or the member’s attorney; or
(b) if the member is a body corporate, by an officer or attorney of the body corporate duly authorized. 2010, c. 15, s. 64 (2).

Form of proxy

(3) Every proxy must be in a form that complies with the regulations. 2010, c. 15, s. 64 (3).

Time limit for deposit

(4) The directors may by resolution fix a time not exceeding 48 hours, excluding Saturdays and holidays, before any meeting or continuance of an adjourned meeting of the members before which time proxies to be used at that meeting must be deposited with the corporation or an agent of the corporation, and any period of time so fixed must be specified in the notice calling the meeting. 2010, c. 15, s. 64 (4).

Validity

(5) A proxy is valid only at the meeting for which it is given or, if that meeting is adjourned, at the meeting that continues the adjourned meeting. 2010, c. 15, s. 64 (5).

Revocation

(6) A member may revoke a proxy,
(a) by depositing in accordance with subsection (7) a revocation that is signed by the member or by the member’s attorney; or
(b) in any other manner permitted by law. 2010, c. 15, s. 64 (6).

Time of revocation

(7) The revocation must be received,
(a) at the registered office of the corporation at any time up to and including the last business day before the day of the meeting or, if the meeting is adjourned, of the continued meeting, at which the proxy is to be used; or
(b) by the chair of the meeting on the day of the meeting or, if it is adjourned, of the continued meeting. 2010, c. 15, s. 64 (7).

Mandatory solicitation of proxy

65. A corporation shall send, or otherwise make available, a form of proxy to each member who is entitled to receive notice of the meeting concurrently with or before giving notice of the meeting. 2010, c. 15, s. 65.

Proxyholder

66. (1) A person who is appointed a proxyholder shall attend in person, or cause an alternate proxyholder to attend, the meeting in respect of which the proxy is given and shall comply with the directions of the member who appointed the person. 2010, c. 15, s. 66 (1).

Rights of proxyholder

(2) A proxyholder or an alternate proxyholder has the same rights as the member who appointed him or her to speak at a meeting of the members in respect of any matter, to vote by way of ballot at the meeting and, except where a proxyholder or an alternate proxyholder has conflicting instructions from more than one member, to vote at the meeting in respect of any matter by way of a show of hands. 2010, c. 15, s. 66 (2).

Vote by show of hands

(3) Despite subsections (1) and (2), if the chair of a meeting of the members declares to the meeting that, to the best of his or her belief, if a ballot is conducted, the total number of votes of members represented at the meeting by proxy required to be voted against a matter or group of matters to be decided at the meeting is less than 5 per cent of all the votes that might be cast at the meeting on such ballot, and if a member, proxyholder or alternate proxyholder does not demand a ballot,

(a) the chair may conduct the vote in respect of that matter or group of matters by a show of hands; and

(b) a proxyholder or alternate proxyholder may vote in respect of that matter or group of matters by a show of hands. 2010, c. 15, s. 66 (3).

Voting by mail or by telephonic or electronic means

67. (1) A corporation may provide in its by-laws for voting by mail or by telephonic or electronic means, in addition to or instead of voting by proxy. 2010, c. 15, s. 67 (1).

Same

(2) Voting by mail or by telephonic or electronic means may be used only if,

(a) the votes may be verified as having been made by members entitled to vote; and

(b) the corporation is not able to identify how each member voted. 2010, c. 15, s. 67 (2).