



DIRECTOR

- S-2(f) "director" includes any person occupying the position of director by whatever name called;
- **Directors obligatory(S-90) -**
 - Every public company and a private company which is a subsidiary of a public company shall have at least three directors.
 - Every private company other than a private company mentioned in subsection (1) shall have at least two directors;
 - Only a natural person may be appointed a director.

LEGAL POSITION OF DIRECTORS

- Directors are the persons duly appointed by the company to direct and manage the affairs of the company.
- Their legal position is sometimes described as **agents**, sometimes as **managing partners**, and sometimes as **trustees**.
- But each of these is not exhaustive of their powers and responsibilities but as indicating useful points of view from which they may for the moment and for the particular purpose be considered.

Executive director

A person who is a member of the board, **full time** employee and involved **in day-to-day** management of the firm.



A non-executive director

They usually work part time

They are not involved in day-by-day management

Attending board meetings

Spending time on specific projects

They are appointed from outside the company

**What is the logic
behind appointing non-
executive directors
from outside the
Company ?????**

A 3D rendered white humanoid figure is sitting on a large, vibrant red question mark. The figure is holding a black telescope to its eye, looking towards the right. The scene is set against a plain white background.

**They can bring
an independent
voice**

**Could help
the board to
take better
decisions**



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INDEPENDENT DIRECTOR



Independent Director



The Independent director refers to the member of the board who is not from the organization and helps share a neutral opinion as the person is not attached to the existing management.

- is a person of integrity
- Not a promoter of the company
- Not related to promoters
- Had no pecuniary relationship with the company
- None of its relatives has pecuniary relationship or transaction with the company;
- Not have held position of KMP or an employee

Appointment and terms and office of alternate directors(S-101)--

- The Board of Directors of a company may, if so authorised by its articles or by a resolution passed by the company in general meeting, appoint an alternate director, to act for a director hereinafter in this section called the original director during his absence for a continuous period of not less than three months from Bangladesh.
- An alternate director appointed under sub-section (1) shall not hold office as such for a period longer than that permissible to the original director in whose place he has been appointed and shall vacate the office, immediately after he receives information that the original director has returned to Bangladesh.

S-96-Meeting of Board:--

- In the case of every company a meeting of its Board of Directors shall be held at least once in every three and at least four such meetings shall be held in every year.

Qualification of Director(S-97):--

- Without prejudice to the restrictions imposed by section 92, it shall be the duty of every director to hold qualification share to be specified in the articles and, if he is not already qualified, he shall obtain his qualification within sixty days after his appointment, or such shorter time as may be fixed by the articles.
- If, after the expiration of the period mentioned in sub-section (1) any unqualified person acts as a director of the company, he shall be liable to a fine not exceeding two hundred taka for every day between the expiration of the said period and the last day on which it is proved that he acted as a director (both days inclusive).

Disqualifications of directors (S-94)-

- A person shall not be capable of being appointed director of a company, if -
 - he has been found to be of unsound mind by a competent court and the finding is in force; or
 - he is an undischarged insolvent; or
 - he has applied to be adjudicated as an insolvent and his application is pending; or
 - he has not paid any call in respect of shares of the company held by him, whether alone or jointly with others, and six months have elapsed from the last day fixed for the payment of the call; or

Power of Directors

- (a) the power to make calls on shareholders in respect of money unpaid on their shares;**
- (b) the power to issue debentures;**
- (c) the power to borrow moneys otherwise than on debentures;**
- (d) the power to invest funds of the company; and**
- (e) the power to make loan.**

As a fiduciary, the director's duties are:

1

To act bona fide in the company's interest.

If the company became **bankrupted**, and the interest of the creditors was harmed because of such act **from the directors**. The directors are in breach of their **fiduciary duty** to the company.

A person in a dark suit and white shirt is holding a golden scale of justice. The background is white. Overlaid on the image are two grey speech bubbles with black outlines. The top bubble contains the text 'To exercise his power to a proper purpose'. Below it, a grey arrow points from the left towards the bubble, with the number '2' inside it. The bottom bubble contains the text 'A director is advised to use his power in limits, and if he uses the power for a greater purpose, the director will be in a breach of fiduciary duty'.

To exercise his power to a proper purpose

2

A director is advised to use his power in limits, and if he uses the power for a greater purpose, the director will be in a breach of fiduciary duty

Case: Re Duomatic Ltd. (1969).

The director made payment to former director of the company as compensation.

There both were not aware that UK
Company's Act 1965:

Requires a notification to be given to the shareholders before the payment, even thou the payment is legal or lawful.

Held: although the directors had acted honestly, but due to their ignorance of the law, the directors are liable for misapplication of the company's funds.

3

To avoid conflict of interest

A director should not put himself in a position where his personal interest conflicts with company's interest.

**Case: Aberdeen Railway co. v. Blaikie Bros
(1854)**

Held: the company can break the contract even if the contract was made on fair terms (because there was a conflict of interest)