
STATUTORY INSTRUMENTS

2009 No. 2477

The Water Industry (Special Administration) Rules 2009

PART 6

Proxies and company representation

Application of this Part

60. This Part applies to any meeting of the creditors or members of a water company that is called or summoned under the Insolvency Act or under these Rules.

Definition and grant of proxy

61.—(1) For the purposes of these Rules, a proxy is a written authority in form WAT20 given by a person (“the principal”) to another person (“the proxy-holder”)—

- (a) to attend a meeting; and
- (b) to speak and vote at the meeting as the principal’s representative.

(2) A proxy-holder must be an individual aged 18 years or over.

(3) A proxy requires the proxy-holder to give the principal’s vote on matters arising for determination at the meeting, or to abstain, or to propose, in the principal’s name, a resolution to be voted on by the meeting, either as directed or, if not directed, in accordance with the proxy-holder’s own discretion.

(4) A principal may give only one proxy for any one meeting, and must give it to only one proxy-holder.

(5) However, the principal may specify one or more other individuals to be the proxy-holder in the alternative (if more than one, in the order in which they are named in the proxy).

(6) Without affecting the generality of paragraphs (4) and (5), a proxy for a particular meeting may be given to the person who presides at the meeting, and that person cannot decline to be the proxy-holder for that proxy.

Issue and use of forms of proxy

62.—(1) A form of proxy sent out with the notice of a meeting must not have a person’s name or description inserted in it.

(2) The only form of proxy that may be used at a meeting is one sent with the notice summoning the meeting.

(3) A form of proxy must be signed by the principal, or by a person authorised by the principal to do so (either generally or with reference to a particular meeting).

(4) If a form of proxy is signed by a person other than the principal, the nature of that person’s authority must be stated.

(5) A form of proxy is invalid if it does not comply with any part of this rule.

Use of proxies at meetings

63.—(1) A form of proxy given for a particular meeting may be used at an adjournment of that meeting.

(2) If the special administrator holds forms of proxy for use as chair of a meeting, and another person acts as chair, that other person may use the forms of proxy of the special administrator as if the other person were the proxy-holder.

(3) A proxy-holder may propose any resolution that, if it were proposed by another person, would be a resolution in favour of which, by virtue of the proxy, the proxy-holder would be entitled to vote.

(4) If a form of proxy gives specific directions as to voting, the proxy-holder is not, unless the form of proxy states otherwise, prevented from voting at the proxy-holder's discretion on any resolution put to the meeting but not dealt with in the proxy.

Retention of proxies

64.—(1) Subject to paragraph (2), the person presiding at a meeting must retain all forms of proxy used for voting at the meeting.

(2) If the chair is not the special administrator of the water company concerned, that person must deliver the forms of proxy to the special administrator as soon as reasonably practicable after the meeting.

Right of inspection of proxies

65.—(1) The special administrator of a water company who holds forms of proxy must allow them to be inspected, at any reasonable time on any business day, by any of the following—

- (a) a creditor who has submitted a written claim to be a creditor of the water company, if that claim has been admitted, in whole or in part, for the purpose of voting, dividend or otherwise;
- (b) in the case of forms of proxy used at a meeting of that company, that company's members;
- (c) the directors of that company;
- (d) the Secretary of State;
- (e) the Welsh Ministers;
- (f) the Authority.

(2) In paragraph (1)(a), "creditor" does not include a person whose claim has been wholly rejected for the purposes of voting, dividend or otherwise.

(3) Any person who attends a meeting is entitled, immediately before or during the meeting, to inspect forms of proxy and associated documents (including proofs as defined in rule 54(5)) sent or given, in accordance with directions contained in any notice summoning the meeting, by a creditor or member of the water company for the purpose of that meeting to—

- (a) the person presiding at the meeting; or
- (b) any other person.

Proxy-holder with financial interest

66.—(1) In this rule, subject to paragraph (4), "associate" has the same meaning as in section 435 of the Insolvency Act.

(2) A proxy-holder must not vote in favour of a resolution that would directly or indirectly place the proxy-holder, or an associate of the proxy-holder, in a position to receive remuneration out of

the assets of the water company concerned, unless the form of proxy specifically directs the proxy-holder to vote in that way.

(3) If a proxy-holder holds a form of proxy that has been signed by that proxy-holder on behalf of the principal under an authority given by the principal under rule 63(4), and the form of proxy specifically directs the proxy-holder to vote in the way referred to in paragraph (2), the proxy-holder must nevertheless not vote in that way unless the proxy-holder shows the person presiding at the meeting the principal's written authorisation for the proxy-holder to have signed the form of proxy.

(4) For the purposes of paragraph (2), if a person other than the special administrator presides at a meeting, and uses forms of proxy of the special administrator in the circumstances set out in rule 63(2), the special administrator is taken to be an associate of the person presiding at the meeting.

Company representation

67.—(1) Section 323 of the Companies Act 2006 (representation of corporations at meetings) applies to a meeting of creditors under these Rules as to a meeting of the company (references to a member of the company being read as references to a creditor).

(2) A person is authorised under section 323 of the 2006 Act to represent a corporation at a meeting of creditors, must produce to the chair of the meeting a copy of the resolution from which he derives the authority to do so is derived.

(3) The copy resolution must be under the seal of the corporation, or certified by the secretary or a director of the corporation to be a true copy.

(4) Nothing in this rule requires the authority of a person to sign a proxy on behalf of a principal which is a corporation to be in the form of a resolution of that corporation.