
STATUTORY INSTRUMENTS

2018 No. 1082

The Insolvency (Scotland) (Company Voluntary Arrangements and Administration) Rules 2018

PART 5

DECISION MAKING

CHAPTER 3

Notices, voting and venues for decisions

Notices to creditors of decision procedure

5.8.—(1) This rule sets out the requirements for notices to creditors where a decision is sought by a decision procedure.

(2) The convener must deliver a notice to every creditor who is entitled to notice of the procedure.

(3) The notice must contain the following—

- (a) identification details for the insolvency proceedings;
- (b) details of the decision to be made or of any resolution on which a decision is sought;
- (c) a description of the decision procedure which the convener is using, and arrangements, including the venue, for the decision procedure;
- (d) a statement of the decision date;
- (e) except in the case of a decision in relation to a proposed CVA, a statement as to when the creditor must have delivered a statement of claim and documentary evidence of debt in accordance with these Rules failing which a vote by the creditor will be disregarded;
- (f) a statement that a creditor whose debt is treated as a small debt in accordance with rule 3.118 must still deliver a statement of claim and documentary evidence of debt if that creditor wishes to vote;
- (g) a statement that a creditor who has opted out from receiving notices may nevertheless vote if the creditor provides a statement of claim and documentary evidence of debt in accordance with paragraph (e);
- (h) in the case of a decision in relation to a proposed CVA, a statement of the effects of the relevant provisions of the following—
 - (i) rule 5.26 about creditors' voting rights,
 - (ii) rule 5.28 about the calculation of creditors' voting rights, and
 - (iii) rule 5.31 about the requisite majority of creditors for making decisions;
- (i) except in the case of a physical meeting, a statement that creditors who meet the thresholds in section 246ZE(7) may, within five business days from the date of delivery of the notice, require a physical meeting to be held to consider the matter;

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- (j) in the case of a meeting, a statement that any proxy must be delivered to the convener or chair before it may be used at the meeting;
 - (k) in the case of a meeting, a statement that, where applicable, a complaint may be made in accordance with rule 5.35 and the period within which such a complaint may be made; and
 - (l) a statement that a creditor may appeal a decision in accordance with rule 5.32, and the relevant period under rule 5.32 within which such an appeal may be made.
- (4) The notice must be authenticated and dated by the convener.
- (5) Where the decision procedure is a meeting the notice must be accompanied by a blank proxy complying with rule 6.3.
- (6) This rule does not apply if the court orders under rule 5.12 that notice of a decision procedure be given by advertisement only.