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STATUTORY INSTRUMENTS

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**2006 No. 772**

**The Energy Administration (Scotland) Rules 2006**

**PART 10**

**Proxies and Company representation**

**Definition of “proxy”**

**61.**—(1) For the purposes of these Rules, a person (“the principal”) may authorise another person (“the proxy-holder”) to attend, speak and vote as his representative at meetings of creditors or of the protected energy company in energy administration proceedings, and such authority is referred to as a proxy.

(2) A proxy may be given either generally for all meetings in energy administration proceedings or specifically for any meeting or class of meetings.

(3) Only one proxy may be given by the principal for any one meeting; and it may only be given to one person, being an individual aged 18 or over. The principal may nevertheless nominate one or more other such persons to be proxy-holder in the alternative in the order in which they are named in the proxy.

(4) Without prejudice to the generality of paragraph (3), a proxy for a particular meeting may be given to whoever is to be the chairman of the meeting and any person to whom such a proxy is given cannot decline to be a proxy-holder in relation to that proxy.

(5) A proxy may require the holder to vote on behalf of the principal on matters arising for determination at any meeting, or to abstain, either as directed or in accordance with the holder’s own discretion; and it may authorise or require the holder to propose, in the principal’s name, a resolution to be voted on by the meeting.

**Form of proxy**

**62.**—(1) With every notice summoning a meeting of creditors or of the protected energy company in energy administration proceedings there shall be sent out forms of proxy in Form EA25(S).

(2) A form of proxy shall not be sent out with the name or description of any person inserted in it.

(3) A proxy shall be in the form sent out with the notice summoning the meeting or in a form substantially to the same effect.

(4) A form of proxy shall be filled out and signed by the principal, or by some person acting under his authority and, where it is signed by someone other than the principal, the nature of his authority shall be stated on the form.

**Use of proxy at meeting**

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

(2) A proxy may be lodged at or before the meeting at which it is to be used.

(3) Where the energy administrator holds proxies to be used by him as chairman of the meeting, and some other person acts as chairman, the other person may use the energy administrator's proxies as if he were himself proxy-holder.

(4) Where a proxy directs a proxy-holder to vote for or against a resolution for the appointment of a person other than the energy administrator as proposed liquidator of the protected energy company, the proxy-holder may, unless the proxy states otherwise, vote for or against (as he thinks fit) any resolution for the appointment of that person jointly with another or others.

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

(6) Where a proxy gives specific directions as to voting, this does not, unless the proxy states otherwise, preclude the proxy-holder from voting at his discretion on resolutions put to the meeting which are not dealt with in the proxy.

### **Retention of proxies**

**64.**—(1) Proxies used for voting at any meeting shall be retained by the chairman of the meeting.

(2) The chairman shall deliver the proxies forthwith after the meeting to the energy administrator (where that is someone other than himself).

(3) The energy administrator shall retain all proxies in the sederunt book.

### **Right of inspection**

**65.**—(1) The energy administrator shall, so long as proxies lodged with him are in his hands, allow them to be inspected at all reasonable times on any business day, by—

- (a) the creditors, in the case of proxies used at a meeting of creditors; and
- (b) a protected energy company's members, in the case of proxies used at a meeting of the protected energy company.

(2) The reference in paragraph (1) to creditors is a reference to those persons who have submitted in writing a claim to be creditors of the protected energy company but does not include a person whose claim has been wholly rejected for purposes of voting, dividend or otherwise.

(3) The right of inspection given by this Rule is also exercisable by the directors of the protected energy company.

(4) Any person attending a meeting in energy administration proceedings is entitled, immediately before or in the course of the meeting, to inspect proxies and associated documents (including claims)—

- (a) to be used in connection with that meeting; or
- (b) sent or given to the chairman of that meeting or to any other person by a creditor or member for the purpose of that meeting, whether or not they are to be used at it.

### **Proxy-holder with financial interest**

**66.**—(1) A proxy-holder shall not vote in favour of any resolution which would directly or indirectly place him, or any associate of his, in a position to receive any remuneration of the assets of the protected energy company, unless the proxy specifically directs him to vote that way.

(2) Where a proxy-holder has signed the proxy as being authorised to do so by his principal and the proxy specifically directs him to vote in the way mentioned in paragraph (1), he shall nevertheless not vote in that way unless he produces to the chairman of the meeting written authorisation from his principal sufficient to show the proxy-holder was entitled so to sign the proxy.

(3) This Rule applies also to any person acting as chairman of a meeting and using proxies in that capacity in accordance with Rule 63(3); and in the application of this Rule to any such person, the proxy-holder is deemed an associate of his.

### **Representation of corporations**

**67.**—(1) Where a person is authorised under section 375 of the Companies Act to represent a corporation at a meeting of creditors or of the protected energy company, he shall produce to the chairman of the meeting a copy of the resolution from which he derives his authority.

(2) The copy resolution must be executed in accordance with the provisions of section 36B(2) of the Companies Act, or certified by the secretary or a director of the corporation to be a true copy.

(3) 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.