

---

STATUTORY RULES OF NORTHERN IRELAND

---

**1991 No. 364**

**The Insolvency Rules (Northern Ireland) 1991**

PARTS 1 TO 4 COMPANY INSOLVENCY; COMPANIES WINDING UP

**PART 3**

**RECEIVERSHIP PROCEDURE**

**CHAPTER 4**

**CREDITORS' MEETING**

**Procedure for summoning meeting under Article 58(2)**

**3.10.**—(1) In fixing the venue for a meeting of creditors summoned under Article 58(2), the administrative receiver shall have regard to the convenience of the persons who are invited to attend.

(2) The meeting shall be summoned for commencement between 10.00 and 16.00 hours on a business day, unless the court otherwise directs.

(3) At least 14 days' notice of the venue shall be given to all creditors of the company who are identified in the statement of affairs, or are known to the administrative receiver and had claims against the company at the date of his appointment.

(4) With the notice summoning the meeting there shall be sent out forms of proxy.

(5) The notice shall include a statement to the effect that creditors whose claims are wholly secured are not entitled to attend or be represented at the meeting.

(6) Notice of the venue shall also be published in the newspaper in which the administrative receiver's appointment was advertised.

(7) The notice to creditors and the newspaper advertisement shall contain a statement of the effect of Rule 3.12(1) (voting rights).

[E.R.3.9]

**The chairman at the meeting**

**3.11.**—(1) The chairman at the creditors' meeting shall be the administrative receiver, or a person nominated by him in writing to act in his place.

(2) A person so nominated must be either—

(a) one who is qualified to act as an insolvency practitioner in relation to the company, or

(b) an employee of the administrative receiver or his firm who is experienced in insolvency matters.

[E.R.3.10]

## **Voting rights**

**3.12.**—(1) Subject to paragraphs (2) to (7), at the creditors' meeting a person is entitled to vote only if—

- (a) he has given to the administrative receiver, not later than 12.00 hours on the business day before the day fixed for the meeting, details in writing of the debt that he claims to be due to him from the company, and the claim has been duly admitted under this Rule, and
- (b) there has been lodged with the administrative receiver any proxy which the creditor intends to be used on his behalf.

(2) The chairman of the meeting may allow a creditor to vote, notwithstanding that he has failed to comply with paragraph (1)(a), if satisfied that the failure was due to circumstances beyond the creditor's control.

(3) The administrative receiver or (if other) the chairman of the meeting may call for any document or other evidence to be produced to him where he thinks it necessary for the purpose of substantiating the whole or any part of the claim.

(4) Votes are calculated according to the amount of a creditor's debt as at the date of the appointment of the administrative receiver, after deducting any amounts paid in respect of that debt after that date.

(5) A creditor shall not vote in respect of a debt for an unliquidated amount, or any debt whose value is not ascertained, except where the chairman agrees to put upon the debt an estimated minimum value for the purpose of entitlement to vote and admits the claim for that purpose.

(6) A secured creditor is entitled to vote only in respect of the balance (if any) of his debt after deducting the value of his security as estimated by him.

(7) A creditor shall not vote in respect of a debt on, or secured by, a current bill of exchange or promissory note, unless he is willing—

- (a) to treat the liability to him on the bill or note of every person who is liable on it antecedently to the company, and against whom a bankruptcy order has not been made (or, in the case of a company, which has not gone into liquidation), as a security in his hands, and
- (b) to estimate the value of the security and, for the purpose of his entitlement to vote, to deduct it from his claim.

[E.R.3.11]

## **Admission and rejection of claim**

**3.13.**—(1) At the creditors' meeting the chairman has power to admit or reject a creditor's claim for the purpose of his entitlement to vote; and the power is exercisable with respect to the whole or any part of the claim.

(2) The chairman's decision under this Rule, or in respect of any matter arising under Rule 3.12, is subject to appeal to the court by any creditor.

(3) If the chairman is in doubt whether a claim should be admitted or rejected, he shall mark it as objected to and allow the creditor to vote, subject to his vote being subsequently declared invalid if the objection to the claim is sustained.

(4) If on an appeal the chairman's decision is reversed or varied, or a creditor's vote is declared invalid, the court may order that another meeting be summoned, or make such other order as it thinks just.

(5) Neither the administrative receiver nor any person nominated by him to be chairman is personally liable for costs incurred by any person in respect of an appeal to the court under this Rule, unless the court makes an order to that effect.

[E.R.3.12]

### **Adjournment**

**3.14.—**(1) The creditors' meeting shall not be adjourned, even if no quorum is present, unless the chairman decides that it is desirable; and in that case he shall adjourn it to such date, time and place as he thinks fit.

(2) Rule 3.10(1) and (2) applies, with necessary modifications, to any adjourned meeting.

(3) If there is no quorum, and the meeting is not adjourned, it is deemed to have been duly summoned and held.

[E.R.3.14]

### **Resolutions and minutes**

**3.15.—**(1) At the creditors' meeting, a resolution is passed when a majority (in value) of those present and voting in person or by proxy have voted in favour of it.

(2) The chairman of the meeting shall cause a record to be made of the proceedings, and kept as part of the records of the receivership.

(3) The record shall include a list of the creditors who attended (personally or by proxy) and, if a creditors' committee has been established, the names and addresses of those elected to be members of the committee.

[E.R.3.15]