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STATUTORY INSTRUMENTS

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**1986 No. 1925**

**The Insolvency Rules 1986**

THE FIRST GROUP OF PARTS

PART 2

ADMINISTRATION PROCEDURE

CHAPTER 3

CREDITORS' AND COMPANY MEETINGS

*SECTION A: CREDITORS' MEETINGS*

**Meeting to consider administrator's proposals**

**2.18.**—(1) Notice of the creditors' meeting to be summoned under section 23(1) shall be given to all the creditors of the company who are identified in the statement of affairs, or are known to the administrator and had claims against the company at the date of the administration order.

(2) Notice of the meeting shall also (unless the court otherwise directs) be given by advertisement in the newspaper in which the administration order was advertised.

(3) . Notice to attend the meeting shall be sent out at the same time to any directors or officers of the company (including persons who have been directors or officers in the past) whose presence at the meeting is, in the administrator's opinion, required.

(4) If at the meeting there is not the requisite majority for approval of the administrator's proposals (with modifications, if any), the chairman may, and shall if a resolution is passed to that effect, adjourn the meeting for not more than 14 days.

**Creditors' meetings generally**

**2.19.**—(1) This Rule applies to creditors' meetings summoned by the administrator under—

- (a) section 14(2)(b) (general power to summon meetings of creditors);
- (b) section 17(3) (requisition by creditors; direction by the court);
- (c) section 23(1) (to consider administrator's proposals); or
- (d) section 25(2)(b) (to consider substantial revisions).

(2) In fixing the venue for the meeting, the administrator shall have regard to the convenience of creditors.

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

(4) At least 21 days' notice of the meeting shall be given to all creditors who are known to the administrator and had claims against the company at the date of the administration order; and the notice shall specify the purpose of the meeting and contain a statement of the effect of Rule 2.22(1) (entitlement to vote).

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

(6) If within 30 minutes from the time fixed for commencement of the meeting there is no person present to act as chairman, the meeting stands adjourned to the same time and place in the following week or, if that is not a business day, to the business day immediately following.

(7) The meeting may from time to time be adjourned, if the chairman thinks fit, but not for more than 14 days from the date on which it was fixed to commence.

### **The chairman at meetings**

**2.20.**—(1) At any meeting of creditors summoned by the administrator, either he shall be chairman, 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 administrator or his firm who is experienced in insolvency matters.

### **Meeting requisitioned by creditors**

**2.21.**—(1) Any request by creditors to the administrator for a meeting of creditors to be summoned shall be accompanied by—

- (a) a list of the creditors concurring with the request, showing the amounts of their respective claims in the administration;
- (b) from each creditor concurring, written confirmation of his concurrence; and
- (c) a statement of the purpose of the proposed meeting.

This paragraph does not apply if the requisitioning creditor's debt is alone sufficient, without the concurrence of other creditors.

(2) The administrator shall, if he considers the request to be properly made in accordance with section 17(3), fix a venue for the meeting, not more than 35 days from his receipt of the request, and give at least 21 days' notice of the meeting to creditors.

(3) The expenses of summoning and holding a meeting at the instance of any person other than the administrator shall be paid by that person, who shall deposit with the administrator security for their payment.

(4) The sum to be deposited shall be such as the administrator may determine, and he shall not act without the deposit having been made.

(5) The meeting may resolve that the expenses of summoning and holding it are to be payable out of the assets of the company, as an expense of the administration.

(6) To the extent that any deposit made under this Rule is not required for the payment of expenses of summoning and holding the meeting, it shall be repaid to the person who made it.

### **Entitlement to vote**

**2.22.**—(1) Subject as follows, at a meeting of creditors in administration proceedings a person is entitled to vote only if—

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

Details of the debt must include any calculation for the purposes of Rules 2.24 to 2.27.

(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 administrator 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 administration order, deducting any amounts paid in respect of the 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.

### **Admission and rejection of claims**

**2.23.**—(1) At any 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 2.22, 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) In the case of the meeting summoned under section 23 to consider the administrator's proposals, an application to the court by way of appeal under this Rule against a decision of the chairman shall not be made later than 28 days after the delivery of the administrator's report in accordance with section 24(4).

(6) Neither the administrator 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.

### **Secured creditors**

**2.24.** At a meeting of creditors 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.

### **Holders of negotiable instruments**

**2.25.** 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.

### **Retention of title creditors**

**2.26.** For the purpose of entitlement to vote at a creditors' meeting in administration proceedings, a seller of goods to the company under a retention of title agreement shall deduct from his claim the value, as estimated by him, of any rights arising under that agreement in respect of goods in possession of the company.

### **Hire-purchase, conditional sale and chattel leasing agreements**

**2.27.—**(1) Subject as follows, an owner of goods under a hire-purchase or chattel leasing agreement, or a seller of goods under a conditional sale agreement, is entitled to vote in respect of the amount of the debt due and payable to him by the company as at the date of the administration order.

(2) In calculating the amount of any debt for this purpose, no account shall be taken of any amount attributable to the exercise of any right under the relevant agreement, so far as the right has become exercisable solely by virtue of the presentation of the petition for an administration order or any matter arising in consequence of that, or of the making of the order.

### **Resolutions and minutes**

**2.28.—**(1) At a creditors' meeting in administration proceedings, 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 minutes of its proceedings to be entered in the company's minute book.

(3) The minutes 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.

### **Administrator's report**

**2.29.** Any report by the administrator of the result of creditors' meetings held under section 23 or 25 shall have annexed to it details of the proposals which were considered by the meeting in question and of the modifications which were so considered.

### **Notices to creditors**

**2.30.—**(1) Within 14 days of the conclusion of a meeting of creditors to consider the administrator's proposals or revised proposals, the administrator shall send notice of the result of the meeting (including, where appropriate, details of the proposals as approved) to every creditor who received notice of the meeting under the Rules, and to any other creditor of whom the administrator has since become aware.

(2) Within 14 days of the end of every period of 6 months beginning with the date of approval of the administrator's proposals or revised proposals, the administrator shall send to all creditors of the company a report on the progress of the administration.

(3) On vacating office the administrator shall send to creditors a report on the administration up to that time.

This does not apply where the administration is immediately followed by the company going into liquidation, nor when the administrator is removed from office by the court or ceases to be qualified as an insolvency practitioner.