
STATUTORY INSTRUMENTS

2016 No. 1024

The Insolvency (England and Wales) Rules 2016

PART 8

INDIVIDUAL VOLUNTARY ARRANGEMENTS (IVA)

CHAPTER 5

Consideration of the proposal by the creditors

[Note: a document required by the Act or these Rules must also contain the standard contents set out in Part 1.]

Consideration of the proposal

8.22.—(1) This rule applies where the nominee is required to seek a decision from the debtor's creditors as to whether they approve the debtor's proposal.

(2) The nominee must deliver to each creditor a notice which complies with rule 15.8 so far as is relevant.

(3) The notice must also contain—

- (a) identification details for the proceedings;
- (b) where an interim order has not been obtained, details of the court or hearing centre to which an application relating to the proposal or the IVA must be made under rule 8.20(2);
- (c) where an interim order is in force, details of the court or hearing centre in which the nominee's report on the debtor's proposal has been filed under section 256(1);
- (d) a statement as to how a person entitled to vote for the proposal may propose a modification to it, and how the nominee will deal with such a proposal for a modification.

(4) The notice may contain or be accompanied by a notice that the results of the consideration of the proposal will be made available for viewing and downloading on a website and that no other notice will be delivered to the creditors to whom the notice under this rule was sent.

(5) Where the results of the consideration of the proposal are to be made available for viewing and downloading on a website the nominee must comply with the requirements for use of a website to deliver a document set out in rule 1.49(2)(a) to (c), (3) and (4) with any necessary adaptations and rule 1.49(5)(a) applies to determine the time of delivery of the document.

(6) The notice must be accompanied by the following (unless they have been delivered already under rule 8.19)—

- (a) a copy of the proposal;
- (b) a copy of the statement of affairs, or a summary including a list of creditors with the amounts of their debts; and
- (c) a copy of the nominee's report on the proposal.

(7) The decision date must be not less than 14 days from the date of delivery of the notice and not more than 28 days from the date on which—

- (a) the nominee received the document and statement of affairs referred to in section 256A(2) in a case where an interim order has not been obtained; or
- (b) the nominee's report was considered by the court in a case where an interim order is in force.

Proposals for an alternative supervisor

8.23.—(1) If in response to a notice of a decision procedure to consider the proposal other than at a meeting, a creditor proposes that a person other than the nominee be appointed as supervisor, that person's consent to act and confirmation of being qualified to act as an insolvency practitioner (or being an authorised person) in relation to the debtor must be delivered to the nominee by the creditor.

(2) If at a creditors' meeting to consider the proposal a resolution is moved for the appointment of a person other than the nominee to be supervisor, that person must produce to the chair at or before the meeting—

- (a) confirmation of being qualified to act as an insolvency practitioner (or being an authorised person) in relation to the debtor; and
- (b) written consent to act (unless the person is present at the meeting and signifies consent).

Report of the creditors' consideration of a proposal

8.24.—(1) A report of the creditors' consideration of a proposal must be prepared by the convener or, if the proposal is considered at a meeting, by the chair.

(2) The report must—

- (a) state whether the proposal was approved or rejected and, if approved, with what (if any) modifications;
- (b) list the creditors who voted in the decision procedure, setting out with their respective values how they voted on each decision;
- (c) if the proposal was approved, state whether the proceedings are main, territorial or non-EC proceedings and the reasons for so stating; and
- (d) include such further information as the nominee or the chair thinks appropriate.

(3) Where an interim order was obtained a copy of the report must be filed with the court, within four business days of the decision date.

(4) The court must endorse the copy of the report with the date of filing.

(5) The nominee must give notice of the result of the consideration to—

- (a) everyone who was invited to consider the proposal and to whom notice of the decision procedure was delivered;
- (b) any other creditor; and
- (c) where the debtor is an undischarged bankrupt, the official receiver and any trustee.

(6) The notice must be given—

- (a) where an interim order was obtained, as soon as reasonably practicable after a copy of the report is filed with the court; or
- (b) where an interim order was not obtained, within four business days of the decision date.