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STATUTORY INSTRUMENTS

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**2020 No. 629**

**The Smart Meter Communication Licensee  
Administration (England and Wales) Rules 2020**

**PART 4**

**Meetings**

**CHAPTER 3**

**Remote attendance**

**Remote attendance at meetings**

**38.**—(1) This Rule applies to a request to the convener of a meeting under section 246A(9) of the 1986 Act to specify a place for the meeting.

(2) The request must be accompanied by—

- (a) in the case of a request by creditors, a list of the creditors making or concurring with the request and the amounts of their respective debts in the SMCL administration;
- (b) in the case of a request by members, a list of the members making or concurring with the request and their voting rights; and
- (c) from each person concurring, written confirmation of that person's concurrence.

(3) The request must be delivered to the convener within seven business days of the date on which the convener delivered the notice of the meeting in question.

(4) Where the convener considers that the request has been properly made in accordance with the 1986 Act and this Rule, the convener must—

- (a) deliver notice to all those previously given notice of the meeting—
  - (i) that it is to be held at a specified place; and
  - (ii) as to whether the date and time are to remain the same or not;
- (b) set a venue (including specification of a place) for the meeting, the date of which must be no later than 28 days after the original date for the meeting; and
- (c) deliver at least 14 days' notice of that venue to all those previously given notice of the meeting.

(5) The notices required by paragraphs (4)(a) and (c) may be delivered at the same or different times.

(6) Where the convener has specified a place for the meeting in response to a request to which this Rule applies, the chair of the meeting must attend the meeting by being present in person at that place.

### **Action where person excluded**

**39.**—(1) In this Rule and Rules 40 and 41 an “excluded person” means a person who has taken all steps necessary to attend a meeting under the arrangements which—

- (a) have been put in place by the convener of the meeting under section 246A(6) of the 1986 Act; but
- (b) do not enable that person to attend the whole or part of that meeting.

(2) Where the chair becomes aware during the course of the meeting that there is an excluded person, the chair may—

- (a) continue the meeting;
- (b) declare the meeting void and convene the meeting again; or
- (c) declare the meeting valid up to the point where the person was excluded and adjourn the meeting.

(3) Where the chair continues the meeting, the meeting is valid unless—

- (a) the chair decides in consequence of a complaint under Rule 41 to declare the meeting void and hold the meeting again; or
- (b) the court directs otherwise.

(4) Without prejudice to paragraph (2), where the chair becomes aware during the course of the meeting that there is an excluded person, the chair may, in the chair’s discretion and without an adjournment, declare the meeting suspended for any period up to one hour.

### **Indication to excluded person**

**40.**—(1) A person who claims to be an excluded person may request an indication of what occurred during the period of that person’s claimed exclusion (an “indication”).

(2) A request under paragraph (1) must be made as soon as reasonably practicable and, in any event, no later than 4.00 pm on the business day following the day on which the exclusion is claimed to have occurred.

(3) A request under paragraph (1) must be made to—

- (a) the chair, where it is made during the course of the business of the meeting; or
- (b) the SMCL administrator where it is made after the conclusion of the business of the meeting.

(4) Where satisfied that the person making the request is an excluded person, the person to whom the request is made under paragraph (3) must give the indication as soon as reasonably practicable and, in any event, no later than 4.00 pm on the business day following the day on which the request was made under paragraph (1).

### **Complaint**

**41.**—(1) Any person may make a complaint who—

- (a) is, or claims to be, an excluded person; or
- (b) attends the meeting (in person or by proxy) and claims to have been adversely affected by the actual, apparent or claimed exclusion of another person.

(2) The person to whom the complaint must be made (“the appropriate person”) is—

- (a) the chair, where it is made during the course of the meeting; or
- (b) the SMCL administrator, where it is made after the meeting.

(3) The appropriate person must, as soon as reasonably practicable following receipt of the complaint—

- (a) consider whether there is an excluded person;
- (b) where satisfied that there is an excluded person, consider the complaint; and
- (c) where satisfied that there has been prejudice, take such action as the appropriate person considers fit to remedy the prejudice.

(4) Paragraph (5) applies where—

- (a) the appropriate person is satisfied that the complainant is an excluded person;
- (b) during the period of the person's exclusion a resolution was put to the meeting and voted on; and
- (c) the excluded person asserts how the excluded person intended to vote on the resolution.

(5) Subject to paragraph (6), where satisfied that the effect of the intended vote in paragraph (4), if cast, would have changed the result of the resolution, the appropriate person must—

- (a) count the intended vote as being cast in accordance with the complainant's stated intention;
- (b) amend the record of the result of the resolution; and
- (c) where notice of the result of the resolution has been delivered to those entitled to attend the meeting, deliver notice to them of the change.

(6) Where satisfied that more than one complainant is an excluded person, the appropriate person must have regard to the combined effect of the intended votes.

(7) The appropriate person must deliver notice to the complainant of any decision as soon as reasonably practicable.

(8) A complaint must be made as soon as reasonably practicable and, in any event, no later than 4.00 pm on the business day following—

- (a) the day on which the person was, appeared or claimed to be excluded; or
- (b) where an indication is sought under Rule 40, the day on which the complainant received the indication.

(9) A complainant who is not satisfied by the action of the appropriate person may apply to the court for directions and any application must be made no more than two business days from the date of receiving the decision of the appropriate person.