
SCOTTISH STATUTORY INSTRUMENTS

2018 No. 347

**The Insolvency (Scotland) (Receivership
and Winding up) Rules 2018**

PART 10

CREDITORS' AND LIQUIDATION COMMITTEES

CHAPTER 4

Meetings of Committee

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

Meetings of committee

10.14.—(1) Meetings of the committee must be held when and where determined by the office-holder.

(2) The office-holder must call a first meeting of the committee to take place within 6 weeks of the committee's establishment.

(3) After the calling of the first meeting, the office-holder must call a meeting—

- (a) if so requested by a member of the committee or a member's representative (the meeting then to be held within 21 days of the request being received by the office-holder); and
- (b) for a specified date, if the committee has previously resolved that a meeting be held on that date.

(4) The office-holder must give 5 business days' notice of the venue of a meeting to each member of the committee (or a member's representative, if designated for that purpose), except where the requirement for notice has been waived by or on behalf of a member.

(5) Waiver may be signified either at or before the meeting.

The chair at meetings

10.15. The chair at a meeting of a committee must be the office-holder or an appointed person.

Quorum

10.16. A meeting of a committee is duly constituted if due notice of it has been delivered to all the members, and at least 2 of the members are in attendance or represented.

Committee members' representatives

10.17.—(1) A member of the committee may, in relation to the business of the committee, be represented by another person duly authorised by the member for that purpose.

Status: Point in time view as at 06/04/2019.

Changes to legislation: There are currently no known outstanding effects for the The Insolvency (Scotland) (Receivership and Winding up) Rules 2018, CHAPTER 4. (See end of Document for details)

(2) A person acting as a committee member's representative must hold a letter of authority entitling that person to act (either generally or specifically) and authenticated by or on behalf of the committee member.

(3) A proxy or an instrument conferring authority (in respect of a person authorised to represent a body corporate or a partnership) is to be treated as a letter of authority to act generally (unless the proxy or instrument conferring authority contains a statement to the contrary).

(4) The chair at a meeting of the committee may call on a person claiming to act as a committee member's representative to produce a letter of authority, and may exclude that person if no letter of authority is produced at or by the time of the meeting or if it appears to the chair that the authority is deficient.

(5) A committee member may not be represented by—

- (a) another member of the committee;
- (b) a person who is at the same time representing another committee-member;
- (c) a body corporate;
- (d) a partnership;
- (e) an undischarged bankrupt;
- (f) a person whose estate has been sequestrated and who has not been discharged;
- (g) a person who has granted a trust deed for the benefit of creditors;
- (h) a person who has made a composition with creditors;
- (i) a person to whom a moratorium period under a debt relief order applies;
- (j) a person who is subject to a company directors disqualification order or a company directors disqualification undertaking; or
- (k) a person who is subject to a bankruptcy restrictions order (including an interim order), a bankruptcy restrictions undertaking, a debt relief restrictions order (including an interim order) or a debt relief restrictions undertaking.

(6) Where a representative authenticates any document on behalf of a committee member the fact that the representative authenticates as a representative must be stated below the authentication.

Voting rights and resolutions

10.18.—(1) At a meeting of the committee, each member (whether the member is in attendance or is represented by a representative) has one vote.

(2) A resolution is passed when a majority of the members attending or represented have voted in favour of it.

(3) Every resolution passed must be recorded in writing and authenticated by the chair, either separately or as part of the minutes of the meeting.

Resolutions by correspondence

10.19.—(1) The office-holder may seek to obtain the agreement of the committee to a resolution by delivering to every member (or the member's representative designated for the purpose) details of the proposed resolution.

(2) The details must be set out in such a way that the recipient may indicate agreement or dissent and where there is more than one resolution may indicate agreement to or dissent from each one separately.

(3) A member of the committee may, within 5 business days from the delivery of details of the proposed resolution, require the office-holder to summon a meeting of the committee to consider the matters raised by the proposed resolution.

(4) In the absence of such a request, the resolution is passed by the committee if a majority of the members (excluding a member or member's representative who is to participate directly or indirectly in a transaction (see rule 10.25(4)) deliver notice to the office-holder that they agree with the resolution.

Remote attendance at meetings of committee

10.20.—(1) Where the office-holder considers it appropriate, a meeting may be conducted and held in such a way that persons who are not present together at the same place may attend it.

(2) A person attends such a meeting who is able to exercise that person's right to speak and vote at the meeting.

(3) A person is able to exercise the right to speak at a meeting when that person is in a position to communicate during the meeting to all those attending the meeting any information or opinions which that person has on the business of the meeting.

(4) A person is able to exercise the right to vote at a meeting when—

- (a) that person is able to vote, during the meeting, on resolutions or determinations put to the vote at the meeting; and
- (b) that person's vote can be taken into account in determining whether or not such resolutions or determinations are passed at the same time as the votes of all the other persons attending the meeting.

(5) Where such a meeting is to be held the office-holder must make whatever arrangements the office-holder considers appropriate to—

- (a) enable those attending the meeting to exercise their rights to speak or vote; and
- (b) verify the identity of those attending the meeting and to ensure the security of any electronic means used to enable attendance.

(6) A requirement in these Rules to specify a place for the meeting may be satisfied by specifying the arrangements the office-holder proposes to enable persons to exercise their rights to speak or vote where in the reasonable opinion of the office-holder—

- (a) a meeting will be attended by persons who will not be present together at the same place; and
- (b) it is unnecessary or inexpedient to specify a place for the meeting.

(7) In making the arrangements referred to in paragraph (6) and in forming the opinion referred to in paragraph (6)(b), the office-holder must have regard to the legitimate interests of the committee members or their representatives attending the meeting in the efficient despatch of the business of the meeting.

(8) Where the notice of a meeting does not specify a place for the meeting the office-holder must specify a place for the meeting if at least one member of the committee requests the office-holder to do so in accordance with rule 10.21.

Procedure for requests that a place for a meeting should be specified

10.21.—(1) This rule applies to a request to the office-holder under rule 10.20(8) to specify a place for the meeting.

(2) The request must be made within 3 business days of the date on which the office-holder delivered the notice of the meeting in question.

Status: Point in time view as at 06/04/2019.

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(3) Where the office-holder considers that the request has been properly made in accordance with this rule, the office-holder 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) fix a venue for the meeting, the date of which must be not later than 7 business days after the original date for the meeting; and
- (c) give 3 business days' notice of the venue to all those previously given notice of the meeting.

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

(5) Where the office-holder has specified a place for the meeting in response to the request under rule 10.20(8), the chair of the meeting must attend the meeting by being present in person at that place.

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