



Small Business, Enterprise and Employment Act 2015

2015 CHAPTER 26

PART 10

INSOLVENCY

Position of creditors

123 Abolition of requirements to hold meetings: individual insolvency

- (1) The Insolvency Act 1986 is amended as follows.
- (2) After section 379 insert—

“Creditors' decisions

379ZA Creditors' decisions: general

- (1) This section applies where, for the purposes of this Group of Parts, a person (“P”) seeks a decision from an individual's creditors about any matter.
- (2) The decision may be made by any creditors' decision procedure P thinks fit, except that it may not be made by a creditors' meeting unless subsection (3) applies.
- (3) This subsection applies if at least the minimum number of creditors request in writing that the decision be made by a creditors' meeting.
- (4) If subsection (3) applies, P must summon a creditors' meeting.
- (5) Subsection (2) is subject to any provision of this Act, the rules or any other legislation, or any order of the court—

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- (a) requiring a decision to be made, or prohibiting a decision from being made, by a particular creditors' decision procedure (other than a creditors' meeting);
 - (b) permitting or requiring a decision to be made by a creditors' meeting.
- (6) Section 379ZB provides that in certain cases the deemed consent procedure may be used instead of a creditors' decision procedure.
- (7) For the purposes of subsection (3) the “minimum number” of creditors is any of the following—
- (a) 10% in value of the creditors;
 - (b) 10% in number of the creditors;
 - (c) 10 creditors.
- (8) The references in subsection (7) to creditors are to creditors of any class, even where a decision is sought only from creditors of a particular class.
- (9) In this section references to a meeting are to a meeting where the creditors are invited to be present together at the same place (whether or not it is possible to attend the meeting without being present at that place).
- (10) Except as provided by subsection (8), references in this section to creditors include creditors of a particular class.
- (11) In this Group of Parts “creditors' decision procedure” means a procedure prescribed or authorised under paragraph 11A of Schedule 9.

379ZB Deemed consent procedure

- (1) The deemed consent procedure may be used instead of a creditors' decision procedure where an individual's creditors are to make a decision about any matter, unless—
- (a) a decision about the matter is required by virtue of this Act, the rules or any other legislation to be made by a creditors' decision procedure, or
 - (b) the court orders that a decision about the matter is to be made by a creditors' decision procedure.
- (2) If the rules provide for an individual's creditors to make a decision about the remuneration of any person, they must provide that the decision is to be made by a creditors' decision procedure.
- (3) The deemed consent procedure is that the relevant creditors (other than opted-out creditors) are given notice of—
- (a) the matter about which the creditors are to make a decision,
 - (b) the decision the person giving the notice proposes should be made (the “proposed decision”),
 - (c) the effect of subsections (4) and (5), and
 - (d) the procedure for objecting to the proposed decision.
- (4) If less than the appropriate number of relevant creditors object to the proposed decision in accordance with the procedure set out in the notice, the creditors are to be treated as having made the proposed decision.

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- (5) Otherwise—
 - (a) the creditors are to be treated as not having made a decision about the matter in question, and
 - (b) if a decision about that matter is again sought from the creditors, it must be sought using a creditors' decision procedure.
- (6) For the purposes of subsection (4) the “appropriate number” of relevant creditors is 10% in value of those creditors.
- (7) “Relevant creditors” means the creditors who, if the decision were to be made by a creditors' decision procedure, would be entitled to vote in the procedure.
- (8) In this section references to creditors include creditors of a particular class.
- (9) The rules may make further provision about the deemed consent procedure.

379ZC Power to amend sections 379ZA and 379ZB

- (1) The Secretary of State may by regulations amend section 379ZA so as to change the definition of the minimum number of creditors.
 - (2) The Secretary of State may by regulations amend section 379ZB so as to change the definition of the appropriate number of relevant creditors.
 - (3) Regulations under this section may define the minimum number or the appropriate number by reference to any one or more of—
 - (a) a proportion in value,
 - (b) a proportion in number,
 - (c) an absolute number,and the definition may include alternative, cumulative or relative requirements.
 - (4) Regulations under subsection (1) may define the minimum number of creditors by reference to all creditors, or by reference to creditors of a particular description.
 - (5) Regulations under this section may make provision that will result in section 379ZA or 379ZB having different definitions for different cases, including for different kinds of decisions.
 - (6) Regulations under this section may make transitional provision.
 - (7) The power of the Secretary of State to make regulations under this section is exercisable by statutory instrument.
 - (8) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”
- (3) In Schedule 9 (provisions which may be included in individual insolvency rules), after paragraph 11 insert—

“11A (1) Provision about the making of decisions by creditors, including provision—

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- (a) prescribing particular procedures by which creditors may make decisions;
 - (b) authorising the use of other procedures for creditors to make decisions, if those procedures comply with prescribed requirements.
- (2) Provision under sub-paragraph (1) may in particular include provision about—
- (a) how creditors may request that a creditors' meeting be held,
 - (b) the rights of creditors and others to be given notice of, and participate in, procedures,
 - (c) creditors' rights to vote in procedures,
 - (d) the period within which any right to participate or vote is to be exercised,
 - (e) the proportion of creditors that must vote for a proposal for it to be approved,
 - (f) how the value of any debt should be determined,
 - (g) the time at which decisions taken by a procedure are to be treated as having been made.”
- (4) In section 385(1) (miscellaneous definitions relating to individual insolvency)—
- (a) after the definition of “the court” insert—
 - ““creditors' decision procedure” has the meaning given by section 379ZA(11);”;
 - (b) after the definition of “debt relief order” insert—
 - ““deemed consent procedure” means the deemed consent procedure provided for by section 379ZB;”.

Commencement Information

- I1** S. 123 in force at 26.5.2015 for specified purposes by S.I. 2015/1329, reg. 3(d)
- I2** S. 123 in force at 6.4.2017 for E.W. in so far as not already in force by S.I. 2016/1020, reg. 4(b) (with reg. 5) (as amended by S.I. 2017/363, reg. 3)

Changes to legislation:

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