
STATUTORY INSTRUMENTS

2018 No. 1082

The Insolvency (Scotland) (Company Voluntary Arrangements and Administration) Rules 2018

PART 5

DECISION MAKING

CHAPTER 4

Requisitioned decisions

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

Requisitions of decision

[Note: this rule is concerned with requests by creditors for a decision, rather than requests for decisions to be made by way of a physical meeting under section 246ZE(3).]

5.17.—(1) In this Chapter, “requisitioned decision” means a decision requested to be sought under paragraph 52(2) or 56(1) of Schedule B1.

(2) A request for a decision to be sought under paragraph 52(2) of Schedule B1 must be delivered within eight business days of the date on which the administrator’s statement of proposals is delivered.

(3) The request for a requisitioned decision must include a statement of the purpose of the proposed decision and either—

- (a) a copy of the requesting creditor’s statement of claim, together with—
 - (i) a list of the creditors concurring with the request and of the amounts of their respective claims, and
 - (ii) confirmation of concurrence from each creditor concurring; or
- (b) a copy of the requesting creditor’s statement of claim and a statement that that alone is sufficient without the concurrence of other creditors.

Expenses and timing of requisitioned decision

5.18.—(1) The convener must, not later than 14 days from receipt of a request for a requisitioned decision, provide the requesting creditor with itemised details of the sum to be deposited as caution for payment of the expenses of such procedure.

(2) The convener is not obliged to initiate the decision procedure or deemed consent procedure (where applicable) until either—

- (a) the convener has received the required sum; or

- (b) the period of 14 days has expired without the convener having informed the requesting creditor of the sum required to be deposited as caution.
- (3) A requisitioned decision must be made within 28 days of the date on which the earlier of the events specified in paragraph (2) of this rule occurs.
- (4) The expenses of a requisitioned decision must be paid out of the deposit (if any) unless the creditors decide that they are to be payable as an expense of the administration.
- (5) The notice of a requisitioned decision of creditors must contain a statement that the creditors may make a decision as in paragraph (4) of this rule.
- (6) Where the creditors do not so decide, the expenses must be paid by the requesting creditor to the extent that the deposit (if any) is not sufficient.
- (7) To the extent that the deposit (if any) is not required for payment of the expenses, it must be repaid to the requesting creditor.