
STATUTORY INSTRUMENTS

2021 No. 1178

The Payment and Electronic Money Institution
Insolvency (England and Wales) Rules 2021

PART 3

Process of Special Administration

CHAPTER 6

Correspondence and remote attendance

Complaint

66.—(1) Any person who—

- (a) is, or claims to be, an excluded person, or
- (b) attends the meeting (in person or by proxy) and considers that they have been adversely affected by a person’s actual, apparent or claimed exclusion,

(“the complainant”) may make a complaint.

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

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

(3) The relevant person must—

- (a) consider whether there is an excluded person, and
- (b) where satisfied that there is an excluded person, consider the complaint,

and, where satisfied that there has been prejudice, take such action as the relevant person considers fit to remedy the prejudice.

(4) Paragraph (5) applies where—

- (a) the relevant 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 was 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 relevant 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 those entitled to attend the meeting have been notified of the result of the resolution, notify them of the change.

(6) Where satisfied that more than one complainant in paragraph (4) is an excluded person, the relevant person must have regard to the combined effect of the intended votes.

(7) The relevant person must notify the complainant in writing of any decision.

(8) A complaint must be made as soon as is reasonably practicable and, in any event, no later than 16.00 hours 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 65, the day on which the complainant received the indication.

(9) A complainant who is not satisfied by the action of the relevant person may apply to the court for directions and any application must be made within two business days of the date of receiving the decision of the relevant person.