
STATUTORY INSTRUMENTS

2022 No. 1239

The Payment and Electronic Money
Institution Insolvency (Scotland) Rules 2022

PART 3

Process of Special Administration

CHAPTER 6

Correspondence and remote attendance

Correspondence instead of meetings

60.—(1) The administrator may seek to obtain the passing by creditors, customers, or contributories of a written resolution by delivering a notice to that effect to every creditor, customer, or contributory (as the case may be) who would be entitled to be notified of a meeting at which the resolution could be passed.

(2) Notice under paragraph (1) must contain the following information—

- (a) a statement that the proceedings are being held in the court and the court reference number,
- (b) the full name, registered address and registered number of the institution,
- (c) the full name and business address of the administrator,
- (d) the resolution to be voted on (which must be set out in such a way that agreement with or dissent from each separate resolution may be indicated by the recipient of the copy so sent),
- (e) the closing date by which the recipient must respond to the administrator.

(3) In order to be counted, votes must—

- (a) be received by the administrator by the closing date specified in the notice,
- (b) in the case of a vote cast by a creditor or by a customer, be accompanied by a statement of entitlement to vote on the resolution unless one has already been lodged with or given to the administrator.

(4) A statement of entitlement is written details of the creditor's claim or the customer's relevant funds claim.

(5) The closing date is to be set at the discretion of the administrator, but must be not less than fourteen days from the date of issue of the notice.

(6) Votes must be disregarded if—

- (a) the requisite statement of entitlement had not accompanied them or previously been lodged with or given to the administrator,
- (b) in the application of Chapter 5 of this Part, the administrator decides that the creditor or customer is not entitled to cast the votes.

(7) For the resolution to be passed, the administrator must receive at least one valid vote in favour by the closing date specified in the notice or where the resolution is one which were it to be passed

at a meeting of creditors and customers would require approval by each class voting separately, at least one valid vote from each class.

(8) If no valid vote is received by the closing date, the administrator must call a meeting of creditors, creditors and customers, customers or contributories (as the case may be) to consider the resolution.

(9) Creditors whose debts amount to at least ten per cent of the total debts of the institution may, within five business days of the date of issue of the notice, require the administrator to call a meeting of creditors and customers (if relevant) to consider the resolution.

(10) Customers whose relevant funds claims amount to at least ten per cent of the total relevant funds claims may, within five business days of the date of issue of the notice, require the administrator to call a meeting of customers and creditors (if relevant) to consider the resolution.

(11) Contributories whose claims represent at least ten per cent of the total voting rights of all contributories having the right to vote at a meeting of contributories may, within five business days of the date of issue of the notice, require the administrator to call a meeting of contributories to consider the resolution.

(12) If the administrator's proposed resolution is rejected by the creditors or by the customers pursuant to this rule, the administrator may call a meeting of creditors, customers or creditors and customers, as the case may be.

(13) A reference in these Rules to anything done or required to be done at, or in connection with, or in consequence of, a meeting of creditors, customers or contributories extends to anything done in the course of correspondence in accordance with this rule.