
STATUTORY INSTRUMENTS

2009 No. 351

The Bank Insolvency (Scotland) Rules 2009

PART 6

MEETINGS OF CREDITORS AND CONTRIBUTORIES

First meetings in the bank liquidation

23.—(1) Once the liquidation committee passes a full payment resolution the bank liquidator shall—

- (a) immediately summon a meeting of the bank’s creditors and contributories; and
- (b) fix a venue, date and time for the meeting,

and the date must be within three months of the date on which the full payment resolution was passed.

(2) When the venue, date and time of the meeting have been fixed, the bank liquidator shall give notice of the meeting to—

- (a) every creditor who is known to the bank liquidator or is identified in the bank’s statement of affairs, and
- (b) each member of the liquidation committee,

and shall advertise the venue, date and time of the meeting in such manner as the bank liquidator thinks fit.

(3) In giving the notice mentioned in paragraph (2), the bank liquidator shall, if practicable, indicate whether the present intention of the FSCS is to resign from the liquidation committee at the meeting.

(4) Notice to the members of the liquidation committee shall be given immediately.

(5) Notice to creditors shall be given, and the advertisements placed to appear, at least 21 days before the date fixed for the meeting.

(6) The notice to creditors shall specify a time and date, not more than 4 days before the date fixed for the meeting, by which they must lodge claims and (if applicable) proxies, in order to be entitled to vote at the meeting.

(7) The FSCS is entitled to be represented at the meeting and Schedule 3 to the 1986 Rules has effect with respect to its voting rights at such a meeting.

(8) Meetings summoned under this rule are known respectively as “the first meeting of creditors” and “the first meeting of contributories”, and jointly as “the first meetings in the bank liquidation”.

Business at the first meeting of creditors and contributories

24.—(1) At the first meeting of creditors the FSCS shall state whether or not it is resigning from the liquidation committee.

- (2) At the meeting those creditors present or represented by proxy may—

- (a) where the FSCS has not resigned, elect 2 or 4 individuals as new members of the liquidation committee;
- (b) where the FSCS has resigned, elect 3 or 5 individuals as new members of the liquidation committee,

in place of members nominated by the Bank of England and the FSA.

(3) In accordance with section 100(6)(e) of the 2009 Act, the liquidation committee ceases to exist at the end of the meeting if no individuals are elected as mentioned or if the resulting committee would have fewer than 3 members or an even number of members. The maximum number of committee members will be 5.

- (4) At the first meeting of the creditors, no resolutions shall be taken other than the following—
 - (a) if an application has been made to the court by creditors under rule 39 for the court to direct the bank liquidator to summon a meeting of creditors for the purpose of removing him, and the court has directed that a resolution may be passed at the first meeting of creditors to that effect—
 - (i) a resolution to remove the bank liquidator (or a resolution to remove one or more of the bank liquidators if joint liquidators were originally appointed); and
 - (ii) a resolution to appoint a named insolvency practitioner to be bank liquidator or two or more insolvency practitioners as joint bank liquidators;
 - (b) if no individuals have been elected to form a liquidation committee under paragraph (2), a resolution specifying the terms on which the liquidator is to be remunerated, or to defer consideration of that matter;
 - (c) where two or more persons are appointed jointly to act as bank liquidator, a resolution specifying which acts are to be done by both of them, all of them or by only one;
 - (d) a resolution to adjourn the meeting for not more than 3 weeks;
 - (e) any other resolution which the chair considers it right to allow for special reason.
- (5) At the first meeting of contributories, no resolutions shall be taken other than the following—
 - (a) if no individuals have been elected to form a liquidation committee under paragraph (2), a resolution to form a liquidation committee (and rule 57 shall then apply);
 - (b) a resolution to adjourn the meeting for not more than 3 weeks;
 - (c) any other resolutions which the chair thinks it right to allow for special reason.

Other meetings

- 25. Apply rule 4.13 of the 1986 Rules.

Attendance at meetings of bank's personnel

- 26. Apply rule 4.14 of the 1986 Rules.