

VOLUNTARY ARRANGEMENTS

The Insolvency (England and Wales) Rules 2016

Rule 15.28 – Creditors’ Voting Rights

15.28 (2) In the case of a meeting, a proxy-holder is not entitled to vote on behalf of a creditor unless the convener or chair has received the proxy intended to be used on behalf of that creditor.

15.28 (3) A debt is claimed in accordance with this paragraph if it is-

- (a) claimed as due from the company or bankrupt to the person seeking to be entitled to vote; or
- (b) in relation to a member State liquidator, claimed to be due to creditors in proceedings in relation to which that liquidator holds office.

15.28 (4) The convener or chair may call for any document or other evidence to be produced if the convener or chair thinks it necessary for the purpose of substantiating the whole or any part of a claim.

15.28 (5) In a decision relating to a proposed IVA every creditor, secured or unsecured, who has notice of the decision procedure, is entitled to vote in respect of that creditor’s debt.

Rule 15.31 - Calculation of voting rights

15.31 (1) Votes are calculated according to the amount of each creditor’s claim in a proposed IVA -

- (i) where the debtor is not an undischarged bankrupt—
 - (aa) at the date of the interim order, where there is an interim order in force,
 - (bb) otherwise, at the decision date,
- (ii) where the debtor is an undischarged bankrupt, at the date of the bankruptcy order.

15.31 (2) A creditor may vote in respect of a debt of an unliquidated or unascertained amount if the convener or chair decides to put upon it an estimated minimum value for the purpose of entitlement to vote and admits the claim for that purpose.

15.31 (3) But in relation to a proposed IVA, a debt of an unliquidated or unascertained amount is to be valued at £1 for the purposes of voting unless the convener or chair or an appointed person decides to put a higher value on it.

15.31 (4) Where a debt is wholly secured its value for voting purposes is nil.

15.31 (5) Where a debt is partly secured its value for voting purposes is the value of the unsecured part.

15.31 (7) No vote may be cast in respect of a claim more than once on any resolution put to the meeting; and for this purpose (where relevant), the claim of a creditor and of any member State liquidator in relation to the same debt are a single claim.

15.31 (8) A vote cast in a decision procedure which is not a meeting may not be changed.

15.31 (9) Paragraph (7) does not prevent a creditor or member State liquidator from-

- (a) voting in respect of less than the full value of an entitlement to vote; or
- (b) casting a vote one way in respect of part of the value of an entitlement and another way in respect of some or all of the balance of that value.

Rule 15.34 - Requisite majorities

15.34 (1) A decision is made by creditors when a majority (in value) of those voting have voted in favour of the proposed decision, except where this rule provides otherwise.

15.34 (6) In a case relating to a proposed IVA-

- (a) a decision approving a proposal or a modification is made when three-quarters or more (in value) of those responding vote in favour of it;
- (b) a decision is not made if more than half of the total value of creditors who are not associates of the debtor vote against it.

15.34 (7) For the purposes of paragraph (6)

(a) a creditor is not an associate of the debtor unless the convener or chair decides that the creditor is an associate of the debtor;

(b) in deciding whether a creditor is an associate of the debtor, reliance may be placed on the information provided by the debtor's statement of affairs or otherwise in accordance with these Rules; and

(c) the total value of the creditors who are not associates of the debtor is the total value of the creditors who are not associates of the debtor whose claims have been admitted for voting.