

Rule 5.23 of the Insolvency Rules 1986 as amended by the Insolvency (Amendment) (No2)

Rules 2002 sets out the majorities required for various resolutions to be passed.

The rule states:

- (1) Subject as follows, at the creditors' meeting for any resolution to pass approving any proposal or modification there must be a majority in excess of three-quarters in value of the creditors present in person or by proxy and voting on the resolution.
 - (2) The same applies in respect of any other resolution proposed at the meeting, but substituting one-half for three-quarters.
 - (3) In the following cases there is to be left out of account a creditors' vote in respect of any claim or part of a claim –
 - (a) Where written notice of the claim was not given, either at the meeting or before it, to the chairman or the nominee;
 - (b) Where the claim or part is secured;
 - (c) Where the claim is in respect of a debt wholly or partly on, or secured by, a current bill of exchange or promissory note, unless the creditor is willing –
 - (i) To treat the liability to him on the bill of every person who is liable on it antecedently to the debtor, and against whom a bankruptcy order has not been made (or, in the case of a company, which has not gone into liquidation), as a security in his hands, and
 - (ii) To estimate the value of the security and (for the purposes of entitlement to vote, but not of any distribution under the arrangement) to deduct it from his claim.
 - (4) Any resolution is invalid if those voting against it include more than half in value of the creditors, counting in the latter only those –
 - (a) To whom notice of the meeting was sent;
 - (b) Whose votes are not to be left out of account under paragraph (3); and
 - (c) Who are not, to the best of the chairman's belief, associates of the debtor.
 - (5) It is for the chairman of the meeting to decide whether under this rule –
 - (a) A vote is to be left out of account in accordance with paragraph (3); or
 - (b) A person is an associate of the debtor for the purposes of paragraph (4)(c);
- And in relation to the second of these two cases the chairman is entitled to rely on the information provided by the debtor's statement of affairs or otherwise in accordance with this part of the rules.
- (6) If the chairman uses a proxy contrary to the rule 5.20, his vote with that proxy does not count towards any majority under this rule.
 - (7) The chairman's decision on any matter under this Rule is subject to appeal to the court by any creditor or by the debtor and paragraphs (5) to (7) of rule 5.22 apply as regards such an appeal.