

## REQUISITE MAJORITIES

- 5.23(1) Subject to paragraph (2), at the creditors' meeting, a resolution is passed when a majority (in value) of those present and voting in person or by proxy have voted in favour of it.
- 5.23(2) A resolution to approve the proposal or a modification is passed when a majority of three quarters or more (in value) of those present and voting in person or by proxy have voted in favour of it.
- 5.23(3) In the following cases there is to be left out of account a creditor's vote in respect of any claim or part of 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 or note 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 purpose of entitlement to vote, but not of any distribution under the arrangement) to deduct it from his claim.
- 5.23(4) Any resolution is invalid if those voting against it include more than half in value of the creditors, counting in these latter only those –
- a) who have notice of the meeting;
  - 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.
- 5.23(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 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.
- 5.23(6) If the chairman uses a proxy contrary to Rule 5.20, his vote with that proxy does not count towards any majority under this Rule.
- 5.23(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.

### R.5.23

See the general note to Pt 5. The proposal must attract the support of the holders of 75 per cent of the debt and of more than 50 per cent of the independent debt. The voting position where debts are secured is also explained. Creditors who have not notified their claim before the meeting cannot vote.