

SUBSIDIARY LEGISLATION

Rules under section 17

MEETINGS OF CREDITORS RULES

20 of 1956,
1st Sch.

ARRANGEMENT OF RULES

Rule

1. Citation
2. Interpretation
3. First meeting of creditors
4. Notice of first meeting to be given
5. Statement of affairs
6. Meeting to be held at office of Official Receiver
7. Summoning of meetings of creditors
8. Notice to be given for meetings other than first meeting
9. Chairman
10. Voting
11. Creditor not to vote if debt not ascertained
12. Voting by secured creditors
13. Voting by creditors having debts secured by bills of exchange, etc.
14. Valuation of securities
15. Receiving order against partner
16. Powers of chairman re voting
17. Creditor may vote by proxy
18. Instrument of proxy
19. Forms of proxy to be sent with notice of meeting
20. General proxy
21. Special proxy
22. Proxies to be deposited
23. Solicited proxies

LAWS OF BRUNEI

110

CAP. 67

Bankruptcy

[Subsidiary]

Rule

24. Official Receiver may act as proxy
25. Adjournment of meetings
26. Quorum
27. Absence of quorum
28. Minutes of meetings
29. Restrictions on voting by proxy
30. Persons not entitled to vote

Commencement: 1st January 1957

- | | |
|---|---|
| Citation | 1. These rules may be cited as the Meetings of Creditors Rules. |
| Interpretation | 2. In these rules "the Act" means the Bankruptcy Act. |
| First meeting of creditors | 3. The first meeting of creditors shall be summoned for a day not later than 14 days after the date of the receiving order, unless the Court for any special reason deems it expedient that the meeting be summoned for a later day. |
| Notice of first meeting to be given | 4. The Official Receiver shall summon the meeting by giving not less than 4 clear days' notice of the time and place thereof in the <i>Gazette</i> and in a local paper. |
| Statement of affairs | 5. The Official Receiver shall also as soon as practicable send to each creditor mentioned in the debtor's statement of affairs a notice of the time and place of the first meeting of creditors, but the proceedings at the first meeting shall not be invalidated by reason of any such notice not having been sent or received before the meeting. |
| Meeting to be held at office of Official Receiver | 6. The meeting shall be held at the office of the Official Receiver. |
| Summoning of meetings of creditors | 7. The Official Receiver or the trustee may at any time summon a meeting of creditors, and shall do so whenever so directed by the Court or so requested by a creditor in accordance with the provisions of the Act. |

[Subsidiary]

8. Meetings subsequent to the first meeting shall be summoned by sending notice of the time and place thereof to each creditor at the address given in his proof, or if he has not proved, at the address given in the debtor's statement of affairs, or at such other address as may be known to the person summoning the meeting.

Notice to be given for meetings other than first meeting

9. The Official Receiver or some person nominated by him shall be the chairman at the first meeting, and at subsequent meetings until the appointment of a trustee other than the Official Receiver, when such trustee shall be chairman.

Chairman

10. A person shall not be entitled to vote as a creditor at the first or any other meeting of creditors unless he has duly proved a debt provable in bankruptcy to be due to him from the debtor and the proof has been duly lodged 24 hours at least before the time appointed for the meeting.

Voting

11. A creditor shall not vote at any such meeting in respect of any unliquidated or contingent debt or any debt the value of which is not ascertained.

Creditor not to vote if debt not ascertained

12. For the purpose of voting, a secured creditor shall, unless he surrenders his security, state in his proof the particulars of his security, the date when it was given and the value at which he assesses it, and shall be entitled to vote only in respect of the balance (if any) due to him after deducting the value of his security. If he votes in respect of his whole debt he shall be deemed to have surrendered his security unless the Court on application is satisfied that the omission to value the security has arisen from inadvertence.

Voting by secured creditors

13. A creditor shall not vote in respect of any debt on or secured by a current bill of exchange or promissory note held by him unless he is willing to treat the liability to him thereon of every person who is liable thereon antecedently to the debtor, and against whom a receiving order has not been made, as a security in his hands and to estimate the value thereof and for the purposes of voting, but not for the purposes of dividend, to deduct it from his proof.

Voting by creditors having debts secured by bills of exchange, etc.

14. It shall be competent to the trustee or to the Official Receiver, within 28 days after a proof estimating the value of a security as mentioned in rule 13 has been made use of in voting at any meeting, to require the creditor to give up the security for the benefit of the creditors generally on payment of the value so estimated, with an addition thereto of 20 *per cent*:

Valuation of securities

[Subsidiary]

Provided that where a creditor has put a value on such security he may, at any time before he has been required to give up such security as aforesaid, correct such valuation by a new proof and deduct such new value from his debt, but in that case such addition of 20 per cent shall not be made if the trustee requires the security to be given up.

Receiving order against partner

15. If a receiving order is made against one partner of a firm, any creditor to whom that partner is indebted jointly with the other partners of the firm, or any of them, may prove his debt for the purpose of voting at any meeting of creditors and shall be entitled to vote thereat.

Powers of chairman re voting

16. The chairman of a meeting shall have power of admit or reject a proof for the purpose of voting but his decision shall be subject to appeal to the Court. If he is in doubt whether the proof of a creditor should be admitted or rejected he shall mark the proof as objected to and shall allow the creditor to vote, subject to the vote being declared invalid in the event of the objection being sustained.

Creditor may vote by proxy

17. A creditor may vote either in person or by proxy.

Instrument of proxy

18. Every instrument of proxy shall be in the prescribed form and shall be issued by the Official Receiver or, after the appointment of a trustee, by the trustee, and every insertion therein shall be in the handwriting of the person giving the proxy, or of any manager or clerk or other person in his regular employment, or of any person authorised to administer oaths or of the Official Receiver.

Forms of proxy to be sent with notice of meeting

19. General and special forms of proxy shall be sent to the creditors together with a notice summoning a meeting of creditors, and neither the name nor the description of the Official Receiver or of any other person shall be printed or inserted in the body of any instrument of proxy before it is so sent.

General proxy

20. A creditor may give a general proxy to his manager or clerk or any other person in his regular employment or to his advocate or solicitor. In such case the instrument of proxy shall state the relation in which the person to act thereunder stands to the creditor.

Special proxy

21. A creditor may give a special proxy to any person to vote at any specified meeting or adjournment thereof on all or any of the following matters —

(a) for or against any specific proposal for a composition or scheme of arrangement;

[Subsidiary]

(b) for or against the appointment of any specified person as trustee or as member of the committee of inspection, or for or against the continuance in office of any specified person as trustee or member of a committee of inspection;

(c) on all questions relating to any matter other than those above referred to, arising at any specified meeting or adjournment thereof.

22. A proxy shall not be used unless it is deposited with the Official Receiver or trustee 24 hours before the meeting at which it is to be used. Proxies to be deposited
23. Where it appears to the satisfaction of the Court that any solicitation has been used by or on behalf of a trustee or receiver in obtaining proxies, or in procuring the trusteeship or receivership, except by the direction of a meeting of creditors, the Court shall have power, if it thinks fit, to order that no remuneration shall be allowed to the person by whom or on whose behalf such solicitation may have been exercised, notwithstanding any resolution of the committee of inspection or of the creditors to the contrary. Solicited proxies
24. A creditor may appoint the Official Receiver to act in manner prescribed as his general or special proxy. Official Receiver may act as proxy
25. The chairman of a meeting may, with the consent of the meeting, adjourn the meeting from time to time and from place to place. Adjournment of meetings
26. A meeting shall not be competent to act for any purpose, except the election of a chairman, the proving of debts and the adjournment of the meeting, unless there are present or represented thereat at least 3 creditors, or all the creditors if their number does not exceed 3. Quorum
27. If within half an hour from the time appointed for the meeting a quorum of creditors is not present or represented, the meeting shall be adjourned to the same day in the following week at the same time and place or to such other day as the chairman may appoint, being not less than 7 nor more than 21 days after the day first appointed. Absence of quorum
28. The chairman of every meeting shall cause minutes of the proceedings at the meeting to be drawn up and fairly entered in a record kept for that purpose and the minutes shall be signed by him or by the chairman of the next ensuing meeting. Minutes of meetings
29. No person acting under either a general or a special proxy shall vote in favour of any resolution which would directly or indirectly place Restrictions on voting by proxy

LAWS OF BRUNEI

114

CAP. 67

Bankruptcy

[Subsidiary]

himself or his partner or employer in a position to receive any remuneration out of the estate of the debtor otherwise than as a creditor rateably with the other creditors of the debtor:

Provided that where any person holds special proxies to vote for the appointment of himself as trustee he may use the said proxies and vote accordingly.

Persons not
entitled to
vote

30. The vote of the trustee or of his partner, clerk, advocate or solicitor or solicitor's clerk, either as creditor or as proxy for a creditor, shall not be reckoned in the majority required for passing any resolution affecting the conduct of the trustee.
