

Consideration by members and creditors of proposals

540. (1) This section applies to a meeting of members or creditors or any class of members or creditors summoned to consider proposals for a compromise or scheme of arrangement in relation to a company to which an examiner has been appointed.

(2) Save where expressly provided otherwise in this section, this section shall not authorise, at such a meeting, anything to be done in relation to such proposals by any member or creditor.

(3) At a meeting to which this section applies a modification of the proposals may be put to the meeting but may only be accepted with the consent of the examiner.

(4) Proposals shall be deemed to have been accepted by a meeting of creditors or of a class of creditors when a majority in number representing a majority in value of the claims represented at that meeting have voted, either in person or by proxy, in favour of the resolution for the proposals.

(5) Nothing in subsection (4) shall, in the case of a creditor who abstains from voting, or otherwise fails to cast a vote, in respect of the proposals, be read as permitting such an abstention or failure to be regarded as a casting by that person of a vote against the proposals.

(6) Where a State authority is a creditor of the company, such authority shall be entitled to accept proposals under this section notwithstanding—

(a) that any claim of such authority as a creditor would be impaired under the proposals, or

(b) any other enactment.

(7) In subsection (6) “State authority” means the State, a Minister of the Government, a local authority or the Revenue Commissioners.

(8) Section 192 shall apply to any resolution to which subsection (4) relates which is passed at any adjourned meeting.

(9) Subsection (1)(a)(iii) and (b), and subsections (2) to (7), of section 452 shall apply to meetings under this section with the modifications specified in subsection (10) and any other necessary modifications.

(10) The modifications mentioned in subsection (9) are—

(a) the reference in paragraph (a)(iii) of section 452 (1) to the explanation required to be given under paragraph (a)(ii) of section 452 (1) in relation to the company's directors shall be read as a reference to the explanation required to be given under subsection (11) of this section in relation to those directors, and

(b) the reference in section 452 (5) to a liquidator of the company shall be read as a reference to the examiner of the company.

(11) With every notice summoning a meeting to which this section applies which is sent to a creditor or member, there shall be sent also a statement explaining the effect of the compromise or scheme of arrangement and in particular stating any material interests of the directors of the company, whether as directors or as members or as creditors of the company or otherwise and the effect thereon of the compromise or arrangement, in so far as it is different from the effect on the like interest of other persons.

(12) Without prejudice to subsections (1) to (11), in the case of a company referred to in section 510 (3) or (4), the examiner shall also afford the Central Bank an opportunity to consider the proposals for a compromise or scheme of arrangement and, for this purpose, shall furnish to the Central Bank a statement containing the like information to that referred to in subsection (11).