



# Companies Act 1985

## 1985 CHAPTER 6

### PART XX

#### WINDING UP OF COMPANIES REGISTERED UNDER THIS ACT OR THE FORMER COMPANIES ACTS

### CHAPTER III

#### VOLUNTARY WINDING UP

*Provisions applicable to a members' voluntary winding up*

**579 Introduction to next 7 sections**

The provisions contained in sections 580 to 586 apply in relation to a members' voluntary winding up.

**580 Company's power to appoint and fix remuneration of liquidator**

- (1) The company in general meeting shall appoint one or more liquidators for the purpose of winding up the company's affairs and distributing its assets, and may fix the remuneration to be paid to him or them.
- (2) On the appointment of a liquidator all the powers of the directors cease, except so far as the company in general meeting or the liquidator sanctions their continuance.

**581 Power to fill vacancy in office of liquidator**

- (1) If a vacancy occurs by death, resignation or otherwise in the office of liquidator appointed by the company, the company in general meeting may, subject to any arrangement with its creditors, fill the vacancy.

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- (2) For that purpose a general meeting may be convened by any contributory or, if there were more liquidators than one, by the continuing liquidators.
- (3) The meeting shall be held in manner provided by this Act or by the articles, or in such manner as may, on application by any contributory or by the continuing liquidators, be determined by the court.

## **582 Liquidator accepting shares as consideration for sale of company property**

- (1) The following applies where a company is proposed to be, or is being, wound up altogether voluntarily, and the whole or part of its business or property is proposed to be transferred or sold to another company (" the transferee company "), whether or not this latter is a company within the meaning of this Act.
- (2) The liquidator of the company to be, or being, wound up (" the transferor company ") may, with the sanction of a special resolution of that company, conferring either a general authority on himself or an authority in respect of any particular arrangement, receive, in compensation or part compensation for the transfer or sale, shares, policies or other like interests in the transferee company for distribution among the members of the transferor company.
- (3) Alternatively, the liquidator may (with that sanction) enter into any other arrangement whereby the members of the transferor company may, in lieu of receiving cash, shares, policies or other like interests (or in addition thereto), participate in the profits of, or receive any other benefit from, the transferee company.
- (4) A sale or arrangement in pursuance of this section is binding on members of the transferor company.
- (5) If a member of the transferor company who did not vote in favour of the special resolution expresses his dissent from it in writing addressed to the liquidator, and left at the company's registered office within 7 days after the passing of the resolution, he may require the liquidator either to abstain from carrying the resolution into effect or to purchase his interest at a price to be determined by agreement or by arbitration in manner provided by this section.
- (6) If the liquidator elects to purchase the member's interest, the purchase money must be paid before the company is dissolved and be raised by the liquidator in such manner as may be determined by special resolution.
- (7) A special resolution is not invalid for purposes of this section by reason that it is passed before or concurrently with a resolution for voluntary winding up or for appointing liquidators ; but, if an order is made within a year for winding up the company by or subject to the supervision of the court, the special resolution is not valid unless sanctioned by the court.
- (8) For purposes of an arbitration under this section, the provisions of the Companies Clauses Consolidation Act 1845 or, in the case of a winding up in Scotland, the Companies Clauses Consolidation (Scotland) Act 1845 with respect to the settlement of disputes by arbitration are incorporated with this Act, and—
  - (a) in the construction of those provisions this Act is deemed the special Act and " the company " means the transferor company, and
  - (b) any appointment by the incorporated provisions directed to be made under the hand of the secretary or any two of the directors may be made in writing by

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the liquidator (or, if there is more than one liquidator, then any two or more of them).

### **583 Creditors' meeting in case of insolvency**

- (1) If the liquidator is at any time of opinion that the company will not be able to pay its debts in full within the period stated in the directors' declaration under section 577, he shall forthwith summon a meeting of the creditors, and shall lay before the meeting a statement of the company's assets and liabilities.
- (2) If the liquidator fails to comply with this section, he is liable to a fine.

### **584 General company meeting at each year's end**

- (1) Subject to section 586, in the event of the winding up continuing for more than one year, the liquidator shall summon a general meeting of the company at the end of the first year from the commencement of the winding up, and of each succeeding year, or at the first convenient date within 3 months from the end of the year or such longer period as the Secretary of State may allow, and shall lay before the meeting an account of his acts and dealings and of the conduct of the winding up during the preceding year.
- (2) If the liquidator fails to comply with this section, he is liable to a fine.

### **585 Final meeting and dissolution**

- (1) As soon as the company's affairs are fully wound up, the liquidator shall make up an account of the winding up, showing how it has been conducted and the company's property has been disposed of, and thereupon shall call a general meeting of the company for the purpose of laying before it the account, and giving an explanation of it
- (2) The meeting shall be called by advertisement in the Gazette, specifying its time, place and object and published at least one month before the meeting.
- (3) Within one week after the meeting, the liquidator shall send to the registrar of companies a copy of the account, and shall make a return to him of the holding of the meeting and of its date; and if the copy is not sent or the return is not made in accordance with this subsection the liquidator is liable to a fine and, for continued contravention, to a daily default fine.
- (4) If a quorum is not present at the meeting, the liquidator shall, in lieu of the return mentioned above, make a return that the meeting was duly summoned and that no quorum was present; and upon such a return being made, the provisions of subsection (3) as to the making of the return are deemed complied with.
- (5) The registrar on receiving the account and either of these returns shall forthwith register them, and on the expiration of 3 months from the registration of the return the company is deemed to be dissolved; but the court may, on the application of the liquidator or of any other person who appears to the court to be interested, make an order deferring the date at which the dissolution of the company is to take effect for such time as the court thinks fit.
- (6) It is the duty of the person on whose application an order of the court under this section is made within 7 days after the making of the order to deliver to the registrar an office copy of the order for registration; and if that person fails to do so he is liable to a fine and, for continued contravention, to a daily default fine.

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- (7) If the liquidator fails to call a general meeting of the company as required by subsection (1), he is liable to a fine.

**586 Alternative provision as to company meetings in case of insolvency**

- (1) Where section 583 has effect, sections 594 and 595 apply to the winding up to the exclusion of sections 584 and 585, as if the winding up were a creditors' voluntary winding up and not a members' voluntary winding up.
- (2) However, the liquidator is not required to summon a meeting of creditors under section 594 at the end of the first year from the commencement of the winding up, unless the meeting held under section 583 is held more than 3 months before the end of that year.