



Insolvency Act 1986

1986 CHAPTER 45

PART IV

WINDING UP OF COMPANIES REGISTERED UNDER THE COMPANIES ACTS

CHAPTER II

VOLUNTARY WINDING UP (INTRODUCTORY AND GENERAL)

Resolutions for, and commencement of, voluntary winding up

84 Circumstances in which company may be wound up voluntarily.

- (1) A company may be wound up voluntarily—
- (a) when the period (if any) fixed for the duration of the company by the articles expires, or the event (if any) occurs, on the occurrence of which the articles provide that the company is to be dissolved, and the company in general meeting has passed a resolution requiring it be wound up voluntarily;
 - (b) if the company resolves by special resolution that it be wound up voluntarily;
 - (c) ^{F1}

(2) In this Act the expression “a resolution for voluntary winding up” means a resolution passed under [^{F2}either of the paragraphs] of subsection (1).

[^{F3}(2A) Before a company passes a resolution for voluntary winding up it must give written notice of the resolution to the holder of any qualifying floating charge to which section 72A applies.

(2B) Where notice is given under subsection (2A) a resolution for voluntary winding up may be passed only—

- (a) after the end of the period of five business days beginning with the day on which the notice was given, or

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(b) if the person to whom the notice was given has consented in writing to the passing of the resolution.]

[^{F4}(3) Chapter 3 of Part 3 of the Companies Act 2006 (resolutions affecting a company's constitution) applies to a resolution under paragraph (a) of subsection (1) as well as a special resolution under paragraph (b).]

[^{F5}(4) This section has effect subject to section 43 of the Commonhold and Leasehold Reform Act 2002.]

Textual Amendments

- F1** S. 84(1)(c) repealed (1.10.2007 with application as noted in Sch. 4 para. 39(5) of the amending S.I.) by [The Companies Act 2006 \(Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings\) Order 2007 \(S.I. 2007/2194\)](#), art. 10(1)(3), **Sch. 4 para. 39(2)**, **Sch. 5** (with art. 12)
- F2** Words in s. 84(2) substituted (1.10.2007 with application as noted in Sch. 4 para. 39(5) of the amending S.I.) by [The Companies Act 2006 \(Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings\) Order 2007 \(S.I. 2007/2194\)](#), art. 10(1), **Sch. 4 para. 39(3)** (with art. 12)
- F3** S. 84(2A)(2B) inserted (15.9.2003) by [The Enterprise Act 2002 \(Insolvency\) Order 2003 \(S.I. 2003/2096\)](#), art. 4, **Sch. Pt. 1 para. 10** (with art. 6)
- F4** S. 84(3) substituted (1.10.2007 with application as noted in Sch. 4 para. 39(5) of the amending S.I.) by [The Companies Act 2006 \(Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings\) Order 2007 \(S.I. 2007/2194\)](#), art. 10(1), **Sch. 4 para. 39(4)** (with art. 12)
- F5** S. 84(4) added (E.W.) (27.9.2004) by [2002 c. 15, ss. 68, 181\(1\)](#), [Sch. 5 para. 6](#); [S.I. 2004/1832](#), **art. 2**

Modifications etc. (not altering text)

- C1** S. 84 modified (S.) (6.4.2001) by [S.S.I. 2001/128](#), reg. 4(2), [Sch. 3](#) (as amended (1.10.2009) by [S.S.I. 2009/310](#), reg. 4, **Sch. 2 para. 1(a)**)
- C2** S. 84(3) amended (1.7.1999) by [1998 c. 46](#), Sch. 8 para. 23(2)-(3) (as amended (28.6.2016) by [The Building Societies \(Floating Charges and Other Provisions\) Order 2016 \(S.I. 2016/679\)](#), arts. 1(1), **6**)

85 Notice of resolution to wind up.

- (1) When a company has passed a resolution for voluntary winding up, it shall, within 14 days after the passing of the resolution, give notice of the resolution by advertisement in the Gazette.
- (2) If default is made in complying with this section, the company and every officer of it who is in default is liable to a fine and, for continued contravention, to a daily default fine.

For purposes of this subsection the liquidator is deemed an officer of the company.

86 Commencement of winding up.

A voluntary winding up is deemed to commence at the time of the passing of the resolution for voluntary winding up.

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Consequences of resolution to wind up

- 87**
- (1) In case of a voluntary winding up, the company shall from the commencement of the winding up cease to carry on its business, except so far as may be required for its beneficial winding up.
 - (2) However, the corporate state and corporate powers of the company, notwithstanding anything to the contrary in its articles, continue until the company is dissolved.

88 **Avoidance of share transfers, etc. after winding-up resolution.**

Any transfer of shares, not being a transfer made to or with the sanction of the liquidator, and any alteration in the status of the company's members, made after the commencement of a voluntary winding up, is void.

Modifications etc. (not altering text)

- C3** S. 88 excluded (26.12.2003) by [The Financial Collateral Arrangements \(No.2\) Regulations 2003 \(S.I. 2003/3226\)](#), **reg. 10(2)**
- C4** S. 88 excluded by [The Financial Market and Insolvency \(Settlement Finality\) Regulations 1999 \(S.I. 1999/2979\)](#), **reg. 16(3)** (as amended (2.2.2006) by [The Financial Markets and Insolvency \(Settlement Finality\) \(Amendment\) Regulations 2006 \(S.I. 2006/50\)](#), **reg. 2(8)(10)** and as amended (1.10.2009) by [The Financial Markets and Insolvency \(Settlement Finality\) \(Amendment\) Regulations 2009 \(S.I. 2009/1972\)](#), **reg. 6(a)**)

Declaration of solvency

89 **Statutory declaration of solvency.**

- (1) Where it is proposed to wind up a company voluntarily, the directors (or, in the case of a company having more than two directors, the majority of them) may at a directors' meeting make a statutory declaration to the effect that they have made a full inquiry into the company's affairs and that, having done so, they have formed the opinion that the company will be able to pay its debts in full, together with interest at the official rate (as defined in section 251), within such period, not exceeding 12 months from the commencement of the winding up, as may be specified in the declaration.
- (2) Such a declaration by the directors has no effect for purposes of this Act unless—
 - (a) it is made within the 5 weeks immediately preceding the date of the passing of the resolution for winding up, or on that date but before the passing of the resolution, and
 - (b) it embodies a statement of the company's assets and liabilities as at the latest practicable date before the making of the declaration.
- (3) The declaration shall be delivered to the registrar of companies before the expiration of 15 days immediately following the date on which the resolution for winding up is passed.
- (4) A director making a declaration under this section without having reasonable grounds for the opinion that the company will be able to pay its debts in full, together with

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interest at the official rate, within the period specified is liable to imprisonment or a fine, or both.

- (5) If the company is wound up in pursuance of a resolution passed within 5 weeks after the making of the declaration, and its debts (together with interest at the official rate) are not paid or provided for in full within the period specified, it is to be presumed (unless the contrary is shown) that the director did not have reasonable grounds for his opinion.
- (6) If a declaration required by subsection (3) to be delivered to the registrar is not so delivered within the time prescribed by that subsection, the company and every officer in default is liable to a fine and, for continued contravention, to a daily default fine.

Modifications etc. (not altering text)

- C5** S. 89(3) amended (1.7.1999) by 1998 c. 46, s. 125, **Sch. 8 para. 23(5)** (with s. 126(3)-(11)); S.I. 1998/3178, **arts. 2, 3** (as amended (28.6.2016) by [The Building Societies \(Floating Charges and Other Provisions\) Order 2016](#) (S.I. 2016/679), arts. 1(1), **6**)

90 Distinction between “members” and “creditors” voluntary winding up.

A winding up in the case of which a directors’ statutory declaration under section 89 has been made is a “members’ voluntary winding up”; and a winding up in the case of which such a declaration has not been made is a “creditors’ voluntary winding up”.

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