



Commonhold and Leasehold Reform Act 2002

2002 CHAPTER 15

PART 1

COMMONHOLD

Termination: voluntary winding-up

43 Winding-up resolution

(1) A winding-up resolution in respect of a commonhold association shall be of no effect unless—

- (a) the resolution is preceded by a declaration of solvency,
- (b) the commonhold association passes a termination-statement resolution before it passes the winding-up resolution, and
- (c) each resolution is passed with at least 80 per cent. of the members of the association voting in favour.

(2) In this Part—

“declaration of solvency” means a directors’ statutory declaration made in accordance with section 89 of the Insolvency Act 1986 (c. 45),

“termination-statement resolution” means a resolution approving the terms of a termination statement (within the meaning of section 47), and

“winding-up resolution” means a resolution for voluntary winding-up within the meaning of section 84 of that Act.

44 100 per cent. agreement

(1) This section applies where a commonhold association—

- (a) has passed a winding-up resolution and a termination-statement resolution with 100 per cent. of the members of the association voting in favour, and

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- (b) has appointed a liquidator under section 91 of the Insolvency Act 1986 (c. 45).
- (2) The liquidator shall make a termination application within the period of six months beginning with the day on which the winding-up resolution is passed.
- (3) If the liquidator fails to make a termination application within the period specified in subsection (2) a termination application may be made by—
 - (a) a unit-holder, or
 - (b) a person falling within a class prescribed for the purposes of this subsection.

45 80 per cent. agreement

- (1) This section applies where a commonhold association—
 - (a) has passed a winding-up resolution and a termination-statement resolution with at least 80 per cent. of the members of the association voting in favour, and
 - (b) has appointed a liquidator under section 91 of the Insolvency Act 1986.
- (2) The liquidator shall within the prescribed period apply to the court for an order determining—
 - (a) the terms and conditions on which a termination application may be made, and
 - (b) the terms of the termination statement to accompany a termination application.
- (3) The liquidator shall make a termination application within the period of three months starting with the date on which an order under subsection (2) is made.
- (4) If the liquidator fails to make an application under subsection (2) or (3) within the period specified in that subsection an application of the same kind may be made by—
 - (a) a unit-holder, or
 - (b) a person falling within a class prescribed for the purposes of this subsection.

46 Termination application

- (1) A “termination application” is an application to the Registrar that all the land in relation to which a particular commonhold association exercises functions should cease to be commonhold land.
- (2) A termination application must be accompanied by a termination statement.
- (3) On receipt of a termination application the Registrar shall note it in the register.

47 Termination statement

- (1) A termination statement must specify—
 - (a) the commonhold association’s proposals for the transfer of the commonhold land following acquisition of the freehold estate in accordance with section 49(3), and
 - (b) how the assets of the commonhold association will be distributed.
- (2) A commonhold community statement may make provision requiring any termination statement to make arrangements—
 - (a) of a specified kind, or
 - (b) determined in a specified manner,

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about the rights of unit-holders in the event of all the land to which the statement relates ceasing to be commonhold land.

- (3) A termination statement must comply with a provision made by the commonhold community statement in reliance on subsection (2).
- (4) Subsection (3) may be disapplied by an order of the court—
 - (a) generally,
 - (b) in respect of specified matters, or
 - (c) for a specified purpose.
- (5) An application for an order under subsection (4) may be made by any member of the commonhold association.

48 The liquidator

- (1) This section applies where a termination application has been made in respect of particular commonhold land.
- (2) The liquidator shall notify the Registrar of his appointment.
- (3) In the case of a termination application made under section 44 the liquidator shall either—
 - (a) notify the Registrar that the liquidator is content with the termination statement submitted with the termination application, or
 - (b) apply to the court under section 112 of the Insolvency Act 1986 (c. 45) to determine the terms of the termination statement.
- (4) The liquidator shall send to the Registrar a copy of a determination made by virtue of subsection (3)(b).
- (5) Subsection (4) is in addition to any requirement under section 112(3) of the Insolvency Act 1986.
- (6) A duty imposed on the liquidator by this section is to be performed as soon as possible.
- (7) In this section a reference to the liquidator is a reference—
 - (a) to the person who is appointed as liquidator under section 91 of the Insolvency Act 1986, or
 - (b) in the case of a members' voluntary winding up which becomes a creditors' voluntary winding up by virtue of sections 95 and 96 of that Act, to the person acting as liquidator in accordance with section 100 of that Act.

49 Termination

- (1) This section applies where a termination application is made under section 44 and—
 - (a) a liquidator notifies the Registrar under section 48(3)(a) that he is content with a termination statement, or
 - (b) a determination is made under section 112 of the Insolvency Act 1986 (c. 45) by virtue of section 48(3)(b).
- (2) This section also applies where a termination application is made under section 45.

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- (3) The commonhold association shall by virtue of this subsection be entitled to be registered as the proprietor of the freehold estate in each commonhold unit.
- (4) The Registrar shall take such action as appears to him to be appropriate for the purpose of giving effect to the termination statement.

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