



# Companies (Audit, Investigations and Community Enterprise) Act 2004

## 2004 CHAPTER 27

### PART 2

#### COMMUNITY INTEREST COMPANIES

##### *Change of status*

#### 52 Re-registration

- (1) A community interest company is excluded from re-registering under [<sup>F1</sup>section 102 of the Companies Act 2006] (re-registration of limited company as unlimited).
- (2) If a community interest company which is not a public company re-registers as a public company under [<sup>F2</sup>section 90 of the Companies Act 2006] , or a community interest company which is a public company re-registers as a private company under [<sup>F3</sup>section 97 of the Companies Act 2006] , the certificate of incorporation issued under [<sup>F4</sup>section 96(2) or 101(2) of the Companies Act 2006] is to contain a statement that the company is a community interest company.
- (3) The fact that the certificate of incorporation contains such a statement is conclusive evidence that the company is a community interest company.

#### Textual Amendments

- F1** Words in s. 52(1) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 235(2)** (with art. 10)
- F2** Words in s. 52(2) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 235(3)(a)** (with art. 10)

*Changes to legislation: There are currently no known outstanding effects for the Companies (Audit, Investigations and Community Enterprise) Act 2004, Cross Heading: Change of status. (See end of Document for details)*

- F3** Words in s. 52(2) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), [Sch. 1 para. 235\(3\)\(b\)](#) (with art. 10)
- F4** Words in s. 52(2) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), [Sch. 1 para. 235\(3\)\(c\)](#) (with art. 10)

#### Commencement Information

- I1** S. 52 in force at 1.7.2005 by [S.I. 2004/3322](#), art. 2(3), [Sch. 3](#)

### 53 Ceasing to be a community interest company

A community interest company may not cease to be a community interest company except by dissolution or as provided—

- (a) by [<sup>F5</sup>sections 54 to 55A] (becoming a charity <sup>F6</sup>...), or
- (b) if regulations are made under section 56 (becoming [<sup>F7</sup>a registered society] ), by the regulations.

#### Textual Amendments

- F5** Words in s. 53(a) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), [Sch. 1 para. 236](#) (with art. 10)
- F6** Words in s. 53(a) repealed (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(2), [Sch. 1 para. 234\(5\)](#), [Sch. 2](#) (with arts. 6, 11, 12)
- F7** Words in s. 53(b) substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, [Sch. 4 para. 89](#) (with Sch. 5)

#### Modifications etc. (not altering text)

- C1** Ss. 53-55 power to apply or disapply conferred by 1993 c. 10, s. 69J (as inserted (27.2.2007) by [Charities Act 2006 \(c. 50\)](#), s. 79(2), [Sch. 7 para. 1](#); [S.I. 2007/309](#), art. 2, [Sch.](#))
- C2** Ss. 53-55 power to apply (with modifications) or disapply conferred (E.W.) (14.3.2012) by [Charities Act 2011 \(c. 25\)](#), [ss. 234\(2\)\(a\)](#), 355 (with s. 20(2), [Sch. 8](#))
- C3** Ss. 53-55A excluded (E.W.) (1.1.2018) by [The Charitable Incorporated Organisations \(Conversion\) Regulations 2017 \(S.I. 2017/1232\)](#), regs. 1(1), [3](#)

#### Commencement Information

- I2** S. 53 in force at 1.7.2005 by [S.I. 2004/3322](#), art. 2(3), [Sch. 3](#)

### [<sup>F8</sup>54 Ceasing to be a community interest company and becoming a charity

- (1) If a company is to cease to be a community interest company and become a charity—
  - (a) the company must by special resolution—
    - (i) state that it is to cease to be a community interest company,
    - (ii) make such alterations of its articles as it considers appropriate, and
    - (iii) change its name so that it does not comply with section 33;
  - (b) the conditions specified below must be met; and
  - (c) an application must be delivered to the registrar of companies in accordance with section 54C together with the other documents required by that section.

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- (2) The conditions referred to in subsection (1)(b) are that—
- (a) where no application under section 54A for cancellation of the special resolutions has been made—
    - (i) having regard to the number of members who consented to or voted in favour of the resolutions, no such application may be made, or
    - (ii) the period within which such an application could be made has expired, or
  - (b) where such an application has been made—
    - (i) the application has been withdrawn, or
    - (ii) an order has been made confirming the resolutions and a copy of that order has been delivered to the registrar.
- (3) Section 30 of the Companies Act 2006 (copies of resolutions to be forwarded to the registrar) applies to the special resolutions as follows—
- (a) that section is complied with by forwarding copies of the resolutions together with the application in accordance with section 54C,
  - (b) copies of the resolutions must not be so forwarded before the relevant date, and
  - (c) subsection (1) of that section has effect in relation to the resolutions as if it referred to 15 days after the relevant date.
- (4) The relevant date is—
- (a) if an application is made under section 54A for cancellation of the resolutions—
    - (i) the date on which the court determines the application (or if there is more than one application, the date on which the last to be determined by the court is determined), or
    - (ii) such later date as the court may order;
  - (b) if there is no such application—
    - (i) if having regard to the number of members who consented to or voted in favour of the resolutions, no such application may be made, the date on which the resolutions were passed or made (or, if the resolutions were passed or made on different days, the date on which the last of them was passed or made);
    - (ii) in any other case, the end of the period for making such an application.

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#### Textual Amendments

- F8** Ss. 54-54C substituted for s. 54 (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 237(1)** (with art. 10)

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#### Modifications etc. (not altering text)

- C2** Ss. 53-55 power to apply (with modifications) or disapply conferred (E.W.) (14.3.2012) by [Charities Act 2011 \(c. 25\)](#), **ss. 234(2)(a)**, 355 (with s. 20(2), Sch. 8)
- C3** Ss. 53-55A excluded (E.W.) (1.1.2018) by [The Charitable Incorporated Organisations \(Conversion\) Regulations 2017 \(S.I. 2017/1232\)](#), regs. 1(1), 3

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#### **54A. Ceasing to be a community interest company and becoming a charity: application to court to cancel resolutions**

- (1) Where special resolutions have been passed with a view to a company ceasing to be a community interest company and becoming a charity, an application to the court for the cancellation of the resolutions may be made—
  - (a) by the holders of not less in the aggregate than 15% in nominal value of the company's issued share capital or any class of the company's issued share capital (disregarding any shares held by the company as treasury shares);
  - (b) if the company is not limited by shares, by not less than 15% of its members; or
  - (c) by the holders of not less than 15% of the company's debentures entitling the holders to object to an alteration of its objects;
 but not by a person who has consented to or voted in favour of the resolutions.
- (2) The application—
  - (a) must be made within 28 days after the date on which the resolutions were passed or made (or, if the resolutions were passed or made on different days, the date on which the last of them was passed or made), and
  - (b) may be made on behalf of the persons entitled to make it by such one or more of their number as they may appoint for the purpose.
- (3) On the hearing of the application the court shall make an order either cancelling or confirming the resolutions.
- (4) The court may—
  - (a) make that order on such terms and conditions as it thinks fit,
  - (b) if it thinks fit adjourn the proceedings in order that an arrangement may be made to the satisfaction of the court for the purchase of the interests of dissentient members, and
  - (c) give such directions, and make such orders, as it thinks expedient for facilitating or carrying into effect any such arrangement.
- (5) The court's order may, if the court thinks fit—
  - (a) provide for the purchase by the company of the shares of any of its members and for the reduction accordingly of the company's capital; and
  - (b) make such alteration in the company's articles as may be required in consequence of that provision.
- (6) The court's order may, if the court thinks fit, require the company not to make any, or any specified, amendments to its articles without the leave of the court.

#### **Textual Amendments**

- F8** Ss. 54-54C substituted for s. 54 (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), [Sch. 1 para. 237\(1\)](#) (with art. 10)

#### **Modifications etc. (not altering text)**

- C2** Ss. 53-55 power to apply (with modifications) or disapply conferred (E.W.) (14.3.2012) by [Charities Act 2011 \(c. 25\)](#), [ss. 234\(2\)\(a\)](#), 355 (with s. 20(2), Sch. 8)
- C3** Ss. 53-55A excluded (E.W.) (1.1.2018) by [The Charitable Incorporated Organisations \(Conversion\) Regulations 2017 \(S.I. 2017/1232\)](#), regs. 1(1), 3

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#### **54B. Ceasing to be a community interest company and becoming a charity: notice to registrar of court application or order**

- (1) On making an application under section 54A (application to court to cancel resolutions) the applicants, or the person making the application on their behalf, must immediately give notice to the registrar of companies.

This is without prejudice to any provision of rules of court as to service of notice of the application.

- (2) On being served with notice of any such application, the company must immediately give notice to the registrar.
- (3) Within 15 days of the making of the court's order on the application, or such longer period as the court may at any time direct, the company must deliver to the registrar a copy of the order.
- (4) If a company fails to comply with subsection (2) or (3) an offence is committed by—
- (a) the company, and
  - (b) every officer of the company who is in default.
- (5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 3 on the standard scale.

#### **Textual Amendments**

- F8** Ss. 54-54C substituted for s. 54 (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 237(1)** (with art. 10)

#### **Modifications etc. (not altering text)**

- C2** Ss. 53-55 power to apply (with modifications) or disapply conferred (E.W.) (14.3.2012) by [Charities Act 2011 \(c. 25\)](#), **ss. 234(2)(a)**, 355 (with s. 20(2), Sch. 8)
- C3** Ss. 53-55A excluded (E.W.) (1.1.2018) by [The Charitable Incorporated Organisations \(Conversion\) Regulations 2017 \(S.I. 2017/1232\)](#), regs. 1(1), 3

#### **54C. Ceasing to be a community interest company and becoming a charity: application and accompanying documents**

- (1) An application to cease to be a community interest company and become a charity must be accompanied by—
- (a) a copy of the special resolutions,
  - (b) a copy of the company's articles as proposed to be amended, and
  - (c) the statement required by subsection (2).
- (2) The statement required is—
- (a) where the company is to become an English charity, a statement by the Charity Commission that, in its opinion, if the proposed changes take effect the company will be an English charity and will not be an exempt charity;
  - (b) where the company is to become a Scottish charity, a statement by the Scottish Charity Regulator that if the proposed changes take effect the company will be entered in the Scottish Charity Register;

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- (c) where the company is to become a Northern Ireland charity, a statement by the Commissioners of Her Majesty's Revenue and Customs that the company has claimed exemption under [<sup>F9</sup>a relevant provision of Part 11 of the Corporation Tax Act 2010].
- (3) In subsection (2)(a) [<sup>F10</sup>exempt charity” has the same meaning as in the Charities Act 2011 (see section 22 of that Act).]
- [<sup>F11</sup>(3A) For the purposes of subsection (2)(c) all the provisions of Part 11 of the Corporation Tax Act 2010 under which exemption may be claimed are relevant provisions except—
- (a) section 480 (exemption for profits of small-scale trades), and
  - (b) section 481 (exemption from charges under provisions to which section 1173 applies).]
- (4) On receiving an application to cease to be a community interest company and become a charity, together with the other documents required to accompany it, the registrar of companies must (instead of recording the documents and entering a new name on the register)—
- (a) forward a copy of each of the documents to the Regulator, and
  - (b) retain the documents pending the Regulator's decision.]

#### Textual Amendments

- F8** Ss. 54-54C substituted for s. 54 (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 237(1)** (with art. 10)
- F9** Words in s. 54C(2)(c) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 439(2)** (with Sch. 2)
- F10** Words in s. 54C(3) substituted (14.3.2012) by [Charities Act 2011 \(c. 25\)](#), s. 355, **Sch. 7 para. 98** (with s. 20(2), Sch. 8)
- F11** S. 54C(3A) inserted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 439(3)** (with Sch. 2)

#### Modifications etc. (not altering text)

- C2** Ss. 53-55 power to apply (with modifications) or disapply conferred (E.W.) (14.3.2012) by [Charities Act 2011 \(c. 25\)](#), **ss. 234(2)(a), 355** (with s. 20(2), Sch. 8)
- C3** Ss. 53-55A excluded (E.W.) (1.1.2018) by [The Charitable Incorporated Organisations \(Conversion\) Regulations 2017 \(S.I. 2017/1232\)](#), regs. 1(1), 3

### [<sup>F12</sup>55 Ceasing to be a community interest company and becoming a charity: decision by Regulator

- (1) The Regulator must decide whether the company is eligible to cease being a community interest company.
- (2) A company is eligible to cease being a community interest company if it has complied with sections 54 and 54C and none of the following applies—
  - (a) the Regulator has under section 43 appointed an auditor to audit the company's annual accounts and the audit has not been completed,
  - (b) civil proceedings instituted by the Regulator in the name of the company under section 44 have not been determined or discontinued,
  - (c) a director of the company holds office by virtue of an order under section 45,

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- (d) a director of the company is suspended under section 46(3),
  - (e) there is a manager in respect of the property and affairs of the company appointed under section 47,
  - (f) the Official Property Holder holds property as trustee for the company,
  - (g) an order under section 48(2) or (3) is in force in relation to the company,
  - (h) a petition has been presented for the company to be wound up.
- (3) The Regulator must give notice of the decision to the registrar of companies (but the registrar is not required to record it).

#### Textual Amendments

**F12** Ss. 55, 55A substituted for s. 55 (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 237(2)** (with art. 10)

#### Modifications etc. (not altering text)

- C2** Ss. 53-55 power to apply (with modifications) or disapply conferred (E.W.) (14.3.2012) by [Charities Act 2011 \(c. 25\)](#), **ss. 234(2)(a)**, 355 (with s. 20(2), Sch. 8)
- C3** Ss. 53-55A excluded (E.W.) (1.1.2018) by [The Charitable Incorporated Organisations \(Conversion\) Regulations 2017 \(S.I. 2017/1232\)](#), regs. 1(1), 3

### 55A. Ceasing to be a community interest company and becoming a charity : consequences of Regulator's decision

- (1) If the Regulator gives notice of a decision that the company is eligible to cease being a community interest company, the registrar of companies must—
- (a) proceed in accordance with section 80 of the Companies Act 2006 (change of name: registration and issue of new certificate of incorporation), and
  - (b) if the registrar enters the new name of the company on the register, retain and record the documents mentioned in section 54C(4).
- (2) The new certificate of incorporation must state—
- (a) that it is issued on the company's ceasing to be a community interest company, and
  - (b) the date on which it is issued.
- (3) On the issue of the certificate—
- (a) the changes in the company's name and articles take effect, and
  - (b) the company ceases to be a community interest company.
- (4) If the Regulator decides that the company is not eligible to cease being a community interest company, the company may appeal to the Appeal Officer against the decision.]

#### Textual Amendments

**F12** Ss. 55, 55A substituted for s. 55 (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 237(2)** (with art. 10)

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**Modifications etc. (not altering text)**

- C3** Ss. 53-55A excluded (E.W.) (1.1.2018) by [The Charitable Incorporated Organisations \(Conversion\) Regulations 2017 \(S.I. 2017/1232\)](#), regs. 1(1), **3**
- C4** S. 55A(4) applied (E.W.) (1.1.2018) by [The Charitable Incorporated Organisations \(Conversion\) Regulations 2017 \(S.I. 2017/1232\)](#), regs. 1(1), **6(3)**

**56** **Becoming [<sup>F13</sup> a registered society]**

- (1) Unless regulations make provision to the contrary, a community interest company may not convert itself into a registered society under [<sup>F14</sup> section 115 of the Co-operative and Community Benefit Societies Act 2014][<sup>F15</sup> or section 62 of the Industrial and Provident Societies Act (Northern Ireland) 1969].
- (2) If regulations make provision allowing the conversion of community interest companies under that section they may include provision modifying that section in its application by virtue of the regulations.

**Textual Amendments**

- F13** Words in s. 56 heading substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, **Sch. 4 para. 90(3)** (with Sch. 5)
- F14** Words in s. 56(1) substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, **Sch. 4 para. 90(2)** (with Sch. 5)
- F15** Words in s. 56(1) inserted (6.4.2007) by [The Companies Act 2006 \(Commencement No. 2, Consequential Amendments, Transitional Provisions and Savings\) Order 2007 \(S.I. 2007/1093\)](#), art. 1(3), **Sch. 4 para. 21** (with art. 11(1))

**Commencement Information**

- I3** S. 56 in force at 1.7.2005 by [S.I. 2004/3322](#), art. 2(3), **Sch. 3**



**Changes to legislation:**

There are currently no known outstanding effects for the Companies (Audit, Investigations and Community Enterprise) Act 2004, Cross Heading: Change of status.