



# Co-operative and Community Benefit Societies Act 2014

## 2014 CHAPTER 14

### PART 9

#### AMALGAMATIONS, CONVERSIONS, DISSOLUTION ETC

##### *Dissolution by an instrument of dissolution*

#### **119 Dissolution of society by an instrument of dissolution**

- (1) A registered society may be dissolved by an instrument of dissolution that—
  - (a) complies with subsection (2), and
  - (b) is approved in a way mentioned in subsection (3).
- (2) The instrument must set out—
  - (a) the society's assets and liabilities in detail;
  - (b) the number of members and the nature of their interests in the society;
  - (c) any creditors' claims, and the provision to be made for their payment;
  - (d) the intended appropriation or division of the society's funds and property (unless the instrument states that this is to be left to the award of the FCA or PRA).
- (3) The ways in which the instrument may be approved are as follows—
  - (a) by at least 75% of the society's members consenting to it, that consent being testified by their signatures to the instrument;
  - (b) in the case of a dormant society that is not a credit union, by a special resolution of the society;
  - (c) in the case of a credit union, by a special resolution of the society that is confirmed by the appropriate authority.
- (4) An alteration in an instrument of dissolution may be made—

*Status: Point in time view as at 01/08/2014.*

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- (a) by the consent of at least 75% of the society's members, testified by their signatures to the alteration, or
  - (b) if the instrument was approved by a special resolution of the society, by a further special resolution.
- (5) Section 120 contains provisions about special resolutions under this section.
- (6) In subsection (3)(b) “dormant society” means a society—
- (a) whose accounts for the current year of account and the two years of account preceding it show no accounting transactions except—
    - (i) fees paid to the FCA;
    - (ii) fees paid to the PRA;
    - (iii) payments of dividends;
    - (iv) payments of interest; and
  - (b) that has notified the FCA that it is dormant.
- (7) For the purposes of subsection (3)(c) the appropriate authority is treated as confirming a special resolution unless it notifies the society in writing to the contrary within 21 days of the society sending a copy of the resolution to it.

## **120 Special resolutions under section 119**

- (1) This section supplements section 119.
- (2) A resolution is a “special resolution” if—
- (a) the resolution is passed at a general meeting by at least two-thirds of the eligible members who vote,
  - (b) notice of this meeting (“the first meeting”), specifying the intention to propose the resolution, is duly given in accordance with the society's rules,
  - (c) the resolution is confirmed at a subsequent general meeting by over half of the eligible members who vote,
  - (d) notice of this meeting (“the second meeting”) is duly given, and
  - (e) the second meeting is held at least 14 days, and no more than one month, from the day of the first meeting.
- (3) In this section—
- (a) “eligible member” means a member entitled under the society's rules to vote;
  - (b) references to voting are to voting in person or, where the rules allow proxies, by proxy.

## **121 Instruments of dissolution: notification to FCA etc**

- (1) This section applies in relation to an instrument of dissolution within section 119(1).
- (2) The instrument must be sent to the FCA (and, if the society is a PRA-authorised person, the PRA), accompanied by a statutory declaration that all relevant provisions of this Act have been complied with.
- (3) The statutory declaration must be made by the society's secretary and—
- (a) 3 members, or
  - (b) both members (if the society consists solely of 2 registered societies).

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- (4) A copy of any special resolution under section 119—
  - (a) signed by the chair of the second meeting, and
  - (b) countersigned by the society's secretary,must be sent to the FCA (and, if the society is a PRA-authorised person, the PRA) within the period of 14 days beginning with the day of the second meeting.
- (5) The FCA must register the instrument of dissolution (and any alterations to it) in the same way as an amendment of the society's rules.

But it must not register it until it has received the society's annual return for its last year of account (see section 77(8) or 78(7)).
- (6) The FCA must register a copy special resolution received under subsection (4) at the same time as it registers the instrument of dissolution (and any alterations to it).
- (7) The instrument of dissolution (and any alterations to it) are binding on the society's members.
- (8) In this section “the second meeting” has the same meaning as in section 120.

## **122 Instruments of dissolution: advertisement, dissolution etc**

- (1) Where the FCA receives an instrument of dissolution of a society under section 121, it must ensure that notice of the dissolution is advertised in—
  - (a) the Gazette, and
  - (b) a newspaper circulating in or about the locality in which the society's registered office is situated.
- (2) Subject to subsection (3), the society is dissolved from—
  - (a) the date of the advertisement, or
  - (b) if later, the date the certificate under section 126 is lodged with the FCA;and the requisite consents to, or approval of, the instrument of dissolution are treated as duly obtained without proof of the signatures to it or of the special resolution (as the case may be).
- (3) Subsection (2) does not apply if—
  - (a) within the period of 3 months from the date of the Gazette in which the advertisement appears, a member of the society or a person interested in or having a claim on its funds commences proceedings in the appropriate court to set aside the dissolution of the society, and
  - (b) the dissolution is accordingly set aside.
- (4) The “appropriate court” means—
  - (a) the county court, or
  - (b) in Scotland, the sheriff having jurisdiction in the locality in which the society's registered office is situated.
- (5) A person who takes proceedings to set aside the dissolution of a society must send the FCA (and, if the society is a PRA-authorised person, the PRA) notice of the proceedings—
  - (a) within 7 days after the commencement of proceedings, or
  - (b) if earlier, by the end of the period mentioned in subsection (3)(a).

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- (6) If an order setting aside the dissolution of a society is made, the society must send the FCA (and, if the society is a PRA-authorized person, the PRA) notice of the order within 7 days after the making of the order.

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