



Commonhold and Leasehold Reform Act 2002

2002 CHAPTER 15

PART 1

COMMONHOLD

Termination: winding-up by court

50 Introduction

- (1) Section 51 applies where a petition is presented under section 124 of the Insolvency Act 1986 for the winding up of a commonhold association by the court.
- (2) For the purposes of this Part—
 - (a) an “insolvent commonhold association” is one in relation to which a winding-up petition has been presented under section 124 of the Insolvency Act 1986,
 - (b) a commonhold association is the “successor commonhold association” to an insolvent commonhold association if the land specified for the purpose of section 34(1)(a) is the same for both associations, and
 - (c) a “winding-up order” is an order under section 125 of the Insolvency Act 1986 for the winding up of a commonhold association.

51 Succession order

- (1) At the hearing of the winding-up petition an application may be made to the court for an order under this section (a “succession order”) in relation to the insolvent commonhold association.
- (2) An application under subsection (1) may be made only by—
 - (a) the insolvent commonhold association,
 - (b) one or more members of the insolvent commonhold association, or

- (c) a provisional liquidator for the insolvent commonhold association appointed under section 135 of the Insolvency Act 1986.
- (3) An application under subsection (1) must be accompanied by—
 - (a) prescribed evidence of the formation of a successor commonhold association, and
 - (b) a certificate given by the directors of the successor commonhold association that its memorandum and articles of association comply with regulations under paragraph 2(1) of Schedule 3.
- (4) The court shall grant an application under subsection (1) unless it thinks that the circumstances of the insolvent commonhold association make a succession order inappropriate.

52 Assets and liabilities

- (1) Where a succession order is made in relation to an insolvent commonhold association this section applies on the making of a winding-up order in respect of the association.
- (2) The successor commonhold association shall be entitled to be registered as the proprietor of the freehold estate in the common parts.
- (3) The insolvent commonhold association shall for all purposes cease to be treated as the proprietor of the freehold estate in the common parts.
- (4) The succession order—
 - (a) shall make provision as to the treatment of any charge over all or any part of the common parts;
 - (b) may require the Registrar to take action of a specified kind;
 - (c) may enable the liquidator to require the Registrar to take action of a specified kind;
 - (d) may make supplemental or incidental provision.

53 Transfer of responsibility

- (1) Where a succession order is made in relation to an insolvent commonhold association this section applies on the making of a winding-up order in respect of the association.
- (2) The successor commonhold association shall be treated as the commonhold association for the commonhold in respect of any matter which relates to a time after the making of the winding-up order.
- (3) On the making of the winding-up order the court may make an order requiring the liquidator to make available to the successor commonhold association specified—
 - (a) records;
 - (b) copies of records;
 - (c) information.
- (4) An order under subsection (3) may include terms as to—
 - (a) timing;
 - (b) payment.

54 Termination of commonhold

- (1) This section applies where the court—
 - (a) makes a winding-up order in respect of a commonhold association, and
 - (b) has not made a succession order in respect of the commonhold association.
- (2) The liquidator of a commonhold association shall as soon as possible notify the Registrar of—
 - (a) the fact that this section applies,
 - (b) any directions given under section 168 of the Insolvency Act 1986 (c. 45) (liquidator: supplementary powers),
 - (c) any notice given to the court and the registrar of companies in accordance with section 172(8) of that Act (liquidator vacating office after final meeting),
 - (d) any notice given to the Secretary of State under section 174(3) of that Act (completion of winding-up),
 - (e) any application made to the registrar of companies under section 202(2) of that Act (insufficient assets: early dissolution),
 - (f) any notice given to the registrar of companies under section 205(1)(b) of that Act (completion of winding-up), and
 - (g) any other matter which in the liquidator's opinion is relevant to the Registrar.
- (3) Notification under subsection (2)(b) to (f) must be accompanied by a copy of the directions, notice or application concerned.
- (4) The Registrar shall—
 - (a) make such arrangements as appear to him to be appropriate for ensuring that the freehold estate in land in respect of which a commonhold association exercises functions ceases to be registered as a freehold estate in commonhold land as soon as is reasonably practicable after he receives notification under subsection (2)(c) to (f), and
 - (b) take such action as appears to him to be appropriate for the purpose of giving effect to a determination made by the liquidator in the exercise of his functions.