

## Chapter 8

# Obligations & Process



## 8.9 Amalgamations

**8.9.1** **G** Two or more societies may amalgamate and become one society. A society and a company may amalgamate to become one company. The amalgamation can, but need not, involve the dissolution of one or more of the societies or companies first or a division of funds among members where allowed. On the amalgamation, the property of each society or company vests in the new amalgamated entity without needing any form of conveyance or ownership transfer other than the special resolution that carried out the amalgamation.

**8.9.2** **G** The amalgamation does not prejudice any right of a creditor of any of the societies or companies so they have the same claim against the new amalgamated entity as they had against the amalgamating societies or companies.

**8.9.3** **G** The amalgamation of two societies or a society and a company results in the new body stepping into the shoes of those that chose to amalgamate, once the amalgamation resolutions of all the societies become effective on registration. If a society amalgamates with a company then the registration of the society becomes void and must be cancelled.

**8.9.4** **G** The decision to amalgamate with another entity must be made according to with the society’s rules. For example, a community benefit society with an asset lock cannot amalgamate to become an entity without a statutory asset lock.

### Special resolution

**8.9.5** **G** Amalgamation requires each of the amalgamating societies to pass a special resolution. The special resolution for amalgamating societies must be passed:

- (1) at a first general meeting by two-thirds of the members actually voting on the resolution, whether in person or by proxy. Notice of the meeting must have specified the intention to propose the resolution; and
- (2) at a second general meeting:
  - (a) by over half of the members who actually vote in person or by proxy at that meeting;
  - (b) held between fourteen days and one month from the first meeting.

- 8.9.6** **G** The special resolution for amalgamating with a company must be passed:
- (1) at a first general meeting by:
    - (a) three-fourths of the members actually voting on the resolution, whether in person or by proxy. Notice of the meeting must have specified the intention to propose the resolution;
    - (b) three-fourths of the members actually voting on the resolution, whether in person or by proxy. Notice of the meeting must have specified the intention to propose the resolution;
  - (2) at a second general meeting by over half of the members who actually vote in person or by proxy at that meeting.

**8.9.7** **G** A declaration by the chair of either meeting that the resolution has been carried is conclusive evidence of that fact.

**8.9.8** **G** Within 14 days from the date that the special resolution is confirmed at the second meeting, the society must send us a copy for registration. The copy must be signed by the chair of the second meeting and countersigned by the society secretary.

**8.9.9** **G** The resolution only takes effect when we register it.

**Registration of amalgamation**

- 8.9.10** **G** To register the amalgamation we need:
- (1) two clean copies of the resolution containing only the wording of the resolution as approved by the members. Each copy must be headed with the name and registration number of the society/company, and signed by the society/company secretary and the chair of the second meeting that approved the resolution;
  - (2) forms signed by the secretary of each society/company;
 

[Note: <https://www.fca.org.uk/your-fca/documents/forms/transfer-of-engagements-form>]
  - (3) a statutory declaration confirming that the resolutions were passed in line with legislative requirements and society rules;
  - (4) any regulated housing association, or society on the Scottish Charity Register, must also provide consent from the relevant regulator for the amalgamation to proceed.

**8.9.11** **G** If the application is complete and correct, we will register the special resolution and send a formal acknowledgement of its registration.

**8.9.12** **G** We will also register the new society, sending a certificate of registration of a new society.