

Chapter 8

Obligations & Process

8.15 Winding up

- 8.15.1** **G** Winding up, or ‘liquidation’, is a process by which an entity’s assets are used to pay off its debts, usually with any remaining money distributed in accordance with the society’s rules. The winding up provisions of the Insolvency Act 1986 apply to societies. A society can be wound up by a:

 - (1) Members’ voluntary winding up by members’ resolution if it is solvent; or
 - (2) creditors’ voluntary winding up by members’ resolution with creditor involvement if it is insolvent; or
 - (3) court winding up order at the petition of the society itself, a creditor, or member.

- 8.15.2** **G** These procedures are governed by Part IV of the Insolvency Act 1986 as applied and modified by the Act.

- 8.15.3** **G** A special resolution is needed to pass a winding up resolution. The special resolution must meet the requirements in the Companies Act 2006. It is not a special resolution as defined in the Act. **[Note: s84 Insolvency Act 1986]**

- 8.15.4** **G** A special resolution under the Companies Act 2006 requires:

 - (1) only one meeting, called with 14 days’ notice;
 - (2) the text of the resolution and intention to propose to appear in the notice;
 - (3) a majority of not less than 75%.

[Note: ss283 & 307 Companies Act 2006]

- 8.15.5** **G** We play the same role for societies that Companies House does for companies. The society must send us the resolution within 15 days of it being passed. The liquidator must give us notice of their appointment within 14 days of being appointed.

- 8.15.6** **G** If a society is wound up by the court then the society must immediately send us a copy of the court order. **[Note: s130 Insolvency Act 1986]**

-
- 8.15.7** **G** A liquidator must send us periodic progress reports if winding up is not completed within one year of the process starting. These reports are of the kind submitted to Companies House in a winding up. **[Note: s192 Insolvency Act 1986]**
 - 8.15.8** **G** At the end of the winding up process, once the liquidator has submitted a section 126 certificate to us, the society will be dissolved and its registration will be cancelled.
 - 8.15.9** **G** There are additional requirements for regulated housing associations. A society on the Scottish Charity Register must seek the consent of OSCR.