



# Companies Act 1985

## 1985 CHAPTER 6

### PART XX

#### WINDING UP OF COMPANIES REGISTERED UNDER THIS ACT OR THE FORMER COMPANIES ACTS

#### CHAPTER VI

##### MATTERS ARISING SUBSEQUENT TO WINDING UP

#### **651 Power of court to declare dissolution of company void**

- (1) Where a company has been dissolved, the court may at any time within 2 years of the date of the dissolution, on an application made for the purpose by the liquidator of the company or by any other person appearing to the court to be interested, make an order, on such terms as the court thinks fit declaring the dissolution to have been void.
- (2) Thereupon such proceedings may be taken as might have been taken if the company had not been dissolved.
- (3) It is the duty of the person on whose application the order was made, within 7 days after its making (or such further time as the court may allow), to deliver to the registrar of companies for registration an office copy of the order.

If the person fails to do so, he is liable to a fine and, for continued contravention, to a daily default fine.

#### **652 Registrar may strike defunct company off register**

- (1) If the registrar of companies has reasonable cause to believe that a company is not carrying on business or in operation, he may send to the company by post a letter inquiring whether the company is carrying on business or in operation.

- (2) If the registrar does not within one month of sending the letter receive any answer to it, he shall within 14 days after the expiration of that month send to the company by post a registered letter referring to the first letter, and stating that no answer to it has been received, and that if an answer is not received to the second letter within one month from its date, a notice will be published in the Gazette with a view to striking the company's name off the register.
- (3) If the registrar either receives an answer to the effect that the company is not carrying on business or in operation, or does not within one month after sending the second letter receive any answer, he may publish in the Gazette, and send to the company by post, a notice that at the expiration of 3 months from the date of that notice the name of the company mentioned in it will, unless cause is shown to the contrary, be struck off the register and the company will be dissolved.
- (4) If, in a case where a company is being wound up, the registrar has reasonable cause to believe either that no liquidator is acting, or that the affairs of the company are fully wound up, and the returns required to be made by the liquidator have not been made for a period of 6 consecutive months, the registrar shall publish in the Gazette and send to the company or the liquidator (if any) a like notice as is provided in subsection (3).
- (5) At the expiration of the time mentioned in the notice the registrar may, unless cause to the contrary is previously shown by the company, strike its name off the register, and shall publish notice of this in the Gazette; and on the publication of that notice in the Gazette the company is dissolved.
- (6) However—
  - (a) the liability (if any) of every director, managing officer and member of the company continues and may be enforced as if the company had not been dissolved, and
  - (b) nothing in subsection (5) affects the power of the court to wind up a company the name of which has been struck off the register.
- (7) A notice to be sent to a liquidator under this section may be addressed to him at his last known place of business; and a letter or notice to be sent under this section to a company may be addressed to the company at its registered office or, if no office has been registered, to the care of some officer of the company.

If there is no officer of the company whose name and address are known to the registrar of companies, the letter or notice may be sent to each of the persons who subscribed the memorandum, addressed to him at the address mentioned in the memorandum.

### **653 Objection to striking off by person aggrieved**

- (1) The following applies if a company or any member or creditor of it feels aggrieved by the company having been struck off the register.
- (2) The court, on an application by the company or the member or creditor made before the expiration of 20 years from publication in the Gazette of notice under section 652, may, if satisfied that the company was at the time of the striking off carrying on business or in operation, or otherwise that it is just that the company be restored to the register, order the company's name to be restored.
- (3) On an office copy of the order being delivered to the registrar of companies for registration the company is deemed to have continued in existence as if its name had

not been struck off; and the court may by the order give such directions and make such provisions as seem just for placing the company and all other persons in the same position (as nearly as may be) as if the company's name had not been struck off.

#### **654 Property of dissolved company to be bona vacantia**

- (1) When a company is dissolved, all property and rights whatsoever vested in or held on trust for the company immediately before its dissolution (including leasehold property, but not including property held by the company on trust for any other person) are deemed to be bona vacantia and—
  - (a) accordingly belong to the Crown, or to the Duchy of Lancaster or to the Duke of Cornwall for the time being (as the case may be), and
  - (b) vest and may be dealt with in the same manner as other bona vacantia accruing to the Crown, to the Duchy of Lancaster or to the Duke of Cornwall.
- (2) Except as provided by the section next following, the above has effect subject and without prejudice to any order made by the court under section 651 or 653

#### **655 Effect on s. 654 of company's revival after dissolution**

- (1) The person in whom any property or right is vested by section 654 may dispose of, or of an interest in, that property or right notwithstanding that an order may be made under section 651 or 653.
- (2) Where such an order is made—
  - (a) it does not affect the disposition (but without prejudice to the order so far as it relates to any other property or right previously vested in or held on trust for the company), and
  - (b) the Crown or, as the case may be, the Duke of Cornwall shall pay to the company an amount equal to—
    - (i) the amount of any consideration received for the property or right, or interest therein, or
    - (ii) the value of any such consideration at the time of the disposition,or, if no consideration was received, an amount equal to the value of the property, right or interest disposed of, as at the date of the disposition.
- (3) Where a liability accrues under subsection (2) in respect of any property or right which, before the order under section 651 or 653 was made, had accrued as bona vacantia to the Duchy of Lancaster, the Attorney General of the Duchy shall represent Her Majesty in any proceedings arising in connection with that liability.
- (4) Where a liability accrues under subsection (2) in respect of any property or right which, before the order under section 651 or 653 was made, had accrued as bona vacantia to the Duchy of Cornwall, such persons as the Duke of Cornwall (or other possessor for the time being of the Duchy) may appoint shall represent the Duke (or other possessor) in any proceedings arising out of that liability.
- (5) This section applies in relation to the disposition of any property, right or interest on or after 22nd December 1981, whether the company concerned was dissolved before, on or after that day.

## **656 Crown disclaimer of property vesting as bona vacantia**

- (1) Where property vests in the Crown under section 654, the Crown's title to it under that section may be disclaimed by a notice signed by the Crown representative, that is to say the Treasury Solicitor, or, in relation to property in Scotland, the Queen's and Lord Treasurer's Remembrancer.
- (2) The right to execute a notice of disclaimer under this section may be waived by or on behalf of the Crown either expressly or by taking possession or other act evincing that intention.
- (3) A notice of disclaimer under this section is of no effect unless it is executed—
  - (a) within 12 months of the date on which the vesting of the property under section 654 came to the notice of the Crown representative, or
  - (b) if an application in writing is made to the Crown representative by any person interested in the property requiring him to decide whether he will or will not disclaim, within a period of 3 months after the receipt of the application or such further period as may be allowed by the court which would have had jurisdiction to wind up the company if it had not been dissolved.
- (4) A statement in a notice of disclaimer of any property under this section that the vesting of it came to the notice of the Crown representative on a specified date, or that no such application as above mentioned was received by him with respect to the property before a specified date, is sufficient evidence of the fact stated, until the contrary is proved.
- (5) A notice of disclaimer under this section shall be delivered to the registrar of companies and retained and registered by him; and copies of it shall be published in the Gazette and sent to any persons who have given the Crown representative notice that they claim to be interested in the property.
- (6) This section applies to property vested in the Duchy of Lancaster or the Duke of Cornwall under section 654 as if for references to the Crown and the Crown representative there were respectively substituted references to the Duchy of Lancaster and to the Solicitor to that Duchy, or to the Duke of Cornwall and to the Solicitor to the Duchy of Cornwall, as the case may be.

## **657 Effect of Crown disclaimer under s. 656**

- (1) Where notice of disclaimer is executed under section 656 as respects any property, that property is deemed not to have vested in the Crown under section 654.
- (2) As regards property in England and Wales, the following provisions above in this Chapter—
  - (a) section 618(4) (effect of disclaimer by liquidator),
  - (b) section 619(1) to (7) (court's power to vest property in the person entitled), with Part I of Schedule 20 (protection of third parties where property is leasehold), and
  - (c) section 620 (liability for rentcharge following disclaimer), apply as if the property had been disclaimed by the liquidator under section 618(1) immediately before the dissolution of the company.
- (3) As regards property in Scotland, the following 4 subsections apply.

- (4) The Crown's disclaimer operates to determine, as from the date of the disclaimer, the rights, interests and liabilities of the company, and the property of the company, in or in respect of the property disclaimed; but it does not (except so far as is necessary for the purpose of releasing the company and its property from liability) affect the rights or liabilities of any other person.
- (5) The court may, on application by a person who either claims an interest in disclaimed property or is under a liability not discharged by this Act in respect of disclaimed property, and on hearing such persons as it thinks fit, make an order for the vesting of the property in or its delivery to any persons entitled to it, or to whom it may seem just that the property should be delivered by way of compensation for such liability, or a trustee for him, and on such terms as the court thinks just
- (6) On such a vesting order being made, the property comprised in it vests accordingly in the person named in that behalf in the order, without conveyance or assignation for that purpose.
- (7) Part II of Schedule 20 has effect for the protection of third parties where the property disclaimed is held under a lease.

#### **658 Liability for rentcharge on company's land after dissolution**

- (1) Section 620 applies to land in England and Wales which by operation of law vests subject to a rentcharge in the Crown or any other person on the dissolution of a company as it applies to land so vesting on a disclaimer under section 618.
- (2) In this section " company " includes any body corporate.