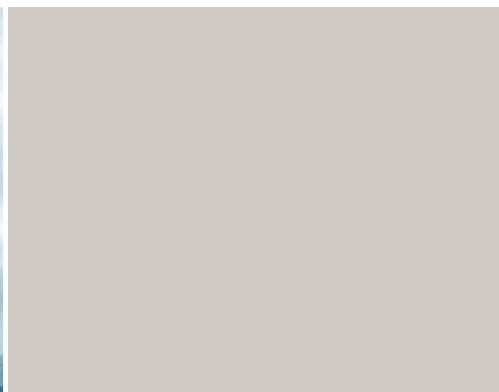


Company administrations

(including partnership administrations)



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The Insolvency Act 1986

Administrations

Description

Where a company is insolvent and where a rescue of the company or its business is possible, an Administration may be appropriate. An Administrator is a Licensed Insolvency Practitioner (IP) appointed by the directors of the company, a floating charge holder (usually a bank) or the Court. An Administration protects a company and its business from its creditors whilst proposals regarding its future are prepared. There is a similar procedure for insolvent partnerships.

Advantages

- **Trading may continue under the control of the Administrator, thereby preserving goodwill.**
- **The directors may retain a high degree of involvement under the control of the Administrator.**
- **No legal processes or actions against the company by creditors can continue and no winding up orders can be made.**
- **Landlords cannot levy distraint or refuse access to premises.**
- **Creditors with security (eg HP/Leases) cannot enforce their security without the leave of the Court.**
- **Employees may be made redundant in restructuring programmes and claims are dealt with under the Employment Rights Act 1996.**
- **The Administrator is tasked with conducting a full review of the company's business and assets**

usually involving valuations and the consideration of going concern sale options.

- **Creditor's claims may all be dealt with and paid by the Administrator.**
- **Administration may be ended by way of a Company Voluntary Arrangement, liquidation or dissolution.**

Disadvantages

- Directors lose overall control of the company, business and assets.
- The Administration may affect contracts and may result in loss of customer confidence.
- Administrators have a duty to examine pre-Administration transactions such as preferences, transactions at an undervalue, and the creation of securities.
- The Administrator has a duty to report on all persons who were directors in the 3 years prior to Administration, pursuant to the Company Directors Disqualification Act 1986.
- The extensive involvement of IPs means that Administration tends to be expensive.

Suitability

- For companies where it is possible to rescue the business on a going concern basis.
- Where creditor pressure is intense and distraints, county court judgements and winding-up petitions are likely to occur with a resulting loss of asset value.
- Where management skills are strong and flexible and bank support is likely.

Procedure

- Initial meeting with the IP.
- The IP assists the directors with filing a Notice of Intention to Appoint an Administrator.
- Notice has to be given to persons (usually banks) entitled to appoint an Administrator under a Floating Charge or Administrative Receiver.
- The IP has to consent to act and make a statement that in his opinion the purpose of the Administration is likely to achieve one of the following
 - (a) to rescue the company as a going concern; (b) to achieve a better result for the company's creditors as a whole than would be likely in a winding up; or (c) to realise property in order to make a distribution to one or more secured or preferential creditors.
- The appointment takes effect when the appropriate documents have been filed in Court.
- The Administrator gives notice of his appointment to creditors, Companies House and other persons prescribed by the Insolvency Act 1986.
- The Administrator must present his proposals to creditors within 8 weeks of appointment.
- Depending upon the facts of the case an administration may be concluded by one of the following methods
 - entering into a Company Voluntary Arrangement with creditors.
 - a Creditor's Voluntary Liquidation
 - a distribution to unsecured creditors followed by dissolution.
 - where there are no funds, by dissolution.
 - the Court may also bring an Administration to an end.

Fees and costs

- A fixed fee may be agreed prior to Administration where investigation work or preparation work is substantial
- Following Administration, fees are agreed with creditors on the basis of time costs or as a percentage of realisations and drawn from asset realisations.

For more in depth advice, ask for:

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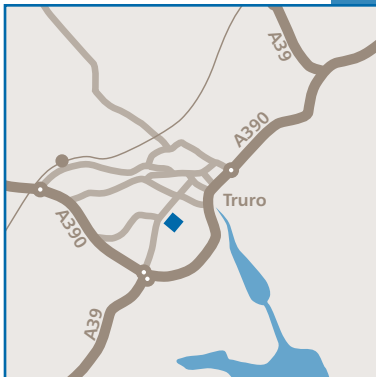
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good reasons to contact us first:

- 1** Consultation up to one hour free of charge at either our Truro or Ivybridge offices or at your or your clients premises
- 2** Complete Independence
- 3** Confidentiality
- 4** Comprehensive experience in all Insolvency matters
- 5** Competitive fees
- 6** Established local practice

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