

Company Administrations

(including Partnership Administrations)



24 Southernhay East
Exeter
Devon
EX1 1QL

Tel: 01392 424 063

Norfolk House
16 Lemon Street
Truro
TR1 1S

Tel: 01872 261132

53 Fore Street
Ivybridge
Devon
PL21 9AE

Tel: 01752 690101
Fax: 01752 690808



RICHARD J. SMITH & CO

Insolvency Practitioners
Forensic Accountants



ICAEW
LICENSED INSOLVENCY
PRACTITIONERS (UK)

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 (e.g. 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

- Creditors' 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 are 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 IP
- The IP assists the directors with filing a Notice of Intention to Appoint an Administrator which provides up to 10 days of protection before appointment

- 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
- An Administrator must seek a decision from creditors as to whether they approve the proposals by either:
 - (a) Deemed Consent or (b) a Decision procedure (correspondence, virtual meeting, physical meeting) (if thresholds are met) and the initial decision date must be within 10 weeks from appointment
- A Decision of creditors is not necessary where proposals indicate that (a) creditors will be paid in full or (b) there will be no distributions to unsecured creditors other than out of the Prescribed Part or neither rescuing the company as a going concern or achieving a better result than winding up is achievable. In this situation deemed approval is the appropriate route
- The Administrator must present his proposals to creditors within 8 weeks of appointment
- Trading may continue under the control of the Administrator
- 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 Creditors' 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:

Hamish Adam (Partner)
hamish.adam@richardjsmith.com

Sam Bailey (Partner)
sam.bailey@richardjsmith.com

Jonathan Trembath (Partner)
jonathan.trembath@richardjsmith.com

Ivybridge
(01752) 690101

Truro
(01872) 261132

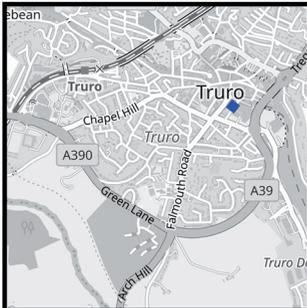
Exeter
(01392) 424063

Website:
www.richardjsmith.com
Email: info@richardjsmith.com

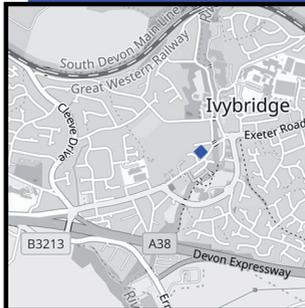
good reasons to contact us first:

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

16 Lemon Street, Truro



53 Fore Street, Ivybridge



24 Southernhay East, Exeter

