

ADMINISTRATION IMPLEMENTATION AND EXIT

Post Approval

Once the meeting of creditors has approved the administrator's proposals, the administrator may establish a committee of creditors to exercise certain functions. The committee consists of between 3 and 5 creditors. The committee may require the administrator to attend before it and to furnish certain information.

The administrator must send progress reports to the creditors and others. Six months from the date of appointment and every subsequent six months, the administrator must file a copy of receipts and payments accounts with the Court, the Registrar of Companies and creditors committee. The report should include details regarding progress of the process, receipts and payments, details of assets remaining to be realised and other relevant information. It must be stated what assets have been realised, for what value and what payments have been made to creditors and others.

Cessation of Administration

The administrator may end by a number of means. If the company has been fully rescued, the administrators may hand the company back to the directors. If rescue is not possible, a petition for winding up may be made.

An administrator's appointment will cease to have effect at the end of one year beginning from the period when the administration takes effect. The Court can extend this for a certain further period, upon application by the administrator. The creditors can also extend the period for a maximum of six months by consent of each secured creditor and more than 50% of the unsecured creditors.

When the administrator ceases to act, he must prepare a progress report covering the period from his last report until the time he ceases to act. This must be sent to the creditors, the court and the Registrar of Companies. It must include a summary of proposals, major amendments to the proposals, steps taken during administration and the outcome.

Liquidation after Administration

Liquidation may be advantageous as it facilitates certain enforcement powers. The liquidator has the power to disclaim onerous property, has full powers to compromise creditors and is not subject to the 12 month time limit to complete administration.

The administrator has the power to petition for the winding up. The petition must contain certain information and be accompanied by a progress report from the date the company entered administration. The administrator must give seven days notice to the appointing creditors or applicants for administration, of his intention to apply for winding up and whether he intends to seek appointment as the liquidator.

There is a simplified procedure for an administrator to place a company into creditors voluntary liquidation. The administrator files a notice with the Registrar of Companies attaching a final progress report in relation to assets to be dealt. Once the Registrar of Companies registers the notice, the administrator's appointment ceases to be effective. The company is then wound up as if a voluntary winding up resolution had been taken. There is no requirement for a board meeting of shareholders or creditors. The committee in administration may become liquidation committee.

The simplified procedure may only be used where certain conditions are satisfied. The administrator should provide details of the proposed liquidator (who may be the administrator itself) and a statement that ordinary creditors may nominate a different person. If no other liquidator is approved the administrator will become liquidator.

A company can be wound up and dissolved following administration by filing the notice with the Register of Companies in the Court. This route is only available where the



administrator thinks the company has no property which might permit a distribution to creditors.

This Guide is intended as an overview and broad outline of the matters covered in it. Its purpose is to inform and raise awareness. We are happy to offer specific legal advice on particular circumstances.

This Guide should not be relied on as a substitute for comprehensive legal advice with reference to the particular circumstances.

While we have taken due care in the preparation of this publication, we do not accept legal liability as a result of any reliance placed on anything in this Guide. The reader should rely only on specific legal or taxation advice.

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