The Insolvency Service

Insolvency: a guide for directors

When – Where – How - What

A BIS SERVICE

Contents

1. About this guide

This guide is for directors of any company involved in compulsory liquidation (winding up by the court) in England and Wales. It talks about the disqualification of company directors and criminal offences in relation to a company. It also summarises the other insolvency procedures that can apply to companies and explains some common insolvency terms.

The insolvency procedures apply to companies and partnerships in England and Wales only. Under the law, the term "director" applies to anyone occupying the position of a director of a company, whether they are called a director or not. The law applies equally to "executive" and "non-executive" directors.

What is insolvency?

The most common descriptions of insolvency are that the company cannot pay its debts when they become due, or that its liabilities exceed the value of its assets, or both. "Insolvency" is also used to describe the various formal procedures that may apply to an individual or business.

The Act of Parliament under which most formal procedures are administered is the Insolvency Act 1986. Insolvency law provides a system for dealing fairly with the assets of the insolvent individual or company and the claims of creditors. The law also deals with what happens to the individual or company and its directors after the insolvency.

What is The Insolvency Service?

The Insolvency Service is an executive agency in the Department for Business, Innovation and Skills (BIS). The Insolvency Service, through its official receivers:

- administers and investigates the affairs of bankrupts and companies in compulsory liquidation
- establishes the reasons for the insolvency
- reports on misconduct by bankrupts and directors
- deals with the disqualification of unfit directors in all corporate failures.

The Insolvency Service is not involved in the day-to-day handling of administrations, administrative receiverships, voluntary liquidations or most voluntary arrangements.

What is compulsory liquidation (winding up by the court)?

This is an insolvency procedure that applies to companies (and partnerships) and is started by a court order - a winding-up order. A petition is presented to the court, normally by a creditor, stating that the company owes a sum of money and cannot pay it. The petition may also be presented by the company itself, its directors or its shareholders.

A winding-up order can still be made even if the company:

- has no assets, or
- disputes the amount claimed. Any disputes over debts should be resolved with the creditor(s) before a winding-up order is made, because the effects of the order are severe.

There are alternatives to company liquidation. If your company is facing financial problems, even temporarily, you should consider seeking advice from your professional adviser, a solicitor, a qualified accountant or an authorised insolvency practitioner. Not doing so can have serious consequences.

Other organisations also offer insolvency advice and debt counselling. Some of them are entirely reputable and offer a professional service. However, others are controlled by individuals with no obvious qualifications who appear to be motivated mainly by a desire to exploit an already difficult situation. Beware particularly of unsolicited approaches through the post or by telephone.

Who handles a compulsory liquidation?

Official receivers (ORs) handle the early stages of a compulsory liquidation. The OR will tell the company's creditors and contributories (mainly shareholders) that the company is being wound up. If there are significant assets, an insolvency practitioner (IP) may be appointed as liquidator in place of the OR, either by the Secretary of State or at the first meeting of creditors or contributories (shareholders).

The liquidator's role is to realise the company's assets (for example, to sell them), pay the fees and charges arising from the liquidation and share out any remaining funds to the creditors. In rare instances a surplus may be available for distribution to shareholders.

Who are official receivers (ORs) and insolvency practitioners (IPs)?

ORs are appointed by the Secretary of State and are officers of the courts to which they are attached.

As well as administering cases, ORs have a duty to investigate the affairs of individuals in bankruptcy and companies in compulsory liquidation. They report to The Insolvency Service's Investigations and Enforcement Services any conduct that makes an individual unfit to be a company director.

IPs work in the private sector. They are usually accountants or solicitors. They must be authorised by the Secretary of State or by one of the Recognised Professional Bodies before they can act as IPs. The majority of IPs are authorised by Recognised Professional Bodies.

Where IPs act as administrative receivers, administrators or liquidators in creditors' voluntary liquidations, they report evidence of unfit conduct by directors to The Insolvency Service.

2. Compulsory liquidation (winding up by the court) – the procedure

Please see the flow charts on ‘Procedure in most compulsory liquidations’ and ‘Payments to creditors in compulsory liquidations’.

Will I be notified when a winding-up order is made?

As a director of the company you should know its financial position and whether any creditors are pressing for payment by letters, statutory demands and court proceedings. These may lead to a petition to wind up the company.

When a winding-up order is made, the court will notify the OR, who will then send notice of the order to the directors. In some cases the OR will need to contact you at once. This can happen if there are urgent matters to deal with relating to the company's business, employees or assets.

Can the winding up be stopped once the order has been made?

Only the court can stop the process. If you wish the court to cancel a winding-up order (a process called rescission), you should apply to the court within 7 days of the order. You can also ask the court to review or vary the order or you may appeal to a higher court. If you intend to take any action, you should seek professional advice at a very early stage from a solicitor, a qualified accountant or an authorised IP. You must also tell the OR and you must continue to co-operate with the OR in the meantime.

If the company is still trading, what will happen?

The OR will usually visit the company's premises to assess the situation. The OR has limited powers to continue a business and will use them in very few circumstances. Any employees will be dismissed and the assets and premises secured. Trading is unlikely to continue.

What will happen to me once my company has been wound up?

You will no longer have control of the company's business, assets and property. Most of your powers as director will cease and, in general, you will no longer be entitled to act for or on behalf of the company. (Directors still keep some very limited powers, for example to appeal against the order.) It follows that you will not be able to manage the company’s affairs day to day.

However, your duties and responsibilities as a director do not stop. For instance, you may have to help the OR dispose of assets.

If you are also a company employee, your employment will end on the winding-up order. The OR or IP will tell you how to claim any unpaid wages or other money owed to you as an employee.

You must not use company assets to pay creditors or for your own use and benefit.

What information do I have to supply and when?

Usually they will arrange an appointment for you to attend the OR’s office for interview, normally on a date convenient to all parties.

They will give you the name of the person dealing with the liquidation and will tell you what you have to bring with you.

You will be sent a questionnaire, called PIQ(C), to complete before the interview.

At the interview, you will have to:

- supply the completed questionnaire
- hand over all the company's books, records and paperwork in your possession
- give full details of all the company’s assets and liabilities

- tell the OR if somebody else is holding assets or trading records.

You may be asked to:

- provide further information that is relevant to the company, its business and its failure
- attend at the OR's office more than once, so that the OR can make sure they have all the information they need
- provide a sworn financial statement (called a "statement of affairs") showing all the company's assets and liabilities (plus other financial information that may be required) within 21 days of being asked to do so. The OR will write to ask for this statement.

Do I have to supply information about the company to the OR/IP?

Yes, you have a duty to provide information and co-operate with the OR/IP. Failure to co-operate is a serious matter and can result in your being publicly examined by the OR/IP before the court, when creditors may also ask questions. If you do not attend such an examination without giving the court a good reason, such as serious illness, the court may issue a warrant for your arrest. Your failure to attend or refusal to give information may be treated as a contempt of court, for which the penalties may be a fine or imprisonment or both. It will also be a factor in deciding whether you are fit to be a director.

Will I have to pay any of the company's debts?

You may have to contribute to the company's assets if you have misapplied company funds or if the company has traded wrongfully or fraudulently.

If you are a shareholder of the company, you may be asked to pay for any shares that you have not fully paid up.

If you have guaranteed any of the company's debts, it means that you have agreed to pay the debt if the company cannot. When a creditor becomes aware of the liquidation, you may be asked to make full payment subject to the guarantee’s terms.

When will the company cease to exist?

When the winding up is complete, the OR/IP will apply to be released from the office of liquidator. ORs are released by the Secretary of State. IPs are released following a final meeting of creditors. On release, the OR/IP sends a notice to the Registrar of Companies and the company will usually be dissolved 3 months later. It then ceases to exist.

During this liquidation, can I act as the director of another company?

You can act as the director of another company unless you are subject to a disqualification order or undertaking, are an undischarged bankrupt, are subject to a bankruptcy restrictions order or undertaking, or are subject to a debt relief restrictions order or undertaking.
A disqualified person must obtain the court's permission to act as a director or to take part in promoting, forming or managing a company.

You cannot be involved in another company or business that has or uses a name which is so similar that it suggests there is an association with the failed company. This restriction lasts for 5 years after the winding up and applies:

- if you were a director or shadow director (a person who gives instructions on which the directors of a company are accustomed to act) of the failed company in the 12 months before the winding-up order, and
- to any name used by the failed company in that 12 months.

This restriction does not apply if the other company had already been known by that name during the whole of the 12-month period and was not dormant in that time.

If you do not comply with this restriction, or if you act as a director without leave (permission) of the court while disqualified from doing so, you may be held personally liable for the debts of that company. You may also be committing a criminal offence.

If you believe that these restrictions may apply to you, you should:

- seek advice on your own position
- read more information including a separate publication called ‘Re-use of a company name after liquidation’ online at The Insolvency Service website at www.bis.gov.uk/insolvency. It explains more and gives details of some exceptions to the restrictions on the re-use of prohibited names.

Procedure in most compulsory liquidations

Payments to creditors in compulsory liquidations

3. Disqualification of unfit directors of insolvent companies

What is meant by disqualification?

The court makes a disqualification order under the Company Directors Disqualification Act 1986. The Act applies to:

- a person who has been formally appointed as a director
- someone who has carried out a director’s functions,
- shadow directors.

Unless the court gives specific permission otherwise, the Act disqualifies a person from:

- acting as a company director
- taking part, directly or indirectly, in promoting, forming or managing a company or limited liability partnership
- acting as an insolvency practitioner
- being a receiver of a company's property.

Other regulations place many other restrictions on disqualified people.

A disqualification order can be made under various sections of the Company Director Disqualification Act 1986. The order will specify the period of disqualification. For orders made against an unfit director of an insolvent company under section 6, the minimum period is 2 years and the maximum is 15 years.

In April 2001 disqualification undertakings were introduced. These are the administrative equivalent of disqualification orders. You give an undertaking to the Secretary of State; it has the same effect as a disqualification order but does not involve court proceedings.

When can disqualification occur?

In a creditors' voluntary liquidation, an administrative receivership or an administration, the IP must send the Secretary of State a report on the conduct of all directors who were in office in the last 3 years of the company's trading. If possible misconduct has been identified in a compulsory liquidation, then the OR must report. The Secretary of State has to consider whether it is in the public interest to seek a disqualification order. If it is, the Secretary of State will apply to the court for an order, and the court will decide whether to grant it.

There is no complete list of conduct that may lead to disqualification but examples include:

- continuing to trade to the harm of creditors at a time when the company was insolvent
- conduct that seeks to deprive creditors of assets
- fraudulent behaviour
- failure to keep proper accounting records
- failure to prepare and file accounts or make returns to Companies House
- failure to submit tax returns or pay over to the Crown tax or other money due
- failure to comply with other regulatory requirements
- failure to co-operate with the OR/IP.

How will I know if a disqualification order is to be sought against me?

If the Insolvency Service is investigating a particular individual’s conduct, it will always make best efforts to contact the person and seek to engage with them at as early a stage a possible. If the Service makes a final decision to seek a disqualification order, it will notify the person by post to their last-known address.

How long does the Secretary of State have to apply for a disqualification order?

The majority of applications made by The Insolvency Service, on behalf of the Secretary of State, come under section 6 of the Company Directors Disqualification Act (CDDA) 1986. These applications must be made within 2 years of the first date of insolvency – this means the first winding-up order, voluntary liquidation, administrative receivership or administration. In rare circumstances, the court may extend that time.

What happens after an application for disqualification is made?

The application is made by the Secretary of State for Business, Innovation & Skills or, usually in compulsory winding-up cases, by the OR at the Secretary of State’s direction. A court hears and decides on the application under civil, not criminal, law.

Directors will be able to respond to the misconduct allegations and to give the court and the Secretary of State explanations and reasons for their actions. They may do so via a statement of truth (a written account of the relevant facts which is sworn on oath or affirmed, usually before a solicitor). There may also be statements of truth from other people (such as the company's bankers, accountants and creditors) presented as evidence to support the case for or against the directors.

The court will then decide whether the conduct makes the directors unfit to act in the management of a company. If so, the court will say how long they should be disqualified for.

An order usually comes into effect 21 days after the date of the order.

At any stage in these proceedings the director may give an undertaking to the Secretary of State. This has the same effect as a disqualification order and will stop the court proceedings.

At all stages in the proceedings, any new information provided to The Insolvency Service or the court is reviewed. If the proceedings are no longer considered to be in the public interest, they will stop.

4. Other action against directors

The disqualification order or undertaking does not affect the right of the Secretary of State, or any other prosecuting authority, to take criminal proceedings over any conduct carried out by or on behalf of the company or by a director which may amount to an offence.

Nor does it affect the right of the liquidator or creditors to take civil proceedings against the directors over any losses that result from directors' misconduct.

Where appropriate, The Insolvency Service will inform the police or another relevant regulator about possible misconduct. It is for that body to decide whether to take further action.

The court may also make a disqualification order on the conviction of a director for a criminal offence connected with the management of a company.

5. Where to go for further information

Who to contact

Please put any questions on the procedures of a specific liquidation to your professional adviser or to the OR/IP handling the case.

The Insolvency Service and official receivers can only provide information about the administration of a liquidation they are handling. They cannot offer legal or financial advice. Where necessary, you should seek this from a solicitor, a qualified accountant, an authorised IP or a reputable financial adviser.

You can contact The Insolvency Service Enquiry Line with general insolvency enquiries on 0845 602 9848 Monday to Friday 8am to 5pm (except bank holidays) or email: Insolvency.EnquiryLine@insolvency.gsi.gov.uk.

Investigations hotline

We welcome information about misconduct relating to companies, the re-use of prohibited names, directors, disqualified directors, undischarged bankrupts, people subject to debt relief orders and those who are subject to restrictions. For more information about how to complain, please see our website at www.bis.gov.uk/insolvency.

What to do if you are dissatisfied with the handling of the liquidation

- If an OR is dealing with the case, you should follow the procedure in our publication 'Complaints Procedure – Information on making a complaint'.
- If an insolvency practitioner is dealing with the case, you should follow the procedure in our publication 'How to make a complaint against an insolvency practitioner'.

How to get more copies of The Insolvency Service publications

Our publications give general information about insolvency procedures.

Other publications are available from The Insolvency Service website:
www.bis.gov.uk/insolvency/publications

Specific publications that may be of use to you are:
- Company Directors Disqualification Act 1986 and Failed Companies (URN 11/1410)
- Effects of a Disqualification Order (URN11/1363)
- What is the investigations hotline (URN 12/744)

6. Other insolvency procedures

The following is a general outline of the insolvency procedures handled by IPs only (not ORs). Please contact your solicitor, accountant/auditor, an IP or your professional adviser for further information. The website www.gov.uk may be able to provide help or direct you to someone who can advise you. If your company is in financial difficulty and a rescue is to be attempted, the earlier you seek advice the greater the prospect of success.

Warning: There are now many organisations offering insolvency advice. Some are entirely reputable and offer a professional service, but others are controlled by individuals with no obvious qualifications, who appear to be motivated mainly by a desire to exploit an already difficult situation. Beware particularly of unsolicited approaches through the post or by telephone.

Administration

This procedure starts with the appointment of an administrator and can be used to:

- rescue as a going concern a company having financial problems
- achieve a better result for the company’s creditors as a whole than would be achieved in an immediate winding up, or
- realise property for the benefit of secured or preferential creditors if neither of the above is possible.

How is an administrator appointed?

An administrator may be appointed:

- by court order on the application of the company or its directors or one or more creditors of the company or a combination of them, or
- by the holder of a floating charge filing a notice at court (Form 2.6B), or
- by the company or its directors filing a notice at court (Forms 2.9B or 2.10B).

The “without court order” routes are quick and do not need a court application or hearing, although in some circumstances notice of intention to make such an appointment must be given. The appointment takes effect from the date and time that a company, director or floating charge holder files a notice of appointment with the court.

There are some restrictions on when the “without court order” routes may be used. For example, an appointment may not be made if there is an administrative receiver in office.

The holder of a floating charge can file a notice of appointment even when the court is closed. The holder should fax or email the notice of appointment (form 2.7B) to a designated number or email address at the High Court, from where it will be forwarded to the court that will deal with the administration. Here it is placed on the court file.

The administrator's appointment is effective from the time the floating charge holder faxes or emails this notice to the High Court. Although they don't need to fax or email all the accompanying documents with the notice, they must hand in the original notice and all necessary supporting documents on the first day that the appropriate court is open for business after the notice has been filed. The court will then endorse the notice and the administration will continue to be effective.

If they have not complied with this requirement by delivering the notice and documents to court by the close of business on that day, the administrator's appointment will end.

When is a court order necessary?

The holder of a qualifying floating charge or the company or the directors can apply for an administration order to be made if they choose not to use the 'without court order' route'. And a court order remains the only way in which a creditor, acting alone or on behalf of additional creditors, or the supervisor of a Company Voluntary Arrangement, can initiate the appointment of an administrator to a company.

A court order is also needed for all administrator appointments if:

- the company is in liquidation (where the court can end the liquidation and make an administration order instead), or
- there is an administrative receiver in office, or
- a provisional liquidator has been appointed, or
- there is an outstanding winding-up petition against the company .

What does the administrator do?

The administrator (an IP) puts forward proposals for consideration by the creditors to:

- restore the company's viability
- come to an arrangement with the creditors
- sell the business as a going concern or realise more from the assets than in a liquidation, or
- realise assets to pay a preferential or secured creditor.

How long does administration last?

Administration will automatically finish after one year unless:

- the administrator applies to the court to extend their term of office for a specified period, or
- the creditors agree to the administrator’s term of office being extended for up to 6 months only.

Administrative receivership

This is the result of a holder of a floating charge (usually a bank) appointing an administrative receiver (an IP) to recover money owed to it. The court is not usually involved. A company in administrative receivership is also said to be "in receivership". The administrative receiver's task is to recover enough money to pay:

- their costs
- the preferential creditors, and
- the floating charge holder's debt.

An administrative receiver does not make payments to unsecured creditors.

Under the Enterprise Act 2002, the holders of a floating charge created after 15 September 2003 can appoint an administrative receiver only in connection with floating charges granted in relation to:

- certain transactions in capital markets
- public/private partnerships
- utility projects .
- finance projects
- financial markets, and
- registered social landlords.

Company voluntary arrangement (CVA)

This procedure allows a financially troubled company to reach a binding agreement with its creditors about payment of all, or part of, its debts over an agreed period. A CVA can be proposed by:

- the administrator, where the company is in administration, or
- the liquidator, when the company is being wound up, or
- the directors, in other circumstances.

A CVA cannot be proposed by creditors or shareholders.

Before the proposal is made, the liquidator or directors can apply to court for a moratorium (a stop) that prevents creditors taking action against the company or its property for up to 28 days. If an administrator is in office, the company will already be covered by the moratorium arising from the administration.

When the CVA has been proposed, a nominee (who must be an IP) reports to court on whether a meeting of creditors and shareholders should be held to consider the proposal.

The meeting decides whether to approve the voluntary arrangement. If 75% in value of the creditors, present in person or by proxy, agree to the proposal, it binds all creditors who were entitled to vote at the meeting or who would have been entitled to vote if they had been notified.

If the meeting of creditors and shareholders approves a voluntary arrangement, the nominee (or other IP) becomes the arrangement's supervisor.

Once the CVA has been carried out, the company's liability to its creditors is cleared. The company can continue trading during the CVA and afterwards. A CVA can be set up when a company is in liquidation or in an administration, as well as at any other time.

Creditors' voluntary liquidation

This procedure allows an insolvent company to put itself into liquidation. It is started by the directors (not the creditors) calling a meeting of shareholders who agree to wind up the company. The shareholders may nominate an IP to act as liquidator, but the final choice is made by the creditors at their meeting. The procedure does not usually involve the court.

Members' voluntary liquidation

This procedure allows a solvent company to put itself into liquidation where, for example, a family business is sold off or the purposes of the company have come to an end. The members (shareholders) appoint their own choice of IP as liquidator. Creditors do not have to be notified. The company must be able to pay its debts in full within 12 months. If the liquidator considers that this will not be possible, a meeting of creditors must be held and the liquidation becomes a creditors' voluntary liquidation.

7. Insolvency terms

This is a brief explanation of some of the terms you may come across in insolvency proceedings. Please note that this glossary is for general guidance only. Many of the terms have a specific technical meaning in certain contexts that may not be covered here.

Administration order
An order made in a county court to arrange and administer the payment of debts by an individual; or an order made by a court in respect of a company that appoints an administrator to take control of the company. A company can also be put into administration if a floating charge holder or the directors or the company itself file the necessary notice at court.

Administrative receiver
An IP appointed by a lender (debenture holder) whose debt is secured by a floating charge that covers the whole or almost all of the company's assets. The IP's task is to realise those assets on behalf of the debenture holder.

Administrative receivership
Where a debenture holder (lender) appoints an insolvency practitioner to realise a company's assets and pay preferential creditors and the lender's debt. The right of a debenture holder (lender) to appoint an administrative receiver has been restricted by the Enterprise Act 2002.

Administrator
An IP appointed by the court under an administration order or by a floating charge holder or by the company or its directors filing the necessary notice at court.

Annulment
Cancellation.

Assets
Anything that belongs to the debtor that may be used to pay their debts.

Bankruptcy restrictions order or undertaking (BRO/BRU)
A procedure whereby a bankrupt who has been dishonest or in some other way to blame for their bankruptcy may have a court order made against them or give an undertaking to the Secretary of State. The order or undertaking will mean that bankruptcy restrictions continue to apply after discharge for between 2 and 15 years.

Charge
Security interest taken over property by a creditor to protect against non-payment of a debt (such as a mortgage). If the debtor does not pay the debt, the creditor has the right to take the property.

Company Directors Disqualification Act (CDDA) 1986
An Act of Parliament about the disqualification of directors.

Compulsory liquidation
Winding up of a company after a petition to the court, usually by a creditor.

Contributory
Each person liable to contribute to the company’s assets if it is wound up. In most cases this means a shareholder who has not paid for their shares in full.

Creditor
Someone owed money by an individual or company.

Debenture
A document in writing, usually under seal, issued as evidence of a debt or the granting of security for a loan of a fixed sum at interest (or both). The term is often used in relation to loans (usually from banks) secured by charges, including floating charges, over companies' assets.

Director
A person who conducts a company’s affairs.

Disqualification
A procedure whereby a person has a court order made against them or gives an undertaking to the Secretary of State which makes it an offence for that person to be involved in the management or directorship of a company for the period specified in the order (unless the court grants leave).

Dividend
Any sum distributed to unsecured creditors in an insolvency.

Fixed charge
A charge held over specific assets. The debtor can only sell the assets if the secured creditor agrees, or if the debtor repays the amount secured by the charge.

Floating charge
A charge held over the general assets of a company. The assets may change (such as stock) and the company can use the assets without the secured creditor's consent until the charge "crystallises" (becomes fixed). Crystallisation occurs on the appointment of an administrative receiver, on the presentation of a winding-up petition or as otherwise specified in the document creating the charge.

Guarantee
An agreement to pay a debt owed by a third party. To be enforceable it must be in writing.

Insolvency practitioner (IP)
An authorised person who specialises in insolvency, usually an accountant or solicitor. They are authorised by the Secretary of State or by one of a number of recognised professional bodies.

Liquidation (winding up)
Applies to companies or partnerships. It involves realising and distributing the assets and usually closing down the business. There are three types of liquidation: compulsory, creditors' voluntary and members' voluntary.

Liquidator
The official receiver or an insolvency practitioner (IP) appointed to administer the liquidation of a company or partnership.

Member (of a company)
A person who has agreed to be, and is registered as, a member, such as a shareholder of a limited company.

Moratorium
Stopping an activity for an agreed period.

Nominee
An IP who carries out the preparatory work for a voluntary arrangement before it begins.

Officer (of a company)
A director, manager or secretary of a company.

Official receiver (OR)
An officer of the court and civil servant employed by The Insolvency Service, who deals with bankruptcies and compulsory company liquidations.

Person
An individual or corporation.

Petition
A formal application made to a court.

Preferential creditor
A creditor who is entitled to receive certain payments in priority to floating charge holders and other unsecured creditors. Preferential creditors include occupational pension schemes and employees.

Proof of debt
A statutory form completed by a creditor in a compulsory liquidation to state how much is claimed. The form is supplied by the liquidator.

Provisional liquidator
An OR or IP appointed to preserve a company's assets pending the hearing of a winding-up petition.

Proxy
Instead of attending a meeting, a person can appoint someone to go and vote on his or her behalf – a 'proxy'.

Proxy form
A form that must be completed if a creditor wishes someone else to represent them at a creditors' meeting and vote on their behalf.

Public examination
When a company is being wound up or someone has been made bankrupt, the OR may at any time apply to the court to question the bankrupt, the company's director(s) or any other person who has taken part in promoting, forming or managing the company.

Realise
Realising an asset means selling it or disposing of it to raise money, for example to sell an insolvent's assets and obtain the proceeds.

Receiver
The commonly used name for an administrative receiver. The term can also mean a person appointed by the court or with the power to receive the rents and profits of property. Receivers who are not administrative receivers do not need to be insolvency practitioners.

Receivership
A company in administrative receivership is often said to be "in receivership".

Release
When the OR or IP is discharged from the liabilities of office as trustee/liquidator or administrator.

Rescission
A procedure that cancels a winding-up order.

Secretary of State
The Secretary of State for the Department of Business, Innovation and Skills (BIS).

Secured creditor
A creditor who holds security, such as a mortgage, over company’s assets for money owed.

Shadow director
A person who, without being formally appointed, gives instructions on which the directors of a company are accustomed to act.

Statement of affairs
A document sworn under oath, and completed by a bankrupt, company officer or director(s), stating the company’s assets and giving details of debts and creditors.

Supervisor
An IP appointed to supervise the carrying out of a company or individual voluntary arrangement.

UNCITRAL
United Nations Commission on International Trade Law.

Unsecured creditor
A creditor who does not hold security (such as a mortgage) for money owed. Some unsecured creditors may also be preferential creditors.

Voluntary liquidation
A method of liquidation not involving the courts or the OR. There are 2 types of voluntary liquidation: members' voluntary liquidation for solvent companies and creditors' voluntary liquidation for insolvent companies.

Winding-up order
Order of a court, usually based on a creditor's petition, for the compulsory winding up or liquidation of a company or partnership.

8. Data Protection Act 1998 – How we collect and use information

The data controller obtains personal data about individuals to fulfil the statutory functions of The Insolvency Service and its official receivers in relation to bankruptcy, Debt Relief Orders (DROs), company insolvencies and other regulatory functions.

The data controller may check information provided by individuals, or personal data provided by third parties, with other personal data held by the data controller.

The data controller may also obtain personal data about individuals from various other regulatory or statutory bodies, public authorities, police, prosecution authorities and the courts, or provide personal data to them, to check the accuracy of information, to prevent or detect crime or to contribute to regulatory and statutory functions.

They will not disclose personal data about individuals to anyone outside The Insolvency Service unless the law permits them to do so.

The official receiver is the data controller for the purposes of the Data Protection Act 1998 and is registered under the Act for the processing of personal data for insolvency cases allocated to them by the courts. The Department of Business, Innovation and Skills (BIS) is the Data Controller under the Act for personal data held and processed by other parts of The Insolvency Service.

The Insolvency Service Data Protection Statement is available in full here.

Disclaimer and copyright information

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