

Bretts Business Recovery: GUIDES: Administration

Administration allows a company or business to survive as a going concern.

There are three ways a company can enter into Administration:

- 1) By Court order, following the application of the company director or a creditor.
- 2) Appointment by a qualifying floating charge holder.
- 3) Appointment by the company or its directors.

Administration stops legal action being taken against a company unless the Administrator or the Court give their permission.

- Administration must fulfil one of the following purposes.
 - a) The survival of the company (as opposed to the survival of the business that the company carries on) as a going concern, or if it is not reasonably practicable;
 - b) A more advantageous realisation of the company's assets for creditors than would be likely if the company was placed into liquidation: or if a) and b) are not reasonably practicable;
 - c) The realisation of the company's property, in order to make a distribution to the company's secured or preferential creditors.

The Administrator has far reaching powers, and can do whatever's necessary to manage the affairs, business and property of the company.

- The Administrator is an agent of the company to which they're appointed.
- This means they can contract without personal liability.
- The Administrator is also an office of the Court, and has a duty to act in good faith and in the interests of the company's creditors.
- In many cases Administration leads to the sale of the company's assets on a going concern basis.
- This may be agreed before the company goes into Administration and completed immediately after Administration begins (known as a "Pre-Pack or "Pre-Packaged Administration").

- A “Pre-Pack” can ensure a smooth transition, with minimal disruption to the business, preserving its goodwill and increasing outstanding debt repayments to creditors.
- Employees in companies under Administration usually retain their employment transferring to the purchaser of the assets under the TUPE regulations (Transfer of Undertakings (Protection of Employment) Regulations 2006).
- If the Administrator decides to proceed with a pre pack sale, creditors receive a detailed report which outlines why this course of action was considered appropriate.
- Administration ends automatically after one calendar year, unless the creditors agree to an extension.

There are four routes by which a company may exit from Administration:

- 1) **Liquidation** - If there are funds to distribute to unsecured creditors.
- 2) **Company Voluntary Arrangement** – If the business is able to generate a better return to creditors by continuing to trade than if its assets were sold.
- 3) **Dissolution** – if there are no funds to be distributed to unsecured creditors
- 4) **The company may be returned to its directors** on the very rare occasion that the company, and not just the business that it carried on, has survived as a going concern.

A partnership can also utilise the Administration procedure

For More Information, Please Contact BBR Today

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