

## **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.

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### **Bretts Business Recovery**

Main Office, 21 Highfield Road, Dartford, Kent DA1 2JS • Essex Office, Whitegates, Alexander Lane, Shenfield, Essex CM15 8QF  
Telephone: 0808 168 7540 • [enquiries@brettsbr.co.uk](mailto:enquiries@brettsbr.co.uk) • [www.brettsbr.co.uk](http://www.brettsbr.co.uk)

- 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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