

GLOSSARY OF TERMS



This glossary defines some of the most commonly used Technical and Financial terms

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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 which appoints an administrator to take control of the company.

Administrator

Insolvency Practitioner appointed by the court under an administration order.

Administrative Receiver

Insolvency practitioner (IP) appointed by the holder of a debenture which is secured by a floating charge that covers the whole or substantially the whole of the company's assets. The IP's task is to realise those assets on behalf of the debenture holder.

Administrative Receivership

The process where an insolvency practitioner is appointed by a debenture holder (lender) to realise a company's assets and pay preferential creditors and the debenture holder's debt.

Annulment

Cancellation.

Assets

Anything that belongs to the debtor that may be used to pay his/her debts.

Bankruptcy

Bankruptcy Order Order of the court, based on a creditor's or debtor's petition, which makes an individual bankrupt.

Bankruptcy Petition

A request made (by the debtor or by a creditor) to the court for the debtor to be made bankrupt and giving the reasons why.

Certificate of Summary Administration

Issued by the court in bankruptcy proceedings in circumstances where a bankrupt has filed his or her own petition and where the debts are less than the small bankruptcy level (currently £20,000).

Charge

Security interest taken over property by a creditor to protect against non-payment of a debt (such as a mortgage).

Charging Order

An order made by the court which gives the trustee a legal charge on the debtor's interest in his/her home. This continues even after the debtor is discharged from bankruptcy.

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Company Directors Disqualification Act 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

Every person liable to contribute to the assets of a company if it is wound up. In most cases this means shareholders who have not paid for their shares in full.

Creditor

Someone owed money by a bankrupt or company

Debenture

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.

Deed of Arrangement

Arrangement (governed by the Deeds of Arrangement Act 1914) proposed by the debtor for payments to his or her creditors. It is occasionally used instead of an individual voluntary arrangement, particularly where creditors already agree to the terms of the arrangement and are not likely to take other action to recover their debt.

Director

A person who conducts the affairs of a company.

Discharge

Process which frees a bankrupt from the restrictions of bankruptcy and releases him or her from most bankruptcy debts.

Disqualification

A procedure whereby a person has a court order made against them 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 leave has been granted by the court).

Dividend

Any sum distributed to unsecured creditors in an insolvency.

Estate

Assets in the property which the debtor's trustee can deal with to pay his/her creditors.

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Ex Officio

By virtue of the person's office.

Fixed Charge

Charge held over specific assets. The debtor cannot sell the assets without the consent of the secured creditor or repaying the amount secured by the charge.

Floating Charge

A charge held over general assets of a company. The assets may change (such as stock) and the company can use the assets without the consent of the secured creditor 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 provided for in the document creating the charge.

Guarantee

An agreement to pay a debt owed by a third party. It must be evidenced in writing for it to be enforceable.

Income Payments Order

The court may order the debtor to pay part of his/her wages, salary or other income to the trustee if his/her income is more than he/she or his/her family need to live on.

Insolvency

Defined alternatively as having insufficient assets to meet all debts, or being unable to pay debts when they are due.

Insolvency Act

1986 Legislation introduced to consolidate (bring together) insolvency law and procedures.

Insolvency Practitioner

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

Insolvency Services Account (ISA)

The account at the Bank of England into which money realised from the assets in bankruptcies and liquidations is paid.

Interest

A right to, or share in, a property.

Interim Receiver

The court may appoint the Official Receiver to act as interim receiver of an individual's property (usually to protect and secure it), after the presentation of the bankruptcy petition but before a bankruptcy order is made

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Legal Charge

A form of security (e.g. a mortgage) to ensure payment of a debt.

Liquidation (winding up)

Applies to companies or partnerships. It involves the realisation and distribution of the assets and usually the closing down of the business. There are three types of liquidation - compulsory, creditors' voluntary and members' voluntary.

Liquidator

The Official Receiver or an Insolvency Practitioner appointed to administer the liquidation of a company or partnership.

Local Office Ledger Accounting system (LOLA)

The computerised estate accounting system used by Official Receivers to record financial transactions on estates administered by them.

London Gazette

Official publication of the Government, which contains legal notices.

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.

Nominee

Insolvency Practitioner who carries out the preparatory work for a voluntary arrangement, before its implementation

Officer (of a company)

A director, manager or secretary of a company.

Official Receiver

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

Petition

A formal application made to a court.

Preferential

Creditor A creditor in bankruptcy proceedings who is entitled to receive certain payments in priority to other unsecured creditors. These creditors include government departments, occupational pension schemes and employees.

Proof of Debt

Statutory form completed by a creditor in a compulsory liquidation to state how much is claimed. The form is supplied by the trustee or Liquidator.

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Provisional Liquidator

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 in their place.

Proxy Form

Form which must be completed if a creditor wishes someone else to represent him or her at a creditors' meeting and vote on his or her behalf.

Public Examination

When a company is being wound up or in bankruptcy proceedings, the Official Receiver may at any time apply to the court to question the company's director (s) or any other person who has taken part in the promotion, formation or management of the company or the bankrupt.

Realise

To sell an insolvent company's assets and obtain the proceeds.

Receiver

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.

Receiver and Manager

When a bankruptcy order is made, the Official Receiver becomes receiver and manager to protect the bankrupt's estate. This happens before the Official Receiver becomes trustee or before an Insolvency Practitioner is appointed in his or her place.

Rescission

A procedure which cancels a winding-up order.

Release

The process by which the Official Receiver or an Insolvency Practitioner is discharged from the liabilities of office as trustee/liquidator or administrator.

Secured Creditor

Creditor who holds security, such as a mortgage, over a person's assets for money owed.

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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

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

Summary Administration

Where a bankrupt has filed his or her own petition and the unsecured debts are less than the small bankruptcy level (£20,000), the court can issue a certificate for the summary administration of the estate. In such cases the bankrupt is discharged after two years. The Official Receiver will usually be the trustee. The certificate for summary administration does not prevent the Official Receiver from seeking further information from you.

Supervisor

Insolvency Practitioner appointed to supervise the carrying out of an individual or company voluntary arrangement.

Trustee

The trustee in bankruptcy is either the Official Receiver or an insolvency practitioner who takes control of your assets. The trustee's main duties are to sell these assets and share the money out among the creditors.

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

Method of liquidation not involving the courts or the Official Receiver. There are two 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.