

Administration is a process that allows for a company or business to survive as a going concern.

There are three routes by which a company may enter into Administration:

- By an order of the Court following the application of the company director or a creditor.
- Appointment by a qualifying floating charge holder.
- Appointment by the company or its directors.

Administration stops any legal actions being taken against a company or from proceeding, 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 were placed into liquidation: or if a) and b) were 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. They are empowered to do anything necessary or expedient for the management of the affairs, business and property of the company.

The Administrator is an agent of the company to which they are appointed. This means that they can contract without personal liability. The Administrator is also an officer of the Court. The Administrator has a duty to act in good faith and in the interests of the company's creditors as a whole.

In many cases Administration leads to the sale of the company's assets on a going concern basis. The sale of the company's assets may be agreed before the company goes into Administration and completed immediately after the commencement of the Administration. This is commonly 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 enhancing realisations for creditors. Employees generally 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 does decide to proceed with a pre pack sale creditors will be issued with a detailed report as to why this course of action was considered appropriate by the Administrator.

Assets sold by the Administrator must be valued by an independent professional valuer.

Pre-Packs have received considerable negative publicity particularly where the assets are sold to the directors of the insolvent company but even in such circumstances it may still provide the best outcome for creditors.

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.