SQUIRE PATTON BOGGS

Quick Guide to Liquidation

UK – 2025

This quick guide provides an overview of liquidation, explaining the procedure and its effect on directors and third parties.

It is designed to give an overview and is not intended to – and does not – constitute legal advice. If you wish to discuss anything in this guide in more detail, please contact one of the key contacts at the end of this guide.

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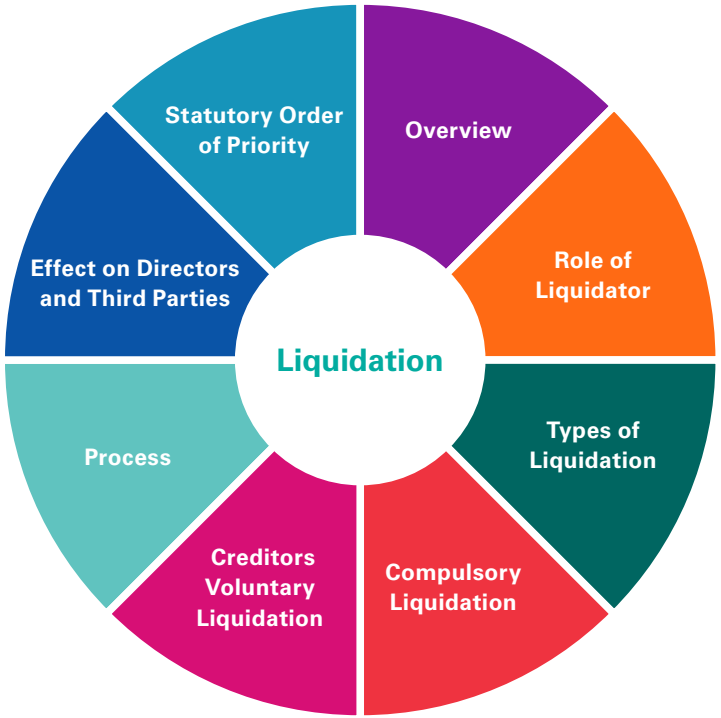

Overview of Liquidation

Sometimes referred to as the winding up of a company, liquidation is the realisation and distribution of a company's assets to its creditors in the order of priority as set out in the Insolvency Act 1986 (IA 1986). Unlike administration, a company voluntary arrangement or a restructuring plan, the aim of liquidation is not to save the company or its business; liquidation is a terminal procedure that brings a company's commercial life to an end. On liquidation, the primary aim is to realise and distribute the company's assets in a way that maximises returns for creditors.

Liquidation of a Partnership

A partnership (whether that is a traditional partnership or a limited liability partnership (LLP)) can also be placed into voluntary or compulsory liquidation. Much of what is set out below applies to the liquidation of a partnership, although there are specific rules in the insolvency legislation that deal with a partnership liquidation. This quick guide focuses on the process and procedure for company liquidation.

Role and Obligations of the Liquidator

A liquidator must be a licenced insolvency practitioner and once appointed, they manage the winding up of the company and take control. Liquidators are under a duty to act in the interests of the company's creditors as a whole; their main function is therefore to realise the assets of the company and distribute the proceeds to creditors (see Statutory Order of Priority).

Liquidators have far-reaching powers including:

- Selling company property
- Challenging certain transactions
- Bringing (or defending) legal proceedings on behalf of the company
- Investigating current or former directors' conduct

However, liquidators are also subject to a broad range of duties, which include compiling progress reports, agreeing creditor claims and reporting any directors' misconduct to the Insolvency Service.

Types of Liquidation

There are two types of liquidation, voluntary liquidation and compulsory liquidation. Voluntary liquidation is further subdivided into creditors' voluntary liquidation (CVL) and members' voluntary liquidation (MVL). Voluntary liquidation is commenced by the members of the company, whereas compulsory liquidation occurs where a creditor obtains a winding-up order from the court.

Type of Liquidation	Initiated by and grounds?	Solvent or Insolvent?	Court procedure?
Compulsory Liquidation	Initiated by a petition to the court for the winding up of the company (e.g. by a creditor). The most common ground relied on to put a company into compulsory liquidation is that the company is unable to pay its debts as they fall due. This can be evidenced by a statutory demand for an unpaid debt of at least £750 remaining unpaid for 21 days or more often, a "two day" letter – a letter demanding payment within two days.	Insolvent	Yes
CVL	Initiated by the company directors/ shareholders when a company cannot pay its debts as they fall due, or its liabilities exceed its assets. The directors will decide that it is appropriate for a liquidator to be appointed, the shareholders and company creditors will then confirm the appointment.	Insolvent	No
MVL	Initiated by the directors who must swear a statutory declaration of solvency to confirm that the company can pay its debts in full within 12 months from the start of the liquidation. Used when a solvent company has come to the end of its life and the directors and shareholders wish to wind up its affairs. For example, when a specific purpose has been completed or the owners wish to retire.	Solvent	No

This guide focuses on insolvent liquidations, both voluntary and compulsory. It does not cover MVLs.

What Happens to a Company in a Liquidation?

In a typical liquidation, the company ceases trading immediately and shuts down its business operations. A company can be traded while in liquidation, but this is very rare.

The liquidator will manage the winding up of the company by taking control of the company's assets and then selling those of value such as machinery, vehicles, stock, properties and intellectual property, as well as collecting in its debts. The liquidator may also disclaim onerous property, such as leasehold properties (see *Effect on Third Parties*).

Once the liquidation has concluded the liquidator will apply to have the company removed from the register at Companies House. Three months after Companies House receives a notice informing them that the liquidation has come to an end, the company will be "dissolved" and will cease to exist.

Liquidation Claims

There are several claims that a liquidator can pursue if there are grounds to do so. Whether that be a claim that the company already had, such as a claim for breach of contract/unpaid debt or a claim that only liquidators can bring, such as challenging a transaction at an undervalue (where the company has sold assets at an undervalue or given them away), or a preference (where the company has unjustifiably paid one creditor ahead of the others).

Nowadays, it is fairly common for a liquidator to assign any claims that they/the company has to a third-party funder who will typically pay the liquidator for the claim. If the funder then wins the claim, they will pay an additional amount to the liquidator to be distributed to creditors (see Statutory Order of Priority).

How Long Does a Liquidation Last?

Unlike an administration that will last for an initial period of 12 months (unless extended) there are no time constraints on how long a liquidation will last for.

A liquidation could be quite short if there are not many assets to sell, claims to agree or creditors to deal with, but conversely it could run for many years if there are complicated litigation claims or significant or difficult assets to realise.

Effect of Liquidation on Directors

When a liquidator is appointed, the directors can no longer act for, or on behalf of the company. Directors are under a duty to cooperate with the liquidator, and must provide all statutory books and company records to enable the liquidator to fully understand the company's position – and a liquidator has power to force the directors to do this if they do not cooperate. They will also be required to swear a statement of affairs that sets out details of all of the company's assets and liabilities, and will commonly be asked to complete a directors questionnaire requiring them to explain the circumstances leading up to and following the company becoming insolvent. Sometimes directors may also have to attend an interview.

A liquidator will investigate the company's affairs and will analyse the directors previous conduct, which could result in the liquidator bringing a claim against them such as for wrongful or misfeasance trading if there is evidence that they breached their directors' duties and traded the company for longer than they should have done.

A liquidator will also send a report to the Insolvency Service reporting on the directors' conduct, which could result in disqualification proceedings if the director's conduct is considered unfit i.e. using company money for personal benefit.

Directors of companies in liquidation are also prohibited from forming, managing or promoting a company with the same or a similar name to the company that has gone into liquidation for a period of five years (subject to a few exceptions such as obtaining the court's permission).

Effect of Liquidation on Third Parties

Employees	It is common for the company's employees to be dismissed shortly after the appointment of a liquidator because there is no longer a business to trade. A few key employees might be retained to assist the liquidator in the short-term (such as to collect in the company debts), and they will be paid as usual for the period they are employed, but generally speaking most of the work force will be dismissed. Employees will be able to claim for redundancy pay, up to eight weeks' unpaid wages and holiday pay from the Redundancy Payments Service (RPS), which is part of the Insolvency Service. The liquidator will usually provide guidance to employees on how to make a claim and what they can claim for. The claim is made online, and employees should be paid within six weeks of applying, but payments are capped. If employees are owed more than they can claim from the RPS they can make a claim for the remainder of their pay in the liquidation.
Suppliers	Because the company has stopped trading there will be no need for future supplies. It is likely that at the date of liquidation there will be some supplies that the company has not paid for. In some cases, suppliers will have a retention of title (ROT) clause in their supply contracts that allows them to recover goods that have not been paid for. If a supplier has a valid ROT claim it can recover those goods, but it may benefit the supplier to agree with the liquidator that they can sell them. This might be the case if it would cost the supplier more to recover the goods and then re-sell them (if they could), than it would be if they were to agree to accept a lower payment from the liquidator. If a liquidator sells goods that are subject to a valid ROT claim without the supplier agreeing to that sale, it is usual for the liquidator to agree to pay for anything sold or require the buyer to pay or return ROT stock. If a supplier does not have a ROT claim, but has unpaid invoices when the company enters liquidation, they will be treated as an unsecured creditor in relation to the amounts owed.

Landlords	There will be two key considerations for a landlord when a company goes into liquidation (1) will rent be paid? and (2) what happens to the leased property? **Rent** If the liquidators intend to use the company's leasehold property for the purposes of the liquidation, a landlord is entitled to its rent as an expense of the liquidation for the period the liquidator uses it. It may not be possible for a landlord to take possession of its property if this is the case, although a landlord can seek to forfeit if it wants the property back. Depending on whether the company is in compulsory liquidation (where there is an automatic stay on proceedings) or voluntary (where a liquidator can apply to court to stop proceedings) will influence how a landlord does this, but if the liquidator needs the property then it is likely that the court will be asked to determine whether the landlord is entitled to possession. All rent outstanding at the date of the liquidation will generally be an unsecured claim in the liquidation, regardless of whether the liquidator uses the property. If the liquidator does not use the company's leasehold property, a landlord will not be paid its rent as an expense of the liquidation. In this situation a landlord will also need to consider what to do in respect of its property rights. **Property Rights** Whether a landlord will want the leased property back will often depend on whether they are able to re-let it because if the lease comes to an end, they will be responsible to pay business rates. While the company in liquidation remains entitled to occupation (even if the liquidator is not using it) it will be the company in liquidation that has to pay. If a landlord wants the property back the liquidator is likely to agree to surrender the lease. Ideally this should be done in writing so that all parties are clear when the lease was surrendered, but it can be agreed orally.
	A landlord could seek to forfeit the lease and whether they can do so will depend whether there is a stay on proceedings (this depends on whether the company is in voluntary or compulsory liquidation). In most cases, if the liquidator is not using the property they will agree a surrender or forfeiture. A landlord might not want to take back possession, but a liquidator has the power to disclaim an onerous lease, the effect of which is to bring the lease to an end (whether the landlord wants this to happen or not). This will extinguish the liquidated company's liabilities, including ongoing rent obligations. There are various things that could happen following disclaimer – claims against sub-tenants, vesting orders etc – which are outside the scope of this quick guide. A landlord should also be mindful that if the liquidator doesn't intend for the insolvent tenant company to continue to occupy the property, they may well remove most of the insurance covers on the property. A landlord should be mindful of this and ensure that there is adequate insurance cover in place. **Other Rights** Insolvency will not affect a landlord's right to pursue a guarantor or recover money held as a rent deposit, but they should take advice about when and whether to do this, because it may impact their claims in the liquidation.
Unsecured Creditors	Unless a creditor holds security for its debt, or falls within a class of preferential creditor, they will be an unsecured creditor. Liquidators are required to ringfence a maximum of £800,000 from any floating charge realisations, which will be used to pay a dividend to unsecured creditors. However, in most cases, unsecured creditors are unlikely to receive a significant payment.

Overview of Compulsory Liquidation

Creditor presents a winding up petition at court with evidence that the company is unable to pay its debts. The court will endorse the petition and fix a date for a hearing. A company can present a petition itself, but this is less usual.

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Once the petition has been issued it must be served on the company, and a certificate of service must be filed at court.

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The petition will then be advertised in the Gazette (no less than seven business days after the petition is served on the company but no less than seven business days before the hearing). It is at this point that third parties will become aware of the petition, although in reality, given that details of a petition are widely and freely available from the moment a petition is presented, creditors often become aware of a petition much earlier than this.

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The petitioning creditor must file a certificate of compliance at court at least five business days before the hearing.

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Court hearing – the court has a wide discretion as to what it can order. The court can grant the order, dismiss the petition, adjourn the hearing or grant such order as it sees fit.

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Once advertised, a petition cannot be withdrawn without permission of the court.

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If the judge accepts the petition, the winding up order is made by the court, and the company goes into liquidation.

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Following the court making an order to wind up the company the Official Receiver (OR) will be appointed as liquidator. The OR will often ask the secretary of state to appoint an insolvency practitioner in their place who will act as liquidator in place of the OR.

Overview of CVL

The below sets out a high-level overview of the procedures.

Directors decide at a board meeting to put the company into liquidation (usually following advice from an insolvency practitioner). The directors will nominate who they wish to appoint as liquidator.

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Meeting of members at which the shareholders will consider the position and resolve to place the company into CVL. The shareholders will (invariably) also confirm the directors' choice of liquidator

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Between the board meeting and meeting of members directors need to be particularly careful to comply with their director duties – the company's professional advisors will be able to assist with this (see also our quick guide).

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If the members resolve to place the company into CVL the directors will send a notice to creditors asking for them to agree to the appointment of the chosen liquidator. At this point creditors can nominate a different liquidator and their choice takes precedence.

Statutory Order of Priority

Fixed charge holders and creditors with a proprietary interest in assets.

Expenses of the estate (including legal fees and the insolvency practitioner's professional fees or the OR's fees if the company is in compulsory liquidation).

Preferential creditors (such as pension contributions, salaries of employees capped at £800, unpaid holiday pay and HM Revenue and Customs (HMRC) for certain taxes due).

Prescribed part (capped at £800,000) which is ringfenced and distributed amongst unsecured creditors.

Floating charge holders.

Unsecured creditors.

Shareholders.

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