Insolvency Service

Department of Enterprise, Trade and Investment
www.detini.gov.uk

How to wind up a Partnership

Contents

This leaflet:

- answers the questions you are most likely to ask about winding up a partnership;
- gives general information on how to put a partnership into liquidation either with or without making the individual partners bankrupt; and
- explains what happens after the partnership is wound up.

This publication is only a guide and you should also refer to the relevant legislation in the Insolvent Partnerships Order (Northern Ireland) 1995, the Company Directors Disqualification (Northern Ireland) Order 2002, the Insolvency (Northern Ireland) Order 1989 and the Insolvency Rules (Northern Ireland) 1991.

What is a partnership?

A partnership is a relationship which exists between two or more persons carrying on business together with a view to making a profit. A partner can be an individual or a company (known as a corporate member), and is personally liable (usually without limit) for the debts of the partnership. Therefore a creditor of a partnership can pursue one or more of the partners personally, as well as the partnership itself, for a partnership debt.

How can I wind up a partnership that owes me money?

Because the partners are personally liable for the debts of the partnership, a partnership can be wound up and bankruptcy orders can also be made against the individual partners.

If you are a creditor of a partnership, you can apply for either:

1. the winding up of the insolvent partnership as an unregistered company with no action taken against the individual partners (under Article 7 of the Insolvent Partnerships Order (Northern Ireland 1995); or

2. the winding up of the insolvent partnership as an unregistered company where bankruptcy petitions are also presented against one or more of the partners (under Article 8 of the Insolvent Partnerships Order (Northern Ireland) 1995).

A creditor can only apply for a winding-up order against the partnership if the partnership has traded in Northern Ireland at any time in the 3 years before the petition is presented.

As the partners are personally liable for the debts of the partnership, a creditor of a partnership can petition (apply) for the bankruptcy of one or more of the partners, without petitioning for the partnership to be wound up. For information on how to present a bankruptcy petition, please refer to our publication 'How to make someone bankrupt'. For information on how to wind up a corporate member, please refer to our publication ' How to wind up a company that owes you money'.

How can I wind up my own partnership?

The partnership can either:

1. petition for the winding up of the partnership as an unregistered company with no bankruptcy petitions presented against the individual partners (under Article 9 of the Insolvent Partnerships Order (Northern Ireland) 1995); or

2. petition for the winding up of the partnership as an unregistered company where bankruptcy petitions are also presented against all the individual partners (under Article 10 of the Insolvent Partnerships Order (Northern Ireland) 1995); or

3. petition for Bankruptcy orders to be made against all the partners (known as a Form 16 petition under Article 11 of the Insolvent Partnerships Order (Northern Ireland) Order 1995). The petition must be presented jointly by all the partners. It can only be presented where all the partners are individuals - if one or more of the partners is a corporate member, the petition must be presented under Article 10 of the Insolvent Partnerships Order (Northern Ireland) Order 1995 (as above). A formal winding-up order is not made against the partnership, but any order made as a result of a Form 16 petition will include authority for the partnership to be wound up by the trustee appointed to deal with the bankrupt partners' affairs.

If a bankruptcy petition has already been presented against one of the partners, and the Court is made aware of the insolvent partnership, the Court may make an order regarding how the partnership affairs should be dealt with.

As the partners are personally liable for the debts of the partnership, an individual partner can apply for his/her bankruptcy without applying for the partnership to be wound up. For information on how to present your own bankruptcy petition, please refer to our publication 'How to petition for your own bankruptcy'.

Where can I get advice about winding up a partnership?

Before you take any action to wind up a partnership, you should get your own legal or financial advice about bankruptcy and the other options available to you.

The Insolvency Service and the Court cannot advise on specific insolvency problems. You can get advice from your local Citizens Advice Bureau, an authorised insolvency practitioner, a solicitor, a qualified accountant, or a reputable financial adviser. There is a list of authorised insolvency practitioners available on our website at www.insolvencyservice.detini.gov.uk. Our website also provides a link to the Citizens Advice Bureaux website.

What happens after the partnership is wound-up?

Where a winding-up order has been made against the partnership, the partnership affairs are dealt with in the same way as a limited company - please see our publications 'A Guide for Directors' and 'A Guide for Creditors'. Where bankruptcy orders have been made against individual partners, please see our publication 'Guide to Bankruptcy', which explains the effect of bankruptcy.

Liquidation terms - what do they mean?

Bankruptcy - Personal insolvency proceedings.

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.

Insolvency - Having insufficient assets to meet all debts, or being unable to pay debts when they are due.

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.

Official Receiver - An officer of the High Court and civil servant, who deals with bankruptcies and compulsory company liquidations.

Realisation - The sale of assets to obtain the proceeds.

Registered company - A company which is registered with the Registrar of Companies (Companies Registry) under the Companies (Northern Ireland) Order 1986.

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.

Unregistered company - A company which is not registered with the Registrar of Companies (Companies Registry). Examples can include a partnership or an association.

To obtain further copies of this leaflet please contact the Insolvency Service at:

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You can also obtain further copies of this publication from our website: www.insolvencyservice.detini.gov.uk

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