

## Providing Solutions

### Introduction

Administration was first introduced by the Insolvency Act 1986 as a mechanism for protecting companies from their creditors while a restructuring plan is completed.

There were significant changes following the Enterprise Act 2002 which allowed easier access to the process for companies in financial difficulty.

The lower cost and improved speed of the application process facilitated by the changes brought about by the Enterprise Act have been crucial in its increased popularity.

**Key Fact:** The legislation now makes it easier and more affordable for a smaller business to apply for Company Administration.

### What is a Pre-pack Administration?

A Pre-Pack Administration is a process whereby a Company takes steps to place itself into Administration and, prior to the Company formally entering Administration, a sale of the business, its physical assets, IPR and goodwill is agreed to either a third party purchaser or a connected party. Once the sale has been agreed the Company is placed into Administration and the sale is completed immediately by the Administrators.

**Key Fact:** This enables the purchaser to commence trade immediately, often with no tangible break in trade, without the burden of the historic debt.

### Main Considerations

Prior to taking appointment as Administrator the nominated Insolvency Practitioner must consider whether he is able to fulfil one of the following statutory purposes:

1. Rescue the company as a going concern
2. A better realisation of the company assets than would be the case should the company be wound up
3. A distribution to either the secured or preferential creditors

In most cases where a Pre-Pack sale has been agreed the value of the assets is enhanced due to the value in the business being preserved through the seamless transfer of the business without any cessation of trade.

A key factor in the Pre-Pack process is the early involvement of experienced Agents and Valuers who will undertake a

full inventory of the Company's assets and provide an assessment of the market value of the business in order for a sale to be negotiated with the proposed purchasers.

**Key Fact:** An early valuation can help with planning the best route forwards.

### Benefits of a Pre-Pack Administration

The primary benefits of a Pre-Pack Administration are the ability of the Company to continue trading up to the point of entering Administration and for the business to be transferred immediately following appointment of the Administrators. This enables the purchaser to maintain and protect relationships with the existing customers and to continue to complete on-going contracts therefore protecting future revenue streams.

The enhanced value obtained for the assets of the Company will also maximise returns for secured, preferential and non-preferential creditors

**Key Fact:** By the business trading forwards in a new company the collection of sales debts is often made easier leading to a greater payout of creditors of the company in administration.

### Pre-Pack Advice

The Pre-Pack Administration is a useful business tool available to Companies which, when appropriate, can facilitate the survival of a business, providing creditors with an enhanced return and often saving jobs.

In order to retain as much control as possible Directors should seek professional advice from a Licensed Insolvency Practitioner as early as possible.

We at F A Simms & Partners Limited are Licensed Insolvency Practitioners and have over 30 years experience advising businesses on these matters.

Please call **0844 880 9820** for a free initial consultation to understand your options.

### Please Don't Forget

The information within this Key Facts guide is not designed as advice in light of your specific company circumstances and is not a substitute for advice from one of our Licensed Insolvency Practitioners.