

What is a Compulsory Liquidation?

A Compulsory Liquidation is a formal liquidation process available to insolvent companies. It is typically started by an angry creditor but a company director can file for this form of liquidation as well. Though most company directors will choose a voluntary liquidation over a compulsory liquidation as the costs are very similar and the greater speed and flexibility of the voluntary process is preferred.

The name “compulsory” highlights that this process is typically forced upon a company, which is the impression taken by third parties being notified of the process

Key Fact: The Compulsory Liquidation process is laid out by the Insolvency Act 1986.

When is a Compulsory Liquidation used?

This form of liquidation is typically used when a creditor who is owed £750 or more gets fed up with waiting for their payment and so petitions to the court for a winding up order.

Key Fact: During the petition there are a number of actions the director can take to try and stop the petition from being accepted. For help with this you are best speaking directly to an Insolvency Practitioner. In other words the petition may not be terminal for the company.

Who starts a Compulsory Liquidation?

A Compulsory Liquidation is usually started by one of your largest creditors. Over half of all winding up petitions are issued by HMRC.

Key Fact: A director of a company can also petition themselves for a Compulsory Liquidation against their own company. It must be warned though that there are more flexible processes that are no more expensive and that may be more suitable to wind the company up than a Compulsory Liquidation.

What is a winding-up petition?

A winding up petition is what a creditor will need to file to the court if they wish to start the process of winding-up the insolvent company that owes them payments.

Key Fact: The submitted winding-up petition and hearing date must be formally advertised within the London Gazette which is the daily paper that lists all insolvencies and liquidations within the UK. Once the winding-up petition is

advertised it will often lead to the freezing of the company's bank accounts by the bank, though the bank may seek to freeze the account sooner if they are aware of presentation of the petition before it has been advertised.

How can a creditor submit a winding-up petition?

If a creditor wants to submit a winding up petition they must do this by sending a written application to the court. This application must include satisfactory evidence that the company is in fact insolvent and is not paying their debts; a hearing date will then be set for between 6-8 weeks from the date of the submitted application. Within this time there are still options available for the insolvent company to avoid entering Compulsory Liquidation. In order to facilitate these options they must seek professional help from an Insolvency Practitioner.

Key Fact: There is a cost to present a winding-up petition which will often wish to be avoided and so the creditor may accept discussions of staged payments from the company in order to pay back their entire debt.

Who can perform a Compulsory Liquidation?

As this liquidation process is a court led procedure an Official Receiver is appointed from the court to perform the liquidation. The Official Receiver may decide to pass the case onto an Insolvency Practitioner; however this would only be for them to liquidate the assets. The Official Receiver would carry-out the rest of the liquidation themselves and would specifically undertake the investigation into the insolvency of the company.

Key Fact: The Official Receiver's role includes; maximising realisations for the creditors, distributing (any) realisations to creditors, director investigations.

What are the alternatives to a Compulsory Liquidation?

The main process that is available to insolvent companies other than Compulsory Liquidation is a Creditors' Voluntary Liquidation. This is a director-led process for insolvent companies to enter into and is a much more flexible process compared to the Compulsory Liquidation. Further alternatives include a Company Voluntary Arrangement or a Company Administration process.

Key Fact: A Creditors' Voluntary Liquidation is the most popular form of insolvent liquidation in the UK for companies.

Compulsory Liquidation Help Sheet - Key Facts



Proceed with caution

It must be noted that if a company director chooses to petition for a winding-up order themselves then they must appoint a solicitor to petition on their behalf. It must also be noted that the cost for a Compulsory Liquidation would cover the cost of a Creditors' Voluntary Liquidation, which would give the director more flexibility and speed within the liquidation with the option of purchasing the assets and goodwill of the company. These options would not be available in a Compulsory Liquidation.

Key Fact: We can talk you through each insolvent liquidation process to ensure that you are fully aware of each one's details before you make your final decision.

	Creditors' Voluntary Liquidation	Compulsory Liquidation
Who handles the Liquidation?	<p>Private Sector.</p> <p>For all formal insolvency procedures only a Licensed Insolvency Practitioner can be voluntarily appointed to act as liquidator.</p>	<p>Government.</p> <p>The Government Insolvency Service is the default liquidator for Compulsory Liquidations. One of their Official Receivers (OR) will be instructed to perform the role of liquidator however they may pass a case on to a private sectors liquidator through its regional rota.</p>
Who Advises You	<p>The proposed Liquidator (Insolvency Practitioner). Many unlicensed advisors exist who will not always say what they mean. If you are not speaking to the Insolvency Practitioner that will act as your company's liquidator then you are at risk of being misled.</p>	<p>Only a Licensed Insolvency Practitioner can advise you on formal liquidation procedures. Please beware of un-licensed "specialists" who will mislead you which will incur excess costs that are avoidable.</p>
Costs	<p>Our fees for a Creditors Voluntary Liquidation start from £2,500 fully inclusive.</p>	<p>With court and petition costs, a Compulsory Liquidation will range from £2,500 upwards depending on the company's situation.</p>
Options For Restart	<p>Restart is a common occurrence after a Creditors' Voluntary Liquidation. Under S.216 of the Insolvency Act it allows directors the option to purchase the company name along with the goodwill of the company. The appointed Liquidator will assist with this transaction which must be done at a fair value and is determined by a third party valuation.</p>	<p>There has not been (to our knowledge) any circumstance of possible asset purchase within a Compulsory Liquidation.</p>
Who Investigates the Director's Conduct	<p>The appointed Liquidator.</p>	<p>The Official Receiver who is appointed by the Government.</p>
When Does Liquidation Start	<p>A Creditors' Voluntary Liquidation will start as soon as the directors want it to. It is recommended that if you do suspect insolvency then contacting an Insolvency Practitioner early will be the best course of action to avoid any claims of wrongful trading.</p>	<p>The timing for Compulsory Liquidation depends on the dates and times the courts set. Typically from the initial court hearing it can take around 2 months to begin.</p>

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.