

insolvency terms what do they mean?

People often ask what is the difference between a bankrupt company and a company in liquidation? The answer is that companies cannot be referred to as being "bankrupt" – only individuals can!

Please note that this glossary is for general guidance only. Many of the terms have a specific technical meaning in certain contexts that may not be covered here.

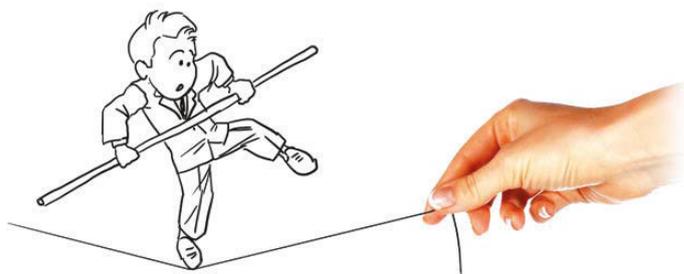
Below is a brief explanation of some of the terms you may come across in insolvency proceedings.

Administration	A process where an administrator is appointed to take control of a company or partnership; or an order made in a County Court to arrange and administer the payment of debts by an individual;
Administrative Receiver	Insolvency Practitioner appointed by the holder of a debenture, which is secured by a floating charge that covers the whole or substantially the whole of the company's assets. The IP's task is to realise those assets on behalf of the floating charge holder.
Administrative Receivership	The process where an Insolvency Practitioner is appointed by a floating charge holder to realise a company's assets subject to the charge and pay preferential creditors and the charge holder's debt.
Administrator	Insolvency Practitioner appointed under the administration process.
Annulment	The cancellation of a bankruptcy when all debts have been paid in full.
Assets	Anything that belongs to the debtor or company that may be sold and the proceeds used to pay creditors.
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 document presented by the debtor or by a creditor to the Court for the debtor to be made bankrupt.
Bankruptcy Restriction Order	An order of Court extending bankruptcy restrictions against an individual past their discharge from bankruptcy. Applicable for anything between 2 and 15 years.
Charge	Security taken over property by a creditor to protect against non-payment of a debt (such as a mortgage or debenture).

Updated January 2017

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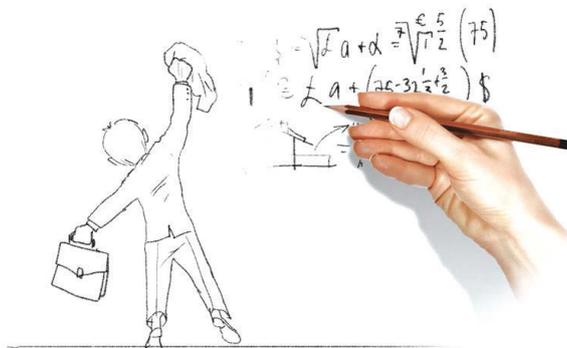
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Charging Order	An order made by the Court which gives the Trustee in Bankruptcy a legal charge on the debtor's interest in his/her home. This continues even after the debtor is discharged from bankruptcy.
Company Directors Disqualification Act 1986	Legislation regarding the disqualification of directors.
Company Voluntary Arrangement	A formal agreement between a company and its creditors where debts are repaid in part or in whole over a period of time
Compulsory Liquidation	Winding up of a company after a petition to the court, usually by a creditor.
Contributory	Every person liable to contribute to the assets of a company if it is wound up. In most cases this means shareholders who have not paid for their shares in full.
Creditor	Someone owed money.
Debenture	A document, issued as evidence of a debt or the granting of security for a loan of a fixed sum at interest (or both). The term is often used in relation to loans (usually from banks) secured by charges, including floating charges, over companies' assets.
Debtor	A person who owes money.
Declaration of solvency	A legal document sworn by the directors in a Members' Voluntary Liquidation as evidence of the solvency of a company.
Deed of Arrangement	An arrangement (governed by the Deeds of Arrangement Act 1914) proposed by the debtor for payments to his or her creditors. It is occasionally used instead of an Individual Voluntary Arrangement, particularly where creditors already agree to the terms of the arrangement and are not likely to take other action to recover their debt.
Director	A person who conducts the affairs of a company. See also shadow director.
Discharge	Process which frees a bankrupt from the restrictions of bankruptcy and releases him or her from the bankruptcy debts.
Disqualification	A procedure whereby a person has a Court order made against them (or agrees to a voluntary undertaking) which makes it an offence for that person to be involved in the management or directorship of a company for the period specified in the order or undertaking.
Dividend	In an insolvency context, this is any sum distributed to creditors.
Enterprise Act 2002	Legislation making substantial changes to the administration procedure and personal insolvency procedures in the Insolvency Act 1986.
Estate	Refers to assets of the debtor, which the trustee can deal with to pay the debtor's creditors ("bankruptcy estate").
Fixed charge	Charge held over specific assets. The debtor cannot sell the assets without the consent of the secured creditor or repaying the amount secured by the charge.
Floating charge	A charge held generally over the assets of a company. The assets may change and the company can use the assets without the consent of the secured creditor until the charge "crystallises" (becomes fixed).



Guarantee	An agreement to pay a debt owed by a third party.
Income Payments Order	The Court may order the debtor to pay part of their income to the trustee if their income is more than they or their family need to live on. On a practical basis, this procedure is usually replaced by an Income Payments Agreement (not requiring the involvement of the Court).
Individual Voluntary Arrangement	A formal agreement between an individual and their creditors where their debts are repaid in part or in whole over a period of time.
Insolvency	Defined as either having more liabilities than assets, or being unable to pay debts when they are due.
Insolvency Act 1986	Legislation introduced to consolidate many different previous forms of insolvency law and procedures. Subsequently amended by various statutes.
Insolvency Act 2000	Legislation introducing additional insolvency provisions.
Insolvency Practitioner	A person who specialises in dealing with insolvency related matters. They are authorised and licenced by a number of recognised professional bodies.
Insolvency Services Account (ISA)	The account at the Bank of England into which money realised from the assets in bankruptcies and compulsory liquidations is paid.
Insolvency Service	An agency within the Department for Business Innovation and Skills ("BIS") responsible for regulating IPs and their recognised professional bodies.
Interest	A right to, or share in, an asset of the insolvent debtor or company, usually relating to a property.
Interim receiver	The court may appoint the Official Receiver to act as interim receiver of an individual's property (usually to protect and secure it), after the presentation of the bankruptcy petition but before a bankruptcy order is made.
Legal charge	A form of security (e.g. a mortgage) to ensure payment of a debt.
Liquidation	A process relating to limited companies and limited liability partnerships involving 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.
Liquidator	The Official Receiver or an Insolvency Practitioner appointed to administer the liquidation of a company or partnership.
London Gazette	Official publication of the Government, which contains legal notices for England & Wales. (The Gazette is also published in Edinburgh for Scottish Law cases.)
Member (of a company)	A person who has agreed to be, and is registered as, a member, such as a shareholder of a limited company or a member of a Limited Liability Partnership.
Nominee	Insolvency Practitioner who carries out the preparatory work for a Voluntary Arrangement, prior to its implementation.
Officer (of a company)	A director or secretary of a company.



Office Holder	A general term referring to an IP appointed as a Liquidator, Receiver, Supervisor, Administrator etc
Official Receiver ("OR")	An officer of the Court and Civil Servant employed by The Insolvency Service, who deals with bankruptcies and compulsory company liquidations.
Petition	A formal application made to a Court. (See also bankruptcy petition and winding-up petition.)
Preferential Creditor	A creditor in insolvency proceedings who is entitled to receive a dividend in priority to other unsecured creditors. From 15 September 2003, PAYE/NI and VAT are no longer preferential for insolvency cases commencing on or after 15 September 2003.
Prescribed Part	A proportion of the assets of a company that are set aside for payment to unsecured creditors.
"Pre-pack"	Term commonly used in association with an administration where the sale of the business and assets of a company is agreed and 'pre-packaged' ready to be put in place immediately a company goes into administration.
Private Examination	A Liquidator in a voluntary winding-up or an Administrator may apply to Court for a private examination to be held in Court under oath of any person believed to be able to supply information on the company's dealings, who does not wish to co-operate with the office holder.
Proof of Debt	A form completed by a creditor to state how much is claimed against the debtor/company. The form is supplied by the Office Holder. It is a commonly used expression for requesting details of a creditor's claim in any insolvency proceeding.
Provisional liquidator	OR/IP appointed to preserve a company's assets between the presentation of a winding-up petition and the making of a winding-up order.
Proxy	Instead of attending a meeting, a person or company can appoint someone else to go and vote in their place - a 'proxy'.
Proxy Form	A form which must be completed if a creditor wishes someone else to represent them at a creditors' meeting and vote on their behalf.
Public Examination	When a company is being wound up by the Court or in bankruptcy proceedings, the Official Receiver may at any time apply to the court to question the company's director(s) or any other person who has taken part in the promotion, formation or management of the company or the bankrupt's business.
Realise	To sell an insolvent company's/debtor's assets and obtain the proceeds.
Receiver	Commonly used name for an Administrative Receiver. The term can also mean a person appointed by the Court or with the power to "receive" the rents and profits of property. Receivers who are not administrative receivers do not need to be insolvency practitioners.
Receiver and Manager	When a Bankruptcy Order is made, the Official Receiver becomes Receiver and Manager to protect the bankrupt's estate. This happens before the Official Receiver becomes trustee or before an IP is appointed as the trustee in their place.
Receivership	A company in administrative receivership is often said to be "in receivership". Receivership can also be a Court process.
Rescission	A procedure which cancels a winding-up order.
Release	The process by which the Official Receiver or an IP is discharged from the liabilities and responsibilities of them being an Office Holder.



Secretary of State	The Secretary of State for the Department of Business Innovation and Skills ("BIS"). Responsible for overseeing the Insolvency Service.
Secured creditor	Creditor who holds security, such as a mortgage, over a company's/person's assets for money owed.
Shadow director	A person who, without being formally appointed as a director, gives instructions on which the directors of a company are accustomed to act. This does not include someone acting in the capacity as a professional adviser.
Statement of affairs	Document completed by a bankrupt, company officer or director(s), giving details of all assets and liabilities.
Statutory demand	A formal document issued as part of the enforcement of a debt, usually done through a solicitor. Non-payment within 21 days is accepted as evidence of the insolvency of a company or individual.
Supervisor	IP appointed to "supervise" the carrying out of an individual or company voluntary arrangement.
Trustee (in bankruptcy)	The Trustee in bankruptcy is either the Official Receiver or an IP who takes control of a person's assets. The Trustee's main duties are to realise those assets and distribute the money among the creditors.
Unsecured creditor	A creditor who does not hold security (such as a mortgage) for money owed. Some unsecured creditors may also be preferential creditors.
Voluntary liquidation	Process of liquidation not involving the Courts or the Official Receiver. There are two types of voluntary liquidation – members' voluntary liquidation for solvent companies and creditors' voluntary liquidation for insolvent companies.
Winding up order	Order of a Court, usually based on a creditor's petition, for the compulsory winding-up of a company or partnership.

Get in touch



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