



Pre-pack Administration Guide

**Licensed Insolvency Practitioners
& Business Recovery Professionals**

Call: 0800 157 7330

or 01257 251319

www.focusinsolvencygroup.co.uk



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Introduction

Pre-packaged administration is a lot like a regular administration but; as the name suggests, the process is a lot faster.

The idea of administration is to act as an alternative to winding up the company so that where possible the company or at least its business can be rescued.

Sometimes a company is not able to trade out of cash flow problems and does not have enough money to pay its debts as and when they fall due. In these circumstances the company is insolvent and the only appropriate course of action is for the directors to cease trading and seek professional advice.

In pre-packaged administration, a company is placed into administration and the business is sold immediately or shortly after the appointment of the administrator. The administrator, the directors and/or other interested purchasers will have obtained valuations, agreed a sales price and drafted contracts in advance to enable the business to be sold immediately after appointment.

Pre-pack administration is a key insolvency tool to implement the rescue and survival of the business and provides the company with immediate protection from its creditors once the administrator is appointed. It allows the company to write off 100% of its debts allowing any emerging new company to begin with a clean slate.

Is my company insolvent?

There are three insolvency tests to establish if your company is insolvent.

Cash flow test.

Can the company pay its debts as and when they fall due?

If you are finding that the company is suffering from poor cashflow and as a result it is unable to meet payment terms of its creditors or maybe it is not paying national insurance and income tax contributions for directors or staff, then your company is more than likely insolvent.

Balance sheet test.

Does the company owe more than it owns, or in other terms are the company's assets exceeded by its liabilities? If the answer is yes, then the company is more than likely insolvent.

Legal action test.

If a creditor has taken legal action and has obtained a county court judgment (CCJ) or a statutory demand against the company, this may indicate the company's insolvency and allow the creditor to petition to wind it up.

Therefore if your company has one or more CCJs and/or a statutory demand, it is more than likely insolvent.

If you believe that your company has failed any of the above tests, it is crucial that you take immediate action to address the company's insolvent situation.

What is wrongful trading?

Directors of a company have a legal obligation to seek appropriate advice or take action if they believe the company has insufficient cashflow to pay its debts as and when they fall due? If they don't, then directors can find themselves personally liable for the debts that they have accrued since they should have taken those steps. The 'Company Director Disqualification Act 1986' deals harshly with directors who ignore the early warning signals and continue to trade.

When is pre-pack administration appropriate??

With pre-packaged administration the business will be sold immediately or shortly after the appointment of the administrator, the best outcome for creditors and the business is negotiated and arranged before the administrator is appointed.

If it may be possible to trade out of the situation, or continue in business, other insolvency procedures such as a company voluntary arrangement (CVA) need to be explored. Or if the company is no longer a going concern then options such as liquidation may be considered. It is for this reason that directors should contact Focus Insolvency Group who can guide you through your options.

Administration will be appropriate where:

- The company is insolvent
- A CVA is not appropriate
- The company/business is considered a going concern
- The business would be able to thrive if it were free of debt and stripped of unnecessary burdens, i.e. reduced property portfolio, less staff and better contracts.

Before accepting an appointment an administrator must be satisfied that one of the following outcomes can be achieved.

- **Rescue** – The company would still continue to exist in its original form and eventually be returned to the directors with some sort of debt restructuring or Company Voluntary Arrangement (CVA) in place. The company must continue business as a trading viable concern. This would not usually occur in a pre-packaged administration as the idea is not to rescue the company in its current format, but to allow a new company to be created from the old business.
- **Better result for creditors** – This would allow for a better return to creditors than if the company were to be wound up. The main core of the business may be sold on and survive as a going concern with any unnecessary parts being stripped away and sold. This is the most usual outcome of both pre-packaged administration and normal administration.
- **To allow distribution to secured and preferential creditors** – This allows for a better outcome for this class of creditor but other unsecured creditors would receive nothing. This may be a useful option if trading needs to continue for a limited period, for example to complete a contract. The business would not normally survive in this case but is the least likely occurrence out of the three outcomes and unlikely to be the case with pre-packaged administration.

In most circumstances of pre-packaged administration, it is likely that directors or an interested third party will form a new company and have this company buy back some or all of the assets of the old one, so as to ensure the business survives and continues trading from a position of strength having been restructured.

Focus Insolvency assesses every situation and provides directors with the best options available to them.

Advantages of pre-pack administration

Pre-packaged administration can have a number of major advantages for directors and shareholders of a company that has overwhelming debt problems.

The main advantages of administration are:

- Pre-pack administration can result in a quick and relatively smooth transfer of a business.
- Pre-packs can protect the goodwill of the company as they have minimal impact on customer confidence that any insolvency proceedings inevitably cause.
- Pre-packs can save more jobs than in normal administration.
- Because the process is relatively quick compared to a normal administration, the costs of the administration may be reduced, which may result in a better return for creditors. Costs are taken from the available assets in the company.
- Gives directors or third parties an opportunity to buy back the business as a going concern creating a new more streamlined company from the old one.
- An administrator can be appointed very easily merely by filing the necessary documentation in court.
- Pre-packaged administration offers full legal protection from all creditors and stops demands for payment.
- Provides peace of mind to the directors.
- You no longer have to deal with creditor's letters and phone calls.

When you arrange and enter into pre-packaged administration with Focus Insolvency we will become the point of contact for your creditors, this means that you do not have to take anymore harassing phone calls and any threatening letters can simply be sent to our office for us to deal with.

It is the administrator's duty to deal with all creditors and realise the assets. The directors are removed from office and free to make a fresh start by either selling on the business and its assets or by buying back some or all of the assets of the old company to begin a new one.

Pre-pack administration process

Stage 1:

An Insolvency advisor at Focus Insolvency Group will help you explore your options. They will discuss the company's financial position with you, review the company's viability, financial forecasts and background and explain the various insolvency procedures, such as a Voluntary Liquidation, CVA or Administration and discuss which would be appropriate for your company.

Our consultation and advice is completely free of charge.

Stage 2:

Pre-packaged administration is a relatively quick process once the administrator has been appointed but before this can happen the company and its assets must be valued, sale prices negotiated and agreed and contracts drawn up. The administrator will also draw up an official administration proposal.

The administrator will be a licensed insolvency practitioner and has the power to trade, manage and sell the business as a going concern in order to maximise the return the creditors. They will take full control of the company finances, affairs, business and property and oversee the sale.

Stage 3:

It should then be decided if directors or third parties wish to buy back the business as a going concern, and/or some or all of its assets to form a new company.

Stage 4:

Once the court receives the proper paperwork and the administrator is appointed the company officially enters administration and all creditor demands and action are legally ceased.

The administrator will then oversee the pre-arranged and agreed sale of the business and its assets, usually within 24-48 hours of appointment, legally transferring these assets to their new owners.

Stage 5:

Once the assets are sold the administrator will call a meeting of creditors in order to outline the reasons for the pre-packaged administration and disclose any further required information to them. It is not required to seek creditor permission prior to undertaking a pre-pack administration.

It may be suggested to creditors at the meeting that the old company is now subjected to liquidation in order to realise any remaining assets enabling to best outcome for creditors.

Why choose Focus Insolvency Group?

Focus Insolvency has successfully established itself as a top 20 Insolvency firm. We pride ourselves on having the correct blend of expertise, experience and professionally qualified staff to deliver all the necessary services and products, but with the traditional bespoke personal service of a local and friendly company at a competitive cost.

We understand that a company can find itself in financial difficulty for a variety of different reasons and we will take time to meet with Directors and key management to understand what has happened within the company and how we can help. We provide this service completely free of charge and without obligation.

Our team work with management to identify the available options, understand their implications and agree a course of action designed to result in the best possible outcome.

Our Company Values.....

Our success and progression has been built on a number of core company values;

- INTEGRITY –** We have strong ethics and are always open, honest and reliable.
- QUALITY -** Delivering excellent standards consistently from our experienced and qualified directors and staff.
- SERVICE –** We take pride in delivering the highest standard of service possible.
- VALUE –** We strive to deliver exceptional value to our Referrers and their clients.
- INNOVATION –** We strive to be better every day and we take steps to make this happen.
- ACCOUNTABILITY –** We accept that we have an obligation to take responsibility and account for our actions and will do so willingly.
- POSITIVITY –** We have a 'can do' attitude and are passionate about our business.

Further Information

If you would like further information or guidance on anything that you have read in our guide Focus Insolvency Group are here to help you. With extensive experience in helping people and companies regain control of their finances; our immediate aim is to provide you with free advice and assistance and to structure that correct solution to your problem.

The expert advice we will offer will always be the 'best advice' for you, dependant on you or your company's circumstances and financial situation.

Rest assured that we will not charge anything until a debt solution is in place!

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