



# limited liability partnership liquidation and insolvency (scotland)

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## Is this guidance for you?

This guide will be relevant to you if you:

- you are a member of a limited liability partnership; or
- you act as an adviser to a limited liability partnership

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This guide answers many frequently asked questions and provides information on completing the most commonly used filings relating to this area. The guide is not drafted with unusual or complex transactions in mind. Specialist professional advice may be needed in those circumstances.

## Introduction

This guidance provides a basic overview of insolvency and liquidation proceedings and more detailed information about the documents that must be delivered to the Registrar of Companies for Scotland. It summarises some of the rules that apply to corporate voluntary arrangements, moratoria, administrations, receivers, voluntary liquidations, compulsory liquidations and EC regulations.

Companies House Edinburgh can assist with queries relating to the delivery of documents to the Registrar of Companies for Scotland. Other queries should be addressed to the Insolvency Service in the first instance. Insolvency proceedings often involve court proceedings and practitioners may be required to convene meetings and prepare statutory reports. It is important to note that not all of this information has to be sent to the Registrar of Companies for Scotland.

Because of the complexity of the requirements, this guide is not a “how to” guide that tells the reader everything he or she needs to know to wind up an insolvent limited liability partnership. We advise you to seek independent professional advice if you suspect your limited liability partnership is, or is about to become, insolvent.

As a general rule, an authorised insolvency practitioner or other professional will be appointed to manage a limited liability partnership’s affairs when insolvency proceedings are initiated.

The relevant legislation can be found in the:

- Limited Liability Partnerships Act 2000;
- Insolvency Act 1986 (as amended);
- Insolvency Rules (Scotland) 1986 (as amended);
- Enterprise Act 2002;
- Act of Sederunt (Sheriff Court Company Insolvency Rules 1986) Amendment 2003; and
- The Limited Liability Partnerships Regulations 2009 which apply parts of the Companies Act 2006 and the Insolvency Act 1986 to limited liability partnerships.

## **Chapter 1**

### **General insolvency information**

#### **1. What are insolvency proceedings?**

These are formal measures to deal with debts of limited liability partnerships. Many different types of insolvency proceedings apply to limited liability partnerships. All are covered in this guide.

#### **2. Do all limited liability partnerships have to go through insolvency proceedings before being dissolved?**

No. If the Registrar of Companies for Scotland has reason to believe that a limited liability partnership is not carrying on business or is not in operation, the limited liability partnership's name may be struck off the register and the limited liability partnership dissolved without going through liquidation. A limited liability partnership that is not trading may apply to Companies House to be struck off the register. **This procedure is not an alternative to formal insolvency proceedings.**

#### **3. Can anyone supervise insolvency procedures?**

All liquidators, administrators, administrative receivers and supervisors taking office on or after 29 December 1986 must be authorised insolvency practitioners.

Receiver managers and Law of Property Act (LPA) receivers do not have to be authorised.

Insolvency practitioners may be authorised by:

- the Chartered Association of Certified Accountants;
- the Insolvency Practitioners' Association;
- the Institute of Chartered Accountants in England and Wales;
- the Institute of Chartered Accountants in Ireland;
- the Institute of Chartered Accountants in Scotland;
- the Law Society;
- the Law Society of Scotland; or
- the Secretary of State for Business Innovation and Skills.

#### **4. What happens to the members of an insolvent limited liability partnership?**

The liquidator, administrative receiver or administrator has a duty to send the Secretary of State a report on the conduct of all members who were in office in the last 3 years of the limited liability partnership's trading. The Secretary of State has to decide whether it is in the public interest to seek a disqualification order against a member.

Examples of the most commonly reported conduct might include:

- continuing to trade when the limited liability partnership was insolvent;
- failing to keep proper accounting records;
- failing to prepare and file accounts or make returns to Companies House; and
- failing to send in returns or pay to the Crown any tax that is due.

## **Chapter 2**

### **Voluntary arrangements**

#### **1. What is a voluntary arrangement?**

A voluntary arrangement is when a limited liability partnership makes an agreement with its creditors by proposing a 'composition in satisfaction of its debt' or a 'scheme of arrangement of its affairs'. This means an arrangement, approved by the court, in which the limited liability partnership has formally agreed terms with its creditors for the settlement of its debts.

#### **2. Who may propose a voluntary arrangement?**

A voluntary arrangement may be proposed by:

- the administrator, if there is an administration order;
- the liquidator, if the limited liability partnership is being wound up; or
- the limited liability partnership, in other circumstances.

#### **3. Who considers the proposal?**

When the limited liability partnership has proposed the arrangement, the nominee appointed to supervise its implementation reports to the court within 28 days on whether, in his or her opinion, a meeting of the creditors should be called.

When the administrator or liquidator proposes the agreement, the nominee reports on whether a meeting of the members and a meeting of the creditors of the limited liability partnership should be called.

#### 4. How is a proposed voluntary arrangement approved?

The meeting(s) summoned by the nominee decide whether to approve the voluntary arrangement which, subject to certain restrictions, may be approved with or without modifications. Any modifications must be agreed with the limited liability partnership. All creditors who had notice of the meeting, whether or not entitled to vote, are bound by the terms of the agreement.

#### 5. What happens when the arrangement is approved?

If the meeting of creditors and the meeting of members (in circumstances where a members meeting was held) approve a voluntary arrangement, then the nominee or his replacement becomes the supervisor of the arrangement.

#### 6. What needs to be sent to Companies House?

The supervisor must send a copy of the chairman's report of the meeting.

At least once every 12 months, the supervisor must send an account of receipts and payments, together with a progress report, to all interested parties including Registrar of Companies for Scotland.

When the arrangement is completed, the supervisor must notify the Registrar of Companies for Scotland, within 28 days after final completion. If the arrangement is suspended or revoked, Companies House must be notified.

The appropriate forms are:

Form title	Number
Notice of report of a meeting approving a voluntary arrangement	1.1(Scot)
Notice of order of revocation or suspension of voluntary arrangement	1.2(Scot)
Notice of voluntary arrangement's supervisor's abstract of receipts and payments	1.3(Scot)
Notice of completion of voluntary arrangement	1.4(Scot)

**Please note:** These forms are not available from Companies House. They can be obtained from company law stationers or by visiting the Accountant in Bankruptcy website.

## 7. Corporate voluntary arrangement moratorium

The Insolvency Act 2000 introduced the option of a moratorium into the existing corporate voluntary arrangement procedures.

The courts decide whether a limited liability partnership is eligible for a moratorium. The moratorium will normally last for a period of 28 days and will be managed by a nominee, who may or may not be a registered insolvency practitioner.

The Insolvency (Scotland) Amendment Rules 2002 came into force on 1 January 2003 and introduced the following statutory forms that are required to be filed with the Registrar of Companies for Scotland:

<b>Form title</b>	<b>Number</b>
Notice to Registrar of Companies of commencement of moratorium	1.11 (Scot)
Notice to Registrar of Companies of extension or further extension or renewal or continuation of moratorium	1.12 (Scot)
Notice to Registrar of Companies of ending of moratorium	1.14 (Scot)
Notice to Registrar of Companies of withdrawal of nominee's consent to act	1.16 (Scot)
Notice to Registrar of Companies of appointment of a replacement nominee	1.18 (Scot)

**Please note:** These forms are not available from Companies House. They can be obtained from company law stationers or by visiting the Accountant in Bankruptcy website.

At the end of a moratorium a limited liability partnership may (or may not) proceed to a corporate voluntary arrangement.

### Chapter 3 'In Administration' and 'administration orders'

The current law concerning administration was introduced with effect from 1 October 2005 as per Statutory Instrument 2005 No.1989, the Limited Liability Partnerships (Amendment) Regulations 2005. Under this regime, a limited liability partnership will usually be described as being 'in administration' – under the old regime a limited liability partnership would be described as subject to an 'administration order'.

What follows is a brief outline of the process of administration: it is not a complete statement of the law.

## **1. What is 'in administration'?**

Administration is when a person, 'the administrator', is appointed to manage a limited liability partnership's affairs, business and property for the benefit of the creditors. The person appointed must be an insolvency practitioner and has the status of an officer of the court (whether or not he or she is appointed by the court).

The objective of administration is to:

- (a) rescue a limited liability partnership as a going concern;
- (b) achieve a better price for the limited liability partnership's assets or otherwise realise their value more favourably for the creditors as a whole than would be likely if the limited liability partnership were wound up (without first being in administration); or
- (c) in certain circumstances, realise the value of property in order to make a distribution to one or more preferential creditors.

## **2. How does the limited liability partnership enter administration?**

A limited liability partnership enters administration when the appointment of an administrator takes effect. An administrator may be appointed by:

- (a) an administration order made by the court;
- (b) the holder of a floating charge; or
- (c) its members.

The administrator must perform his or her functions as quickly and efficiently as reasonably practicable.

## **3. What are the effects on a limited liability partnership of being in administration?**

When a limited liability partnership enters administration:

- any pending winding-up petitions will be dismissed or suspended;
- there will be a moratorium on insolvency and on other legal proceedings;
- if an administrative receiver has been appointed, he or she must vacate office;
- if a receiver of part of the limited liability partnership's property has been appointed, he or she must vacate office (if the administrator requires this).

#### **4. Who must be told that a limited liability partnership is in administration?**

As soon as reasonably practicable, an administrator must send a notice of his or her appointment to the limited liability partnership and each of its creditors and publish notice of his or her appointment in the Gazette and in a newspaper in the area where the limited liability partnership has its principal place of business.

##### **What is the Gazette?**

The Gazette is the official newspaper of record which contains various statutory notices and advertisements. All References to the Gazette within this guidance are to the Edinburgh Gazette in respect of limited liability partnerships registered in Scotland. It is published twice weekly and can be obtained from The Edinburgh Gazette, 26 Rutland Square, Edinburgh EH1 2BW. Visit [www.gazettes-online.co.uk](http://www.gazettes-online.co.uk) for more information.

The administrator must send a notice of his or her appointment to the Registrar of Companies for Scotland on Form 2.11B (Scot).

While a limited liability partnership is in administration, every business document issued by or on behalf of the limited liability partnership or the administrator must state the name of the administrator and that he or she is managing the affairs, business and property of the limited liability partnership.

#### **5. What does the process of administration involve?**

The administrator will request a statement of the limited liability partnership's affairs from relevant people (e.g. an officer or employee of the limited liability partnership).

No later than 8 weeks after the limited liability partnership enters administration, the administrator must make a statement setting out proposals for achieving the purpose of the administration or explaining why they cannot be achieved. The proposals may include a voluntary arrangement or a compromise or arrangement with creditors or members.

The statement setting out the proposals must be sent to:

- The Registrar of Companies for Scotland .
- Every creditor of the limited liability partnership with an invitation to an initial creditors' meeting, if one is to be held. The business of the initial creditors meeting will be to approve (with or without modifications) the statement of proposals. Following the initial meeting, the administrator may hold further creditors' meetings, form a creditors committee, or deal with matters in correspondence between the administrator and creditors.

- Every member of the limited liability partnership, unless the administrator undertakes to provide a copy free of charge to any member of the limited liability partnership who applies in writing for a copy. Any revisions to the proposals following a creditors' meeting must, likewise, be notified to members.

Decisions taken at creditors' meetings must be reported to the Registrar of Companies for Scotland on Form 2.23B(Scot).

## **6. When does administration end?**

There are several ways in which administration can come to an end.

Administration can end automatically when the administrator's term of office expires and must be notified to the Registrar of Companies for Scotland on Form 2.21B (Scot). The appointment of an administrator expires after 1 year. However, this may be extended with the consent of creditors or the court. Any extension must be notified to the Registrar of Companies for Scotland on Form 2.22B (Scot).

An administrator appointed under a court order may apply to the court to end administration if he or she thinks that the purpose of the administration cannot be achieved or the limited liability partnership should not have entered administration, or a creditors' meeting requires the application. The court will discharge the administration order and the administrator must notify the Registrar of Companies for Scotland on Form 2.24B (Scot) .

An administrator appointed by the holders of a floating charge or by the limited liability partnership or its members may end administration when the purpose of administration has been sufficiently achieved. The administrator must file notice with the court and with the Registrar of Companies for Scotland on Form 2.23B (Scot).

Administration may end on the application of a creditor to the court alleging an improper motive on the part of the person who appointed the administrator or applied to the court for an administration order. The administrator must send a copy of the order with Form 2.24B (Scot) to the Registrar of Companies for Scotland within 14 days of the order being made.

Administration may end when the limited liability partnership moves into creditors' voluntary winding up. This can happen where the administrator thinks that each secured creditor is likely to be paid and a distribution will be made to unsecured creditors, if there are any. The administrator must notify the Registrar on Form 2.25B (Scot) and send copies to the court and each creditor. The limited liability partnership will then be wound up as if a resolution for voluntary winding up had been passed on the day on which notice is registered at Companies House.

Administration may end when the limited liability partnership moves into dissolution. This can happen if the administrator thinks that a limited liability partnership has no property with which to make a distribution to its creditors. The administrator must send notice to the Registrar of Companies for Scotland on Form 2.26B(Scot) and send copies to the court and each creditor.

3 months after the date the form is registered with the Registrar of Companies for Scotland, the limited liability partnership will be dissolved unless, on application to the court, an order is made to extend or suspend the period or stop the dissolution. Notice of the order must be notified to the Registrar of Companies for Scotland on Form 2.27B(Scot)

## 7. Which forms should be used?

As per Statutory Instrument 2005 No 1989, the Limited Liability Partnership's (Amendment) Regulations 2005 introduced new statutory forms for filing with Companies House, some of which are listed below:

The Insolvency (Scotland) Amendment Rules 2010 came into force on 6 April 2010 and introduced changes to the administration regime along with a new statutory Form 2.16BZ (Scot). The Administration Forms are listed below:

Form title	Number
Notice of administrator's appointment	2.11B (Scot)
Notice of statement of affairs	2.15B (Scot)
Statement of administrator's proposals	2.16B (Scot)
Notice of Deemed approval of proposals	2.16BZ (Scot)
Statement of administrators revised proposals	2.17B (Scot)
Notice of result of meeting of creditors	2.18B (Scot)
Notice of order to deal with secured property	2.19B (Scot)
Administrators progress report	2.20B (Scot)
Notice of automatic end of administration	2.21B (Scot)
Notice of extension of period of administration	2.22B (Scot)
Notice of end of administration	2.23B (Scot)
Notice of court order ending administration	2.24B (Scot)
Notice of move from administration to creditors' voluntary liquidation	2.25B (Scot)
Notice of move from administration to dissolution	2.26B (Scot)
Notice to registrar of companies in respect of date of dissolution	2.27B (Scot)
Notice of resignation by administrator	2.29B (Scot)
Notice of Vacation of office by administrator	2.30B (Scot)
Notice of appointment of replacement/additional administrator	2.31B (Scot)
Notice of insufficient property for distribution to unsecured creditors other than by virtue of s.176A(2)(a)	2.32B (Scot)

**Please note:** These forms are not available from Companies House. They can be obtained from company law stationers or by visiting the Insolvency Service website.

## **Chapter 4 Receivers**

### **1. What is a receiver?**

Appointed by or on behalf of the holder of a floating charge, a receiver has the power to sell or otherwise realise the charged assets of the limited liability partnership in an attempt to repay the debt owed to the charge-holder.

### **2. Who tells the Registrar of Companies for Scotland and Accountant in Bankruptcy (AIB) that a receiver has been appointed?**

Within seven days of the appointment, the person who appoints the receiver must deliver notice to the Registrar of Companies for Scotland and AIB. When the receiver ceases to act, the holder of the floating charge must deliver notice to the Registrar of Companies for Scotland and AIB within 14 days.

### **3. What document must the receiver send?**

Within 3 months of his appointment, the receiver must deliver a report to the AIB with copies to:

- the limited liability partnership's creditors;
- the holders of a floating charge; and
- any trustees for secured creditors of the limited liability partnership.

The report must:

- explain the circumstances leading to the appointment of the receiver;
- give information about any action being taken by the receiver;
- include a summary of the statement of affairs prepared for the receiver by the officers or employees of the limited liability partnership.

#### **Statement of affairs Form 3.2(Scot)**

This is a summary of the limited liability partnership's assets, liabilities and creditors. The administrative receiver decides whether it is required and who should prepare it.

Within two months of the anniversary of the appointment, the receiver must send the AIB an account of receipts and payments covering the first 12 months of receivership and for every 12 months thereafter.

#### 4. Which forms should be used?

The appropriate forms are:

<b>Form title</b>	<b>Number</b>
Notice of the appointment of receiver by a holder of a floating charge	1 (Scot)
Notice of the appointment of a receiver by the court	2 (Scot)
Notice of the receiver ceasing to act or of his removal	3 (Scot)
Receiver's abstract of receipts and payments	*3.2 (Scot)
Notice of Authorisation to Dispose of Secured Property	3.4 (Scot)
Notice of receiver's report	3.5 (Scot)

\* Form 3.2 (Scot) is lodged with AIB not the Registrar of Companies for Scotland.

Please note: These forms are not available from Companies House. They can be obtained from company law stationers or by visiting the Accountant in Bankruptcy website.

### Chapter 5 Voluntary liquidation

There are two kinds of voluntary liquidation:

- members' voluntary liquidation (MVL) - which means the designated members have made a statutory declaration of solvency; and
- creditors' voluntary liquidation (CVL) - which means the designated members have not made such a declaration.

#### 1. When can a limited liability partnership go into MVL?

This can take place when the designated members of a limited liability partnership believe that the limited liability partnership is solvent.

A majority of the limited liability partnership's designated members must make a statutory declaration of solvency in the five weeks before the date when the limited liability partnership determined that it would be wound up, or on the date but before making the determination.

#### 2. What is in the declaration?

The statutory declaration will state that the designated members have made a full inquiry into the limited liability partnership's affairs and that, having done so, they believe that it will be able to pay its debts in full within 12 months from the start of the winding-up. The declaration will include a statement of the

limited liability partnership's assets and liabilities as at the latest practicable date before making the declaration.

### **3. When does liquidation actually start?**

The liquidation starts when the members determine to wind up the limited liability partnership. The means of making such a determination will usually be provided for in the partnership agreement. In the absence of any provision, the determination will be made by a decision of the majority of members. The determination must be sent to Companies House and the Accountant in Bankruptcy (AIB) within 15 days of the members making the determination. Further, Form 4.25 (Scot) Declaration of Solvency and Form 600 Appointment of Liquidator are not required for registration at CH, but should be registered with AIB within 14 days.

### **4. Must notice of voluntary liquidation be given to anyone?**

Yes. Notice of the determination for voluntary winding-up of the limited liability partnership must be published in the Edinburgh Gazette within 14 days of the making of the determination. The limited liability partnership must also send a copy of the declaration and the determination to AIB and a copy of the determination to the Registrar of Companies for Scotland within 15 days of the date when the limited liability partnership determined that it would be wound up. Form 600 Appointment of Liquidator is not required for registration at CH, but should be registered with AIB within 14 days.

### **5. When may a CVL be appropriate?**

A limited liability partnership may go into CVL when it cannot pay its debts.

### **6. What must the limited liability partnership do?**

Its members determine that the limited liability partnership cannot continue in business because of its liabilities and that it is advisable to wind up. The way in which the limited liability partnership makes such a determination will usually be provided for in the partnership agreement. In the absence of any provision, the determination will be made by a decision of the majority of members.

The determination must be:

- advertised in the Edinburgh Gazette within 14 days; and
- sent to the Registrar of Companies for Scotland and AIB within 15 days.

A meeting of creditors must be held in the next 14 days after the determination to wind up has been made. Notice of the meeting must be sent to the creditors at least 7 days before the meeting. Also, the designated

members must prepare a statement of affairs for consideration at the meeting, and appoint one of themselves to attend and preside over the meeting.

When the liquidator is appointed, the designated members must provide him or her with a statement of affairs and otherwise co-operate with the liquidator.

### **7. Does the limited liability partnership have to advertise notice of the meeting?**

Yes. The meeting must be advertised in the Edinburgh Gazette and in two newspapers in the area where the limited liability partnership has its principal place of business.

### **8. What are the main duties of a liquidator?**

The liquidator is appointed to wind up the limited liability partnership's affairs. The liquidator does this by calling in all the limited liability partnership's assets and distributing them to its creditors. If anything is left over, the liquidator distributes it among the members of the limited liability partnership.

### **9. Does a liquidator need to notify anyone of his or her appointment?**

Yes. Within 14 days of being appointed, a liquidator must publish a notice of appointment in the Edinburgh Gazette and notify the AIB. If the liquidation is voluntary, the liquidator must also give notice in a newspaper in the area where the limited liability partnership has its principal place of business.

### **10. What does the liquidator have to send to the AIB?**

The liquidator must send a statement of affairs and a statement of receipts and payments for the first 12 months of liquidation. After that, statements must be sent every six months until the winding-up is complete.

### **11. Can an MVL be converted into a CVL?**

Yes. If the liquidator decides that the limited liability partnership will not be able to pay its debts in full in the period stated in the designated members' statutory declaration of solvency, then he or she must call a meeting of the creditors which must be held within 28 days. The liquidation becomes a CVL from the date of the meeting.

### **12. What are the requirements for giving notice in such a case?**

The liquidator must:

- post a notice of the meeting to each creditor at least seven days before the date of the meeting;

- advertise the date of the meeting in the Edinburgh Gazette and in two newspapers in the area where the limited liability partnership has its principal place of business; and
- prepare a statement of affairs for consideration at the meeting. A copy of the statement must be sent to the AIB within 7 days of the meeting.

### 13. What happens when the limited liability partnership's affairs are fully wound up?

The liquidator presents an account to final meetings of creditors and members of the limited liability partnership. He or she must advertise the meetings in the Edinburgh Gazette at least one month before.

Within one week of the meeting having taken place, the liquidator must send the account to the Registrar of Companies for Scotland and AIB together with a return of the final meeting.

Unless the court makes an order deferring the dissolution of the limited liability partnership, it is dissolved three months after the return and account are registered at Companies House.

### 14. Which forms should be used?

The appropriate forms are:

<b>Form title</b>	<b>Number</b>
Notice of appointment of liquidator voluntary winding-up (members or creditors)	600
Statement of affairs	4.4 (Scot)
Liquidator's statement of receipts and payments	4.5 (Scot)
Notice of liquidator's statement of receipts and payments	4.6 (Scot)
Notice of final meeting of creditors	4.17 (Scot)
Return of final meeting of voluntary winding-up	4.26 (Scot)
Notice of Court's Order Sisting Proceedings in Winding Up by the Court	4.27 (Scot)
Liquidator's statement of account	92 (Scot)

**Please note:** With the exception of form 600, these forms are not available from Companies House. They can be obtained from company law stationers or by visiting the Accountant in Bankruptcy website.

- Forms 600, 4.4 (Scot), 4.5 (Scot), 4.6 (Scot) and 92 (Scot) to be sent to AIB.
- Forms 4.17 (Scot), 4.26 (Scot) and 4.27 (Scot) and to be sent to the Registrar of Companies for Scotland and AIB.

## **Chapter 6**

### **Compulsory liquidation**

#### **1. What is 'compulsory liquidation'?**

Compulsory liquidation of a limited liability partnership is when the limited liability partnership is ordered by a court to be wound up.

#### **2. Which courts can order a compulsory liquidation?**

The Court of Session or Sheriff Court with the appropriate jurisdiction may order the winding-up of a limited liability partnership. This may be, for example, on the petition of a creditor or creditors on the grounds that the limited liability partnership cannot pay its debts.

A limited liability partnership is regarded as unable to pay its debts if, for example, a creditor:

- is owed more than £750;
- presents a written demand in the prescribed form (known as a statutory demand Form 4.1 (Scot)) to the limited liability partnership; and
- the limited liability partnership fails to pay, secure or agree a settlement of the debt to the creditor's reasonable satisfaction.

There are other situations where a limited liability partnership is deemed unable to pay its debts. Please read the relevant legislation.

The court may also order the limited liability partnership to be wound up on the petition of:

- the limited liability partnership itself;
- one or more of the limited liability partnership's members;
- the Secretary of State for Business, Innovation and Skills;
- the Financial Services Authority (formerly the Securities and Investment Board)

#### **3. Must the petition be advertised?**

Unless the court directs otherwise, the petition must be advertised in the Edinburgh Gazette.

#### **4. What appears on the limited liability partnership record held by Companies House?**

If the petition is successful, the limited liability partnership must send Form 4.2 (Scot) and a copy of the winding-up order to the Registrar of Companies for Scotland and AIB straightaway and it will be placed on the limited liability partnership's public record.

The petition itself is not presented to the Registrar of Companies for Scotland so it will not appear on the public records.

## **5. Who acts as the liquidator when an order is made to wind up the limited liability partnership?**

A provisional liquidator may be appointed after the petition is presented. If a winding up order is made, an interim liquidator is appointed. Both the provisional and interim liquidator must notify the AIB of their appointments and the provisional liquidator must also notify the Registrar of Companies for Scotland.

## **6. What are the duties of the interim liquidator?**

Within 28 days of the appointment, the interim liquidator investigates the limited liability partnership's affairs and will call meetings of creditors and contributories (that is, those people liable to contribute to the assets of a limited liability partnership in the event of it being wound up). The meetings appoint the official liquidator who must notify the AIB within 7 days. If no liquidator is appointed at the meetings, the court appoints a liquidator.

The liquidator must send to the AIB a statement of receipts and payments for the first 12 months of liquidation and thereafter every 6 months until the winding up is complete.

## **7. What happens when the winding-up is complete?**

When the Registrar of Companies for Scotland and AIB receive notice from the liquidator of the final meeting that winding-up is complete, the Registrar of Companies for Scotland will register it and publish its receipt in the Edinburgh Gazette.

Unless the Court directs otherwise, the limited liability partnership will be dissolved three months after the notice was registered at Companies House.

If the liquidator is satisfied that the limited liability partnership's realisable assets (that is, assets which could be sold or disposed of to raise money) will not cover the expenses of winding-up and that no further investigation of the limited liability partnership's affairs is necessary, he may apply to the Registrar of Companies for Scotland for early dissolution of the limited liability partnership. The limited liability partnership will be dissolved 3 months after the application is registered at Companies House.

## 8. Which forms should be used?

The appropriate forms are:

<b>Form title</b>	<b>Number</b>
Notice of winding-up order	4.2 (Scot)
Liquidator's statement of receipt and payments	4.5 (Scot)
Notice of liquidator's statement of receipts and payments	4.6 (Scot)
Notice of appointment of liquidator	4.9 (Scot)
Notice of final meeting of creditors	4.17 (Scot)

- Forms 4.5, 4.6 and 4.9 to be sent to AIB.
- Forms 4.2 and 4.17 to be sent to Companies House Edinburgh and AIB.

**Please note:** These forms are not available from Companies House. They can be obtained from company law stationers or by visiting the Accountant in Bankruptcy website.

## Chapter 7 Frequently Asked Questions

Liquidation and other insolvency procedures can be lengthy and complex. This guide cannot answer every query but these are some of the most frequently asked questions.

### 1. Do I need to send the Court Order appointing a provisional liquidator to Companies House Edinburgh ?

The Court Order should not be sent, however a Form 4.9 (Scot) is completed on the appointment of a Provisional Liquidator and delivered to Companies House Edinburgh. This is required by Rule 4.2 of the Insolvency (Scotland) Rules 1986.

### 2. How do I defer the date of dissolution of a limited liability partnership that was subject to liquidation proceedings?

When the Registrar of Companies for Scotland receives a liquidator's final documentation under sections 201 and 205 of the Insolvency Act 1986, it must be registered straightaway. After a period of approximately three months, the limited liability partnership is dissolved. However, it may be possible to defer the date at which the dissolution is to take effect.

In order to do so, the Registrar of Companies for Scotland must receive either a direction to defer from the Secretary of State (in compulsory liquidation cases – s.205) or an order of court to defer (in voluntary cases – s.201). You should immediately apply for whichever is appropriate. Please note that whilst it may be possible to extend the deferment period by making a further

application, it is not possible to shorten it. You should, therefore, select the period of the deferment with care.

We must receive the document in time to allow us to examine and register it before the limited liability partnership is dissolved.

### **3. Do the directors of a limited liability partnership subject to a liquidation need to file annual accounts and annual returns (Forms LL AR01)?**

Once a limited liability partnership goes into liquidation and the statutory liquidation documents are registered at Companies House Edinburgh, there is no need to file annual accounts and annual returns. However, until Companies House Edinburgh receives notification that the liquidation has commenced the annual accounts and annual returns will still be deemed to be due.

If the limited liability partnership comes out of Liquidation, via a court order to sist (see below) and is returned to the live register then annual accounts and annual returns should then be filed up to date. Failure to comply could result in the limited liability partnership being struck off the register.

Any other queries relating to filing annual accounts and annual returns should be referred to Compliance Section at Companies House by contacting Companies House on 0303 1234 500.

### **4. Will Companies House Edinburgh accept notification of the resignation of a member once a limited liability partnership has gone into liquidation?**

Companies House Edinburgh will accept correctly completed Forms LL TM01 relating to the resignation of members even if the limited liability partnership has gone into liquidation.

Any other queries relating to filing Forms LL TM01 should be referred to the contact centre at Companies House by contacting Companies House on 0303 1234 500.

### **5. What happens when I file an Order to stay a liquidation?**

The Court may make an Order staying, or sisting (meaning, stopping) winding up proceedings, either altogether or for a limited period of time, pursuant to Section 112 and Section 147 of the Insolvency Act 1986.

The Order is to be sent to the Registrar of Companies for Scotland forthwith for entry onto the records relating to the limited liability partnership. The Registrar of Companies for Scotland records the Order onto the public records in the following ways:

- (i) The Order itself is placed on the public record for the limited liability partnership. It is listed as a 'miscellaneous' document on the list of documents received by the Registrar of Companies for Scotland.
- (ii) The Liquidation status flag is removed from the limited liability partnership's public record. A searcher will still be able to obtain a copy of the winding up order. In addition, the insolvency details can still be obtained from the insolvency section of the electronic search products.
- (iii) Once the stay Order has been recorded, any outstanding accounts and annual returns must be filed, as for any other live and active limited liability partnership. Failure to comply may result in the limited liability partnership being struck off the register.

## **7. How can I find out the name of the liquidator of a certain limited liability partnership?**

This information is provided free on the Companies House web-site or by calling 0303 1234 500.

## **Chapter 8**

### **Quality of documents**

#### **1. What happens to documents sent to Companies House Edinburgh?**

The documents and forms you deliver to Companies House Edinburgh are scanned to produce an electronic image. The original documents are then stored, and the electronic image is used as the working document.

When your business contacts view the limited liability partnership record, they see the electronic image reproduced on-line. So it is important not only that the original is legible, but that it can also produce a clear copy.

## **Chapter 9**

### **Further information**

#### **1. Where can I go for help?**

Staff at Companies House in Edinburgh and the AIB will be able to advise you on general matters, but if you are considering liquidation or insolvency proceedings you should seek the advice of an insolvency practitioner or the Insolvency Service (tel. Insolvency Service Enquiries 0845 602 9848)

Complaints about the conduct of a licensed insolvency practitioner should be sent, in writing, to:

The Insolvency Practitioners' Section  
The Insolvency Service

Area 1.10  
PO Box 203  
21 Bloomsbury Street  
LONDON  
WC1B 3QW

They will then forward the complaint to the practitioner's authorising body.

## **2. Where do I get forms and guidance?**

This is one of a series of Companies House guidance which provide a simple guide to the Companies Act.

Statutory forms and guidance are available, free of charge from Companies House. The quickest way to get them is through our website or by telephoning 0303 1234 500.

Forms can also be obtained from company law stationers, accountants, solicitors and formation agents - addresses can be found in business directories.

### 3. How do I send information to the Registrar of Companies for Scotland?

- Documents, including court orders, should display the correct limited liability partnership name and registration number;
- Companies House will only acknowledge receipt if you provide a stamped addressed envelope; and
- You should supply documents in portrait format (that is, with the shorter edge across the top).

Documents may be delivered by post, by hand (personally or by courier), by the Document Exchange service, or by Legal Post (LP).

The relevant addresses are:

The Registrar of Companies Companies House Fourth Floor Edinburgh Quay 2 139 Fountainbridge Edinburgh EH3 9FF  DX ED235 Edinburgh 1 or LP – 4 Edinburgh 2	The Accountant in Bankruptcy Pennyburn Road Kilwinning KA13 6SA  <a href="http://www.aib.gov.uk">www.aib.gov.uk</a>
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**Please note: Companies House does not accept accounts or any other statutory documents by fax.**

# how to contact us

Version 3.1 (05/10)

contact centre: **0303 1234 500**

(For training and quality purposes your call may be monitored)

mini-com: 029 2038 1245

enquiries@companieshouse.gov.uk

**www.companieshouse.gov.uk**

**Cardiff:** Companies House  
Crown Way, Cardiff CF14 3UZ

**Edinburgh:** Companies House  
Fourth Floor, Edinburgh Quay 2,  
139 Fountainbridge, Edinburgh, EH3 9FF

**London:** Companies House  
21 Bloomsbury Street, London, WC1B 3XD

**Belfast:** Companies House,  
Second Floor, The Linenhall,  
32-38 Linenhall Street, Belfast, BT2 8BG

For the most up to date version of this booklet please visit our website at:

**www.companieshouse.gov.uk**



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