

This leaflet:

- answers the questions you are most likely to ask about winding up a partnership;
- gives general information on how to put a partnership into liquidation either with or without making the individual partners bankrupt; and
- explains what happens after the partnership is wound up.

This leaflet is only a guide and you should also refer to the relevant legislation in the Insolvent Partnerships Order 1994, the Companies Act 1985 (as amended), the Insolvency Act 1986 and the Insolvency Rules 1986.

► **What is a partnership?**

A partnership is a relationship which exists between two or more persons carrying on business together with a view to making a profit. A partner can be an individual or a company (known as a corporate member), and is personally liable (usually without limit) for the debts of the partnership. Therefore a creditor of a partnership can pursue one or more of the partners personally, as well as the partnership itself, for a partnership debt.

► **How can I wind up partnership that owes me money?**

Because the partners are personally liable for the debts of the partnership, a partnership can be wound up and bankruptcy orders can also be made

against the individual partners.

If you are a creditor of a partnership, you can apply for either:

1. the winding up of the insolvent partnership as an unregistered company with no action taken against the individual partners (under Article 7 of the Insolvent Partnerships Order 1994);

or

2. the winding up of the insolvent partnership as an unregistered company where bankruptcy petitions are also presented against one or more of the partners (under Article 8 of the Insolvent Partnerships Order 1994).

A creditor can only apply for a winding-up order against the partnership if the partnership has traded in England or Wales at any time in the 3 years before the petition is presented.

As the partners are personally liable for the debts of the partnership, a creditor of a partnership can petition (apply) for the bankruptcy of one or more of the partners, without petitioning for the partnership to be wound up. For information on how to present a bankruptcy petition, please refer to our leaflet 'Dealing with Debt: How to make someone bankrupt'. For information on how to wind up a corporate member,

please refer to our leaflet 'Dealing with debt: How to wind up a company that owes you money'.

► **How can I wind up my own partnership?**

The partnership can either:

1. petition for the winding up of the partnership as an unregistered company with no bankruptcy petitions presented against the individual partners (under article 9 of the Insolvent Partnerships Order 1994); or
2. petition for the winding up of the partnership as an unregistered company where bankruptcy petitions are also presented against all the individual partners (under article 10 of the Insolvent Partnerships Order 1994); or
3. petition for Bankruptcy orders to be made against all the partners (known as a Form 16 petition under article 11 of the Insolvent Partnerships Order 1994). The petition must be presented jointly by all the partners. It can only be presented where all the partners are individuals - if one or more of the partners is a corporate member, the petition must be presented under Article 10 of the Insolvent Partnerships Order 1994 (as above). A formal winding-up order is not made against the partnership, but any order made as a result of a Form 16 petition will include authority for the partnership to

be wound up by the trustee appointed to deal with the bankrupt partners' affairs.

If a bankruptcy petition has already been presented against one of the partners, and the court is made aware of the insolvent partnership, the court may make an order regarding how the partnership affairs should be dealt with.

As the partners are personally liable for the debts of the partnership, an individual partner can apply for his/her bankruptcy without applying for the partnership to be wound up. For information on how to present your own bankruptcy petition, please refer to our leaflet 'Dealing with Debt: How to petition for your own bankruptcy'.

► **Where can I get advice about winding up a partnership?**

Before you take any action to wind up a partnership, you should obtain your own legal or financial advice about this procedure and the other options available to you. You can get advice from your local Citizen's Advice Bureau, a solicitor, a qualified accountant, an authorised insolvency practitioner or any reputable financial adviser or a debt advice centre.

► **What happens after the partnership is wound-up?**

Where a winding-up order has been made against the partnership, the

partnership affairs are dealt with in the same way as a limited company - please see our booklets 'A Guide for Directors' and 'A Guide for Creditors'.

Where bankruptcy orders have been made against individual partners, please see our booklet 'Guide to Bankruptcy', which explains the effect of bankruptcy.

► **Where can I get more information?**

Our leaflets give more details of insolvency procedures. For copies of any Insolvency Service leaflets, please contact your local Official Receiver office; telephone The Insolvency Service Publications Order Line on 0121 698 4241; or write to:

The Insolvency Service (Publications Orders)
Records Management
4th Floor East
Ladywood House
Birmingham
B2 4UZ

or you can visit our website at:
<http://www.insolvency.gov.uk>

You can contact The Insolvency Service Central Enquiry Line for general enquiries on 0207 291 6895 or e-mail us at:
Central.Enquiryline@insolvency.gsi.gov.uk

This leaflet provides general information only. Whilst every effort has been made to ensure that the information is accurate,

it is not a full and authoritative statement of the law and you should not rely upon it as such. The Insolvency Service cannot accept responsibility for any errors or omissions as a result of negligence or otherwise.

► **Liquidation terms - what do they mean?**

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 request made (by the debtor or by a creditor) to the court for the debtor to be made bankrupt and giving the reasons why.

Insolvency - Having insufficient assets to meet all debts, or being unable to pay debts when they are due.

Liquidation (winding up) - Applies to companies or partnerships. It involves 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.

Official Receiver - An officer of the court and civil servant employed by The Insolvency Service, who deals with bankruptcies and compulsory company liquidations.

Realisation - The sale of assets to obtain the proceeds.

Registered company - A company which is registered with the Registrar of Companies (Companies House) under the Companies Act 1985.

Trustee - The trustee in bankruptcy is either the Official Receiver or an insolvency practitioner who takes control of your assets. The trustee's main duties are to sell these assets and share the money out among the creditors.

Unregistered company - A company which is not registered with the Registrar of Companies (Companies House). Examples can include a partnership or an association.

© Crown copyright 2002.

The information in this booklet is subject to Crown copyright protection.

The Crown copyright material may be reproduced free of charge in any format or media without requiring specific permission. This is subject to the material being reproduced accurately and not being used in a derogatory manner or in a misleading context. Where the material is being published or issued to others, the sources and copyright status should be acknowledged. If there were a restriction on reproduction, any other proposed use of the material would be subject to the approval of Her Majesty's Stationery Office Unit. Application should be made to the Copyright Unit, HMSO, St Clements House, 2-16 Colegate, Norwich NR3 1BQ. Tel: 01603 621000 Fax: 01603 723000.

The permission to reproduce Crown copyright material does not extend to any material in this booklet which is identified as being the copyright of a third party. Authorisation to reproduce such material would need to be obtained from the copyright holders concerned. For further details on the licensing of Crown copyright, see current guidance at <http://www.hmso.gov.uk/guides.htm> issued by Her Majesty's Stationery Office.



Dealing With Debt

How to wind up a partnership



Awarded for excellence



INVESTOR IN PEOPLE

www.insolvency.gov.uk