



Guide to
Summary Winding Up
of a Jersey Company

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PREFACE

This guide describes the steps to be taken to summarily to wind up a Jersey limited company. The procedure which governs the summary winding up of a Jersey limited company (not being a limited life company or a company of limited duration) is set out in Articles 145 to 150 of the Companies (Jersey) Law 1991, as amended (the “**Law**”).

A summary winding up may be commenced by a company that:

- a. has no assets and no liabilities;
- b. has assets and no liabilities;
- c. will be able to discharge its liabilities in full within six months of the commencement of winding up;
- d. has liabilities that will fall due more than 6 months after the commencement of the winding up that it will be able to discharge in full as they fall due; or
- e. sub-paragraphs (c) and (d) apply to the company.

It is recognised that this Guide will not completely answer detailed questions which clients and their advisers may have. It is intended to provide a sketch of the subject matter covered. The Guide is, therefore, designed as a starting-point for a more detailed and comprehensive discussion of the issues.

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1. COMMENCEMENT OF SUMMARY WINDING UP

A company may be wound up by means of a summary winding up if:

- (a) each of the directors of the company make a statement of solvency (the “**Statement of Solvency**”) stating that each of them, having made full inquiry into the company’s affairs, is satisfied that either:
 - (i) the company has no assets and no liabilities; or
 - (ii) the company has assets and no liabilities; or
 - (iii) the company will be able to discharge its liabilities within six months of the commencement of the winding up; or
 - (iv) the company has liabilities that will fall due more than 6 months after the commencement of the winding up that it will be able to discharge in full as they fall due; or
 - (v) sub-paragraphs (c) and (d) apply to the company.
- (b) the shareholders of the company pass, within 28 days of the signing of the Statement of Solvency by each of the directors, a special resolution approving the commencement of a summary winding up; and
- (c) the company delivers to the Registrar of Companies, within 21 days of the special resolution being passed, a copy of the special resolution, together with the original Statement of Solvency.

The summary winding up commences upon the date of the passing of the special resolution of the company. From that date, the corporate state and capacity of the company continues until it is dissolved on completion of the winding up. The powers of the company are still able to be exercised but only for the purposes of realisation of the company’s assets, the discharge of its liabilities and the distribution of its assets. These powers will be exercised by the liquidator (if appointed) or the directors.

2. PROCEDURE FOR COMMENCING A SUMMARY WINDING UP

The procedure is as follows.

(a) **Board meeting**

The directors of the company that is to be wound up would need to hold a board meeting to:

- (i) consider the financial status of the company for the purposes of the Statement of Solvency. This would probably involve tabling such financial records and accounts as the directors may require;
- (ii) approve the signing of the Statement of Solvency by the directors;
- (iii) approve the summary winding up of the company; and
- (iv) resolve to circulate to the members of the company a special resolution to approve the summary winding up.

The statement of solvency will require that the directors of the company have made full enquiry into the affairs of the company and can certify whether or not it has assets and liabilities. It is necessary to ascertain what assets and liabilities, contingent or otherwise, the company has (including directors fees) and it is advisable to prepare financial statements and/or company accounts to the date of the commencement of the winding up).

Please note that if a director signs a Statement of Solvency that is delivered to the Registrar of Companies without having reasonable grounds for believing that the statements in it are true, he is guilty of a criminal offence.

(b) Special resolution

The special resolution approving the summary winding up is required to be passed:

- (i)** by a majority of not less than two-thirds of the registered shareholders of the company who vote in person or by proxy at a general meeting in respect of which not less than 21 days' notice has been duly given (subject to consent to short notice being given by a majority in number of shareholders holding together at least 95% of the total voting rights of the shares giving a right to vote); or
- (ii)** in writing if signed by each of the registered shareholders of the company entitled to vote.

As stated above, the special resolution must be passed within 28 days of the signing of the Statement of Solvency by each of the directors.

(c) Filing requirements

Once the special resolution is passed, a copy of the special resolution and the original of the statement of solvency must be lodged at the Registrar of Companies within 21 days.

3. POSSIBLE APPOINTMENT OF A LIQUIDATOR

There is no requirement under the Law for a liquidator to be appointed for the purposes of a summary winding up. If no liquidator is appointed, the winding up will be conducted by the directors of the company. However, the shareholders of the company may appoint a liquidator by passing a special resolution on or after commencement of the winding up. There are statutory provisions as to the qualifications that a liquidator must hold.

If a liquidator is appointed:

- all powers of the directors cease and are exercisable only by the liquidator;
- the liquidator's remuneration is agreed between him and the company prior to the liquidator's appointment or is approved by the company in a general meeting or is approved by the court; and
- the liquidator may be removed by the passing of a special resolution for the liquidator's removal. The liquidator will be required to vacate his appointment as liquidator if he ceased to be qualified to hold office as a liquidator.

4. CORPORATE CAPACITY AND ADMINISTRATION

After the commencement of the winding-up, the corporate state and capacity of the company continues until the company is dissolved on completion of the winding up. The powers of the company are still able to be exercised but only for the purposes of realisation of the company's assets, the discharge of its liabilities and the distribution of its assets. Depending on whether a liquidator is appointed, these powers will be exercised by either the directors or the liquidator.

During the period that the company is being wound up, every invoice, order for goods or services or business letter issued by or on behalf of the company must contain a statement that the company is in liquidation.

5. COMPLETION OF THE SUMMARY WINDING UP

If the company on commencement of the winding up had no assets and no liabilities and stated such in the Statement of Solvency then the company will be dissolved upon the filing of the special resolution. In any other case, following discharge of any liabilities and the distribution of all remaining assets of the company, each of the directors or the liquidator (if appointed) will sign a second statement of solvency stating that, having made full enquiry into its affairs, each of them is satisfied that the company has no assets and no liabilities. Upon registration of the second statement of solvency with the Registrar of Companies, the company will be dissolved.

The provisions of the Law relating to wrongful trading, fraudulent trading, transactions at an undervalue and preferences apply only to a creditors' winding up.

For more specific advice on the Summary Winding Up of a Jersey Company, we invite you to contact one of the following:

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