

Statutory Report by Liquidator

**BRIEN BRICK AND BLOCKLAYING PTY LTD (IN
LIQUIDATION) ACN 602984574 (the Company)**

13 March 2020

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1 Introduction

We refer to our initial correspondence to creditors dated 19 December 2019 in which we advised you of our appointment as Liquidators and your rights as a creditor in the liquidation.

The purpose of this report is to:

- Provide you with an update on the progress of the liquidation;
- Provide estimates of the Company's assets and liabilities;
- Explain the causes of failure of the Company;
- Advise of likely recovery action; and
- Advise you of the likelihood of a dividend being paid in the liquidation.

In preparing this report, we have relied on information provided from numerous sources, including:

- The Director of the Company, Zethaniel Brien;
- Information from the Director's advisors, Enright Holmes Accountants;
- Information from the Australian Taxation Office (ATO);
- Information from unsecured creditors of the Company;
- The Company's books and records provided to date; and
- Information available from public sources, such as:
 - Australian Securities and Investments Commission (ASIC);
 - Personal Property Securities Register (PPSR);
 - Property search database; and
 - The Queensland Department of Transport and Main Roads.

2 Company history & causes of failure

2.1 Company Activity

The Company was incorporated on 21 November 2014 and most recently traded from a leased premises located at 77 Telegraph Rd, Bald Hills, QLD, 4036.

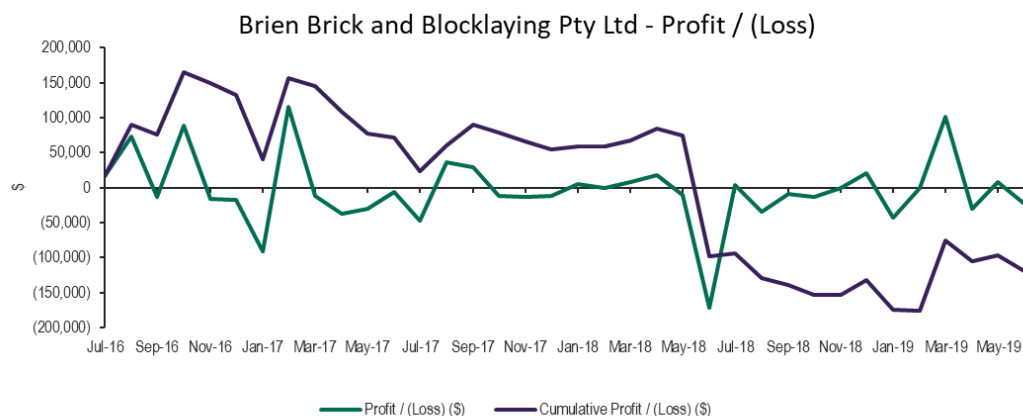
We understand that the Company provided masonry construction services throughout South East Queensland. The Company did not act as a trustee for any trust.

We understand that the Company ceased trading prior to our appointment.

2.2 Historical Financial Performance

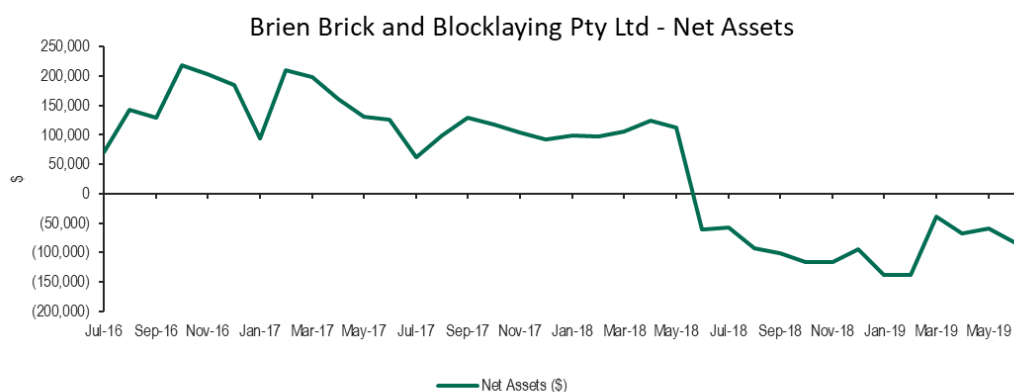
Profit and Loss

The below graph provides a summary of the profit & loss of the Company from 1 July 2016 until 30 June 2019. This data has been extracted from the Company's MYOB records and has not been audited for accuracy.



Financial Position

The below graph provides a summary of the net asset position of the Company, which provides an indication of liquidity. This data has been extracted from the Company's MYOB records and has not been audited for accuracy.



2.3 Causes of Failure

The Director has stated in his ROCAP that the reason for the Company's failure was due to the non-collection of debts dating back to 10 September 2018.

My limited investigations into the affairs of the Company confirm that in addition to the reason identified by the Director, the failure of the Company may also be attributable to:

- Undercapitalisation;
- Poor strategic management of the business; and
- Trading losses.

It would appear that the non-payment of debts by several key builders caused significant cash flow issues for the Company. Due to the cash flow constraints, debts owing to the Australian Taxation Office appear to have been unmanageable by the Company.

We understand that the Director sort assistance from Enright Holmes Accountants to assist in completing the ROCAP and comply with his duties as Director. We note at the date of this report, we have not yet received a completed ROCAP and supporting documentation from the Director.

3 Update on the progress of the liquidation

3.1 Assets and liabilities

Provided below is an analysis of the assets and liabilities of the Company together with the Director's and Liquidators' Estimated Realisable Value (ERV):

Assets & Liabilities	ROCAP (\$)	Director's ERV (\$)	Management accounts (\$)	Liquidators' ERV (\$)
Assets				
Cash at Bank	-	-	(59,087.67)	(4,901.00)
Debtors	Not provided	Not provided	242,863.61	Withheld
Related party loans	Not provided	Not provided	16,040.83	Withheld
Plant, Equipment & Motor Vehicles	-	-	14,101.99	Unknown
Inventory	-	-	-	-
Total Assets	-	-	213,918.76	Withheld
Liabilities				
Secured	Not provided	Not provided	-	Unknown
Petitioning Creditor Costs	N/A	N/A	-	2,855.00
Priority	Not provided	Not provided	129,901.34	Unknown
Unsecured	Not provided	Not provided	167,127.49	201,227.16
Total Liabilities	-	-	297,028.83	Unknown
Net Assets	-	-	(83,110.07)	Withheld

Our recovery of certain assets is ongoing and estimated realisable values have been withheld due to them being commercially sensitive.

We note that the Company's MYOB file that we have been provided includes transaction data up to 30 June 2019 only.

We provide below further detail on the assets and liabilities of the Company.

Assets of the Company

Cash at bank

Upon appointment, we issued notices to all major Australian financial institutions requesting they immediately freeze all accounts held in the Company's name.

We received a reply from the Australian and New Zealand Banking Group (ANZ) confirming that they held the following accounts in the Company's name:

Account Number	Account Type	Balance as at date of appointment (\$)
XXXX - 716	Business Advantage	(4,901)
XXXX - 732	Business Extra	-
XXXX - 724	Business Saver	-
XXXX - 759	GST Payment Account	-
		(4,901)

Inventory

We are unaware of any inventory held by the Company at appointment.

Debtors

The Company's books and records indicate that circa \$243,000 was owed from trade debtors as at 30 June 2019. We have contacted the respective debtors requesting payment of the outstanding amounts owed to the Company.

Our investigations into the collectability and recovery of these debts is ongoing.

Related party loans

Our investigations to date have identified the following related party loans:

Related party loans	Amount (\$)
Suppressed*	964
The Director	10,077
Brizmasonry Pty Ltd	5,000
Total	16,041

*Individuals who maybe owed money by the Company have been suppressed due to privacy laws.

We have issued letters of demand to all related parties who owe money to the Company seeking repayment of their debt including the Director.

We are yet to receive a response to our demand letters.

Real Property

A search was conducted of property records in Australia which confirmed the Company never held any real property.

Secured Creditors – Personal Property and Securities Register (PPSR)

We have contacted all PPSR registration holders following our appointment and our comments are noted below:

Registration Number	PMSI	Collateral Class	Secured Parties	Management Accounts (\$)	Claimed Amount (\$)	Comments
201512100027508	Yes	Other Goods	NATIONAL MASONRY PTY LTD	3,654.41	-	No response received
201704060029516	Yes	Other Goods	PGH BRICKS & PAVERS PTY LIMITED	-	-	No response received
201804240054119	No	Other Goods	JARMEN PTY LTD	-	-	No response received

Petitioning Creditor Costs

The Australian Taxation Office (ATO) is the petitioning creditor in the winding up application brought against the Company. The amount of \$2,855 relates to the petitioning creditor's costs incurred in bringing about the application.

The ATO's petitioning creditor cost rank as a priority claim in accordance with s566(1)(a) of the Corporations Act 2001 (the Act).

Priority (Employee) Creditors

Our initial review of the Company's records suggest that there are potentially outstanding superannuation and leave entitlements owed to the Director and former employees of the Company.

Our investigations into outstanding employee entitlements is ongoing.

Unsecured Creditors

To date, we have received the following claims from unsecured creditors of the Company.

Creditor Name	ROCAP (\$)	Management Accounts (\$)	Claimed (\$)
Suppressed*	Not provided	1,980	-
Kwik Limited Pty Ltd	Not provided	2,672	-
Lyndons Pty Ltd	Not provided	151	-
National Masonry Pty Ltd	Not provided	3,654	-
TBASS	Not provided	2,384	-
Australia and New Zealand Banking Group	Not provided	-	4,952
Australian Taxation Office	Not provided	154,447	132,860
Total	-	165,287	137,813

*Individuals who may be owed money by the Company have been suppressed due to privacy laws.

3.2 Receipts and Payments

There have been no funds received or payments made in the liquidation to date.

3.3 Investigations and recovery actions

Investigations undertaken

We have commenced our initial investigations into the affairs of the Company prior to our appointment and any potential recovery actions that may be available to pursue.

To date, we have undertaken the following investigations:

- Director's obligation to assist the Liquidators;
- Director's obligation to maintain adequate books and records;
- Voidable transactions; and
- Insolvent trading.

Our findings of these investigations are detailed below. Given the limited time that has passed in the liquidation and that further investigations will be undertaken, the below findings are preliminary and may be subject to change.

Additionally, our ability to affect any recovery from any action against the Director is predicated on the Director's ability to satisfy such a claim.

Directors and officers to assist the Liquidators

Section 530A of the Corporations Act 2001 (Cth) (the Act) places a positive obligation on a director to assist the Liquidator or Provisional Liquidator of a company. The Director has provided some assistance to date and appears to be complying with his obligations pursuant to s530A. However, we still await the Director's completed ROCAP including supporting documentation and the following Company records:

- Debtors and retentions;
- Bank Statements;
- Repayment plans with the ATO;
- Asset sale agreements and correspondence; and
- Back up of all Company electronic files and correspondence including emails.

Directors obligation to maintain adequate books and records

We have been provided with the Company's MYOB records from 1 July 2016 to 30 June 2019. The Company's MYOB does not record any transactions post 1 July 2019 to the date of our appointment.

We are awaiting for additional records from the Director and as such, at this time, we are unable to confirm whether the Company's books and records accurately depict the Company's financial position and performance at the date of our appointment. Therefore, at this stage we are unable to confirm whether the Director has complied with his obligations to maintain adequate books and records pursuant to s286 of the Act.

Voidable transactions

Uncommercial Transactions

Our preliminary investigations have not identified any potential uncommercial transactions. However, as outlined previously we are still to be provided with a number of the Company's books and records. Our investigations are ongoing in this regard.

Unreasonable Director- related transactions

Our investigations to date have not identified any unreasonable director-related transactions. Investigations are ongoing in this regard.

Unfair preference payments

The relation back date period for this matter commenced on 14 May 2019, being six months prior to the date of the winding up application filed by the ATO (the winding up application was filed by the Deputy Commissioner of Taxation on 14 November 2019). Our investigations into unfair preference payments within the relation back date have been limited due to the minimal information received to date.

Once further information is received, investigations will be conducted to identify any potential unfair preference payments.

Insolvent trading

Based on the available information, it appears that the Company may have been insolvent from at least 30 June 2018.

The solvency of a company is typically considered in terms of, and assessed by, a combination of:

- The “Cashflow” test (the sufficiency of liquid resources available to pay debts as when they fall due); and
- The “Balance Sheet” test (whether the assets exceed liabilities).

Considering the above, the Company may be insolvent from early as 30 June 2018 based on the following factors:

- The Company incurred cumulative trading losses from June 2018 until the end of the review period (being 30 June 2019);
- The Company maintained a net asset deficiency from 30 June 2018 to the date of our appointment;
- Minimal cash was available at 30 June 2018 to discharge the Company’s current liabilities; and
- Statutory liabilities were overdue at 30 June 2018.

As our investigations are ongoing, this preliminary insolvency date may be subject to change.

Any insolvent trading action against the Director will be assessed on its merits. If such an action is commenced, further work will be completed in respect of determining a date of insolvency. This work may result in the above insolvency date changing.

Further inquiries to be undertaken

We plan to undertake the following further investigations:

- Review trading history to determine the date the Company became insolvent and consider potential insolvent trading claim;
- Pursue recoveries of any voidable transactions including preference payments and any uncommercial transactions; and
- Any other matters determined to be of interest of the Liquidators.

4 Likelihood of a dividend

The likelihood of a dividend being paid to creditors will be affected by a number of factors including:

- The size and complexity of the administration;
- The amount of realisable assets and the costs of realising those assets;
- The statutory priority of certain claims and costs;
- The value of various classes of claims including secured, priority and unsecured creditor claims; and
- The volume of inquiries by creditors and other stakeholders.

We are unable to provide a dividend estimate of any certainty at this stage of the liquidation. If we do declare a dividend, any creditor whose claim has not yet been admitted will be contacted and asked to submit a proof of debt.

5 Meetings held

To date, no meeting of the Company's creditors have been required to be held and therefore, no meeting of creditors has been convened. Should a meeting of creditors be required in the future, notification of same will be provided to all creditors.

6 Cost of liquidation

As previously advised in our initial information to creditors, we have estimated that our total remuneration for the liquidation would be between \$25,000 to \$30,000 (excluding GST). Considering the work undertaken to date and future work to be undertaken, I anticipate my total remuneration for the liquidation will now be \$35,000 to \$40,000 (excluding GST).

At this stage we are not seeking approval for any amount of remuneration.

7 What happens next in the liquidation

We will proceed with the liquidation, including:

- Seek to recover any available property including debtors and related party loans;
- Complete our investigations into the Company's affairs;
- Subject to the above, pursue the Director for unreasonable director-related transactions, insolvent trading (if applicable) and other actions available to the Liquidators;
- Complete our reporting to the corporate insolvency regulator, the Australian Securities and Investments Commission (ASIC); and
- Any other matters relevant to the Liquidators

8 Compliance with best practice

We confirm that this report complies with the requirements in the Insolvency Practice Rules (IPR), specifically IPR 70-40, as well as the statements of best practice issued by the Australian Restructuring Insolvency and Turnaround Association (ARITA) with regard to content of the Statutory Report by Liquidator and the Code of Professional Practice with regard to remuneration.

9 What to do next

You should now:

- Read the report and the attached information; and
- Complete a Proof of Debt Form (Form 535) as attached in **Appendix A**

10 Where can you get more information

You can access information which may assist you on the following websites:

- ARITA at www.arita.com.au/creditors – Refer to **Appendix B**;
- ASIC at www.asic.gov.au (search for “insolvency information sheets”) – Refer to **Appendix C**.

Should you have any queries with respect to the above, you may also contact Benjamin Sanders of our office on +61 7 3222 0429 or via email on Benjamin.sanders@au.gt.com. There is also information about this liquidation on our firm’s website.

Dated 13 March 2020



Graham Killer

Joint and Several Liquidator

List of Appendices

Appendix A – Proof of Debt (Form 535)

Appendix B – ARITA – Information sheet: Insolvency information sheet

Appendix C – ASIC – Information sheet: Summary of insolvency information sheets

Appendix A

Proof of Debt (Form 535)

FORM 535

subregulation 5.6.49(2)
Corporations Act 2001

FORMAL PROOF OF DEBT OR CLAIM (GENERAL FORM)

To the Liquidators of Brien Brick and Blocklaying Pty Ltd (In Liquidation) ACN 602 984 574 (the "Company")

1. This is to state that the company was on 13 December 2019, and still is, justly and truly indebted to:

_____ full name, ABN

and address of the creditor and, if applicable, the creditor's partners. If prepared by an employee or agent of the creditor, also insert a description of the occupation of the creditor) for _____ dollars and _____ cents

Particulars of the debt are:

Table with 4 columns: Date, Consideration (state how the debt arose), Amount (\$), Remarks (include details of voucher substantiating payment)

2. To my knowledge or belief the creditor has not, nor has any person by the creditor's order, had or received any satisfaction or security for the sum or any part of it except for the following:

(insert particulars of all securities held. If the securities are on the property of the company, assess the value of those securities. If any bills or other negotiable securities are held, show them in a schedule in the following form).

Table with 5 columns: Date, Drawer, Acceptor, Amount (\$), Due Date

3. Signed by (select option):

- I am the creditor personally.
I am employed by the creditor and authorised in writing by the creditor to make this statement. I know that the debt was incurred for the consideration stated and that the debt, to the best of my knowledge and belief, remains unpaid and unsatisfied.
I am the creditor's agent authorised in writing to make this statement in writing. I know the debt was incurred for the consideration stated and that the debt, to the best of my knowledge and belief, remains unpaid and unsatisfied.

Signature: _____ Dated: _____

Name: _____ Occupation: _____

Address: _____

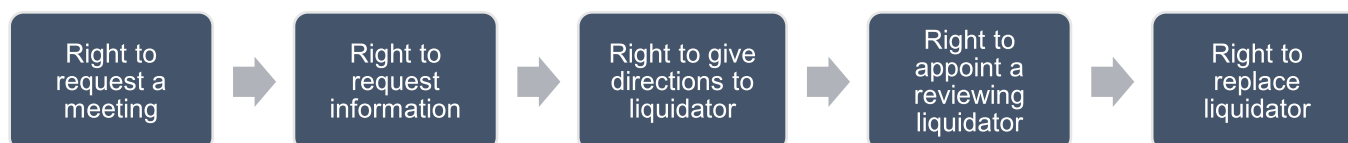
RECEIVE REPORTS BY EMAIL
Do you wish to receive all future reports and correspondence from our office via email? Yes No
Email:.....

Appendix B

ARITA – Information sheet: Insolvency information sheet

Creditor Rights in Liquidations

As a creditor, you have rights to request meetings and information or take certain actions:



Right to request a meeting

In liquidations, no meetings of creditors are held automatically. However, creditors with claims of a certain value can request in writing that the liquidator hold a meeting of creditors.

A meeting may be requested in the first 20 business days in a creditors' voluntary liquidation by $\geq 5\%$ of the value of the debts held by known creditors who are not a related entity of the company.

Otherwise, meetings can be requested at any other time or in a court liquidation by:

- $> 10\%$ but $< 25\%$ of the known value of creditors on the condition that those creditors provide security for the cost of holding the meeting
- $\geq 25\%$ of the known value of creditors
- creditors by resolution, or
- a Committee of Inspection (this is a smaller group of creditors elected by, and to represent, all the creditors).

If a request complies with these requirements and is 'reasonable', the liquidator must hold a meeting of creditors as soon as reasonably practicable.

Right to request information

Liquidators will communicate important information with creditors as required in a liquidation. In addition to the initial notice, you should receive, at a minimum, a report within the first three months on the likelihood of a dividend being paid.

Additionally, creditors have the right to request information at any time. A liquidator must provide a creditor with the requested information if their request is 'reasonable', the information is relevant to the liquidation, and the provision of the information would not cause the liquidator to breach their duties.

A liquidator must provide this information to a creditor within 5 business days of receiving the request, unless a longer period is agreed. If, due to the nature of the information requested, the liquidator requires more time to comply with the request, they can extend the period by notifying the creditor in writing.

Requests must be reasonable.

They are not reasonable if:

Both meetings and information:

- (a) complying with the request would prejudice the interests of one or more creditors or a third party
- (b) there is not sufficient available property to comply with the request
- (c) the request is vexatious

Meeting requests only:

- (d) a meeting of creditors dealing with the same matters has been held, or will be held within 15 business days

Information requests only:

- (e) the information requested would be privileged from production in legal proceedings
- (f) disclosure would found an action for breach of confidence
- (g) the information has already been provided
- (h) the information is required to be provided under law within 20 business days of the request

If a request is not reasonable due to (b), (d), (g) or (h) above, the liquidator must comply with the request if the creditor meets the cost of complying with the request.

Otherwise, a liquidator must inform a creditor if their meeting or information request is not reasonable and the reason why.

Specific queries about the liquidation should be directed to the liquidator's office.

Right to give directions to liquidator

Creditors, by resolution, may give a liquidator directions in relation to a liquidation. A liquidator must have regard to these directions, but is not required to comply with the directions.

If a liquidator chooses not to comply with a direction given by a resolution of the creditors, they must document their reasons.

An individual creditor cannot provide a direction to a liquidator.

Right to appoint a reviewing liquidator

Creditors, by resolution, may appoint a reviewing liquidator to review a liquidator's remuneration or a cost or expense incurred in a liquidation. The review is limited to:

- remuneration approved within the six months prior to the appointment of the reviewing liquidator, and
- expenses incurred in the 12 months prior to the appointment of the reviewing liquidator.

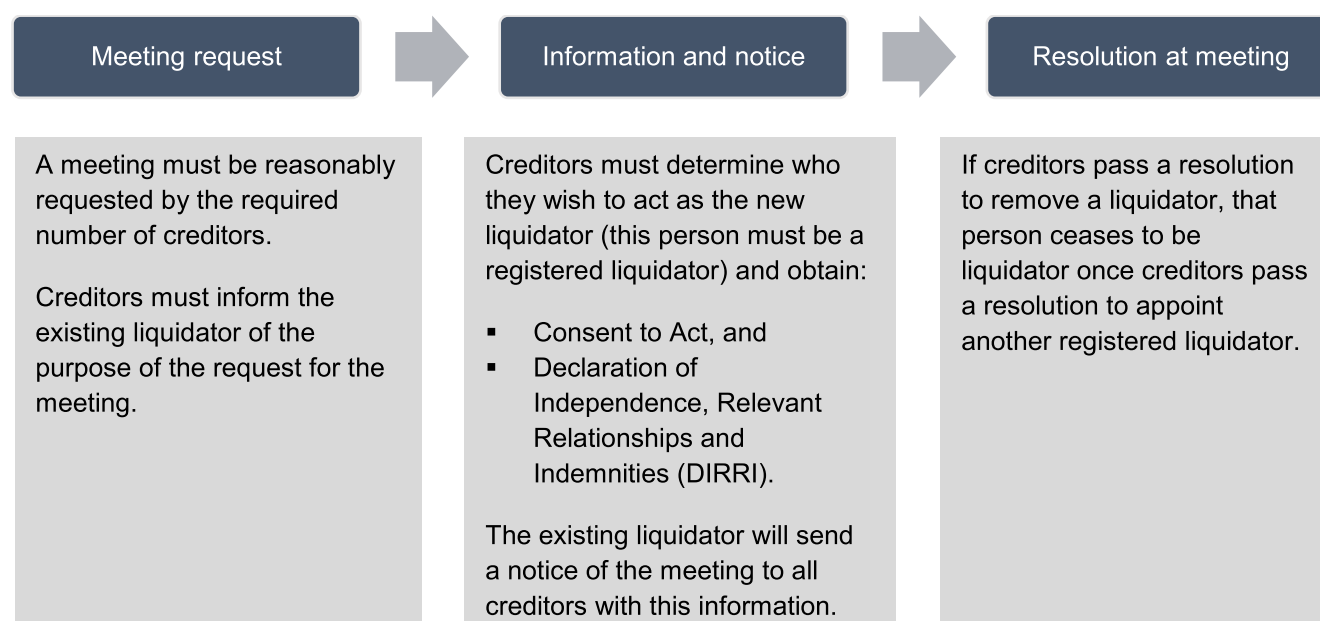
The cost of the reviewing liquidator is paid from the assets of the liquidation, in priority to creditor claims.

An individual creditor can appoint a reviewing liquidator with the liquidator's consent, however the cost of this reviewing liquidator must be met personally by the creditor making the appointment.

Right to replace liquidator

Creditors, by resolution, have the right to remove a liquidator and appoint another registered liquidator.

For this to happen, there are certain requirements that must be complied with:



**For more information, go to www.arita.com.au/creditors.
Specific queries about the liquidation should be directed to the liquidator's office.**

Appendix C

ASIC – Information sheet: Summary of insolvency information sheets



ASIC
Australian Securities &
Investments Commission

Insolvency information for directors, employees, creditors and shareholders

This information sheet (INFO 39) lists ASIC's information sheets for directors, employees, creditors and shareholders affected by a company's insolvency.

We have produced these with endorsement from the Australian Restructuring Insolvency & Turnaround Association (ARITA).

The information sheets give a basic understanding of the three most common company insolvency procedures – liquidation, voluntary administration and receivership – as well as the independence requirements for external administrators and approving external administrator remuneration. There is also a glossary of commonly used insolvency terms.

List of information sheets

- [INFO 41](#) Insolvency: A glossary of terms
- [INFO 42](#) Insolvency: A guide for directors
- [INFO 43](#) Insolvency: A guide for shareholders
- [INFO 45](#) Liquidation: A guide for creditors
- [INFO 46](#) Liquidation: A guide for employees
- [INFO 54](#) Receivership: A guide for creditors
- [INFO 55](#) Receivership: A guide for employees
- [INFO 74](#) Voluntary administration: A guide for creditors
- [INFO 75](#) Voluntary administration: A guide for employees
- [INFO 84](#) Independence of external administrators: A guide for creditors
- [INFO 85](#) Approving fees: A guide for creditors

Where can I get more information?

Further information is available from the [ARITA website](#). The ARITA website also contains the [ARITA Code of Professional Practice for Insolvency Practitioners](#).

This is **Information Sheet 39 (INFO 39)** updated on 1 September 2017. Information sheets provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.



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