

What is receivership?

What you need to know

Companies may offer security against assets such as plant and equipment to obtain finance or assist with cash flow. The creditor then has an interest in that security. In the event of default the creditor can appoint a receiver to collect and sell the asset in which they have a security interest. Assets which are not secured remain with the company.

Receivership is an appointment for the purpose of realising assets or managing the business of a company for the benefit of security holders under the terms of a security, or by a Court. Receivership is governed by the Receiverships Act 1993.

Sometimes secured assets are critical to the operation of the company and trading cannot continue without them. Liquidation can soon follow.

What is a receiver and what do they do?

A receiver is a person or persons appointed by the Court or under a Deed of Agreement to realise assets or manage the business of a company for the benefit of the security holders. The Receivership Act 1993 defines the qualifications of a receiver.

Two or more receivers may be appointed and may act jointly or severally unless a deed or agreement states otherwise.

A receiver is responsible for payment of preferential claims such as unpaid wages and amounts owed to Inland Revenue. Preferential claims must be paid before the secured creditor.

What is the difference between receivership and liquidation?

In receiverships assets are realised for the benefit of the secured creditor who made the appointment. In liquidations the assets are realised primarily for the benefit of unsecured creditors.

What is the difference between receivership and voluntary administration?

Voluntary Administration (VA) is designed to benefit all creditors rather than just secured or unsecured. VA provides a company in financial distress with breathing space from creditors to allow an appointed administrator to review and rearrange a company's affairs to avoid liquidation.

Does voluntary administration affect a company in receivership?

Receiverships continue unaffected by Voluntary Administration and the appointment of an administrator does not remove a receiver from office. However, if the creditor that placed the company into receivership holds security over most of a company's assets, it is possible that the company would have little prospect of being able to trade on. Thus it is less likely that creditors would agree to a Deed of Company Arrangement.

What is a Registrar and what do they do?

The Registrar of Companies is someone who keeps a register of companies in New Zealand. One of the roles of the Registrar is to monitor the compliance of receivers.

What happens when a company goes into receivership?

Public Notice must be given of appointment of a receiver. The notice must include:

- The receiver's full name
- Their date of appointment
- Their office address
- A brief description of property in receivership.

A copy of the Public Notice must be sent to the Registrar within seven (7) days. For companies, the status on the register changes from 'Registered' to 'In Receivership'.

The receiver must prepare an initial report on the state of affairs with respect to the property in receivership. The report must contain the items listed in the Receiverships Act 1993 s23(1)-(2).

What happens during a receivership?

Receivers must prepare further reports every six (6) months and at the end of the receivership. The reports must summarise the state of affairs with respect to the property in receivership as at those dates, and the conduct of the receivership, including all amounts received and paid, during the period to which the report relates. The report must contain the items listed in the Receiverships Act 1993 s24(2).

All reports prepared by a receiver must be sent or delivered to the Registrar of Companies within seven (7) days of preparation. The time may be extended by the Court or the Registrar.

Receiver to report offences committed

A receiver who considers an offence has been committed material to the receivership must report this to the Registrar of Companies. Offences may be against the Companies Act 1993, Financial Reporting Act 1993 and/or the Securities Act 1978.

What happens if a receiver quits?

A receiver may die, resign, or be disqualified. Before a receiver can resign or be disqualified Public Notice must be given and written notice delivered to the Registrar within seven (7) days.

A change of receiver does not alter the company being in receivership. Where no receiver is acting, the Registrar will contact the security holder for advice on the progress of the receivership.

Notice of end of receivership

When a receivership ends the receiver must notify the Registrar within seven (7) days. The receiver must also prepare and file a final report. When a receivership ends the company reverts to “registered”.

Annual Returns are not filed while a company is in receivership.



Further information

[Receivership life cycle](#)

Receivership involves the appointment of a receiver to realise assets or manage the business of a company for the benefit of the security holders. Receiverships may differ slightly in the way they are administered but the core elements remain unchanged and are outlined in the following receivership life cycle.