

Company Winding Up/ Liquidation Process in Bangladesh

1. A. Different Ways of Winding Up

There are **three modes of winding up**:

a) by the **court** or b) **voluntarily** or c) **Subject to the supervision of the court.**

B. Who can file the petition of winding up?

1. **Creditor** or, 2. The **Company** (i.e. shareholders) or

3. Contributory (who **contributes to a companies' assets in paying the debts and costs of the company**), together or separately.

C. Winding Up by the Court

Winding Up by court in certain circumstances which are:

- i. **if the company by a special resolution decided to wind up by the court**; or
- ii. **if default in filing the statutory report or in holding the statutory meeting**; or
- iii. **if the no. of members reduced below the required no.** as per the Companies Act.; or
- iv. **the company is incapable of paying its debts**; or
- v. **if the court is of opinion that it is just and equitable to wind up the company.**

Winding up process by court

Step one: Filing Petition to Court

In order to wind up a company by the court, a petition has to be filled in the court. It is to be noted that winding up of a company by the court shall commence from the time of presentation of petition for winding up.

Upon hearing the application the court will pass an order for winding up of the company.

Step two: Notification to registrar

The petitioner and the company **to file with the Registrar a copy of the order within 30 (thirty) days from the date of the order.**

The Registrar shall **register a summary in his books relating to the company.**

Thereafter, **the registrar will notify the official Gazette that such an order has been made.** Such order shall be **notice of discharge to the servants of the company except when the business of the company is continued.**

- **Step three: Appointment of Liquidator**
- The court will then appoint an **official liquidator** and the liquidator will **perform its duties** as per the Companies Act 1994.
- In case of winding up by the court, **all properties of the company shall be deemed to be in the custody of the Court** as from the date of the order for the winding up of the company.
- **Step four: Information recorded with RJSC**
When the affairs of a company have been completely wound up, the Court shall make an order that the company be dissolved from the date of the order, and the company shall be dissolved accordingly.
- The order shall be **reported to the registrar by the official liquidator within 15 (fifteen) days of the order**. The registrar shall record in his books a minute of the dissolution of the company.

D. Voluntarily Winding up

Company may be winded up voluntarily:

- i. when the period, if any, fixed for the duration of the company by the articles expires or any event occurs for which the articles provides that the company is to be dissolved and the company in general meeting has passed a resolution for winding up voluntarily;
- ii. if the company makes special resolution that the company be winded up voluntarily;
- iii. if the company makes by extraordinary resolution to the effect that it cannot by reason of its liabilities carry on its business.
- iv. It is to be noted that commencement of voluntary winding up shall be deemed to commence at the time of the passing of the resolution for voluntary winding up.

E. Winding Up subject to the supervision of the Court

When a company has by special or extraordinary resolution resolved to wind up voluntarily, the court may make an order that the voluntary winding up shall continue but subject to supervision of court and such terms as the court thinks just.

F. Steps by Step process of voluntary Winding Up

a) Step One: Drafting documents for Winding Up

The second step is of winding up which is to prepare documents that are needed to be prepared are:

1. Declaration of Solvency, (which includes information such as the company has no debts among other things) and
2. Profit and Loss Account and
3. Audited Balance.

The above mentioned documents will have to be approved by the majority directors of the company.

b) Step Two: Submission to RJSC

The next step is to file the approved Declaration of Solvency to the RJSC within 5 (five) weeks from the approval by directors.

c) Step Three: Pass Special Resolution

Required to pass a special resolution through the extraordinary general meeting. This is to approve the decision of winding of the company and the appointment of the liquidator. It is to be noted that the content of the meeting will also be filed to the RJSC. Thereafter, the special resolution must be advertised in the official Gazette, and in a newspaper circulating in the district where the registered office is situated. Such must be **done within 10 (ten) days of its passing the special resolution.**

d) Step Four: Appointing Liquidator

Once the chosen liquidator has been approved by the EGM and the liquidator has accepted the appointment, such must be notified to the RJSC. In addition, the DCT will also be informed of the same within 30 (thirty) days of the said appointment.

e) Step Five: Final Report by Liquidator

The liquidator need to prepare a Final Account. The Final Account must have the details of how the winding up has been conducted and the assets distributed.

Thereafter, the liquidator will call an EGM and tat least 30 days notice for that must be circulates by advertisement in the official Gazette, and in a newspaper

The special resolution will be passed in the EGM with regards to the disposal of the books and papers of the company.

f) Step Six: Documents filing to RJSC

Lastly, a final meeting must be hold and a return of the meeting must be submitted to the RJSC upon which the company will be winded up. The submission must be made within one week of the meeting.

g) Petition filing to Court for Winding Up

For voluntary winding up, the petition to the court is made at this stage.

All the documents relevant to the winding up of the company are submitted to the court.

The court being satisfied, declares that the company has been dissolved. This stage is essential to avoid any allegation of fraud later on.

G. RJSC fees for Winding Up

1. For Private and Public Company: BDT 20.00
2. For Trade Organization and Foreign Company: BDT 10.00