



# TSOL'S GUIDE TO COMPANY RESTORATION

From Monday the 17 October 2011 the Companies Court is moving to:

The Rolls Building  
Royal Courts of Justice  
7 Rolls Buildings  
London EC4A 1NL

If after reading this booklet you are unsure how to proceed, you should either consult a Solicitor. The Law Society has a find a solicitor facility on its website at:

<http://www.lawsociety.org.uk/choosingandusing/findasolicitor.law>;

or your local Citizens Advice Bureau:

<http://www.citizensadvice.org.uk>;

or Community Legal Advice:

<http://www.communitylegaladvice.org.uk>

0845 0345 4345.

The Treasury Solicitor is unable to offer any advice or guidance over and above what is set out in this booklet.

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August 2011

This booklet does not deal in any great detail with administrative restoration under Sections 1024 – 1028 of the Companies Act 2006.

Details of this procedure are set out in Companies House guidance booklet GP4 Strike-off, Dissolution and Restoration which can be found at:  
<http://www.companieshouse.gov.uk/about/gbhtml/gp4.shtml>

# Restoration to the Register of Companies

## 01. WHO CAN MAKE THE APPLICATION?

An application to the court to restore the name of a company to the Register of Companies can be made by:

- a) the Secretary of State;
- b) any former director of the company;
- c) any person having an interest in land in which the company had a superior or derivative interest,
- d) any person having an interest in land or other property:
  - i) that was subject to rights vested in the company; or
  - ii) that was benefited by obligations owed by the company;
- e) any person who but for the company's dissolution would have been in a contractual relationship with it;
- f) any person with a potential legal claim against the company;
- g) any manager or trustee of a pension fund established for the benefit of employees of the company;
- h) any former member of the company (or the personal representatives of such a person);
- i) any person who was a creditor of the company at the time of its striking off or dissolution;
- j) any former liquidator of the company;
- k) where the company was struck off the register under section 1003 (voluntary striking off), any person of a description specified by regulations under section 1006(1)(f) or 1007(2)(f) (persons entitled to notice of application for voluntary striking off); or

by any other person appearing to the court to have an interest in the matter.

Except in the case of a personal injury claim the application for restoration must be made within 6 years of the date of dissolution of the company.

For the purposes of bringing a claim for damages for personal injury an application for restoration can be made at any time.

If a company was struck off under section 652 or 652A of the Companies Act 1985 an application may be made at any time before:

- a) 1 October 2015 (six years after commencement of these provisions of the Companies Act 2006); or
- b) the expiration of the period of 20 years from publication in the London Gazette of notice under the relevant section whichever occurs first.

## 02. IN WHICH COURT CAN THE APPLICATION BE ISSUED?

To find out which court has jurisdiction to deal with the application you need to check the registered office of the company at the time it was dissolved.

The Companies Court in London has jurisdiction to deal with the application regardless of where the registered office was situated:

The Companies Court  
Room TM 2.09  
Thomas More Building  
Royal Courts of Justice  
Strand  
London WC2A 2LL  
DX: 44450 Strand  
Tel: +44(0) 20 7947 6294

Certain, but not all, District Registries have Chancery jurisdiction and so can deal with restoration applications. The District Registries that have this jurisdiction are Birmingham, Bristol, Caernarfon, Cardiff, Leeds, Liverpool, Manchester, Mold, Newcastle Upon Tyne and Preston. Like the High Court these District Registries have jurisdiction to deal with the application regardless of the situation of the registered office.

Certain County Courts can deal with restoration applications provided that:

- 1) the registered office of the company is within its jurisdiction; and
- 2) the Court has not been excluded from having winding up jurisdiction.

The index, which shows the County Court for a particular area, can be found at:

<http://hmctscourtfinder.justice.gov.uk/HMCTS/>

The index also shows whether a County Court has winding up jurisdiction by using the work type "Bankruptcy" in the "search by areas of law" box.

If a County Court does not have winding up jurisdiction it will be attached to another County Court in the area, which has the necessary jurisdiction. This will either be shown on the Court search or you will need to contact the Court to enquire which is the linked court with the relevant jurisdiction.

## 03. HOW DO I MAKE THE APPLICATION?

The application is made by completing a Claim Form, a draft of which can be found at Appendix A, under Part 8 of the Civil Procedure Rules 1998. This is the standard form that starts the proceedings and should be sent to the relevant Court (see 2 above) for issue. The Court fee for issuing the Claim Form is currently £155-00 (fee no.3.5) and the remittance should be made payable to HMCTS (Her Majesty's Courts and Tribunal Service).

#### 04. WHAT EVIDENCE WILL I NEED?

You will need to file with the Court a Witness Statement, an outline of which can be found at Appendix B, in support of the Claim Form. A copy must also be served on the Registrar of Companies.

The Witness Statement should contain the following information:

- full particulars of the interest of the person signing the Witness Statement;
- the date of incorporation of the Company and under which Act, the Certificate of Incorporation should be exhibited;
- the address of the registered office of the company;
- the objects of the Company, the Memorandum and Articles of Association should be exhibited;
- the share capital of the Company, both authorised and issued, and, if a member makes the application, the number of shares held by that member. The names of the officers, (director(s) and secretary) of the company;
- a full explanation of the reasons why the name of the Company was struck off the Register of Companies;
- the date on which the Registrar of Companies struck the name of the Company off the Register and the date on which notice thereof was published by him in the "London Gazette";
- if the application is by a member, that the Company is solvent and carrying on business, if that is the case;
- alternatively that the sole reason for seeking restoration is to recover the funds in a company bank account, transfer a property registered in the name of the company etc; and
- any other information that explains the reason for the application.

#### 5. HOW DO I ISSUE THE CLAIM FORM?

Send three copies of the Claim Form, the supporting evidence and the Court fee to the Court. Remember to keep copies of all the documents.

## 06. HOW DO I SERVE THE CLAIM FORM AND SUPPORTING EVIDENCE?

A copy of the Claim Form bearing an original seal and supporting evidence must be served on:

- 1) The Registrar of Companies  
RESTORATION SECTION  
Companies House  
Crown Way  
Cardiff CF14 3UZ  
DX: 33050 Cardiff  
Fax: +44(0) 29 2038 0006

A copy of the Claim Form and supporting evidence must also be served on:

- 2) The Treasury Solicitor  
One Kemble Street  
London WC2B 4TS  
DX: 123242 Kingsway  
Fax: +44(0) 20 7210 3119

If the registered office of the company was in Lancashire or Cornwall the Claim Form and supporting evidence must also be served on the Solicitor to theDuchy of Lancaster/Duke of Cornwall:

Messrs Farrer & Co  
66 Lincoln's Inn Fields  
London WC2A 3LH  
DX: 32 Chancery Lane  
Tel: +44(0) 20 7242 2022  
Fax: +44(0) 20 7242 9899

The Registrar, the Treasury Solicitor and Messrs Farrer & Co will all accept service by post, recorded delivery is recommended. The Registrar will also accept delivery by hand at Companies House, Cardiff or at:

Companies House  
21 Bloomsbury Street  
London WC1B 3XD

during normal office hours.

The Treasury Solicitor or the Solicitor for the Duchy of Lancaster/Duke of Cornwall will write to you stating that no objection will be raised by the Crown to the order being made. On receipt of this letter it should be exhibited to a Witness Statement of Service, a draft is at Appendix C.

**Please Note:** the evidence in support of the claim and the evidence of service on the Treasury Solicitor, Duchy of Lancaster/Duke of Cornwall must be filed with the Court as soon as possible and no later than two clear working days before the hearing.

## 07. WHO CAN ATTEND THE HEARING?

You may attend in person or be represented by an advocate.

Courts have indicated that accountants do not have a right of audience in matters of this nature. The Companies Court in London has adopted a practice of attempting where possible to deal with these cases by consent without a formal hearing, Practice Note 1 of 2003 see Appendix D. Some District Registries and County Courts adopt a similar practice.

The Companies Court in London has indicated that it will grant one adjournment and if the matter is not dealt with in advance of or at the adjourned hearing the application will save in exceptional circumstances be dismissed.

## 08. ARE THERE ANY COSTS OR PENALTIES?

The costs of the Registrar of Companies, who is represented by The Treasury Solicitor, are normally met by the Claimant. These costs will usually be in the region of £300-00. The company may also have to pay the statutory penalty for late filing for any accounts delivered outside the period allowed by the Companies Act. Where penalties are applicable the Registrar will send a penalty notice to the company's registered office once the company has been restored to the Register. Please refer to the guidance notes on Companies House website:

[www.companieshouse.gov.uk](http://www.companieshouse.gov.uk),

for further information.

## 09. WHAT HAPPENS WHEN THE ORDER HAS BEEN MADE?

An office copy of the order, with an original Court seal, must be delivered to the Registrar by the Claimant. It is recommended that the order be sent by recorded delivery or delivered by hand, see section 06 above. A company is regarded as being restored when the order is delivered to the Registrar. The company is then regarded as having continued in existence as if it had not been struck off and dissolved.

## 10. RECOVERY OF COMPANY FUNDS

To recover any Company funds of which may have passed to the Crown on dissolution you should contact either the Treasury Solicitor Bona Vacantia Division:

The Treasury Solicitor's Department (BV)  
One Kemble Street  
London WC2B 4TS  
DX: 123240 Kingsway  
Tel: +44(0) 20 7210 3117  
Fax: +44(0) 20 7210 3104  
email: [bvinfo@tsol.gsi.gov.uk](mailto:bvinfo@tsol.gsi.gov.uk);

or if the registered office of the Company was in Lancashire or Cornwall:

Messrs Farrer & Co.  
66 Lincolns Inn Fields  
London WC2A 3LH  
DX: 32 Chancery Lane  
Tel: +44(0) 20 7242 2022  
Fax: +44(0) 20 7242 9899.

The Treasury Solicitor Bona Vacantia Division's guidelines on repaying funds can be found at:

<http://www.bonavacantia.gov.uk/output/BVC15-Repaying-Funds-to-Restored-Companies.aspx>



## 11. USEFUL ADDRESS

The Association of British Insurers:

51 Gresham Street  
London EC2V 7HQ  
Tel: +44(0) 20 7600 3333  
Fax: +44(0) 20 7696 8999

can assist in tracing the insurers of dissolved companies.

There is an online search facility at:

[http://www.abi.org.uk/EL\\_Code/Employers\\_Liability\\_Tracing\\_Service.aspx](http://www.abi.org.uk/EL_Code/Employers_Liability_Tracing_Service.aspx)

Details of a person's employment history can be obtained from:

HM Revenue & Customs  
National Insurance Contributions Office  
SSA BP1002A  
Benton Park View  
Newcastle upon Tyne NE981ZZ

## 12. FORMS

The forms set out below are available on the Court Service website:

### **N208 Claim Form**

[http://hmctsformfinder.justice.gov.uk/HMCTS/GetForm.do?court\\_forms\\_id=424](http://hmctsformfinder.justice.gov.uk/HMCTS/GetForm.do?court_forms_id=424)

### **N208A Notes for Claimant**

[http://hmctsformfinder.justice.gov.uk/HMCTS/GetLeaflet.do?court\\_leaflets\\_id=431](http://hmctsformfinder.justice.gov.uk/HMCTS/GetLeaflet.do?court_leaflets_id=431)

### **N208C Notes for Defendant**

[http://hmctsformfinder.justice.gov.uk/HMCTS/GetLeaflet.do?court\\_leaflets\\_id=434](http://hmctsformfinder.justice.gov.uk/HMCTS/GetLeaflet.do?court_leaflets_id=434)

### **N210 Acknowledgment of Service**

[http://hmctsformfinder.justice.gov.uk/HMCTS/GetForm.do?court\\_forms\\_id=437](http://hmctsformfinder.justice.gov.uk/HMCTS/GetForm.do?court_forms_id=437)

## 13. WEB SITES

### **Companies House**

[www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

### **Treasury Solicitor's Department**

[www.tsol.gov.uk](http://www.tsol.gov.uk)

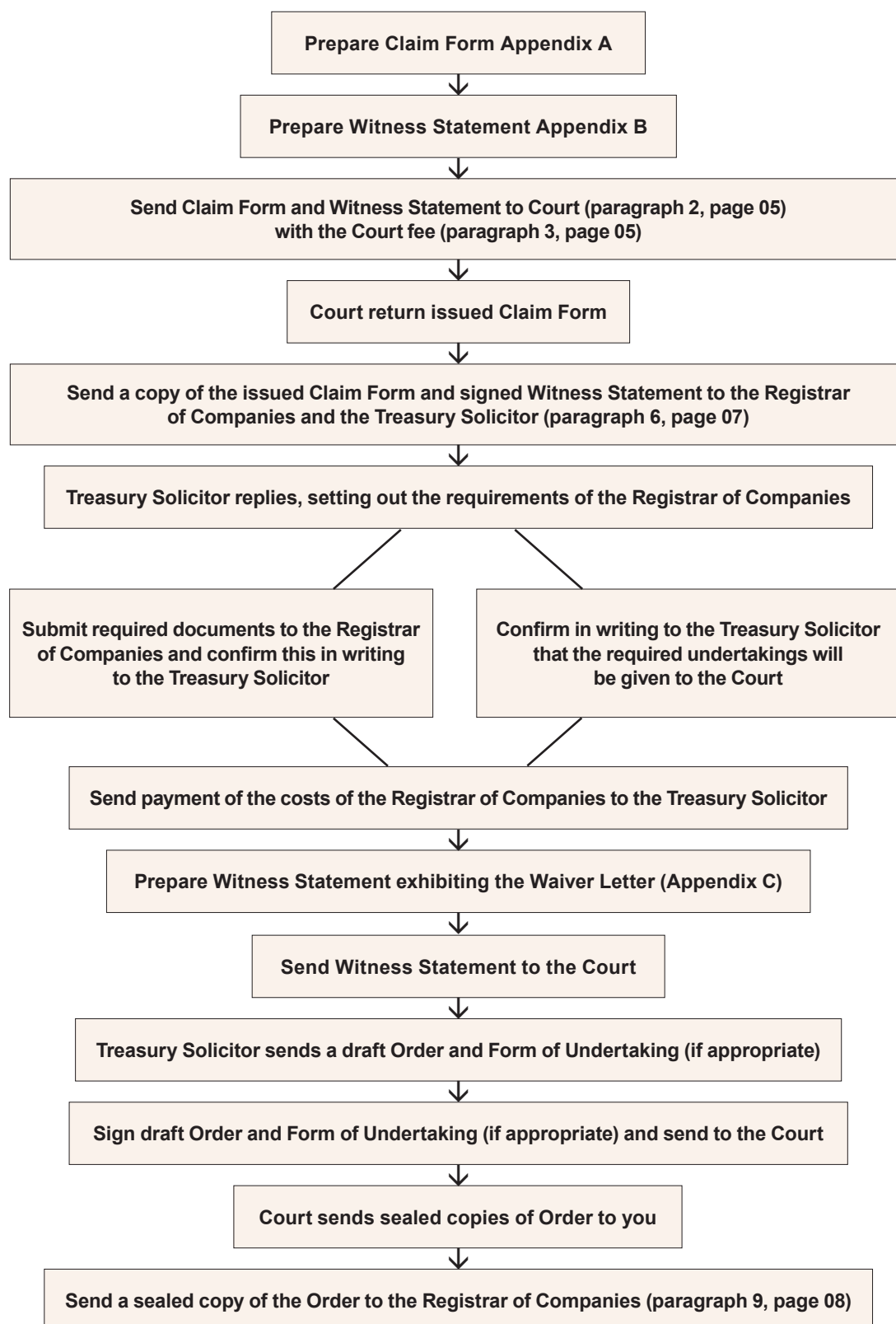
### **Treasury Solicitor's Bona Vacantia Division**

[www.bonavacantia.gov.uk](http://www.bonavacantia.gov.uk)

### **Messrs Farrer & Co**

[www.farrer.co.uk](http://www.farrer.co.uk)

# Flow Chart



# Appendix A



## Claim Form (CPR Part 8)

In the High Court of Justice  
Chancery Division  
Companies Court

Claim No.

In the matter of

Limited / Ltd / Plc

In the matter of the Companies Act 2006

SEAL

Claimant

[status e.g. director, creditor etc. see paragraph 1]

Defendant

Registrar of Companies

Does your claim include any issues under the Human Rights Act 1998?

Yes

No

Defendant's name and address

Registrar of Companies  
Crown Way  
Maindy  
Cardiff CF14 3UZ

Court fee

Solicitor's costs

Issue date

The court office at the Royal Courts of Justice is open between 10am and 4.30pm Monday to Friday. When corresponding with the court please address forms or letters to the Court Manager and quote the claim number.

Claim No.	
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Let the Claimant and the Defendant attend the Registrar on

Date .....

Time .....

Place Room TM 4.12, Fourth Floor, Thomas More Building, Royal Courts of Justice, Strand, London WC2A 2LL.

on the hearing of an application by the claimant for an order under Section 1029 of the Companies Act 2006  
that the name of

.....[Limited / Ltd / Plc]

may be restored to the Register of Companies or for such other relief as to the court may seem fit.

**Statement of Truth**

\* (I believe) (The Claimant believes) that the facts stated in these particulars of claim are true

\* I am duly authorised by the claimant to sign this statement

Full name .....

Name of claimant's solicitor's firm .....

Signed .....

\* (claimant) (Litigation friend) (Claimant's solicitor)

position or office held .....  
(if signing on behalf of firm or company)

\*delete as appropriate

Claimant's or claimant's solicitors address to which  
documents should be sent if different from overleaf.  
If you are prepared to accept service by DX, fax or e-mail,  
please add details.

## Appendix B

**Set out below is the outline of a Witness Statement. The heading of this document should be the same as the Claim Form**

**IN THE MATTER of                      LIMITED/LTD/PLC**

- and -

**IN THE MATTER of THE COMPANIES ACT 2006**

**[name] [occupation] of [address] WILL SAY as follows:**

1. The above named **[company name]** Limited (the Company) was incorporated on the **[date]** with company no. **[incorporation number]** under the Companies Act[s] **[year of Act e.g.1985]** as a Company limited by [shares][guarantee] [in the name of [original name] Limited. By a Special Resolution of the Company passed at an Extraordinary General Meeting held on the **[date]** the company changed its name to **[next name]** ]. There is now produced and shown to me marked "**[your initials]1**" a true copy of the Certificate of Incorporation of the Company [and a true copy of the Certificate of its change of name.]
2. The registered office of the Company is at **[address]**
3. The nominal capital of the Company is £**[total]** divided into shares of £**[value of each share]** each. I am the holder of **[number]** shares in the Company.
4. The objects for which the Company was incorporated are **[set out what the company was incorporated for]**. A true copy of the Memorandum and Articles of association of the Company are now produced and shown to me marked "**[your initials] 2**".
5. The directors of the Company are **[name(s)]**
6. The Company secretary is **[name]**
7. The Company was struck off the Register of Companies under [Section 652 of the Companies Act 1985] [Section 1000] [1001] [1003] of the Companies Act 2006] on the **[date]** and notice thereof was published in the London Gazette on the **[date]**
8. The Company was struck off the Register of Companies **(give a full explanation of the reasons why the company was struck off the Register)**

EITHER

9. The Company is solvent and carrying on business

OR

9. The sole reason it is sought to restore the name of the Company to the Register of Companies is **(set out reason e.g. recover the funds in a company bank account, transfer a property registered in the name of the Company, specific details of the property should be provided, etc.)**.
10. **Set out any other information that explains the reason for the application.**

I believe that the facts stated in this Witness Statement are true.

Signature.....

Print Name in full.....

DATED the            day of            20

# Appendix C

## EVIDENCE OF SERVICE OF THE CLAIM FORM AND SUPPORTING EVIDENCE ON THE TREASURY SOLICITOR/DUCHY OF LANCASTER/DUKE OF CORNWALL

Set out below is the text of a (1) Witness Statement and (2) Exhibit Sheet exhibiting the bona vacantia waiver letter.

The heading of both these documents should be the same as the Claim Form.

### **(1) WITNESS STATEMENT**

**IN THE MATTER of LIMITED/LTD/PLC**

**- and -**

**IN THE MATTER of THE COMPANIES ACT 2006**

\_\_\_\_\_  
I (insert full name) of (home or workplace address and occupation, or, if none, description) **WILL SAY** as follows:

1. On the **(insert date)** I served the Solicitor for [the Affairs of Her Majesty's Treasury] [the Duchy of Lancaster] [the Duke of Cornwall] **(delete as appropriate)** with a true copy of the Claim Form to restore the name of the above-named Company to the Register of Companies which appeared to me to have been regularly issued out of the [High Court of Justice, Chancery Division, Companies Court] [High Court of Justice, Chancery Division, District Registry] [ County Court] **(delete as appropriate)** and the evidence in support by sending the same on **(insert date)** in a pre-paid envelope addressed to him at **(insert address)**
2. The letter now produced and shown to me marked "**(insert your initials)**.1" is his acknowledgement of receipt of the copy of the Claim Form in which he states that no objection is raised by the [Crown] [Crown in right of Her Duchy of Lancaster] [Duke of Cornwall] **(delete as appropriate)** to the relief sought in the Claim Form.

I believe [the Claimant (or as may be) believes] that the facts stated in this Witness Statement are true

**DATED** the                      day of                      20

Signature                      \_\_\_\_\_

Print name in full                      \_\_\_\_\_

## (2) EXHIBIT SHEET

**IN THE MATTER      of      LIMITED/LTD/PLC**

**- and -**

**IN THE MATTER      of      THE COMPANIES ACT 2006**

\_\_\_\_\_

This is the Exhibit marked "**(insert your initials).1**" referred to in the Witness Statement of **(insert full name)** dated the                      day of                      20

# Appendix D

## COMPANIES COURT Practice Note 1 of 2003

Claims for an order restoring the name of a company to the Register or declaring the dissolution of a company void (ss. 651 and 653 Companies Act 1985)

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With effect from 29 April 2003 claims for orders of this type issued in the High Court in London will be given a return date three months in advance of the date of issue. This is designed to enable the applicant(s) to have sufficient opportunity to complete the requirements of the Registrar of Companies. In this way it is intended to prevent repeated adjournments pending completion of those requirements and to save the expense of unnecessary and repeated attendance at court by the parties.

When the requirements of the Registrar of Companies have been met and the Treasury Solicitor is able to approve the application, a consent order may be filed for approval by the court without attendance. If an undertaking is required to be given to the court it must be given by the solicitor (partner) for the claimant(s) in Form UI (attached) or by the claimant in person in Form U2 (attached). In such circumstances the papers which must be filed at court by the claimant(s) with the consent order are:

1. a copy of the claim form;
2. a copy of the witness statement in support;
3. original evidence of service of the application on the company (where appropriate);
4. original evidence of service of the application on the Registrar of Companies;
5. original evidence of service of the application on the Treasury Solicitor dealing with bona vacantia assets on behalf of the Crown, or on the solicitor for the Duchy of Lancaster or the Duke of Cornwall dealing with bona vacantia assets in those areas, exhibiting in either case with the bona vacantia waiver letter received in reply;
6. the original signed copy of any undertaking required to be given to the court; and
7. four copies of the agreed consent order, one of which should be signed by or on behalf of each party by way of consent to the form of order.

In the normal course the above documents will be seen by the Registrar within three working days of delivery to the court. If the papers are in order, the Registrar will make the agreed order and the court will send two sealed copies of the order to the applicant and one to the Treasury Solicitor. If the papers are not in order (or the court for some other reason requires), the matter will be listed for the parties to attend at the earliest convenient date and notice of this appointment will be given by the court to the parties.

Chief Bankruptcy Registrar  
Royal Courts of Justice, Strand, London WC2A 2LL  
April 2003



**Form U1**

**Undertaking by solicitor on behalf of the claimant(s)**

**IN THE HIGH COURT OF JUSTICE  
CHANCERY DIVISION  
COMPANIES COURT**

**Claim No**

IN THE MATTER OF

LIMITED

AND IN THE MATTER OF SECTION [ ] OF THE COMPANIES ACT 1985

Between:

Claimant(s)

AND

THE REGISTRAR OF COMPANIES

Defendant

I \* , a partner in the firm Messrs of  
the solicitors for the claimant(s), am duly authorised to give the  
following undertakings and do hereby give those undertakings to the court:

1. [Insert undertakings]

I have explained to the claimants the meaning of these undertakings and the  
consequences of failing to keep promises given to the court.

Dated this                      day of                      200

Signed.....

\* Print name in full

**Form U2**

**Undertaking by member on behalf of himself and the company**

**IN THE HIGH COURT OF JUSTICE  
CHANCERY DIVISION  
COMPANIES COURT**

**Claim No**

IN THE MATTER OF \_\_\_\_\_ LIMITED

AND IN THE MATTER OF SECTION [ ] OF THE COMPANIES ACT 1985

Between:

Claimant(s)

AND

THE REGISTRAR OF COMPANIES

Defendant

I \* \_\_\_\_\_ of \_\_\_\_\_  
myself and my co-claimant  
the following undertakings to the court:

\_\_\_\_\_, on behalf of  
Limited, do hereby give

1. [Insert undertakings]

**I understand the undertakings which I have given to the court and that if I break any of my promises to the court I may be sent to prison for contempt.**

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 200

Signed.....

\* Print full name

# Appendix E

## **ADMINISTRATIVE RESTORATION**

This provision only relates to companies struck off and dissolved by the Registrar of Companies where he had reasonable cause to believe that the company is not carrying on business or in operation.

It does not apply to companies struck off at their own request.

The application can only be made by a member or director of the company and must be made within six years of the date of dissolution.

To fall within this provision the company must:

- 1) have been carrying on business or in operation when it was struck off;
- 2) obtain the consent of the Crown's representative\*; and
- 3) deliver to the Registrar of Companies all outstanding statutory returns in an acceptable form and pay any late filing penalties which may be due in respect of accounts.

The application must be accompanied by a "statement of compliance" to the effect that the person making the application has the necessary standing and that the requirements of Sections 1024 and 1025 have been met.

The Registrar of Companies has issued a specific form for this type of application, Form RTO1 which can be found at:

<http://www.companieshouse.gov.uk/about/miscellaneous/administrativeRestoration.shtml>

\* Details of how to obtain the Crown's consent can be found at:

<http://www.bonavacantia.gov.uk/output/BVC14-Administrative-Restoration.aspx>



One Kemble Street, London, WC2B 4TS.