Jersey Restructuring & Insolvency 2026 (Lexology)

Briefing Summary: The aim of this chapter is to provide local insights in Jersey including a general overview; types of liquidation and reorganisation processes; insolvency tests and filing requirements; directors' and officers' regime; stays of proceedings and moratoria; doing business during reorganisations; asset sales; creditor remedies, involvement and proving claims; security; clawback and related-party transactions; treatment of groups of companies; international cases; and recent trends.

Service Area: Dispute Resolution and Litigation, Restructuring and Insolvency

Location: Jersey

Content Authors: Marcus Pallot, Jeremy Lightfoot, Mike Kushner

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Key Contacts

Marcus Pallot
PARTNER, JERSEY
+44 (0)1534 822427
EMAIL MARCUS

Jeremy Lightfoot
PARTNER
+44 (0)1534 888900
EMAIL JEREMY

Mike Kushner
SENIOR ASSOCIATE, JERSEY
+44 (0)1534 822245
EMAIL MIKE

General

Legislation

What main legislation is applicable to insolvencies and reorganisations?

The main legislation applicable to insolvencies and reorganisations include:

- Part 21 of the Companies (Jersey) Law 1991, which deals with the winding up of companies;
- Bankruptcy (Désastre) (Jersey) Law 1990, which deals with both personal and corporate bankruptcies;
- Article 166 of the Companies Law, which provides that certain provisions of the Bankruptcy (Désastre) (Jersey) Law 1990 (eg, concerning the admission and proving of creditor claims) also apply in the winding-up context; and
- Bankruptcy (Désastre) Rules 2006.

There is no specific legislation concerning reorganisations (as yet, though such legislation is anticipated in the near future).

Excluded entities and excluded assets

What entities are excluded from customary insolvency or reorganisation proceedings and what legislation applies to them? What assets are excluded or exempt from claims of creditors?

No entities are specifically excluded from insolvency proceedings. Certain assets are excluded from claims of creditors, most notably pension arrangements but also necessities such as basic clothing, furniture and trade tools.

Public enterprises

What procedures are followed in the insolvency of a government-owned enterprise? What remedies do creditors of insolvent public enterprises have?

There are no specific procedures or remedies concerning insolvent government-owned or public enterprises.

Protection for large financial institutions

Has your country enacted legislation to deal with the financial difficulties of institutions that are considered 'too big to fail'?

No specific legislation has been enacted in this regard.

Courts and appeals

What courts are involved? What are the rights of appeal from court orders? Does an appellant have an automatic right of appeal or must it obtain permission? Is there a requirement to post security to proceed with an appeal?

Jersey has two civil courts: the Petty Debts Court and the Royal Court (which also has criminal jurisdiction). The Petty Debts Court deals primarily with simple, small claims (of less than £30,000) and the Royal Court with everything else, including insolvencies. Decisions of the Royal Court are appealed to the Court of Appeal. Broadly speaking, leave is not required for appeals of final orders, but is required for appeals of interlocutory orders. Decisions of the Court of Appeal are appealed to the Judicial Committee of the Privy Council and leave is always required. There is no requirement to post security to proceed with an appeal, but an order to this effect may be sought.

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Types of liquidation and reorganisation reorganisation processes

Voluntary liquidations

What are the requirements for a debtor commencing a voluntary liquidation case and what are the effects?

An insolvent corporate debtor would usually commence a shareholder-instigated creditors' winding up. The procedure is set out in Chapter 4 of the Companies (Jersey) Law 1991. The requirement is that there is no outstanding declaration of ***désastre*** in respect of the company. The process starts with the company passing a special resolution for a creditors' winding up and advertising this fact. A creditors' meeting is then called at which creditors will usually nominate a liquidator.

The effect of a creditors' winding up (the aim) is to bring about the orderly liquidation of the company where the assets are realised and distributions are made to the company's creditors.

While an insolvent corporate debtor could seek its own declaration of ***désastre*** instead, a creditors' winding up is usually preferred over a ***désastre*** in corporate insolvencies.

Voluntary reorganisations

What are the requirements for a debtor commencing a voluntary reorganisation and what are the effects?

There is no formal reorganisation process. Where there is good reason for a reorganisation being carried out in a foreign jurisdiction (eg, by way of an administration process in the United Kingdom) then the Royal Court may, on application by the creditors, issue a letter of request to the courts of that foreign jurisdiction asking that the company be put into a reorganisation process there.

Schemes of arrangement can also be used to effect a restructuring with creditors, but are rarely used when a company is already insolvent.

Successful reorganisations

How are creditors classified for purposes of a reorganisation plan and how is the plan approved? Can a reorganisation plan release non-debtor parties from liability, and, if so, in what circumstances?

There is no formal reorganisation process. Schemes of arrangement can also be used to effect a restructuring with creditors, but are rarely used when a company is already insolvent. Creditors are divided into separate classes based on their rights against the company and, in each class, a majority in number representing three-quarters of the value of the voting creditors must vote in favour. Court sanction is then required. Furthermore, if the arrangement is entered into immediately preceding the commencement of, or during the course of a creditors' winding up, then creditors have a right of appeal within three weeks of completion of the arrangement.

Involuntary liquidations

What are the requirements for creditors placing a debtor into involuntary liquidation and what are the effects? Once the proceeding is opened, are there material differences to proceedings opened voluntarily?

The Companies (Jersey) Law 1991 provides for a creditor-instigated winding up process. This process sits alongside the existing shareholder-instigated winding-up process in Chapter 4 of the Law. Slightly confusingly, both are termed a 'creditors' winding up'. However, the creditor-instigated process requires an order of the Royal Court.

A creditor with a liquidated claim of at least £3,000 may make an application to the Royal Court for the winding up of the debtor company if:

- the debtor is unable to pay its debts;
- the creditor has evidence of the company's insolvency; or
- the creditor has the consent of the company.

One route to establishing insolvency is to follow the statutory demand procedure. A creditor is deemed unable to pay its debts if it has failed to pay within 21 days of a statutory demand being served on it and is otherwise unable to reasonably dispute the debt. In all circumstances for a court-ordered creditors' winding up, the creditor must give the debtor at least 48 hours' notice of the application to court being made.

Re HWA 555 Owners LLC [2023] JCA 085, held that a creditor with a contingent claim can apply for a creditors' winding up, so long as the claim can be demonstrated to be of a value exceeding the prescribed amount (currently £3,000).

If the Royal Court accepts the creditor's application, it will order the winding up of the debtor company and either appoint the liquidator nominated by the creditor or select a different liquidator. The Royal Court may order the appointment of a provisional liquidator after the application, but before the winding-up order has been made. The Royal Court may terminate a winding up if it is satisfied that the creditors' claims will be paid in full.

There are no material differences between creditor-instigated and shareholder-instigated winding-up processes. In both, the liquidator seeks to realise assets for the benefit of creditors, including pursuing any claims on behalf of the company, and the provisions relating to both are in fact the same under the Law. However, both are materially different to summary winding up, which is a solvent process.

The option remains for a creditor to apply for a debtor's property to be declared ***en désastre*** pursuant to the Bankruptcy (Désastre) (Jersey) Law 1990, the 2006 Rules and customary law. It is arguable that the decision in *Re HWA 555 Owners LLC* is a applicable to ***désastre***, such that a creditor with a contingent claim may have standing to apply. However, a ***désastre*** is generally considered to be disadvantageous when compared to the new creditors' winding-up process on the basis that the creditor does not have the opportunity to nominate a liquidator and the costs are usually higher.

Both the property of a natural person and a corporate may be declared ***en désastre***. Once a declaration has been made, the Viscount (the Royal Court's enforcement officer) is appointed to administer the estate. In this way, ***désastre*** is materially different to the liquidation processes set out in the Companies (Jersey) Law 1991 in that a court official, rather than a professional insolvency practitioner, has conduct of the liquidation. There are other processes that may be used but are not considered as désastre is usually preferable.

The property of a company in a creditors' winding up (court-ordered or otherwise) may be declared ***en désastre***, but not the other way around.

Involuntary reorganisations

What are the requirements for creditors commencing an involuntary reorganisation and what are the effects? Once the proceeding is opened, are there any material differences to proceedings opened voluntarily?

There is no formal reorganisation process. Where there is good reason for a reorganisation being carried out in a foreign jurisdiction (eg, by way of an administration process in the United Kingdom) then the Royal Court may, on application by the creditors, issue a letter of request to the courts of that foreign jurisdiction asking that the company be put into a reorganisation process there.

Expedited reorganisations

Do procedures exist for expedited reorganisations (eg, 'prepackaged' reorganisations)?

There is no formal reorganisation process. Where there is good reason for a reorganisation being carried out in a foreign jurisdiction (eg, by way of an administration process in the United Kingdom) then the Royal Court may, on application by the creditors, issue a letter of request to the courts of that foreign jurisdiction asking that the company be put into a reorganisation process there. Schemes of arrangement can also be used to effect a restructuring with creditors, but are rarely used when a company is already insolvent.

Unsuccessful reorganisations

How is a proposed reorganisation defeated and what is the effect of a reorganisation plan not being approved? What if the debtor fails to perform a plan?

There is no formal reorganisation process.

Corporate procedures

Are there corporate procedures for the dissolution of a corporation? How do such processes contrast with bankruptcy proceedings?

If a company is solvent then it may follow the summary winding-up process contained in Chapter 2 of the Companies (Jersey) Law 1991, at the conclusion of which it will be dissolved. If a company is insolvent then it will usually end up in a creditors' winding up or a just and equitable winding up at the conclusion of which, again, it will be dissolved. Similarly, a company will also be dissolved at the conclusion of a ***désastre*** process.

Conclusion of case

How are liquidation and reorganisation cases formally concluded?

Insolvent liquidations (ie, by way of a creditors' winding up or a just and equitable winding up) are usually concluded by the liquidator preparing a final account and laying it before a meeting of the creditors, and then filing the necessary paperwork to dissolve the company. In the case of a just and equitable winding up (which is a court-ordered process), the liquidator will usually return to court for final orders, including that the company be dissolved.

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Insolvency tests and filing requirements

Conditions for insolvency

What is the test to determine if a debtor is insolvent?

Insolvency is determined based on whether the debtor can pay its debts as they fall due (ie, the cash-flow test).

A debtor in ***désastre*** may apply for it to be recalled (ie, so that the debtor's property is no longer vested in the Viscount). However, the debtor will have to satisfy the balance sheet test in such circumstances.

Mandatory filing

Must companies commence insolvency proceedings in particular circumstances?

In practice, yes, given that its directors face liability if a company does not commence insolvency proceedings when there is no reasonable prospect of avoiding insolvency. These consequences include personal responsibility for wrongful and perhaps fraudulent trading and disqualification.

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Directors and officers

Directors' liability – failure to commence proceedings and trading while insolvent

If proceedings are not commenced, what liability can result for directors and officers? What are the consequences for directors and officers if a company carries on business while insolvent?

The Companies (Jersey) Law 1991 imposes civil personal liability on a director that either knew that there was no reasonable prospect of the company avoiding a creditors' winding up or ***désastre***, or was reckless as to the same, at a time before the creditors' winding up was in fact instigated (wrongful trading). However, the director will not be liable if the court is satisfied that reasonable steps were taken to minimise potential loss to creditors. Personal liability is also imposed where it is proved that there was an intention to defraud creditors (fraudulent trading). A disqualification order may also be made.

Directors' liability – other sources of liability

Apart from failure to file for proceedings, are corporate officers and directors personally liable for their corporation's obligations? Are they liable for corporate pre-insolvency or pre-reorganisation actions? Can they be subject to sanctions for other reasons?

The Companies (Jersey) Law 1991 imposes civil personal liability on a director for wrongful and fraudulent trading. There is also the potential for a disqualification order to be made. Also, there are several offences a director may commit that will impose criminal liability. These include exercising excessive powers in circumstances where a creditors' winding up has commenced but no liquidator has been appointed and, once a liquidator has been appointed, failing to cooperate with them.

The Bankruptcy (Désastre) (Jersey) Law 1990 also imposes duties on a debtor to cooperate with the Viscount on pain of criminal liability.

Directors' liability – defences

What defences are available to directors and officers in the context of an insolvency or reorganisation?

A director that is subject to an action for wrongful trading will have a defence if they can show that they took reasonable steps to minimise potential loss to creditors.

Shift in directors' duties

Do the duties that directors owe to the corporation shift to the creditors when an insolvency or reorganisation proceeding is likely? When?

There is a spectrum that is highly fact dependent. However, it is generally considered that the directors' duties shift to creditors at the point in time that they should know that there is no reasonable prospect of avoiding an insolvency process.

Directors' powers after proceedings commence

What powers can directors and officers exercise after liquidation or reorganisation proceedings are commenced by, or against, their corporation?

Where a creditors' winding up has commenced, but before a liquidator has been appointed, the directors are prohibited from exercising their powers, except in certain limited circumstances, namely:

- to call a meeting of the creditors;
- to protect the company's assets; or
- with the sanction of the court.

On the appointment of a liquidator, all of the powers of the directors cease, except if the creditors sanction their continuation.

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Matters arising in a liquidation or reorganisation

Stays of proceedings and moratoria

What prohibitions against the continuation of legal proceedings or the enforcement of claims by creditors apply in liquidations and reorganisations? In what circumstances may creditors obtain relief from such prohibitions?

Whether the debtor is either in a ***désastre*** or a creditors' winding up, there are statutory provisions that prevent creditors bringing or continuing claims against the debtor. However, exceptions exist if the creditor seeking to raise proceedings against the debtor obtains leave of the Royal Court. In a ***désastre***, proceedings already raised at the time of the declaration of ***désastre*** may be continued with the consent of the Viscount.

Doing business

When can the debtor carry on business during a liquidation or reorganisation? Is any special treatment given to creditors who supply goods or services after the filing? What are the roles of the creditors and the court in supervising the debtor's business activities?

Normally, a debtor subject to a ***désastre*** or creditors' winding up must cease trading. Recent developments have seen insolvency officers appointed over a debtor company successfully seek orders as part of their appointment that they are permitted to continue to trade in the company's business for an extended period. These orders were granted on the basis that it was in the interests of the company's creditors as a whole to allow trading to continue. This permission is not obtained by default and will be granted on a case-by-case basis.

Creditors dissatisfied with such arrangements have the right to apply to the Royal Court, but would face the burden of showing that their alternative would be likely to result in a better outcome for the creditors of the debtor as a whole.

Post-filing credit

May a debtor in a liquidation or reorganisation obtain secured or unsecured loans or credit? What priority is or can be given to such loans or credit?

In a creditors' winding up, there is no explicit prohibition on the liquidator obtaining new credit on the debtor company's behalf save that obtaining new credit must be required for the company's beneficial winding up. Thus, in these circumstances, it is rare for a debtor company to obtain new credit.

In a ***désastre*** procedure, the debtor may obtain new credit, but must explicitly inform its proposed creditor that the debtor's property is subject to a declaration of ***désastre*** if the amount of said credit exceeds £250.

Sale of assets

In reorganisations and liquidations, what provisions apply to the sale of specific assets out of the ordinary course of business and to the sale of the entire business of the debtor? Does the purchaser acquire the assets 'free and clear' of claims or do some liabilities pass with the assets?

Liquidators of Jersey companies have extensive powers to make sales of the whole or any part of the debtor's assets. Sales of immoveable property situated in Jersey will continue to be subject to any hypothecs charged thereto and a purchaser will not obtain title to the assets free and clear of these charges.

In a ***désastre***, the Viscount may sell the whole or any part of the debtor's property. If the Viscount sells immovable property situated in Jersey, the purchaser takes title thereto free and clear of any hypothecs, although the owners of those hypothecs will have a preferential claim in the insolvency to the extent of the sale proceeds.

Negotiating sale of assets

Does your system allow for 'stalking horse' bids in sale procedures and does your system permit credit bidding in sales?

As long as a contract for sale of the asset in question has not been concluded, in principle a liquidator or the Viscount would be free to receive and accept other bids if they were made on more favourable terms that would be of greater benefit to the creditors as a whole.

Credit bidding is not prohibited, but typically in cases where such a mechanism would be contemplated, the issue of the purchaser being at arms' length and thereby obtaining the true market value of the asset would need to be considered carefully.

Rejection and disclaimer of contracts

Can a debtor undergoing a liquidation or reorganisation reject or disclaim an unfavourable contract? Are there contracts that may not be rejected? What procedure is followed to reject a contract and what is the effect of rejection on the other party? What happens if a debtor breaches the contract after the insolvency case is opened?

A liquidator, or the Viscount, may disclaim onerous property of the debtor within six months of their appointment. Onerous property includes any movable property, a contract lease (a lease of Jersey situs land for over nine years) and any immovable property outside of Jersey if said property is unsaleable, not readily saleable or may give rise to a liability to perform an obligation.

To disclaim, the liquidator, or the Viscount as the case may be, serves upon any interested person notice that the onerous property is being disclaimed. A disclaimer has the effect of releasing the debtor of any liabilities, and rights, concerning the property disclaimed from the date of the disclaimer. Any liabilities concerning the property disclaimed will be discharged as of the date of commencement of the relevant insolvency process.

A counterparty to a disclaimed contract will rank as an ordinary unsecured creditor for the value of any obligation owed to it that has been disclaimed.

Intellectual property assets

May an IP licensor or owner terminate the debtor's right to use the IP when a liquidation or reorganisation is opened? To what extent may IP rights granted under an agreement with the debtor continue to be used?

It is not clear as a matter of Jersey law whether a provision that intends to terminate the licence to use IP upon the insolvency of the licensee would be effective. It has been argued that such a provision could infringe the anti-deprivation principle; however, any such issue is only likely to arise in circumstances where the continued benefit of the licence is necessary for maintaining value in the debtor's assets where the termination of the licence would prejudice the interests of the debtor's creditors.

Personal data

Where personal information or customer data collected by a company in liquidation or reorganisation is valuable, are there any restrictions in your country on the use of that information or its transfer to a purchaser?

There are no explicit restrictions or permissions in the context of the insolvency of a data processor. However, the terms of the Data Protection (Jersey) Law 2018, which is modelled on Regulation (EU) No. 2016/679 (General Data Protection Regulation) of the European Union, will continue to apply and the debtor and the relevant insolvency office holders would be subject to the terms thereof, as would be the case if the debtor had not become insolvent.

Arbitration processes

How frequently is arbitration used in liquidation or reorganisation proceedings? Are there certain types of disputes that may not be arbitrated? Can disputes that arise after the liquidation or reorganisation case is opened be arbitrated with the consent of the parties?

Arbitration is not generally used in Jersey and is even rarer in the context of insolvency proceedings. Where a debtor is subject to disputes that must be arbitrated, the liquidator or Viscount may commence or defend arbitration proceedings if it is in the interests of the debtor's creditors as a whole.

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Creditor remedies

Creditors' enforcement

Are there processes by which some or all of the assets of a business may be seized outside of court proceedings? How are these processes carried out?

Secured creditors will enjoy any rights they have in respect of collateral and may exercise these without recourse to court proceedings. The character of these rights will depend upon what was agreed with the debtor. Unsecured creditors do not have many extra-judicial remedies, although setting-off of debts may be available in circumstances where the creditor is also a debtor of the debtor.

Unsecured credit

What remedies are available to unsecured creditors? Are the processes difficult or time-consuming? Are pre-judgment attachments available?

Unsecured judgment creditors may arrest (ie, attach) identified movable property owed to the debtor in the hands of third parties. This includes intangible movables such as debts or other choses in action owed by the third party to the debtor. If no such assets exist, usually the unsecured creditor's remedy is to seek a declaration of ***désastre***.

At the pre-judgment stage, liquidated creditors may obtain an interim arrest. Creditors may also obtain freezing orders against the debtor's assets if they can evidence a risk of dissipation of those assets other than in the ordinary course of business. A caveat may also be lodged against a debtor that prevents the debtor from transacting in Jersey situs immovable property. Obtaining pre-judgment remedies is subject to the creditor making out a prima facie case against the debtor and to a balance of convenience test.

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Creditor involvement and proving claims

Creditor participation

During the liquidation or reorganisation, what notices are given to creditors? What meetings are held and how are they called? What information regarding the administration of the estate, its assets and the claims against it is available to creditors or creditors' committees? What are the liquidator's reporting obligations?

During an ongoing liquidation, the liquidators of a company must call a meeting of the creditors at least every year, during which the liquidator must give an account of their actions and dealings with the debtor's affairs. Such meetings can be held on 14 days' notice to every creditor entitled to attend. Creditors may also decide to form a liquidation committee of no greater than five people with whom the liquidators may consult during the liquidation process. The liquidators must also call a final meeting of the creditors on 21 days' notice at which they will give a full account of their actions in the liquidation.

In a ***désastre***, the Viscount is not obliged to call meetings of creditors.

Creditor representation

What committees can be formed (or representative counsel appointed) and what powers or responsibilities do they have? How are they selected and appointed? May they retain advisers and how are their expenses funded?

The creditors in a liquidation may, but are not obliged to, appoint a liquidation committee of not more than five persons. The primary role of the liquidation committee is to oversee and approve the liquidators' actions and review the liquidators' remuneration. The costs of the liquidation committee will generally not be payable out of the debtors' assets, but this may be subject to agreement of the creditors.

Enforcement of estate's rights

If the liquidator has no assets to pursue a claim, may the creditors pursue the estate's remedies? If so, to whom do the fruits of the remedies belong? Can they be assigned to a third party?

A claim owned by a company, insolvent or not, is not owned by its creditors. Creditors, therefore, have no right to pursue a claim of the company on their own initiative. In practice, arrangements may be made whereby creditors (or a third-party litigation funder) fund the liquidators' pursuit of a claim. Alternatively, in suitable circumstances, the liquidators may assign a claim of the debtor to a creditor for fair value. Whether a claim can be assigned depends on the nature of the claim.

Claims

How is a creditor's claim submitted and what are the time limits? How are claims disallowed and how does a creditor appeal? Can claims for contingent or unliquidated be recognised? Are there provisions on the transfer of claims and must transfers be disclosed? How are the amounts of such claims determined?

Upon their appointment, the liquidators, or the Viscount, as the case may be, must publish a call for proof of claims in the debtor's estate by notice given in the Jersey Gazette. Creditors must be given not less than 40 days and not more than 60 days to file proof of their claims against the debtor. Creditors may be required to give evidence of their claim in any form the liquidator may reasonably require. A creditor who fails to satisfactorily submit their claim within the specified deadline forfeits their right to participate in the distribution of the assets. The claims submitted must then be open to inspection by the other creditors (and any other interested person) and a claim may thereby be challenged. Once claims are received, the liquidator then determines whether to accept or reject a claim made. A creditor may apply to the Royal Court to review a decision to accept or reject a claim.

Set-off and netting

To what extent may creditors exercise rights of set-off or netting in a liquidation or in a reorganisation? Can creditors be deprived of the right of set-off either temporarily or permanently?

Set-off applies according to the extent of the mutual obligations owed as at the date the relevant insolvency process was entered. Creditors who owe more to the debtor than they are owed must pay the balance of their debt to the debtor's estate.

Modifying creditors' rights

May the court change the rank (priority) of a creditor's claim? If so, what are the grounds for doing so and how frequently does this occur?

No.

Priority claims

Apart from employee-related claims, what are the major privileged and priority claims in liquidations and reorganisations? Which have priority over secured creditors?

Priority creditors are limited to the following:

- payment of the Viscount or liquidator's fees properly incurred, including the costs of the application process where the court so orders;
- payment of up to six months of arrears of salary up to £4,800 per employee of any employees, and any outstanding holiday pay and bonuses up to £1,375 per employee;
- payment of local employee-related taxes;

- up to two months arrears of rent; and
- payment of local rates for a period not exceeding two years.

All of these have priority over secured creditors, although secured creditors are not prevented from exercising any rights they may have in collateral.

Employment-related liabilities

What employee claims arise where employees' contracts are terminated during a restructuring or liquidation? What are the procedures for termination? (Are employee claims as a whole increased where large numbers of employees' contracts are terminated or where the business ceases operations?)

Employment contracts will terminate automatically on winding up or *désastre*. Employment could continue by agreement between the employees and the Viscount (in the case of *désastre*) or the liquidator (in the case of a winding up). Employee claims are dealt with on an individual basis and are not determined by reference to the number of employees or whether the business ceases operations.

Employees are priority creditors on insolvency and will be able to claim up to six months' arrears of salary payments (including leave and bonuses).

Pension claims

What remedies exist for pension-related claims against employers in insolvency or reorganisation proceedings and what priorities attach to such claims?

Employees are priority creditors on insolvency and will be able to claim up to six months' arrears of salary payments (including leave and bonuses). It is likely that unpaid (arrear) employer pension contributions will fall within the ambit of the employee's claim for salary arrears and therefore constitute a priority claim, limited to six months of unpaid contributions.

It is unlikely that an actuarial deficiency would succeed as a claim against the company on insolvency, unless the company's conduct led to the deficiency or amounted to a breach of a contractual obligation owed by the company.

Environmental problems and liabilities

Where there are environmental problems, who is responsible for controlling the environmental problem and for remediating the damage caused? Are any of these liabilities imposed on the insolvency administrator personally, secured or unsecured creditors, the debtor's officers and directors, or on third parties?

Liability for environmental damage is largely uncodified. A statutory regime, based on the International Convention for the Prevention of Pollution from Ships, applies to shipowners and certain of their affiliates and agents, if they operate through Jersey companies or in Jersey. These companies can be held liable for damage to the marine environment and will, in the first instance, be held liable for remediating marine damage. Liability can also attach to a director if the damage is attributable to the director's negligence.

Other environmental laws exist in relation to urban planning, agriculture and the management of land and water resources. Some of these laws impose fines on companies found to be in breach.

There are no special rules or priorities for dealing with environmental damage in the context of insolvency. A creditor with a claim for remediation of environmental damage would need to prove the claim before the Viscount (in the case of ***désastre***) or the liquidator (in the case of a winding up) in the same way applicable to other creditors. If proved, the claim would not have any priority ranking over other claims. The claim would not occasion personal liability to the Viscount or liquidator, other creditors, directors (save in relation to marine pollution caused by a director's negligence, although this would be the case regardless of insolvency) or third parties.

Liabilities that survive insolvency or reorganisation proceedings

Do any liabilities of a debtor survive an insolvency or a reorganisation?

Almost all debts and liabilities are provable as claims in a ***désastre***. If the Viscount rejects a claim, the creditor can ask a court to review the Viscount's decision. All debts and liabilities that are not proved will be extinguished by the ***désastre***. Creditors who have successfully proved their claims will be prioritised for payment from the available assets realised (if any).

Distributions

How and when are distributions made to creditors in liquidations and reorganisations?

The Viscount (in the case of ***désastre***) or the liquidator (in the case of a winding up) must distribute the debtor's assets between the entitled creditors as soon as practicable and may pay interim dividends. When all of the debtor's assets have been realised, the Viscount or liquidator must pay whatever final dividend is available, having regard to the priorities and size of the creditors' respective claims.

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Security

Secured lending and credit (immovables)

What principal types of security are taken on immovable (real) property?

Immovable property consists of land and everything that is attached to land. Immovable property and certain types of leases known as 'contract leases' (those for a term in excess of nine years and passed before the Royal Court) can be hypothecated. In the case of a contract lease, the parties can agree to exclude the possibility of hypothecation.

A hypothec does not require the creditor to be in possession of the immovable property. Two species of hypothecs are available. First, the judicial hypothec, which requires the registration of an acknowledgement document called a ***billet*** in the Jersey Public Registry and does not require the security instrument itself to be registered. Second, the conventional hypothec, which requires the security instrument itself to be passed before the Royal Court and then registered in the Jersey Public Registry.

Where immovable property is owned on a share transfer basis, it is possible to create security interests in the underlying shares using the Security Interests (Jersey) Law 2012, which provides mechanisms for obtaining security through registration or possession of the relevant share certificates.

Secured lending and credit (movables)

What principal types of security are taken on movable (personal) property?

Movable property is divided into tangible property and intangible property.

Security rights in respect of tangible property, with the exception of ships and aircraft, can only be created by pledge. A pledge requires actual physical delivery of the property to the creditor. Security rights in respect of ships and aircraft can be created by registration.

Security rights in respect of intangible property situated in Jersey (such as financial instruments, whether directly or indirectly held, contractual rights and receivables) can be created using the Security Interests (Jersey) Law 2012, which provides mechanisms for obtaining security through registration or possession of the relevant instrument certificates (if any).

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Clawback and related-party transactions

Transactions that may be annulled

What transactions can be annulled or set aside in liquidations and reorganisations and what are the grounds? Who can attack such transactions?

The Viscount (in the case of ***désastre***) or liquidator (in the case of a winding up) can apply to the Royal Court for an order to set aside a transaction that was either undervalue or amounts to a preference of one creditor over another. If successful, the court may make an order to restore the position that would have existed had the debtor not entered into the impugned transaction.

Undervalue transactions are susceptible to attack for five years from the date on which the transaction was concluded to the time at which ***désastre*** is declared or winding up is commenced. The period for preference transactions is 12 months. In both cases (undervalue and preference) the debtor must have been insolvent at the time the transaction was concluded or must have become insolvent as a result of the transaction. It is also possible that a transaction may not be set aside if it was entered into by the debtor in good faith, in the ordinary course of business, and there were reasonable grounds to believe that the transaction would benefit the company.

Equitable subordination

Are there any restrictions on claims by related parties or non-arm's length creditors (including shareholders) against corporations in insolvency or reorganisation proceedings?

It is possible for a creditor to agree, before insolvency, that its claim in the event of insolvency will be subrogated.

Claims are not restricted based on the relationship between the debtor and creditor. However, regardless of the nature of that relationship, undervalue transactions or those that amounted to an undue preference may be susceptible to being set aside. This is determined based on the substance of the transaction, rather than the relationship between the parties. However, if the creditor was a person connected with the company or an associate of it, then that creditor will bear the burden of proving that the transaction was for value and did not amount to an undue preference.

Lender liability

Are there any circumstances where lenders could be held liable for the insolvency of a debtor?

Lenders are not generally liable for the insolvency of a debtor. However, under article 17C of the Bankruptcy (Désastre) (Jersey) Law 1990, in circumstances where a lender extended credit to the debtor on extortionate terms, within three years ending with the declaration ***en désastre***, the Viscount or liquidator can apply to the Royal Court for various orders. This could include an order requiring the lender to return monies paid under the extortionate transaction or deliver up property held as security for the extortionary transaction. Where the Viscount or liquidator makes such an application, there is a rebuttable presumption, unless the contrary is proved, that the transaction in question was extortionate.

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Groups of companies

Groups of companies

Groups of companies

In which circumstances can a parent or affiliated corporation be responsible for the liabilities of subsidiaries or affiliates?

A parent or affiliate could be held liable to account for a distribution, if that distribution was received in circumstances where it would have been reasonably anticipated that the entity paying the distribution would become insolvent within 12 months of the distribution.

Save for the above, there is no statutory or customary law rule that would see a parent or affiliate automatically liable for the debts of subsidiaries or affiliates. For example, there is no statutory parental guarantee in Jersey.

Combining parent and subsidiary proceedings

In proceedings involving a corporate group, are the proceedings by the parent and its subsidiaries combined for administrative purposes? May the assets and liabilities of the companies be pooled for distribution purposes?

It is possible for the Royal Court to pool the assets of related insolvencies. This has been done in the context of ***désastre*** as well as a creditors' winding up.

To grant an order effecting pooling (of assets or liabilities, or both), the court must be satisfied that it is just and equitable to do so, having regard to the practicalities and proportionality involved with identifying the individual rights and obligations in relation to entities whose assets or liabilities, or both, will be pooled for purposes of insolvency.

In *Representation of Gardner and Yuill and Aspin* [2025] JRC 144, the Royal Court noted that pooling would generally be appropriate, across a group of companies, where it would otherwise be disproportionate to work out the exact amounts owed to creditors from each company.

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International cases

Recognition of foreign judgments

Recognition of foreign judgments

Are foreign judgments or orders recognised and in what circumstances? Is your country a signatory to a treaty on international insolvency or the recognition of foreign judgments?

A foreign money judgment handed down by a superior court in certain jurisdictions (England and Wales, Scotland, Northern Ireland, Isle of Man and Guernsey) can be enforced by registration, provided it is final in effect, has not been wholly satisfied and could be enforced by execution in Jersey. However, if the judgment is for payment of a tax claim, it will not be enforceable.

Other types of foreign judgments may be enforceable under the customary law by suing on the judgment. Typically, where the judgment is for a money sum, the claim will be brought to seek an attachment of Jersey assets. However, this will require a review of the cause of action from which the judgment arose and whether the relief granted by the foreign court is consistent with public policy in Jersey.

Jersey is not a signatory to any treaties on the recognition of foreign judgments. The framework for registration is set out in the Judgments (Reciprocal Enforcement) (Jersey) Law 1960. As to arbitration awards, Jersey has been a deemed signatory of the New York Convention since 2002.

UNCITRAL Model Laws

Have any of the UNCITRAL Model Laws in relation to insolvency been adopted or is adoption under consideration in your country?

The UNCITRAL Model Laws have not been received into domestic law. However, the court may (not must) have regard to the provisions of the Model Laws, to the extent that the court considers it appropriate in a particular case.

Foreign creditors

How are foreign creditors dealt with in liquidations and reorganisations?

There is no distinction between foreign and domestic creditors. However, foreign tax claims and foreign claims of a penal nature are not enforceable.

Cross-border transfers of assets under administration

May assets be transferred from an administration in your country to an administration of the same company or another group company in another country?

Jersey does not have an administration regime (as yet, though legislation is anticipated). In the case of a ***désastre***, it is unlikely that the Viscount would agree to release Jersey assets to a foreign administration process, unless there is an order of the Royal Court requiring the Viscount to do so. In the case of foreign assets, it is likely that directions will need to be sought from the Royal Court as to the treatment of the matter as a cross-border insolvency.

COMI

What test is used in your jurisdiction to determine the COMI (centre of main interests) of a debtor company or group of companies? Is there a test for, or any experience with, determining the COMI of a corporate group of companies in your jurisdiction?

There is a rebuttable presumption that the centre of main interests (COMI) of a company is the jurisdiction in which it is incorporated. However, where this presumption is displaced, and the company is sought to be wound up through a foreign court, the Royal Court may issue a letter of request if that is required by the foreign court. This is the case, for example, when the English High Court is asked to wind up a Jersey registered company, with its COMI in England. The Royal Court will however retain a wide discretion in relation to Jersey registered companies and must be satisfied that foreign insolvency proceedings will be in the best interests of the company and its creditors.

Cross-border cooperation

Does your country's system provide for recognition of foreign insolvency proceedings and cooperation between domestic and foreign courts and domestic and foreign insolvency administrators in cross-border insolvencies and restructurings? Have courts in your country refused to recognise foreign proceedings or to cooperate with foreign courts and, if so, on what grounds?

Assistance can be provided to certain foreign courts (Australia, Finland, Guernsey, Isle of Man and the United Kingdom) under article 49 of the Bankruptcy (Désastre) (Jersey) Law 1990. Requests from the courts of other countries are possible at customary law and will be considered in light of the principles of comity. As a result, although such requests are necessarily addressed on a case-by-case basis, the Royal Court has generally been favourable to requests received.

A request has been refused where it was not supported by a letter of request from the foreign court. Save in the event of extreme urgency, a formal letter of request will usually be required.

Cross-border insolvency protocols and joint court hearings

In cross-border cases, have the courts in your country entered into cross-border insolvency protocols or other arrangements to coordinate proceedings with courts in other countries? Have courts in your country communicated or held joint hearings with courts in other countries in cross-border cases? If so, which other countries?

No such protocols have been agreed upon. A joint hearing with a foreign court would be unlikely as the foreign court would not have jurisdiction in Jersey.

Assistance can be provided to certain foreign courts (Australia, Finland, Guernsey, Isle of Man and the United Kingdom) under article 49 of the Bankruptcy (Désastre) (Jersey) Law 1990. Requests from the courts of other countries are possible at customary law and will be considered in light of the principles of comity.

Winding-up of foreign companies

What is the extent of your courts' powers to order the winding-up of foreign companies doing business in your jurisdiction?

A ***désastre*** in respect of a foreign company is possible, provided that the company carries on business in Jersey or has carried on business in Jersey up to three years before the commencement of proceedings.

This will only be possible if the normal requirements of ***désastre*** are met and where the creditor and debtor did not previously agree that ***désastre*** would not be available to the creditor.

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Update and trends

Trends and reforms

Are there any emerging trends or hot topics in the law of insolvency and restructuring? Is there any new or pending legislation affecting domestic bankruptcy procedures, international bankruptcy cooperation or recognition of foreign judgments and orders?

The creditor-instigated winding up procedure under the Companies Law came into force in 2022 and continues to prove a useful and welcome addition to Jersey's insolvency law. There has been some judicial consideration of its provisions in relation to what constitutes a disputed debt, the ability of creditors with contingent claims to apply, and in relation to insolvencies of multiple companies within the same group where the court has recently made winding-up orders on the basis of consent letters issued by debtor companies to creditor companies within the group.

Equivalent laws have also been brought into force to allow for a creditor-instigated winding up of limited liability companies and incorporated limited partnerships.

A recent case, ***Representation of Prospect Holdings Limited*** [2025] JRC 164, provided welcome clarity regarding the enforcement process for secured creditors in respect of Jersey immovable property. In particular, it is now clear that a secured creditor with a hypothec (charge) over a specific immovable property can enforce against that property without having to put the debtor through a full-blown bankruptcy process.

A very significant revision to the Companies Law is anticipated. It is anticipated that this will introduce a Jersey administration regime. A consultation in respect of the relevant amendments has recently completed. The full timeframe for the introduction of this regime is not yet available, but it is expected to be rolled out over the next 18 months (subject to the legislative process, including Royal Assent, being completed).

Law stated date

30 August 2025

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Quick reference

Summary of law and procedure

Applicable insolvency law, reorganisations and liquidations	The Bankruptcy (Désastre) (Jersey) Law 1990; the Companies (Jersey) Law 1991; and the Security Interests (Jersey) Law 2012 (SIJL 2012).
Customary kinds of security devices on immovables	Judicial hypothec (requires registration of an acknowledgement document called a ***billet***). Conventional hypothec (requires registration of the actual security instrument).
Customary kinds of security devices on movables	Tangible movables: registration for ships and aircraft, pledge for other tangible movables. Intangible movables: registration or possession of certificates in terms of SIJL 2012.
Stays of proceedings in reorganisations/liquidations	Generally, proceedings are stayed or barred, or both, without leave of the court (or the Viscount, as the case may be).
Duties of the insolvency administrator	There is no formal reorganisation process. In a liquidation, a liquidator must comply with the provisions of the earlier mentioned statutes in addition to their professional duties.

Set-off and post-filing credit	Set-off is generally applicable. Post-filing credit may be obtained by the debtor if a declaration of ***désastre*** is disclosed to the creditor above the prescribed sum.
Creditor claims and appeals	Claims must be proved to the Viscount's satisfaction. Decisions of the Viscount can be reviewed by the Royal Court.
Priority claims	Viscount or liquidators' fees and costs, taxes and employee compensation (up to certain values).
Major kinds of voidable transactions	Undervalue, undue preference and extortionate credit.
Operating and financing during reorganisations	There is no formal reorganisation process.
International cooperation and communication	Foreign insolvency can be recognised through a letter of request to the Royal Court.
Liabilities of directors and officers	Wrongful trading and fraudulent trading.
Pending legislation	No directly relevant legislation in draft at the present time.

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