



Mendelsons Fixed Price Fully Inclusive Legal Solutions.

Company Wind Up

WHAT IS THE MINIMUM DEBT REQUIRED?

- \$2,000.00 in order to serve a Statutory Demand, if there is no judgment order.

NO NEED FOR A JUDGMENT

It is possible to commence action without a Judgment?

If there is no Judgment and no genuine dispute about the debt or any offsetting claim and the debt is for at least \$2,000.00 the procedure is to serve a Creditor's Statutory Demand on the company together with an Affidavit setting out details of the debt. The Affidavit is to be sworn by a director of your company.

The company has 21 days to either:

- * Pay or settle the debt.

OR

- * Institute court action to set aside the Demand by showing that either there is a genuine dispute about the debt or an offsetting claim.

If there is no action within the 21 day period, the company is **deemed to be insolvent** and formal wind-up action can then commence.

If there is any possibility of claim being disputed, then it will be necessary to firstly obtain a judgment.

ARE THE PROCEEDINGS EFFECTIVE?

This process is quick, cheap and effective.

If the company is solvent, then the procedure is normally effective in producing prompt payment. The real benefit of the procedure is that pressure is placed on the company to respond to the Statutory Demand within 21 days.

THE MENDELSON'S TWO-STAGE WIND-UP PROCESS

It is not necessary to make an initial decision to proceed through to a wind-up application. After Stage 1, if payment has not been made, a decision can be made as to whether or not to proceed to Stage 2.

STAGE 1: STATUTORY DEMAND

Mendelsons will carry out a company search, prepare the Statutory Demand and serve the documents. If there is no Judgment, we will prepare an Affidavit, which must be sworn by a director, confirming that there is no dispute. If full payment is not received or a satisfactory arrangement entered into within 21 days, the company is **deemed to be insolvent**.

FIXED PRICE FULLY INCLUSIVE COSTS

With Judgment	\$844.25
Includes GST of	\$76.75
Without Judgment	\$995.50
Includes GST of	\$90.50

STAGE 2: WIND-UP PETITION

Mendelsons Lawyers will prepare the application and all supporting documents, pay all fees and disbursements including advertising, attend Court and do all things required to obtain an order for liquidation of the company, on an undefended basis.

FIXED PRICE FULLY INCLUSIVE COSTS		
	Cost	Inc GST
Federal Court		
Individual Creditor	\$4,075.00	\$270.00
Company Creditor	\$6,140.00	\$262.00
Or Supreme Court of Victoria (only if you are in Victoria)		
	\$3,928.70	\$262.00

WHICH COURT?

There are pros and cons about using either the Federal Court or the Supreme Court. We recommend the Federal Court but one of our solicitors will be happy to discuss this with you.

EFFECT OF LIQUIDATION

The Court will appoint a Liquidator who will take over all assets of the company. Any funds left over after deduction of costs and secured claims, will be distributed to the unsecured creditors. The Liquidator will review all related-party transactions, shareholder loans etc.

WHAT HAPPENS IF THE APPLICATION IS DEFENDED

The fixed-price fee includes all negotiations and attendances which arise after service of the application for Winding Up. However, if the application does become defended, you will normally have the option to withdraw at that stage or to proceed with a defended application. Mendelsons Lawyers will discuss fees with you prior to you making a decision.

WHAT MONIES WILL I GET BACK?

Monies recovered from the company will be applied in the following order:

1. There is no cost recovery for Stage 1, other than any initial Judgment cost order.
2. If you proceed to Stage 2, we will refund to you any costs recovered from the Company in excess of the Judgment sum up to the amount of the fully inclusive cost you have paid to us and we will retain any costs recovered in excess of that amount.
3. The balance of recovery will be paid to you.

YOUR CO-OPERATION

The fixed price is based on co-operation by you in executing documents and responding to requests from Mendelsons Lawyers. In the event where Mendelsons Lawyers incurs additional professional time due to your failure to fully co-operate an additional charge will be made.

HOW DO I PROCEED?

Simply complete and sign the Action Form (which acknowledges that you have been provided with the Engagement Agreement) and send, with payment to Mendelsons Lawyers.

Contact: Sue Stevens
Post: Mendelsons Lawyers
Private Bag 6, Mitcham Vic 3132
Fax: (03) 9872 7250
www.mendelsons.com.au

Call the Legal Team for further details on (03) 9872 7289 or send an email to legal@mendelsons.com.au

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