

Call our helpline on 01773 712116 or email info@streetwisesubbie.com

Streetwisesubbie.com Carillion Information For Specialist Contractors



1. Official Receiver Appointed As Carillion Liquidator

Carillion Plc and five of its subsidiaries were placed into liquidation by an order of the Court on 15 January 2018. At the same time, the Court appointed the Official Receiver to be the liquidator and PwC to be special managers. This somewhat unusual procedure means that the Official Receiver is in charge of the company's affairs. PwC have been appointed to assist them in this process.

The Carillion companies in liquidation are:

- I. Carillion plc
- II. Carillion Construction Limited
- III. Carillion Services Limited
- IV. Planned Maintenance Engineering Limited
- V. Carillion Integrated Services Limited
- VI. Carillion Services 2006 Limited

2. Why Liquidation?

Why liquidation rather than administration?

Administration allows a company to operate whilst administrators try to find a buyer for viable parts of the business. The fact that Carillion were put straight into liquidation means that the company stops trading and the liquidator tries to realise any assets, and if there is any surplus (after payment of costs) it will be distributed to the creditors.

Carillion's compulsory liquidation suggests that there are no assets of any value, no viable business, and therefore nothing to sell.

It is therefore unlikely that the unsecured creditors (which will usually include trade creditors), will receive anything.

3. How Is This Going To Affect You

If you are in a contract directly with one of the six Carillion companies that are in Liquidation, then it is highly likely that you will be severely impacted and in particular payment will be a significant issue.

The following situations should be carefully considered;

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- I. If the project is being run as a joint venture between Carillion and another non-Carillion company it is important that you check who you are actually in contract with and what the terms of the contract provide for in this situation. The project may or may not continue and you may or may not be paid for work done prior to the date of liquidation.
- II. For work done before 15 January 2018 (the date of liquidation), any amounts owing to you for that period will probably be an unsecured claim and it is very unlikely you will be paid, unless you have something with which to negotiate (please call our helpline for details).
- III. If you are in a contract with a non-Carillion company on a Carillion project, your entitlement to be paid will depend on the terms of the contract.
 - If the contract contains a provision allowing them not to pay you in the event of Carillion's liquidation, then you will not be paid.
 - If it does not contain such a term, you should still be paid, but in practical terms if companies above you in the chain are not being paid this may affect their ability to pay you, even though they remain liable to do so.
- IV. If you are providing an essential service/works which the liquidator needs immediately to keep a project going (and which he cannot easily obtain elsewhere), you may be in a position to negotiate payment of part or all of your arrears by the liquidator (please call our helpline for details).
- V. If you have entered into a collateral warranty, a beneficiary may exercise its contractual right to step into your contract in place of Carillion, and that may be on terms that arrears prior to 15 January 2018 (or part of them) are paid.
- VI. Before carrying out any future works you must be absolutely certain as to the terms on which you are doing so. In particular you must have the express instructions of the liquidator (who will likely be acting through PwC), in order to be paid for any works for a Carillion company after 15 January 2018 (the date of liquidation). You will not be paid for works carried out without proper authority
- VII. Depending on the terms of the contract it may have already been terminated, and/or you may wish to terminate it (please call our helpline for details).

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4. What If I Have Materials Or Tools On Site And I Am Not Allowed Access?

The vast majority if not all sites will have been secured by PwC and they will deny access to all parties. In the first instance you should contact PwC through their website (pwc.co.uk/carillion) in order to get further information. Be careful if you decide to take matters into your own hands, because unauthorised access will constitute a trespass, and you may also be liable for criminal damage.

There are legitimate ways to claim back materials and tools;

- Materials delivered to site and not yet incorporated in the works may be recoverable if subject to a valid retention of title provision in your contract, or if title has not passed to Carillion or the Employer. You should carefully check your contract terms (and seek advice if necessary) to see when the legal ownership to those materials passes to those who have engaged you, and then up the chain.
- It may be that title in materials passed when they were delivered to site or included in a valuation even if you have not been paid.
- Equipment/tools if owned, hired or leased by you may be claimed back and PwC should be notified as soon as possible, with evidence of your ownership, copies of hire or lease agreements, and you should clearly identify the location of the asset with a full description and photographs if you have them.
- To claim materials, equipment or tools on a site to which you do not have access, you should email PwC at the following email address: sharedservices.carillion@uk.pwc.com

The legal status of materials on site is quite complex and we suggest that you take professional advice as soon as possible (please call our helpline for details).

5. Registering Your Claim As An Unsecured Creditor

As an unsecured creditor of one or more of the Carillion companies in liquidation you should register your claim with PwC. Check their website for information: www.pwc.co.uk/carillion.

You can also find information at the Insolvency Service guidance on making a claim;

gov.uk/government/publications/claim-money-back-from-a-bankruptperson-or-company-in-compulsory-liquidation-guidance-for-creditors.

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6. Could My Contract Be Novated And How Would That Work?

It is possible in certain circumstances that your contract could be novated to another Contractor. A novation is a legal agreement whereby a new contracting party takes the place of the original one.

If you are approached about a possible novation, you need to ensure that you understand the terms. You would want the new contracting party to take over the contract as if it were there from the outset. This means that it would take over all rights and liabilities under the contract including payment, both of arrears and going forward.

From the new party's point of view this is unlikely to be an attractive proposition. So, it will very much depend on the individual circumstances, but a novation which provides for part or all of your pre-liquidation arrears to be paid will probably be an improvement on your position, depending upon the other terms of that novation.

Such agreements can be quite complex, and we suggest that you take professional advice as soon as possible (please call our helpline for details), and most definitely before signing any such agreement, or doing any work based on the prospect of such an agreement.

7. What Should I Do If My Business Is in Financial Difficulties As A Result Of Non-payment?

You should take stock of your situation as quickly as possible. Your own accounts team may be able to provide the information you need, but it may also be prudent to speak to your accountant. You need to establish exactly what impact the Carillion liquidation is going to have on your business.

It may or may not be appropriate to have a discussion with your other major clients to see if they can assist with cash flow by, for example, making early payment on valuations. But be careful, some unscrupulous Contractors may take advantage of your weakened position, in the expectation of your business failing so that they can retain the money they owe you. If you think that is a very cynical view, then you're right, but some unscrupulous Contractors are very cynical!

You should consider accelerating the collection of monies that are already due to you, but which have not yet been paid. These monies could include current jobs, unsettled final accounts, and retention. Taking professional advice as soon as possible could be a cost-effective way to collect your cash quickly (please call our helpline for details).

If you are concerned about your ability to pay tax, HMRC will provide practical advice and guidance through its Business Payment Support Service: gov.uk/government/news/practical-support-for-businesses-affected-by-carillion-liquidation.

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In the event you are considering reducing your workforce, you should take professional advice (please call our helpline for details) and/or call the free ACAS helpline <http://www.acas.org.uk>.

If the impact of non-payment is such that your business cannot survive, then you should take professional advice (please call our helpline for details), before seeking advice from a licensed insolvency practitioner; gov.uk/find-an-insolvency-practitioner.

8. What Else Can Be Done?

Thousands of lives are going to be impacted by Carillion's liquidation and we will be working hard to help Specialist Subcontractors caught up in this mess. Whatever happens it's time for truth!

It's time to stop ignoring the payment abuse, and the shameful and degrading way that some of the big players treat their subcontractors and suppliers!

Those that have the power to change things are choosing to ignore the shameful way that professionals, Sub-Contractors, and suppliers go unpaid or under paid, for work properly and professionally carried out. And all the time Carillion and other Main Contractors unfairly retain monies paid to them by their clients and you the tax payer!

StreetwiseSubbie.com, have carried out payment surveys, given evidence to a Parliamentary inquiry and appeared on local and national radio. And despite Government and others claims to the contrary, the payment situation has gone from bad to worse, and the Supply Chain Payment Charter has been branded a "Dismal Failure".

Sometimes it takes a big name to fail to make people sit up and look at things happening in the industry in a different light. We are not interested in the politics of procurement, we are interested in protecting Specialist Sub-Contractors.

Enough's enough, let's all work together for real truth and real change. So, here is what we would like you to help us with;

- Support our call for a Public Inquiry into construction at; <https://goo.gl/qk6osw>
- Share this link; <https://goo.gl/qk6osw> and our message across all social media using #enoughsenough and #buildfair4all
- Share your stories in confidence with us by email at info@streetwisesubbie.com
- Get free information to protect your interests at; <https://www.streetwisesubbie.com>
- Join us as a member at; <https://www.membership.streetwisesubbie.com>

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Please feel free to give us a call on 01773 712116 or email us on info@streetwisesubbie.com, and let's see what we can all do together to bring about positive change.

#enoughsenough #buildfair4all #Buildgate #payment #poorpayment #subbybashing #construction
#constructioncrisis #protectsubbies

9. How We Can Help

We Understand Your Business

Which means that we get to the nub of your problem quicker and more economically.

We Work with Lots Of Other Specialist Contractors Just Like You

Which means we know the kind of problems you face on a daily basis – and the most cost-effective solutions.

We Have Extensive Construction Experience

Which means that we know what works and what doesn't. It's at our fingertips – so we can get to work straight away on the real problem, saving you time and money.

We Are Alive To The Dirty Tricks Used by Contractors

When it comes to helping you get paid, we have seen most of the stunts tricks and sharp practice used by Contractors – and we know how to get you your money.

We Are Well Qualified

We work with a nationwide team of independent professionals who are highly trained and well qualified in their relevant disciplines - when we give you advice you can be confident is good advice.

Extensive Adjudication And Legal Experience

Our team has represented clients in literally hundreds of adjudications with substantial success – so if we cannot negotiate a settlement we have the means to progress your case quickly and easily.

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NB: The guidance in this information sheet should not be read as a substitute for professional advice which should be sought in relation to specific circumstances and issues. Neither B J Ashmore, Ashmore Consulting, nor Streetwisesubbie.com Ltd, can accept any liability for the information contained herein. Seek our specific professional advice before taking action.

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