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EDITORIAL 105

ARTICLES

Bankruptcy Discharge: Origins and Liberalisation – *Michael Quilter*

The development of bankruptcy discharge reflects varying philosophies and influences. Initially in English bankruptcy law discharge was absent, and even when introduced in the early 18th century, it was restricted and difficult to attain as the result of the creditors' power of veto. Modern discharge policy is more liberal, has a broader stakeholder focus, and an emphasis on shorter bankruptcy periods calculated to combat risk averse behaviour and encourage entrepreneurs to re-enter the market. Liberalising discharge is not a static idea as its application in different jurisdictions, and over time, attest. This article compares current discharge regimes in Australia, Malaysia and Singapore to illustrate how discharge is responsive to political, economic, social, and even cultural factors, and it is precisely this characteristic that makes it an essential element of bankruptcy process in changing commercial environments. 107

Death and Bankruptcy – *Colin Anderson* and *David Morrison*

There is a disconnect between the operation of the Australian *Bankruptcy Act 1966* (Cth) and the various State and Territory Succession Acts. The lack of harmonisation between the operation of the national bankruptcy provisions and the State-based provisions provides a perverse incentive by allowing a choice as to the legislative regime that governs the deceased estate. This article examines this in respect of the *Succession Act 1981* (Qld) as a proxy for the State-based jurisdictions and demonstrates the unintended flaws arising in the circumstances of a bankrupt deceased estate. 127

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