

INSOLVENCY LAW JOURNAL

Volume 28, Number 1

2020

EDITORIAL – *General Editor: Dr David Morrison* 3

ARTICLES

Special Administration of Indigenous Corporations under the Corporations (Aboriginal and Torres Strait Islander) Act 2006 (Cth): Recent Reviews and Proposed Reforms – *Mary Wyburn*

Special administration is a form of external administration of corporations registered under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth), a separate legislative regime for Indigenous corporations. It is unique and differs from the standard range of external administrations available under the *Corporations Act 2001* (Cth). The article discusses the role of special administration and examines recent reviews of its operation and proposed reforms. 4

The Effect of Bankruptcy and Liquidation on Trust Property: Recent High Court Judgments and Implications for Insolvency Practitioners and “Post-Appointment” Dealings and Dispositions – *Mark Wellard*

Two recent judgments of the High Court of Australia have confirmed a tension between the legal effect of liquidation and bankruptcy on trust property and the duty of liquidators and trustees-in-bankruptcy to secure an insolvent’s property upon their appointment. Recent case law demonstrates that insolvency practitioners are in a difficult position when there is doubt as to whether property legally owned by an insolvent is in fact held on trust. Prudence demands that a liquidator or trustee-in-bankruptcy secure property to which the insolvent holds legal title before assessing claims of an asserted beneficial owner. However, the High Court has confirmed that “mere” legal title in trust property will not vest in a trustee-in-bankruptcy under s 58 of the *Bankruptcy Act 1966* (Cth) and now it is doubtful whether s 468 of the *Corporations Act 2001* (Cth) will always void a disposition of trust property after the commencement of a winding up. 29

RECENT DEVELOPMENTS – *Editor: Dr David Morrison*

Vesting of Trust Property in a Bankruptcy Trustee and “Reasonable Grounds” for Lodging a Caveat: Some Helpful Guidance from the High Court – *Garry J Hamilton* 41

REPORT FROM NEW ZEALAND – *Editor: Professor Lynne Taylor*

New Zealand’s New Co-regulatory Scheme for Insolvency Practitioners – *Lynne Taylor* 45

