

Insolvency Law & Practice

Thursday 4 March 2021

Webinar duration: 4.00pm – 5.00pm

Presenter

Geoffrey McDonald

Barrister at Law

9 Windeyer Chambers

(<http://www.9windeyer.com.au/barristers/geoffrey-mcdonald/>)

zoom

The Presenter's background

Insolvency Accountant

1987 became a partner, the youngest ever of an accounting firm, on my 23rd birthday

1988 became a registered liquidator, then also registered as an auditor, tax agent and then
Trustee in bankruptcy

I was a leader in the uptake of the new law in 1993; Voluntary Administrations

ASIC survey of all appointments in Australia; 1/3 of the files reviewed were mine

What will come of VAs with the new law on Restructuring Plans and SBRPs?

As Albert Einstein once said;

“the fate of the old one, recognises the culture of the young”

The Presenter's background

I went to the Bar in the late 1990s.

I was told that I was the first person to be granted a Practising certificate as a barrister whilst also practicing as an accountant.

I soon became National Chairman of Hall Chadwick.

From those beginnings, many insolvency firms have grown or many have employed staff who have had the experience of working with me; SV partners, Mackay Goodwin, BPS Recovery, Chifley Advisory, Aston Chace Group, Westburn Advisory, Jones Partners, TPH Insolvency, Rodgers Reidy, OBP, Cor Cordis, Farnsworth Carson or the staff have become partners of other firms; Deloittes, Ernst & Young and Worrells, or even a firm in the UK; Leonard Curtis .

Web site: [Geoffrey McDonald — 9 Windeyer Chambers](#)

Past papers: [List.docx \(google.com\)](#)

Family business: <http://www.helpingclients.com.au/geoffrey.php>

Due to the relatively short duration of this Webinar, you will find that the presentation will bring issues to your attention, rather than answer all the questions and the PowerPoint paper will be a helpful resource for future guidance (soon to be posted on the 9 Windeyer Website).

Please ask questions throughout, the Webinar, using the Zoom facility.

Endorsement;

“Thank you for another generous invitation to attend your complimentary seminar. Unfortunately, I will not be attending this one, nor any others. I retired as a solicitor at the end of 2018 after 50 years plus. ...

Your invitations and seminars always brought back memories of our many years of friendship and the characters we shared in our lives. Thank you for those.”



Outline of Insolvency Law & Practice Webinar

(1 hour on Tuesday 2 March 2021)

1. Out with the new and in with the old laws; or not?
2. Small Business Restructuring Practitioners and their Plans
3. Recent Superior Court cases
4. Creditor defeating transactions (briefly)

Outline of Insolvency Law & Practice Webinar

(1 hour on Wednesday 3 March 2021)

1. Phoenix Companies
2. Creditor defeating transactions; Director's liability and Solicitor's liability
3. Proposed changes in law and practice
4. Developments with ASIC, AFSA and ARITA and the Courts

SMH 3 March 2021

“After growing by 3.4 per cent in the September 2020 quarter, the national accounts showed another 3.1 per cent expansion through the final three months of 2020. It was the biggest quarter-to-quarter expansion since GDP figures started being collated by the bureau of statistics in 1959.”



Phoenix Companies

ASIC; [Illegal phoenix activity | ASIC - Australian Securities and Investments Commission](#)

What is illegal phoenix activity?

This illegal practice usually happens when company directors transfer the assets of an existing company to a new company without paying true or market value, leaving debts with the old company. Once the assets have been transferred, the old company is placed in liquidation.

Difference between illegal phoenix activity and a legal phoenix company

When a company restructure involves transferring assets to a new company, acting responsibly could mean having the assets independently valued to determine their true market value.

...creditors would not be disadvantaged because they would still have access to the assets. For example, if plant and equipment was independently valued and sold for \$100,000 to another company, the old company or its creditors would (not) be disadvantaged because they would have \$100,000 in lieu of the plant and equipment.

Phoenix Companies

New Zealand Companies Act

S386B Definitions for purpose of phoenix company provisions

(1)

In [sections 386A to 386F](#),—

director of a failed company means a person who was a director of a failed company at any time in the period of 12 months before the commencement of its liquidation, and **director of the failed company** has a corresponding meaning

failed company means a company that was placed in liquidation at a time when it was unable to pay its due debts

phoenix company means, in relation to a failed company, a company that, at any time before, or within 5 years after, the commencement of the liquidation of the failed company, is known by a name that is also—

(a) a pre-liquidation name of the failed company; or

(b) a similar name

Phoenix Companies

Backdating Director's Resignations

From 18 February 2021 the effectiveness of a director's resignation will be dependent on when he/she lodges the resignation form with ASIC. If it is lodged over 28 days after the resignation, then the date of lodgement is the date of resignation. (nb. may apply to ASIC or Court)

Any resignation of a director of a company does not take effect if, on the date of that resignation, the company does not otherwise have at least one other director. Furthermore, any resolution purporting to remove a director, in circumstances where there is no other director available, will be void (section 203CA).

Guide; [Resigning or removing a company director | ASIC - Australian Securities and Investments Commission](#)

Phoenix Companies

Treasury Laws Amendment

(Combating Illegal Phoenixing) Act 2020

Summary

- introduce new criminal offences and civil penalty provisions for company officers that fail to prevent the company from making creditor-defeating dispositions and other persons that facilitate a company making a creditor-defeating disposition (*to be continued*)

Phoenix Companies

ID Numbers

As part of the 2020 Budget Digital Business Plan, the government announced funding to enable the full implementation of the Modernising Business Registers (MBR) program.

<https://www.abr.gov.au/> (“Australian Business Register”)

The MBR Program will be administered over the next four years. While there is no action required yet, we will regularly update you on our journey and communicate widely when action is required. (Last modified 19 Oct 2020)

As at 23 November 2020, the Application Day is presently unspecified; however, unless an earlier date is fixed by Proclamation, the new DIN regime will commence on 22 June 2022.

Phoenix Companies

ID Numbers

Treasury Laws Amendment (Registries Modernisation and Other Measures) Act 2020

Schedule 2—Director identification numbers

The Director Identification Number (DIN) regime has now been approved by parliament in Australia. All directors of companies registered under the Corporations Act will need to obtain a unique identifier. All directors will be required to confirm their identity before receiving a DIN, and there will be civil and criminal penalties for system misuse.

Creditor Defeating Transaction

Treasury Laws Amendment (Combating Illegal Phoenixing) Act 2020

“enable the Australian Securities and Investments Commission to make Orders to recover, for the benefit of a company's creditors, company property disposed of or benefits received under a voidable creditor-defeating disposition”

BANKRUPTCY ACT 1966 - SECT 139ZQ

*(1) If a person has received any money or property as a result of a transaction that is void against the trustee of a bankrupt under Division 3, the Official Receiver:
... may require the person, by written notice given to the person, to pay to the trustee an amount equal to whichever of the following is applicable:
... the money or the value of the property received.*

Creditor Defeating Transactions

Corporations Act; Section 588FDB “Creditor-defeating disposition”

(1) A disposition of property of a company is a creditor-defeating disposition if:

(a) the consideration payable to the company for the disposition was less than the lesser of the following at the time the relevant agreement ... was made ... :

(i) the market value of the property;

(ii) the best price that was reasonably obtainable for the property, having regard to the circumstances existing at that time; and ...

(b) the disposition has the effect of:

(i) preventing the property from becoming available for the benefit of the company's creditors in the winding-up of the company; or

(ii) hindering, or significantly delaying, the process of making the property available for the benefit of the company's creditors in the winding-up of the company.

Creditor Defeating Transactions

McDonald and Anor v Hanselmann

Matter No 3480/97 [1998] NSWSC 171 (28 April 1998)

“It seems to me that in the instant case one can take neither the going concern value nor the auction value as being the true value.

*The authorities show that where one has such a situation even if there are no other potential buyers, the value of the property is the amount which the only purchaser would be prepared to pay for it rather than to lose the property; see e.g. *Mordecai v Mordecai* (1988) 12 NSWLR 58, 70.*

It can be seen from the calculations, and indeed, from the evidence of the valuers, that the fixing of the value of the property is not a matter of precise scientific calculation. This being so, I would think that had the difference between what was paid and the value of the property been less than 15% of the value of the property, I would have been justified in holding that there was not such a magnitude of discrepancy in value as would make the transaction uncommercial.”

Creditor Defeating Transactions

Corporations Act; 588GAC

“Procuring creditor-defeating disposition”

(1) A person must not engage in conduct of procuring, inciting, inducing or encouraging the making by a company of a disposition of property that results in the company making the disposition of the property ..., if:

...

(iii) less than 12 months after the disposition, the start of an external administration (as defined in Schedule 2) of the company occurs as a direct or indirect result of the disposition;

Note 1: Failure to comply with this subsection is an offence: see subsection 1311(1).

Out with the new and in with the old laws; or not?

For the period from 24 March 2020, to 31 December 2020, the insolvency laws were changed to;

- Increase the current minimum threshold for creditors issuing a statutory demand on a company under the Corporations Act 2001 from \$2,000 to \$20,000.
- Extend the statutory timeframe for a company to respond to a statutory demand from 21 days to six months.
- Increase the threshold for the minimum amount of debt required for a creditor to initiate bankruptcy proceedings from its current level of \$5,000 to \$20,000 (BNs changed to \$10,000).
- Increase the time a debtor has to respond to a bankruptcy notice from 21 days to six months.
- Relieve directors of their duty to prevent insolvent trading with respect to any debts incurred in the ordinary course of the company's business (but not waive any related criminal provisions which involve intent, such as dishonesty or fraud).

Out with the new and in with the old laws; or not?

CORPORATIONS ACT 2001 - SECT 588GAAA

Safe harbour--temporary relief in response to the coronavirus

(1) Subsection 588G(2) does not apply in relation to a person and a debt incurred by a company if the debt is incurred:

(a) in the ordinary course of the company's business; and

(b) during:

(i) the 6-month period starting on the day this section commences; or

(ii) any longer period that starts on the day this section commences and that is

prescribed by the regulations for the purposes of this subparagraph; and

(c) before any appointment during that period of an administrator, or liquidator, of

the company.

Proposed changes in law and practice

[Increasing the Statutory Demand Threshold | Treasury.gov.au](#)

Increasing the Statutory Demand Threshold

“Until 2010, there was alignment between the threshold for issuing a corporate statutory demand on a company and the threshold for initiating bankruptcy proceedings against an individual debtor through issuing a bankruptcy notice. In 2010, the threshold for issuing a bankruptcy notice was raised from \$2,000 to \$5,000. This threshold was increased again, to \$10,000, on 1 January 2021.”

Proposed changes in law and practice

“12 Month Bankruptcy”

On 30 November 2017, the Senate referred the provisions of the Bankruptcy Amendment (Enterprise Incentives) Bill 2017 (BAEI bill) to the Senate Legal and Constitutional Affairs Legislation Committee (the committee).

The purpose of the Bill is reduce the default period of bankruptcy from three years to one year, including measures to extend the income contribution obligations of discharged bankrupts for a minimum period of two years following discharge or, if extended due to non-compliance, for five to eight years.

On 13 January 2021, it was announced that the Australian Government is seeking stakeholder submissions on possible changes to the bankruptcy system to inform the Government's ongoing response to coronavirus (COVID-19), including;

Reducing the default period of bankruptcy from the current 3 years to 1 year (and more)

Developments with ASIC, AFSA, ARITA and the Courts

Federal Court of Australia Practice

[Bankruptcy Information Sheet 1: Presenting a creditor's petition \(fedcourt.gov.au\)](#)

[Bankruptcy Information Sheet 2: Creditor's petition checklist \(fedcourt.gov.au\)](#)

[Bankruptcy Information Sheet 3: Opposing a creditor's petition \(fedcourt.gov.au\)](#)

[Bankruptcy Information Sheet 4: Setting aside a bankruptcy notice \(fedcourt.gov.au\)](#)

[Bankruptcy Information Sheet 5: Substituted service applications \(fedcourt.gov.au\)](#)

Updated January 2021

[Corporations Information Sheet 1: Winding up proceedings based on an unsatisfied Statutory Demand \(fedcourt.gov.au\)](#)

[Corporations Information Sheet 2: Winding up checklist \(fedcourt.gov.au\)](#)

Developments with ASIC, AFSA, ARITA and the Courts

FCA REGISTRARS' CORPORATIONS MATTERS - STANDARD ORDERS

Winding-up based on presumed insolvency

Winding-up on other grounds

Dismissal

Substituting Plaintiff

Adjournment/Notification

Extension of Time

Administrator Appointed as Liquidator

Reinstatement

Affidavit in Support of Adjournment

Filing of Evidence

Out with the new and in with the old laws; or not?

Simplified Liquidation Process

Guide; [Simplified liquidation | ASIC - Australian Securities and Investments Commission](#)

Where a liquidator has been appointed pursuant to a creditor's voluntary liquidation and they consider on reasonable grounds that the company meets the eligibility criteria, the liquidator may choose to adopt the small business liquidation process rather than the standard creditor's voluntary liquidation process.

- the liquidator is not required to submit a section 533 report to ASIC on potential misconduct unless there are reasonable grounds that misconduct has occurred.
- the liquidator is not required (entitled) to hold formal creditor's meetings and can instead distribute information to creditors, and proposals for voting, electronically.
- the unfair preference voidable transaction provisions are restricted to prevent the liquidator pursuing claims against unrelated entities (< 3 Months, > \$30,000).

Out with the new and in with the old laws; or not?

Simplified Liquidation Process

In order for a company to be eligible for the simplified liquidation it must satisfy a number of requirements under the legislation including:

- The company must already be in liquidation pursuant to a creditor's voluntary liquidation.
- The company must have liabilities less than \$1 million.
- The company must have its tax lodgements up to date (returns, notices, statements and applications as required by taxation laws).
- Creditors may also request in writing that the liquidator not follow the simplified liquidation process within 20 days of the event triggering the simplified liquidation process, and the liquidator must cease the simplified liquidation process if the eligibility criteria are no longer met.

Small Business Restructuring Practitioner/Process/Plan

[Guide; Restructuring and the restructuring plan | ASIC - Australian Securities and Investments Commission](#)

Total Number of Appointments in Australia in two (2) months to 28 February 2021;

THREE (3)

[Published Notices – ASIC](#)

Compare; 27 Personal Insolvency Agreements in Dec 2020 Quarter

3641 Debt Agreements in Sept 2017 Quarter

Small Business Restructuring Practitioner/Process/Plan

A plan is accepted if more than 50 percent of the creditors
by value that vote, vote to accept the plan.

Related party creditors (that is those linked to the company, its directors or its shareholders) are
not entitled to vote on a restructuring plan.

Small Business Restructuring Practitioner/Process/Plan

[Guide; Restructuring and the restructuring plan | ASIC - Australian Securities and Investments Commission](#)

“Before appointing a restructuring practitioner, directors should consider whether, at the time a restructuring plan is to be proposed to creditors, the company will have (or substantially complied with the requirement to have):

- paid the entitlements of employees that are due and payable
- given returns, notices, statements, applications or other documents as required by taxation laws (within the meaning of the *Income Tax Assessment Act 1997*).”
- (Comment; does not include superannuation?)*
- (Owe less than \$1,000,000 to creditors)*

Small Business Restructuring Practitioner/Process/Plan

[Guide; Restructuring and the restructuring plan | ASIC - Australian Securities and Investments Commission](#)

“The role of the restructuring practitioner is to:

- provide advice to the company about the restructuring**
- assist the company prepare a restructuring plan**
- make a declaration to creditors about the restructuring plan proposed by the company..”**

The restructuring practitioner acts as the company’s agent.

Small Business Restructuring Practitioner/Process/Plan

Reg 5.3B.18 Restructuring practitioner must make declaration

The declaration must:

- (a) (state) if the restructuring practitioner believes on reasonable grounds that:
 - (i) the eligibility criteria for restructuring are met in relation to the company; and**
 - (ii) if the restructuring plan is made, the company is likely to be able to discharge the obligations created by the plan as and when they become due and payable;****
- (b) (state) if the restructuring practitioner believes on reasonable grounds that all information required to be set out in the company's restructuring proposal statement has been set out in that statement; and**
- (c) if the restructuring practitioner does not believe ... identify the matter in relation to which that belief on reasonable grounds could not be formed and set out the reasons**

Small Business Restructuring Practitioner/Process/Plan

5.3B.18 Restructuring practitioner must make declaration

Offence

(4) The restructuring practitioner for a company commits an offence if:

(a) the restructuring practitioner prepares a declaration under this regulation; and

(b) the restructuring practitioner does not:

(i) make reasonable inquiries into the company's business, property, affairs and financial circumstances; or

(ii) take reasonable steps to verify the company's business, property, affairs and financial circumstances;

for the purpose of assessing the accuracy and completeness of the information provided by the company in the restructuring plan and restructuring proposal statement.

Small Business Restructuring Practitioner/Process/Plan

[Guide; Restructuring and the restructuring plan | ASIC - Australian Securities and Investments Commission](#)

“Every public document and every negotiable instrument must set out the phrase (“restructuring practitioner appointed”) after the company’s name where it first appears. Not doing so, is an offence of strict liability.”

“Once the creditors accept the restructuring plan, there is no statutory requirement to add additional words after the company name in any document. Once the creditors accept the restructuring plan, there is no statutory requirement to add additional words after the company name in any document.”

Note contrast to “Subject to DOCA”

Recent Superior Court cases

Family law

A. The Full Court of the Family Court determined that a lump sum payable under property settlement Orders made by the Family Court was not a provable debt and that the solvent wife continued to have a claim against the bankrupt husband's assets, which did not vest in the husband's trustee

(see <http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FamCAFC/2020/279.html>)

B. An application for transfer of insolvent trading proceeding to the Family Court of Australia pursuant to s 1337H(2) of the Corporations Act 2001 (Cth) – whether having regard to the interests of justice it is more appropriate for the proceeding to be determined by the Family Court of Australia – application allowed

Shepard, in the matter of Grainpro Pty Ltd (in liq) v Bonfante [2020] FCA 1618 (9 November 2020), *Yeo, in the matter of Armstrong and Shaw Pty Ltd (in liq) v Whiteman* [2020] FCA 849 (Yeo) at [29]-[30], *In the matter of Peter G Ward Industries P/L* [2020] NSWSC 339 and *Liquidators of UUB Pty Ltd v NWO* [2020] SASC 121

Recent Superior Court cases

C. There have been many successful applications for

the appointment of a Liquidator of a corporate Trustee to be the receiver of the trust's assets:

see, for example, *Re Aberdeen All Farm Pty Ltd (in liq)* [2020] NSWSC 770; *Re Glenvine Pty Limited (in liq)* [2020] NSWSC 866; *Structum Pty Ltd v CWCN Pty Ltd* [2020] NSWSC 1314 and *In the matter of Parkway One Pty Limited (No.2)* [2020] NSWSC 191.

D Confidentiality;

“Pursuant to s 37AF(1)(b)(iv) of the Federal Court of Australia Act 1976 (Cth) and on the ground that it is necessary to prevent prejudice to the proper administration of justice, the deed of assignment (identified as xxx) are to remain confidential and are prohibited from disclosure to any person, except pursuant to an order of the Court, until 30 June 2021”.

Nicols, in the matter of Anatax Pty Ltd (in liq) [2020] FCA 1320

Recent Superior Court cases

E. If an application is made for “directions” under s90-15, the court is likely to require that the external administrator has at least formed a view as to what he or she proposes to do, as to that which he or she seeks a direction.

ARITA conference 12 November 2020, Justice Ashley Black NSWSC

F. The decision in *Jahani (liquidator) v Commissioner of Taxation* [2020] FCA 1642 is an example of a recent trend where courts are appointing referees to determine the question of insolvency.

G. The Federal Court has made orders granting leave to deed administrators to transfer shares in a company from its members to a third party in accordance with the terms of the DOCA, noting unfair prejudice to members as the key consideration:

Dickerson, in the matter of McWilliam's Wines Group Ltd (subject to Deed of Company Arrangement) (No 3) [2020] FCA 1564 and *Virgin Australia (No 9)* [2020] FCA 1652 (10 November 2020).

Recent Superior Court cases

H. “s 467 of the Corporations Act expressly confers a discretion upon the Court to dismiss a winding up application in an appropriate case, even if a ground has been proved on which a company might have been wound up. ... “avoid the result...that a company that is significantly impacted by the circumstances of the Covid-19 pandemic should be wound up in the midst of the pandemic, with adverse consequences to its employees...”

Re Ryals Hotel Pty Ltd [2020] NSWSC 1906 and *In the matter of GT's Cooking Oils Pty Ltd* [2021] NSWSC 93

Recent Superior Court cases

“Complying with demands of creditors (case I)

“13. The liquidator is of the preliminary opinion that the Direction is not reasonable on the basis that:

(a) calling a meeting of creditors for the purpose of voting on a resolution to remove him as liquidator at this juncture would substantially prejudice the interests of one or more creditors or a third party, and that prejudice outweighs the benefits of complying with the Direction; and/or
(b) the Direction is vexatious.”

“40. In my view, the fact that the liquidation is at an early stage is a matter which may be taken into account, (as a) transfer to another liquidator would be less problematic, involve less duplication, result in lower costs being incurred by creditors, than if the liquidation was at a more advanced stage. In that sense it would be less prejudicial to creditors”.

Recent Superior Court cases

“Complying with demands of creditors (case I)

“66. In the present context the liquidator’s opinion should be informed by the fact that:

- the stated purpose of the proposed meeting is to remove and replace the liquidator not merely to remove the liquidator;*
- the relevant text of the Schedule and the Rules show that related friendly creditors have equal voting rights to unrelated creditors;*
- the liquidation is at an early stage, although this is a factor which cuts both ways;*
- while there are no funds currently in the liquidation (other than pursuant to the funding agreement), the funding agreement appears to bind a replacement liquidator*
- Creditor appears to be offering to provide \$10,000 towards the cost of the meeting*
- a replacement liquidator would have duties to the Court and to creditors.”*

Recent Superior Court cases

Complying with demands/requests of creditors (case I)

“67. Senior counsel for the liquidator submitted that the Court is part way through a process for the giving of judicial advice prior to the formation of a concluded opinion by the liquidator. I accept that characterisation.”

AXF Group Pty Ltd & Anor v AXF Holdings Pty Ltd & Ors [2020] VSC 375

Recent Superior Court cases

Complying with demands of creditors (case J)

“36. In sum, in considering a request for document production under the IPS, the administrators must establish that it is ‘not reasonable’ to comply with the request.”

“46. The issue of privilege which Mr Gladman was required to consider in coming to his opinion raised a difficult issue of law. ... the administrator must establish reliance on some reasonable basis for coming to the legal opinion he or she is required to form. Without being exhaustive, that basis could include taking legal advice, or establishing that the administrator instructed himself or herself on the relevant legal principles.”

Recent Superior Court cases

Complying with demands of creditors (case J)

“69. I acknowledge that the Liquidator may have formed the opinion that production of the (valuation report prepared for the administrators) would substantially prejudice the company’s interests. However, Pacreef has offered to undertake to the court to use those documents solely for the purposes of this proceeding. Pacreef is also privy to a substantial portion of that confidential information. I am satisfied that if an undertaking were in place, the prejudice to PRF Holdco would be minimal. I am not satisfied that Mr Gladman has established his opinion was based on a reasonable basis.”

Re Pacific Biotechnologies Ltd [2020] VSC 636

Developments with ASIC, AFSA, ARITA and the Courts

Inspector-General Practice Direction 1

IGPD 1 – Independence of personal insolvency practitioners

Last updated: January 2021

4.3 However, third party referrals may compromise the independence of personal insolvency practitioners whenever there is an express arrangement or implicit expectation that:

- payment will be provided
- services will be procured¹⁵
- actions will/will not occur¹⁶

¹⁵ For example, engaging the solicitor acting for a petitioning creditor to pursue legal action to recover property.

¹⁶ For example, selling assets or pursuing voidable transactions.

Developments with ASIC, AFSA, ARITA and the Courts

AFSA warns people to steer clear of dodgy insolvency advisors

20 November 2020

The Australian Financial Security Authority (AFSA) is today launching a campaign to raise awareness of dodgy insolvency advisors who exploit people when they seek help to manage debt.

Tell-tale signs that an insolvency advisor shouldn't be trusted include:

- promising a payment to get you out of bankruptcy within a few months
- recommending you include false, exaggerated or fake debts in a bankruptcy application
- offering to organise your affairs so your property will be protected if you go bankrupt
- advising that bankruptcy or a debt agreement will not affect your credit rating.

Developments with ASIC, AFSA, ARITA and the Courts

Indexed amounts in bankruptcy law—updated 28 January 2021

Vehicles: You can keep cars or motorbikes you use mainly for transport worth up to this amount.

If you haven't paid off the vehicle, the amount that counts towards the limit is its value minus what you still owe.

\$8,100
(revised from \$8,000
Sept 2020)

s116(2)(ca)
R6.03B (3) & (4)

Developments with ASIC, AFSA, ARITA and the Courts

Indexed amounts in bankruptcy law—updated 28 January 2021

| | | |
|---|----------------|---|
| <p>Above this limit, you must disclose that you're bankrupt or in a debt agreement before you can:</p> <ul style="list-style-type: none">•buy goods or services on credit, by hire purchase or by cheque•lease, hire or promise to pay for goods or services•promise to supply goods or services in return for payment. | <p>\$5,934</p> | <p>s269(1)(a), (aa), (ab), (ac), (ad) s304A(1)(j)</p> |
|---|----------------|---|

Developments with ASIC, AFSA, ARITA and the Courts

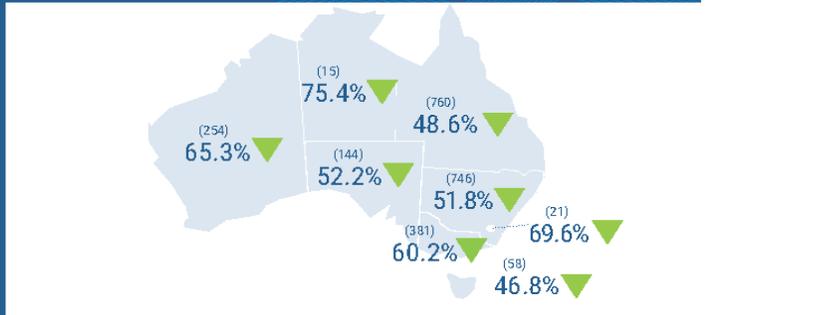
Indexed amounts in bankruptcy law—updated 28 January 2021

| | | |
|---|-------------------------|-------|
| Actual Income Threshold Amount (AITA) Over this amount, half of any income you get goes towards repaying creditors. The applicable threshold depends on how many dependants you have. | (all amounts after tax) | s139K |
| Number of dependants | Income | |
| 0 | \$59,031.70 | |
| 1 | \$69,657.41 | |
| 2 | \$74,970.26 | |

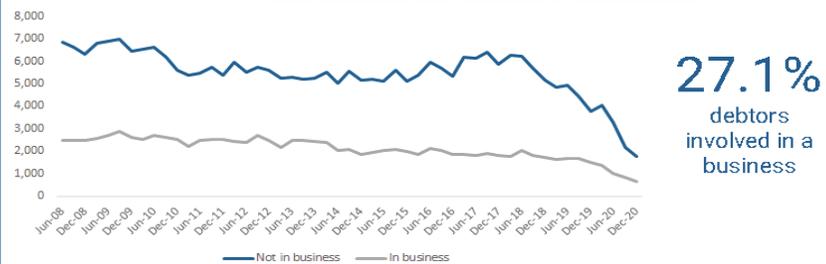
Statistics for October to December 2020



State and territory level



Business related



Insolvency Law & Practice

Thursday 4 March 2021

QUESTION TIME

Geoffrey McDonald

Barrister at Law

9 Windeyer Chambers

<http://www.9windeyer.com.au/barristers/geoffrey-mcdonald/>

zoom