



# NEWS WITH CLOUT

Chartered Accountants for Business Recovery & Insolvency Services  
October 2004

## BANKRUPTCY ACT CLEAN UP HAS STARTED

As you may be aware, the Attorney General has been introducing various Bills (three) with the goal in mind of attempting to prevent unscrupulous debtors from avoiding paying their creditors and cleaning up the Bankruptcy Act generally.

At this time only the Bankruptcy Legislation Amendment Bill 2004 has received Royal Assent and is known as the Bankruptcy Legislation Amendment Act 2004 ("BLAA"), which will come into effect from 1 December 2004.

The majority of the inclusions in BLAA relate to Part X of the Bankruptcy Act.

The main aim of these new amendments is to try to make Part X agreements more attractive to debtors and creditors alike.

It is also to alleviate some concerns in relation to Part X including:

- the conduct of the controlling trustees,
- the perceived complexity of the different types of arrangements for creditors
- and perceived rigging of proposal meetings

The various Part X arrangements that currently exist being Deed of Assignment, Deed of Arrangement or Composition as are to be replaced with what is called a Personal Insolvency Agreement ("PIA") which is designed to allow for more flexibility than before.

The new PIA have been likened to that of the Corporations Act Deed of Company Arrangement. For example there are sometimes situations

where it would be in all creditors interests to pay one creditor in priority to others which until the amendments took place was not possible.

To stamp out the so-called rigged meetings, there will now be additional disclosure requirements by creditors including whether they have purchased a vote or are a related party to the Debtor.

The amendments also provide controlling trustees with additional powers of investigation and are specifying detailed disclosure requirements for reports. This is to enforce the same disclosure habits of the industry leaders on all Controlling Trustees. It is designed to ensure creditors are better informed at decision time.

The jury is out on whether the amendments will make any real impact but we believe it is certainly a step in the right direction.

The Anti-Avoidance provisions discussed in previous circulars are on the backburner. The Attorney-General has indicated that the Bill will be revised in the near future and that it has not been scrapped all together as many had hoped.

The Bankruptcy & Family Law Legislation Amendment Bill has been released and it is anticipated that this will be passed without much fuss.

The main aim of this Bill is to resolve conflicts between Trustees and non-bankrupt spouses, when issues come under both the Family Law and Bankruptcy Act. We will provide further details on the changes should the Bill be approved.



# NEWS WITH CLOUT

Chartered Accountants for Business Recovery & Insolvency Services  
October 2004

---

## **Official Website**

[www.CloutAssociates.com](http://www.CloutAssociates.com)

## **Offices Located In**

### **Coffs Harbour**

Tel: 02 6652 3288

Fax: 02 6651 9393

Email: [admin@cloutassociates.com](mailto:admin@cloutassociates.com)

### **Ballina**

Tel: 02 6626 8288

Fax: 02 6681 5211

Email: [admin@cloutassociates.com](mailto:admin@cloutassociates.com)

### **Port Macquarie**

Tel: 02 6584 4833

Fax: 02 6584 0514

Email: [admin@cloutassociates.com](mailto:admin@cloutassociates.com)

## **Clout & Associates Representatives**

Morgan Chubb

Email: [mjchubb@cloutassociates.com](mailto:mjchubb@cloutassociates.com)

David Morgan

Email: [dmorgan@cloutassociates.com](mailto:dmorgan@cloutassociates.com)

Stewart Ware

Email: [sware@cloutassociates.com](mailto:sware@cloutassociates.com)