



Insolvency Notices



20 October 2003

Senator Grant Chapman
Joint Committee on Corporations and Financial Services
The Senate
Parliament House Canberra,
Canberra. ACT. 2600

Dear Senator

Re: Statutory Notices – Major Improvements, Simplifications, Savings

I am seeking your support for essential but easily implemented changes to the *Corporations Act*, *Regulations* and *Federal/Supreme Court Rules* to the ways statutory notices are communicated to the public. The present advertising requirements were introduced in the 19th Century. The internet has radically changed the way people now access and expect to access information. The present insolvency notice requirements do not reflect this – do not acknowledge the existence of the internet.

www.insolvencynotices.com.au (“IN”) has, in the last few days introduced a cheap, quick, simple, easy way for advertisements to be placed that will appear at least 1 day (in the case of newspapers) and 2 weeks (in the case of the Business Gazette) earlier than those advertisements appear now and in a place where people affected by them are going to be able to easily find them – in the 21st Century - expect to find them.

The changes IN proposes will have the following significant benefits to the insolvency industry and those affected by it:

- 1) **Notices will cost \$100 + GST** regardless of size – saving up to \$1000 per ad or more;
- 2) **The Result - more Monies Available in the administrations:** The very significant amounts of money saved in this new form of advertising across the entire industry will result in monies otherwise spent in advertising and with agencies being available to:
 - a) Creditors of the company/individual by way of distributions;
 - b) Insolvency practitioners for those jobs where there are insufficient monies for statutorily required advertising or to cover other fees that would otherwise go unpaid and the insolvency practitioner has to bear those losses out of their own pockets.
- 3) **Earlier Notice to Creditors:** The IN system has the notices appearing to the public at the instant that you submit them to www.insolvencynotices.com.au. This means that ads in daily newspapers that would otherwise appear one or 2 days later (or up to 2 weeks later in the case of the Business Gazette) are there instantly. It cannot be understated, as you already probably realise, that in the case of voluntary administrations, for example, this provides the opportunity for a very significant increase in the notice to creditors. Instead of 2 business days notice they can now easily be given 3 business days notice – with the ad being submitted at the same time as before.

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Insolvency Notices Pty Ltd ABN 21 103 510 041
www.insolvencynotices.com.au

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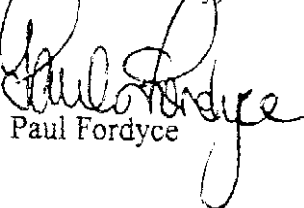
- 4) **Longevity in Accessibility of a Notice:** At the moment a notice appears in a paper one day only. If a creditor misses that one newspaper they've missed the ad. On www.insolvencynotices.com.au the ad will be there for 2 months.
- 5) **Wider Availability:** An ad at the moment usually appears in a newspaper that appears in a State capital. Creditors outside that State, or outside Australia, will probably not see the notification. On the internet the ad will be available to the world.
- 6) **Not a Matter of Luck that the Creditor Buys the Right Newspaper:** At the moment the creditor has to be lucky enough to buy the right one of 14 or more different publications where the notice appears or the Business Gazette. With the information available on www.insolvencynotices.com.au the creditors can easily find any notice that you have placed without having to guess which of the 15 options you have chosen.
- 7) **FREE ACCESS to the Public to the Information on the Internet:** The public is able to search the information on the internet for free. They are not required to pay. The advertiser pays (as now) the user of the service does not (unlike now when they have to buy the newspaper).
- 8) **Simplifies the Notification System for Insolvency Practitioners:** At the present time up to 25% of all advertisements placed by insolvency practitioners appear in more than one publication. There is no logic to whether an advertisement must be placed in the Business Gazette or a daily newspaper and whether the newspaper you have chosen needs to be one that is published nationally or locally. Confusion is so rife in this area that often ads appear in the wrong publication. If the public is lucky enough to be more familiar with the complex legal requirements about where to advertise than the insolvency practitioners they may miss that ad for that very reason – the ad appears where it shouldn't!
- 9) **Further Reduces the Cost of Advertising:** With the significant levels of confusion in the industry about where to advertise, the monies expended in multiple advertising are much greater. Not only is money spent on advertising that is required but a significant amount is spent on advertising that is not required. The simplicity of our proposal – allowing all ads to appear in the one place - will increase the monies available to creditors and/or insolvency practitioners (who may otherwise have to spend their own money on advertising if there is not enough in the administration).

The changes to the legislation can be as simple as changing the definition of "daily newspaper" and "Gazette Notice", where referred to in relation to Chapter 5 of the Corporations Act, to mean and include the website www.insolvencynotices.com.au. A similar change is needed to the *Corporations Regulation*. Likewise a change to the rules of the Federal Court and the Supreme Courts to the definition of "prescribed newspaper" will be needed.

This is an opportunity to effect major modernising changes to the advertising regime relating to the insolvency industry in Australia and to provide major benefits to creditors while materially helping simplify their members' administration tasks (all ads in one place) and cost of advertising.

My credentials in the insolvency industry, reproduced from www.insolvencynotices.com.au are attached.

Yours faithfully,



Paul Fordyce



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ADVERTISEMENTS ON THE WEB SITE ALL \$100 + GST

CREATION OF INSOLVENCY NOTICES

About the Website...

This website is the forms part of an extensive ongoing project that has been in operation since 1995. By capitalising on the benefits deliverable via internet and CD technology, the insolvency industry and the law that governs it are more accessible to all Australia.

The objective is to become a benchmark resource for the industry.

As users of this service, you will be informed and continue to experience further growth and development as we progress into the future.

About the Creator...

Paul M Fordyce LL.B (University of Sydney)

(Accredited Specialist Commercial Litigation (Insolvency) with the Law Society of NSW).

Some of the reported cases in which Mr Fordyce has appeared:

Mr Fordyce frequently appears as advocate and did so in the following cases:

- *Domino Hire Pty Ltd v Pioneer Park Pty Ltd* - 18 ACLC 13 (Removal of liquidator for conflict of interest where acted as IA for several creditors)
- *McDonald v ASIC* - 15 ACLC 1 (which ruled invalid the Corporation Regulation that purported to prescribe that the administrator report under s439A had to be in Form 507 Report as to Affairs)
- *Employers' Mutual Indemnity v JST Transport* - 15 ACLC 314 (Ruled that an administrator could use special proxies to vote in favour of a DCA)
- *Re Genasys II Pty Ltd* - 14 ACLC 729 (The case which determined that directors of a company in receivership could nonetheless appoint an administrator)
- *Melbase Corp Pty v Segenhoe Ltd* - 13 ACLC 823 (The first case to consider the question of granting leave to a contributory to winding up application).
- *Re Crawford House Press Pty Ltd* - 13 ACLC 874 (The case that led to the amendment that brought s553(1A) into the Corporations Law to ensure that creditors of a failed DCA could participate for a dividend on a winding up).
- *Re Kalblue Pty Ltd* 12 ACLC 1,057 (A case where a debtor of the company had the company wound up).

Mr Fordyce's Memberships:

International Federation of Insolvency Practitioners (INSOL)
International Bar Association (IBA) (Section J - Insolvency & Reconstruction)
Law Society of New South Wales
Insolvency Practitioner's Association of Australia (IPAA)
International Women's Insolvency & Restructuring Confederation (IWIRC)

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This website was last updated

October 19, 2003

This site deals with the following types of corporate insolvency situations: voluntary administration (va), deed of company arrangement (dca), creditors' voluntary liquidation (creditors' voluntary winding up), members' voluntary liquidation (members' voluntary winding up), court liquidation (court winding up, winding up by the court); receivership (receiver and manager, controller, agent for the mortgagee in possession), bankruptcy

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