

Appendix 3

PJC report recommendations incorporated in the bill

This appendix lists recommendations from the committee's report, *Corporate Insolvency Laws: a Stocktake* (2004), which have been incorporated in the draft bill.

Recommendation 1

3.58 The Committee recommends that the law should require administrators to make available a statement of independence before the first meeting of creditors disclosing any professional, personal or business relationship between the administrator or his/her firm and the company or its officers, members or creditors. There should be provision for appropriate sanctions for false or misleading statements.

3.59 Further, the Committee recommends that the administrator be under an obligation to disclose conflicts of interest if and when they arise.

Recommendation 2

3.69 The Committee recommends that creditors should be able to appoint a different person as liquidator when the administration ends and the company proceeds into liquidation, and when a deed of company arrangement ends and the company proceeds into liquidation.

Recommendation 19

6.86 The Committee recommends that the Government consider alternatives to the current advertising and gazettal requirements for external administrations.

Recommendation 20

6.93 The Committee recommends that the Government consider making technology and e-commerce options more widely available to enhance communication with stakeholders in external administrations and reduce the costs of external administrations.

Recommendation 23

7.17 The Committee recommends that a court should have the power to review the remuneration of administrators and deed administrators on the application of ASIC.

Recommendation 46

10.117 The Committee recommends that the Government clarify inconsistencies between the Superannuation Guarantee (Administration) Act and the Corporations Act and clarify how the Superannuation Guarantee Scheme is intended to operate in relation to employers that are under one or other form of external administration.

Recommendation 49

11.20 The Committee recommends that the law be amended to make it mandatory for a deed of company arrangement to preserve the priority available to creditors in a winding up under s 556(1), unless affected creditors agree to waive their priority. The amendment should, however, allow creditors or the administrator the right to initiate court proceedings to have the deed upheld if in the Court's view the deed offered the dissenting creditors a better return than they would obtain in a liquidation.