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Personal Insolvency Minimal or No Asset Procedures – *Sulette Lombard and Lynne Taylor*

The possibility of a Minimal Asset Procedure (MAP) for consumer debtors with few or no assets was recently mooted in Australia. Introduction of such a procedure is justified on the basis that it would allow this category of debtors an enhanced opportunity for a “fresh start”, and also for reasons of reducing the administrative and cost burden on the Australian Financial Security Authority. The MAP Discussion Paper provides an indication of some of the elements of such a procedure. This article assesses the preliminary framework of the proposed MAP, relying on the information provided in the MAP Discussion Paper, against the backdrop of relevant policy rationales, and attempts to suggest answers to some of the uncertainties that exist by way of a comparison with the New Zealand No Asset Procedure, which has been mentioned as an option for Australia to consider. 5

Everything Old Is New Again: Court Powers under Div 45 of the Insolvency Practice Schedules – *Anne Wardell*

Pursuant to Div 45 of the Insolvency Practice Schedule, both Corporate and Bankruptcy, the court is given oversight of trustees and liquidators. To date there have been only two cases which have considered s 45-1, one in relation to a registered liquidator and one in relation to a trustee in bankruptcy; *Australian Securities and Investments Commission v Bettles* and *Pekar v Holden (No 2)*, respectively. This article aims to examine the relevant provisions and case law noted above and will consider the approach the courts will take when delivering this oversight. Moreover, it will consider the relevance of the prior case law dealing with the former s 536 of the *Corporations Act 2001* (Cth) and s 178 of the *Bankruptcy Act 1966* (Cth). The conclusion reached in this article is that when considering the new provisions, the Courts will need to consider the old cases. 31

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