

CREDITORS REMEDIES - CONTENTS

CHAPTER 1. INTRODUCTION	1
CHAPTER 2. CREDIT POLICY AND MANAGEMENT OF CREDIT RISK	3
Introduction	3
Policy	3
Risk profile	4
Information needs	4
Information on exposure	5
Management approach	5
Responsibility structure	6
Board of directors	6
Credit manager	6
Reporting	6
Credit limits	7
Maximum customer credit limits	7
Credit limit reviews	7
CHAPTER 3. WARNING SIGNALS	9
Introduction	9
Watch for the warning signals	9
What happens when warning signs are detected?	11
The first rule - act early and act fast	11
Call in the specialists	11
Get behind the numbers	11
An appraisal	11
First signs	11
Summary	13
CHAPTER 4. PROTECTION MECHANISMS	14
Effective credit control procedures	14
Collection procedures	14
Deposits	15
Security	16
Retention of title ("ROT")	16
Duress	17
Various forms of administration of insolvent companies available to the unsecured creditor	18
What should you be aiming to achieve?	18
CHAPTER 5. COMPROMISES WITH CREDITORS	23
Introduction	23
Initiation of a compromise proposal	23
Procedures	23
Creditors' meeting	24
Different classes of creditors	25
Effect of the compromise	25
The role of the court	25
Facilitation	25
Review	26
Variation of the compromise	26
Impact of liquidation on the compromise	26
CHAPTER 6. RETENTION OF TITLE CLAUSES	28
Introduction	28

Legal basis	28
Proceeds of sale	28
Manufactured goods	29
Practical aspects for the unsecured creditor	30
CHAPTER 7. COURT APPOINTED RECEIVERS	31
Introduction	31
Procedure	31
Advantages and disadvantages of a receivership	33
CHAPTER 8. SUMMARY OF PRE-JUDGMENT REMEDIES AVAILABLE IN THE HIGH COURT TO UNSECURED CREDITORS	34
Set-off	34
Requirements for set-off	34
Advantages and disadvantages of set-off	34
“Freezing” assets	34
Pre-judgment charging orders	35
Requirements for a pre-judgment charging order	35
Advantages and disadvantages of a pre-judgment charging order	35
Mareva injunctions	36
Requirements for a Mareva injunction	36
Advantages and disadvantages of a Mareva injunction	36
Orders for preservation of property / payment of fund into court	37
Requirements for a preservation order	37
Advantages and disadvantages of a preservation order	37
Arrest of an absconding debtor	37
Requirements for an order for arrest of an absconding debtor	38
Advantages and disadvantages of an order for arrest	38
CHAPTER 9. WHEN IS ADR RIGHT FOR YOU AND YOUR DISPUTE?	39
ADR process selection checklist	40
Note that you should not use ADR when:	41
When to mediate	41
How does mediation work?	42
CHAPTER 10. CONTAINING DISPUTES - AN OUNCE OF PREVENTION IS WORTH A TON OF CURE	44
Mediation clause (short form)	44
Mediation clause (long form)	45
CHAPTER 11. EXTRACTING THE BLOOD FROM THE STONE	46
Principles	46
APPENDIX 1	49
Pacific Construction Limited: Module 1 - Background Information	49