



The University of Southern Queensland

Course Specification

Description: Advanced Insolvency Law and Practice II

Subject	Cat-Nbr	Class	Term	Mode	Units	Campus
LAW	8111	24245	2, 2003	EXT	1.00	TWMBBA

Academic Group:	FOBUS
Academic Org:	FOB010
HECS Band:	3
ASCED Code:	090901

STAFFING

Examiner: Colin Anderson
Moderator: Rosalind Mason

OTHER-REQUISITES

Pre-requisite: LAW5503 or an understanding of Australian Legal Principles.

SYNOPSIS

Insolvency is a factor which many businesses have to confront. Modern approaches to insolvency mean that a business does not necessarily terminate as a result. This course seeks to build on an understanding of bankruptcy and liquidation by considering administrations which can be invoked in an attempt to reconstruct the financial position of an insolvent person or company. Those insolvency administrations examined include Part X arrangements, receiverships, voluntary administrations and deeds of company arrangement.

OBJECTIVES

On successful completion of this course students will be able to:

- Describe the various administrations available to insolvents and assess their comparative advantages and disadvantages.
- Explain the procedure to be adhered to in order to establish the following administrations: - Part X arrangement; receivership voluntary administration deed of company arrangement; scheme of arrangement under the Corporations Law.
- Articulate the effects which occur if the administrations referred to above are established.
- Explain the role, powers, duties and liabilities of the practitioner who administers the administrations referred to above.
- Describe the nature and aims of the various administrations.
- Recognise how the various administrations can be terminated.

- Identify the major issues which face an administrator in administering the various administrations.
- Assess the role of the courts in relation to the various administrations.
- Explain in what circumstances an informal arrangement could be implemented in relation to a company suffering financial difficulties and describe the major issues which must be addressed by practitioners involved in such arrangements.
- Apply the legal principles which are discussed in this course to issues arising out of factual situations in order to determine the likely outcome.

TOPICS

Description	Weighting (%)
1. Part X Arrangements	16.00
2. Corporate Receiverships	20.00
3. Voluntary Administrations	30.00
4. Deeds of Company Arrangement	20.00
5. Schemes of Arrangement Under the Corporations Act	7.00
6. Monitoring and Informal Workouts	7.00

TEXT and MATERIALS required to be PURCHASED or ACCESSED:

Books can be ordered by fax or telephone. For costs and further details use the 'Book Search' facility at <http://bookshop.usq.edu.au> by entering the author or title of the text.

NOTE: LATEST EDITIONS OF TEXTS ARE REQUIRED.

EITHER CCH Australian corporations and securities legislation, CCH Australia Ltd, North Ryde, New South Wales OR Butterworths Australian corporations legislation, Butterworths, Chatswood, New South Wales.

EITHER CCH Australian bankruptcy legislation, CCH Australia Ltd, North Ryde, New South Wales OR Bigmore, G, Bankruptcy act 1966, Butterworths, Chatswood, New South Wales.

Anderson, C & Morrison, D 2003, *Crutchfield's corporate voluntary administration law*, 3rd edition, Lawbook Co, North Ryde, New South Wales.

Keay, A & Murray, M 2002, *Insolvency: personal and corporate law and practice*, 4th edition, Lawbook Co, Rozelle, New South Wales.

REFERENCE MATERIALS

Reference materials are materials that, if accessed by students, may improve their knowledge and understanding of the material in the course and enrich their learning experience.

Bevan, C 1994, *Insolvent trading*, Federaton Press, Sydney.

Blanchard, P & Gedye, M 1994, *The law of company receiverships in Australia and New Zealand*, 2nd edition, Butterworths, Wellington.

CCH Aust Ltd, North Ryde, New South Wales ' ' (Available: CCH Electronic Libraries, USQ Library Database Services) .

CCH Aust Ltd, North Ryde, New South Wales ' ' (Available: CCH Electronic Libraries, USQ Library Database Services) .

Farmer 1986, *Creditor and debtor law in Australia and New Zealand*, 3rd edition, CCH Australia, North Ryde, New South Wales.

Ford, H, Austin, R & Ramsay, I 2001, *Ford's principles of corporations law*, 10th edition, Butterworths, Chatswood, New South Wales.

Irlicht, T 1986, *Assignments, arrangements and compositions by debtors*, 2nd edition, Butterworths, Sydney.

Keay, A 1998, *Bankruptcy proceedings handbook*, 3rd edition, John Libbey & Co, Sydney.

Keay, A (ed) 1999, *The law of company liquidation*, 4th edition, LBC Information Services, Sydney.
(also available online on Lawbook Online, USQ Library Database Services)

Lessing, J & Corkery, J (eds) 1995, *Corporate insolvency law*, Bond University, Gold Coast, Queensland.

Lindwall, R 'Australian corporation law: principles and practice' (Available: Butterworths Online, USQ Library Database Services) .
(Butterworths, Chatswood, New South Wales.)

Lipton, P & Herzberg, A 2001, *Understanding company law*, 10th edition, Lawbook Co, Sydney.

McDonald, E 'McDonald, Henry & Meek's Australian bankruptcy law and practice' (Available: Bankruptcy & Insolvency Law Library, USQ Library Database Services) .
(Lawbook Co, Sydney.)

O'Donovan, J, Lawbook Co, Sydney 'Company receivers and administrators' (Available: Bankruptcy & Insolvency Law Library) .
(available on campus only as at December 2002 on Library CD Databases network. Online access may become available later in year ... check Lawbook Online on USQ Library's Database Services website)

Rose, D 1999, *Lewis' Australian bankruptcy law*, 11th edition, LBC Information Services, North Ryde, New South Wales.

Tomasic, R & Whitford, K 1997, *Australian insolvency and bankruptcy law*, 2nd edition, Butterworths, Sydney.

Tunstall, I 2000, *Trading or insolvency? Risk management and the company administrator scheme*, Thomson Legal & Regulatory Asia Pacific, Sydney.

STUDENT WORKLOAD REQUIREMENTS

ACTIVITY	HOURS
Assessment	35
Directed Study	55
Private Study	75

ASSESSMENT DETAILS

Description	Marks Out of	Wtg(%)	Required	Due Date
ASSIGNMENT PROPOSAL	5.00	5.00	Y	08 Aug 2003
ASSIGNMENT	35.00	35.00	Y	10 Oct 2003
3 HOUR EXAMINATION	60.00	60.00	Y	END S2 (see note)

NOTES:

- . The examination is scheduled to be held in the end-of-semester examination period. Students will be advised of the official examination date after the timetable has been finalised.

IMPORTANT ASSESSMENT INFORMATION

- 1 Attendance requirements:
If you are an International student in Australia it is a requirement of your student visa that you attend all classes at your campus. For all other students, there are no attendance requirements for this course. However, it is the students' responsibility to study all material provided to them or required to be accessed by them to maximise their chance of meeting the objectives of the course and to be informed of course-related activities and administration.
- 2 Requirements for students to complete each assessment item satisfactorily:
Students must submit assignments that represent a reasonable attempt as determined by the Examiner. Students must obtain at least 50% of the marks available for the examination.
- 3 Penalties for late submission of required work:
If students submit assignments after the due date without prior approval then a penalty of 20% of the total marks gained by the student for the assignment will apply for each working day late.
- 4 Requirements for student to be awarded a passing grade in the course:
To be assured of receiving a passing grade a student must attempt all of the summative assessment items, achieve at least 50% in the examination and achieve an aggregated mark of at least 50% of the available weighted marks for the summative assessment items.
- 5 Method used to combine assessment results to attain final grade:
The final grades for students will be assigned on the basis of the weighted aggregate of the marks obtained for each of the summative assessment items in the course.

- 6 Examination information:
This will be an open examination. Candidates may have access to any material during the examination except the following: electronic communication devices (eg mobile telephones, pagers), bulky materials, devices requiring mains power and material likely to disturb other students. Students will be allowed to bring a quiet, battery-operated non-programmable calculator into the examination.
- 7 Examination period when Deferred/Supplementary examinations will be held:
Any Deferred or Supplementary examinations for this course will be held during the next examination period.
- 8 University Regulations:
Students should read USQ Regulations 5.1 Definitions, 5.6 Assessment, and 5.10 Academic Misconduct for further information and to avoid actions which might contravene University Regulations. These regulations can be found at the URL: <http://www.usq.edu.au/SECARIAT/calendar/Part5/> or in the printed version of the current USQ Handbook. Students should also read The Guide to Policies and Procedures of the Faculty which can be found at the URL: <http://www.usq.edu.au/handbook/2003/title663.html> or in the printed version of the current USQ Handbook.

ASSESSMENT NOTES

- 1 Assignments: (i) The due date for an assignment is the date by which a student must despatch the assignment to the USQ. The onus is on the student to provide proof of the despatch date, if requested by the Examiner. (ii) Students must retain a copy of each item submitted for assessment. This must be produced within five days if required by the Examiner. (iii) The Examiner may grant an extension of the due date of an assignment in extenuating circumstances. If students submit assignments after the due date and wish to claim extenuating circumstances then they shall provide validated documentary evidence with the assignment, explaining the circumstances. The Examiner shall consider the statement accompanying a late assignment and decide on the outcome. (iv) Assignments are to be submitted in the appropriate assignment folders. (v) The Examiner will normally only accept assessments that have been written, typed or printed on paper-based media. (vi) The Examiner will not accept submission of assignments by facsimile. (vii) Students who do not have regular access to postal services or who are otherwise disadvantaged by these regulations may be given special consideration. They should contact the Examiner to negotiate such special arrangements. (viii) In the event that a due date for an assignment falls on a local public holiday in their area, such as a Show holiday, the due date for the assignment will be the next day. Students are to note on the assignment cover the date of the public holiday for the Examiner's convenience.
- 2 Course Weightings: Course weightings of topics should not be interpreted as applying to the number of marks allocated to questions testing those topics in an examination paper. The examination may test material already tested in assignments.
- 3 Deferred Work: Students who, for medical, family/personal, or employment-related reasons, are unable to complete an assignment or to sit for an examination at the scheduled time may apply to defer an assessment in a course. Such a request must be accompanied by appropriate supporting documentation. One of the following

temporary grades may be awarded: IDS (Incomplete - Deferred Examination);
IDM (Incomplete Deferred Make-up); IDB (Incomplete - Both Deferred
Examination and Deferred Make-up).