



Course specification

Description: Advanced Insolvency Law and Practice 1						
Subject	Cat-nbr	Class	Term	Mode	Units	Campus
LAW	8110	40207	1, 2005	EXT	1.00	Toowoomba

Academic group:	FOBUS
Academic org:	FOB010
Student contribution band:	3
ASCED code:	090901

STAFFING

Examiner: Rosalind Mason

REQUISITES

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

SYNOPSIS

As the practicalities of a market economy determine that businesses will fail, insolvency law is an integral part of the legal framework of business. This course seeks to build on a very basic understanding of bankruptcy and corporate insolvency. The course develops areas of practical significance in the areas of terminal insolvency administration:- bankruptcy and liquidation.

OBJECTIVES

On successful completion of the course, students should be able to

1. use general policies underlying the law of insolvency in Australia in order to evaluate those laws, in particular for the administrations considered in this course (bankruptcy, provisional liquidations and liquidations);
2. locate and analyse primary law materials and secondary materials (as relevant) while critically reviewing an issue in insolvency law and practice relevant to bankruptcy, provisional liquidation and/or liquidation;
3. explain the legal principles relevant to bankruptcy, liquidation and provisional liquidation proceedings; property available and distributions to creditors in bankruptcy and liquidation; and the duties and liabilities of registered trustees and liquidators;
4. apply such legal principles to given fact situations in order to determine the likely outcome to issues raised; and
5. demonstrate satisfactory communication skills.

TOPICS

Description	Weighting (%)
1. Underlying Principles of Insolvency Law	5.00

2.	Proceedings in bankruptcy and company liquidations and effect of such proceedings	25.00
3.	Discovery and realisation of property available in bankruptcy and liquidations, including voidable transactions, liability of corporate officers	45.00
4.	Distribution of property to creditors in bankruptcy and liquidation	15.00
5.	Provisional liquidation	5.00
6.	Duties, liabilities, and ethical issues: registered trustees and liquidators	5.00

TEXT and MATERIALS required to be PURCHASED or ACCESSED

ALL textbooks and materials are available for purchase from USQ BOOKSHOP (unless otherwise stated). Orders may be placed via secure internet, free fax 1800642453, phone 07 46312742 (within Australia), or mail. Overseas students should fax +61 7 46311743, or phone +61 7 46312742. For costs, further details, and internet ordering, use the 'Textbook Search' facility at <http://bookshop.usq.edu.au> click 'Semester', then enter your 'Course Code' (no spaces).

1996, *Bankruptcy Act regulations and rules*, Butterworths, Sydney.

(OR Law Book Co, Sydney (latest edition is required))

Australian Corporations Legislation, Butterworths,

(latest edition is required OR Australian Corporations and Securities Legislation, CCH, North Ryde, New South Wales (latest student edition is required).)

Keay, A & Murray, M 2002, *Insolvency: personal and corporate law and practice*, 4th edn, Law Book Co, Sydney.

(latest edition of text is required)

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*, Federation Press, Sydney.

CCH Australia Ltd 'Australian insolvency management practice' (Available: CCH Electronic Libraries, USQ Library Database Services) .

(North Ryde, New South Wales <http://www.usq.edu.au/library/eservices/b-CCH.htm>)

CCH Australia Ltd 'CCH Australian corporations and securities law reporter' (Available: CCH Electronic Libraries, USQ Library Database Services) .

(North Ryde, New South Wales <http://www.usq.edu.au/library/eservices/b-CCH.htm>)

Coburn, N 2003, *Coburn's insolvent trading: global investment fraud and investigations*, 2nd edn, Thomson Legal and Regulatory, Pyrmont, New South Wales.

Duns, J 2002, *Insolvency: law and policy*, Oxford University Press, Melbourne.

Fisher, R 2000, *Corporate insolvency law*, LBC Information Services, Sydney.

Ford, HAJ, Austin, RP & Ramsay, IM 2003, *Ford's principles of corporations law*, 11th edn, Butterworths, Chatswood, New South Wales.

- Insall, H, Robertson, D & Lovell, D 'Australian corporation law: principles and practice' (Available: Butterworths Online, USQ Library Database Services) .
(Butterworths, Chatswood, New South Wales <http://www.usq.edu.au/library/eservices/b-butt.htm>)
- Keay, A 1998, *Bankruptcy proceedings handbook*, 3rd edn, John Libbey & Co, Sydney.
- Keay, A 1997, *Avoidance provisions in insolvency law*, LBC Information Services, North Ryde, New South Wales.
- Keay, A 1999, *McPherson: the law of company liquidation*, 4th edn, LBC Information Services, North Ryde, New South Wales.
(Also available online at Lawbook Online, USQ Library Database Services <http://www.usq.edu.au/library/eservices/b-lawbook.htm>)
- Lessing, J & Corkery, J 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 <http://www.usq.edu.au/library/eservices/b-butt.htm>)
- Lipton, P & Herzberg, A 2003, *Understanding company law*, 11th edn, Law Book Co, Sydney.
- McDonald, E, Henry, H & Meek, H 'Australian bankruptcy law and practice' (Available: Bankruptcy and Insolvency Law Library, USQ Library Database Services) .
(Lawbook Co, Sydney)
- McQuade, P 'Bankruptcy in Australia: a guide book' (Available: Bankruptcy and Insolvency Law Library, USQ Library Database Service) .
(Lawbook Co, Sydney)
- Robertson, D, Redmond, P & Lovall D 'Australian corporation law - principles and practice' (Available: Butterworths Online, USQ Library Database Services) .
- Robertson, D & Lovall D 'Australian corporation law - principles and practice' (Available: Butterworths Online, USQ Library Database Services) .
- Rose, D 1999, *Lewis Australian bankruptcy law*, 11th edn, LBC Information Services, North Ryde, New South Wales.
- Tomasic, R & Whitford, B 1997, *Australian insolvency and bankruptcy law*, 2nd edn, Butterworths, Sydney.
- Townley, A & Pratt, D 1995, *A practical guide to insolvency*, Law Book Company, North Ryde, New South Wales.

STUDENT WORKLOAD REQUIREMENTS

ACTIVITY	HOURS
Assessment	40.00
Directed Study	50.00
Private Study	75.00

ASSESSMENT DETAILS

Description	Marks out of	Wtg(%)	Due date
ASSIGNMENT	40.00	40.00	30 May 2005
3 HOUR EXAMINATION	60.00	60.00	END S1 (see note 1)

NOTES

1. 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 you are advised to attend all classes at your campus. Failure to attend may infringe the conditions of your student visa. 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 available 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 (or grades) obtained for each of the summative assessment items in the course.
- 6 Examination information:
This is an open examination. Candidates may have access to any material during the examination except the following: electronic communication devices (eg mobile phones, pagers), bulky materials, devices requiring mains power and material likely to disturb other students.
- 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/corporateservices/calendar/part5.htm>. Students should also read the Faculty of Business Guide to Policies and Procedures of the Faculty which can be found at the URL <http://www.usq.edu.au/handbook/current/buspolproc.html>.

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) In accordance with University's Assignment Extension Policy (Regulation 5.6.1), 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) 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 Dishonest Actions: (i) Any student who is alleged to have performed a dishonest action relating to any assessment in the course will have a course of action taken against him/her as outlined in the Academic Regulations. (ii) Pieces of assessment should be the work of individual students. Joint pieces of assessment are not permitted unless written approval has been obtained from the Examiner. (iii) Dishonest action in relation to assessment includes: copying or attempting to copy the work of others; use of or attempting to use information prohibited from use in that form of assessment; submitting the work of another as your own; consciously committing acts of plagiarism, ie taking and using another's thoughts or writings as one's own with intent to deceive, which occurs when paragraphs, sentences, a single sentence or significant parts of a sentence which are copied directly, are not enclosed in quotation marks and appropriately footnoted or referenced in the text; direct quotations are not used, but text is paraphrased or summarised, and the source of the material is not acknowledged by footnoting or other reference in the text.
- 4 Deferred Examinations: (i) Deferred examinations will be granted based on non-attendance for medical reasons, family/personal reasons, or employment-related reasons. Deferred examinations must be recommended by the Faculty Assessment Coordinator and approved by the Examiner or Moderator or Dean's Nominee. If a deferred examination is granted, students shall sit the deferred examination in the next semester examination period. If, for whatever reason, this deferred examination is not taken then the student will be graded 'F'. (ii) To be eligible for consideration for a deferred examination, students must have submitted a genuine attempt at all mandatory assessment items. (iii) Deferral of an examination CANNOT be granted on an existing deferral in that course. (iv) Requests must be in writing to the Faculty Assessment Coordinator clearly stating student name, student number, current address, course

alpha-numeric identifier and name for the examination not attended. (v) Requests MUST BE supported by original or suitably authenticated documentation. (vi) Requests and documentation must be submitted to the Faculty Assessment Coordinator within ten (10) calendar days of the missed examination date. (vii) Requests based on medical reasons must be supported by medical evidence on the appropriate University of Southern Queensland medical certificate or doctor's certificate. A medical certificate must be dated with the same date as the period of illness for which the absence from examination is being sought and clearly indicate the student's name and, if possible, student number (retrospective medical certificates will not be accepted for either assignment work or examinations). Only original or authenticated medical certificates will be accepted. A student's medical condition must be stated clearly (IN ENGLISH). (Certificates stating a student has a 'medical condition' may not be sufficient grounds for deferment of examination). Medical evidence must cover the student for the day(s) of the missed examination(s). (viii) Requests based on family/personal reasons must be supported by a clear statement (IN ENGLISH) from a medical practitioner, counsellor or independent member of the community. (ix) Requests based on employment-related reasons must be supported by a clear statement (IN ENGLISH) from the student's employer. (x) Students who have a medical condition or genuine compassionate or employment-related problems on the day of the examination are advised to obtain the relevant documentary evidence and NOT attempt the examination. If a student makes an attempt at the examination, the assessment item will be marked and a grade awarded. In these cases, a student cannot, after receiving a 'fail' grade, request a deferred examination or special consideration. (xi) Students who have been granted deferred examinations will not be granted a waiver of prerequisites, without the permission of the Head of Department, in subsequent semesters (if they do not have a passing grade).