



The University of Southern Queensland

## Course specification

### Description: Advanced Insolvency Law and Practice II

| Subject | Cat-nbr | Class | Term    | Mode | Units | Campus    |
|---------|---------|-------|---------|------|-------|-----------|
| LAW     | 8111    | 44199 | 2, 2005 | EXT  | 1.00  | Toowoomba |

|                                   |        |
|-----------------------------------|--------|
| <b>Academic group:</b>            | FOBUS  |
| <b>Academic org:</b>              | FOB010 |
| <b>Student contribution band:</b> | 3      |
| <b>ASCED code:</b>                | 090901 |

### STAFFING

Moderator: Rosalind Mason

### 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 Personal Insolvency Agreements under Part X of the Bankruptcy Act, receiverships, voluntary administrations and deeds of company arrangement.

### OBJECTIVES

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

1. locate and analyse primary law materials and secondary materials (as relevant) while critically reviewing an issue in insolvency law and practice;
2. explain the legal principles relevant to Part IX and Part X Arrangements under the Bankruptcy Act; Receivership, Voluntary Administration, Deeds of Company Arrangement, Schemes of Arrangement under the Corporations Act; Monitoring and Informal workouts;
3. apply such legal principles to determine the likely outcome to issues raised;
4. use general policies underlying the law of insolvency in Australia in order to evaluate those laws, in particular for the types of administrations considered in this course (Part IX and Part X Arrangements under the Bankruptcy Act; Receivership, Voluntary Administration, Deeds of Company Arrangement, Schemes of Arrangement under the Corporations Act; Monitoring and Informal workouts.); and
5. demonstrate satisfactory skills in communication.

## TOPICS

|    | Description                                       | Weighting (%) |
|----|---|---------------|
| 1. | Part IX and 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

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).

Latest Editions Of Texts Are Required.

Anderson, C & Morrison, D 2003, *Crutchfield's corporate voluntary administration law*, 3rd edn, Law Book Co, Pyrmont, New South Wales.

CCH 1966, *Australian Bankruptcy Act*, CCH Australia Ltd, North Ryde, New South Wales.  
(latest edition)

CCH *Australian Corporations and Securities Legislation*, CCH Australia Ltd, North Ryde, New South Wales.

(latest edition) Or Butterworths *Australian Corporations Legislation*, Butterworths, Chatswood, New South Wales. (latest edition)

Keay, A & Murray, M *Insolvency: personal and corporate law and practice*, Law Book Co, Pyrmont, New South Wales.

(latest edition)

## 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.

Austin, R & Ramsay, I 2005, *Ford's principles of corporations law*, 12th edn, Butterworths, Chatswood, New South Wales.

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

CCH Aust Ltd, North Ryde, New South Wales 'Australian corporations and securities law reporter' (Available: CCH Electronic Libraries, USQ Library Databases) .

CCH Aust Ltd, North Ryde, New South Wales 'Australian insolvency management practice' (Available: CCH Electronic Libraries, USQ Library Databases) .

- Coburn, N 2003, *Coburn's insolvent trading: global investment fraud and corporate investigations*, 2nd edn, Thomson Legal and Regulatory, Pyrmont, New South Wales.
- Farmer 1986, *Creditor and debtor law in Australia and New Zealand*, 3rd edn, CCH Australia, North Ryde, New South Wales.
- Irlicht, T 1986, *Assignments, arrangements and compositions by debtors*, 2nd edn, Butterworths, Sydney.
- Keay, A 1998, *Bankruptcy proceedings handbook*, 3rd edn, John Libbey & Co, Sydney.
- Keay, A (ed) 1999, *The law of company liquidation*, 4th edn, 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: Lexis Nexis AU, USQ Library Databases) .  
(and available from LexisNexis, Chatswood, New South Wales)
- Lipton, P & Herzberg, A 2003, *Understanding company law*, 11th edn, Law Book Co, Sydney.
- McDonald, E, McDonald, Henry & Meek 'Australian bankruptcy law and practice' (Available: Law Book Online, USQ Library Databases) .  
(Lawbook Co, Sydney)
- O'Donovan, J 'Company receivers and administrators' (Available: Law Book Online, USQ Library Databases) .  
(Lawbook Co, Sydney)
- Rose, D 1999, *Lewis' Australian bankruptcy law*, 11th edn, LBC Information Services, North Ryde, New South Wales.
- Tomasic, R & Whitford, K 1997, *Australian insolvency and bankruptcy law*, 2nd edn, 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     | 35.00 |
| Directed Study | 55.00 |
| Private Study  | 75.00 |

## ASSESSMENT DETAILS

| Description        | Marks out of | Wtg(%) | Due date               |
|--------------------|--------------|--------|------------------------|
| ASSIGNMENT         | 40.00        | 40.00  | 07 Oct 2005            |
| 3 HOUR EXAMINATION | 60.00        | 60.00  | END S2<br>(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. 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/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) If requested, students will be required to provide a copy of an assignment submitted for assessment purposes. This should be despatched to the USQ within 24 hours of receipt of a request being made. (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).

## **OTHER REQUIREMENTS**

- 1 Learning Resources: Prescribed text and materials (see above); prescribed reference materials (see above); printed Introductory Book, Study Book/s, and Book/s of Selected Readings; and course Website accessible via USQConnect.
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