



The University of Southern Queensland

## Course specification

The current and official versions of the course specifications are available on the web at  
<<http://www.usq.edu.au/coursespecification/current>>.  
Please consult the web for updates that may occur during the year.

<b>Description: Insolvency and Restructuring Law</b>						
Subject	Cat-nbr	Class	Term	Mode	Units	Campus
LAW	3110	78742	2, 2008	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

Examiner: Malcolm Quirey  
Moderator: Mark Byrne

### REQUISITES

Pre-requisite or Co-requisite: LAW2106

### OTHER REQUISITES

Students are required to have access to a personal computer, e-mail capabilities and Internet access to USQConnect. Current details of computer requirements can be found at  
<<http://www.usq.edu.au/business/aboutfob.htm>>.

### RATIONALE

The fact that persons and companies will, in a market economy, become insolvent is inevitable. The past decade has demonstrated the need for advisers and those involved generally in commerce to be aware of the issues which confront insolvents and what alternatives can be pursued. To be able to do this requires an understanding of the law as it applies to both personal and corporate insolvency.

### SYNOPSIS

The course will provide a comprehensive coverage of the law of insolvency and restructuring as it affects both individuals and corporations. The course examines the major types of insolvency administration provided for by the law, for both individuals and corporations - bankruptcy, Part X arrangements, receivership, voluntary administrations and liquidations. Some emphasis is placed on the process of bankruptcy and liquidation and a major part of the course is a consideration of the provisions dealing with company rescue.

## OBJECTIVES

The course objectives define the student learning outcomes for a course. The assessment item/s that may be used to assess student achievement of an objective is/are shown in parentheses after each objective. On successful completion of this course, students should be able to:

1. locate and analyse primary law materials and secondary materials (as relevant) while examining an issue relevant to insolvency and restructuring law (Assignment, Examination)
2. explain the legal principles relevant to defining insolvency; to procedures for and effects of collective insolvency administrations (both bankruptcy and liquidation, as well as the alternatives such as Part X arrangements and voluntary administrations) and secured creditor administrations (that is, receiverships); to administration of the relevant estates, including recovery of property; and to insolvency administrators (Assignment, Examination)
3. apply such legal principles to given fact situations in order to determine the likely outcome to issues raised (Assignment, Examination)
4. demonstrate satisfactory skills in communication (Assignment, Examination).

## TOPICS

Description	Weighting (%)
1. The principles of insolvency law	8.00
2. Bankruptcy	16.00
3. Arrangements under part IX and part X	8.00
4. Liquidation	24.00
5. Receivership	8.00
6. Voluntary administration	20.00
7. Deeds of company arrangement	8.00
8. Cross border insolvency	8.00

## 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).

The current edition of CCH Australian Bankruptcy Act, CCH Australia Ltd, North Ryde, New South Wales OR Butterworths Australian Bankruptcy Act 1966 Rules and Regulations Annotated, Butterworths, Chatswood, New South Wales.

The current edition of CCH Australian Corporations and Securities Legislation, CCH Australia Ltd, North Ryde, New South Wales OR Butterworths Australian Corporations Legislation, Butterworths, Chatswood, New South Wales OR Law Book Co, Corporations Legislation.

Murray, M 2008, *Keay's insolvency: personal and corporate law and practice*, 6th edn, Thomson, Pymont, 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.

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

Austin, RAP & Ramsay, IM 2007, *Ford's principles of corporation law*, 13th edn, LexisNexis Butterworths, Chatswood, New South Wales.

Fisher, R, Harmer, R & Mainsbridge, R 'Voluntary administration in Australian corporation law - principles and practice' (Available: Lexis Nexis AU, USQ Library Databases).

Fletcher, I 2001, *The law of insolvency*, 3rd edn, Sweet & Maxwell, London.

(This is an English book which is useful for general principles, but care should be taken in referring to specific statutory provisions referred to in the book.)

Goode, R 2005, *The principles of corporate insolvency law*, 3rd edn, Sweet & Maxwell, London.

(This is an English book which is useful for general principles, but care should be taken in referring to specific statutory provisions referred to in the book.)

Goode, R 2005, *The principles of corporate insolvency law*, 3rd edn, Sweet & Maxwell, London.

(STUDENT EDITION. This is an English book which is useful for general principles, but care should be taken in referring to specific statutory provisions referred to in the book.)

Insall, H, Robertson, D & Lovell, P 'Winding up by the court in Australian corporation law - principles and practice' (Available: Lexis Nexis AU, USQ Library Databases).

Keay, A 1998, *Bankruptcy proceedings handbook*, 3rd edn, John Libbey, Sydney, New South Wales.

Keay, A 1999, *McPherson's law of company liquidation*, 4th edn, LBC Information Services, Sydney, New South Wales.

Lindwall, R 'Receivers and controllers of corporate property in Australian corporation law' (Available: Lexis Nexis AU, USQ Library Databases).

Lindwall, R 'Voluntary winding up in Australian corporation law' (Available: Lexis Nexis AU, USQ Library Databases).

Lipton, P & Herzberg, A 2008, *Understanding company law*, 14th edn, Law Book Co, Sydney, New South Wales.

McDonald, E, Henry, H & Meek, H 'Australian bankruptcy law and practice' (Available: Law Book Online, USQ Library Databases).

O'Donovan, J 'Company receivers and administrators' (Available: Law Book Online, USQ Library Databases).

Robertson, D, Redmond, P & Lovall, D 'Recovery of property or compensation in Australian corporation law' (Available: Lexis Nexis AU, USQ Library Databases).

Robertson, D & Lovall, D 'Winding up generally in Australian corporation law - principles and practice' (Available: Lexis Nexis AU, USQ Library Databases).

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

Taylor, T, Ferrier, I & Hodgson, T 'Australian insolvency management practice' (Available: CCH Electronic Libraries, USQ Library Databases).

## STUDENT WORKLOAD REQUIREMENTS

ACTIVITY	HOURS
Assessments	20.00
Directed Study	52.00
Private Study	93.00

## ASSESSMENT DETAILS

Description	Marks out of	Wtg (%)	Due date
ASSIGNMENT	40.00	40.00	05 Sep 2008
2 HOUR EXAMINATION	60.00	60.00	END S2 (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:  
To satisfactorily complete an individual assessment item a student must achieve at least 50% of the marks. (Depending upon the requirements in Statement 4 below, students may not have to satisfactorily complete each assessment item to receive a passing grade in this course.)
- 3 Penalties for late submission of required work:  
If students submit assignments after the due date without prior approval of the examiner, then a penalty of 5% of the total marks gained by the student for the assignment may apply for each working day late up to ten working days at which time a mark of zero may be recorded.
- 4 Requirements for student to be awarded a passing grade in the course:  
To be assured of receiving a passing grade a student must achieve at least 50% of the total weighted marks available for the course.
- 5 Method used to combine assessment results to attain final grade:  
The final grades for students will be assigned on the basis of the aggregate of the weighted marks obtained for each of the 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 Student Academic Misconduct for further information and to avoid actions which might contravene university regulations. These regulations can be found at <http://www.usq.edu.au/corporateservices/calendar/part5.htm>. Students should also read the Faculty of Business Policies and Procedures which can be found at <http://www.usq.edu.au/business/aboutfob.htm>.

## 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 assignment submitted for assessment. This must be produced within 24 hours if required by the examiner. (iii) In accordance with university policy, the examiner may grant an extension of the due date of an assignment in extenuating circumstances. (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, that is, 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.