



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.

### Description: Trusts

Subject	Cat-nbr	Class	Term	Mode	Units	Campus
LAW	3206	91253	2, 2009	EXT	1.00	Toowoomba

<b>Academic group:</b>	FOBUS
<b>Academic org:</b>	FOB010
<b>Student contribution band:</b>	3
<b>ASCED code:</b>	090900

### STAFFING

Examiner: Hugh Carter  
Moderator: Mark Byrne

### REQUISITES

Pre-requisite: LAW3205

### OTHER REQUISITES

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

### SYNOPSIS

The use of trusts as a business form continues to be popular while at the same time trusts provide a sources of rights and responsibilities in many contexts. The purpose of this course is to introduce students to the nature of trusts and the various forms they may take. This will build on the basic principles of equity and fiduciary relationships covered in the Equity course. The focus will be on trusts which may be expressly created for commercial or personal use; and trusts created by operation of law or for remedial purposes. The course will be practical in the sense that it will require students to be able to identify the duties and obligations of all parties within the trusts relationship and consider all potential legal risks and liabilities. In particular consideration will be given to the manner in which trustees and trusts may deal with other parties.

### OBJECTIVES

On successful completion of this course, students should be able to:

1. describe the features and elements of all forms of trust
2. identify the different types of trusts and how they may be created whether expressly or by operation of law
3. recognise the roles, duties and fiduciary obligations of all parties to a trust relationship and liabilities obligations to third parties

4. apply all relevant equitable principles to trust relationships in commercial and personal problems with a view to providing practical advice
5. critically evaluate the application of general policies underlying the law of trusts in Australia
6. locate and analyse primary law materials and secondary materials (as relevant)
7. apply such legal principles to given fact situations in order to determine the likely outcome to issues raised
8. demonstrate satisfactory communication skills.

## TOPICS

	Description	Weighting (%)
1.	The fundamental features and elements of trusts	20.00
2.	Express trusts: the creation of trusts for particular commercial or other purposes	20.00
3.	Trusts that arise by operation of law including implied, resulting and constructive trusts	20.00
4.	The fiduciary obligations and duties of trustees	20.00
5.	The rights of beneficiaries and potential remedies	10.00
6.	The relationship between trusts and external parties	10.00

## 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).

LEGISLATION: Trusts Act must be obtained.

Evans, M 2008, *Equity and trusts*, 2nd edn, LexisNexis Butterworths, Chatswood, 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.

Legal Online (electronic database): Principles of the Law of Trusts accessible via USQ Library Database Services <<http://resguide.usq.edu.au/index.php?type=databases&route=direct&ID=235>>.

LexisNexis AU: [electronic database] - accessible via USQ Library Database Services at <<http://resguide.usq.edu.au/index.php?type=databases&route=direct&ID=76>>.

## STUDENT WORKLOAD REQUIREMENTS

ACTIVITY	HOURS
Assessments	40.00
Directed Study	50.00
Private Study	75.00

## ASSESSMENT DETAILS

Description	Marks out of	Wtg (%)	Due date	Objectives assessed	Graduate skill	Level assessed
ASSIGNMENT	40.00	40.00	06 Oct 2009	All		
2-HOUR EXAMINATION	60.00	60.00	END S2 (see note 1)	All		

### 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 summative assessment items in the course.
- 6 Examination information:  
This will be an open examination. Candidates may have access to any printed or written material and a calculator during the examination. In line with regulation 5.6.4.2 'Use of Electronic Devices during Examinations', laptop and notebook computers are not permitted.

- 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 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 Referencing in assignments: Students studying this course as part of a Bachelor of Laws or Juris Doctor must use the Australian Guide to Legal Citation (AGLC) style. Students who are not enrolled in either of these programs may use either Harvard (AGPS) or the Australian Guide to Legal Citation (AGLC) in their assignments to format details of the information sources they have cited in their work. For AGLC style guide enquiries, consult the AGLC manual from the USQ Library's referencing guide at <http://www.usq.edu.au/library/help/referencing/default.htm>, or contact the Law librarian. The Harvard (AGPS) style to be used is defined by the USQ Library's referencing guide at <http://www.usq.edu.au/library/help/referencing/default.htm>.
- 4 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.

- 5 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**

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