



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: Advanced Insolvency Law and Practice 1

Subject	Cat-nbr	Class	Term	Mode	Units	Campus
LAW	8110	86135	1, 2009	EXT	1.00	Toowoomba

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

STAFFING

Examiner: Malcolm Quirey
Moderator: Mark Byrne

REQUISITES

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

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/ict/students/standards/default.htm>.

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

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. apply 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) (Assignment, Examination)
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 (Assignment, Examination)
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 (Assignment, Examination)
4. apply such legal principles to given fact situations in order to determine the likely outcome to issues raised (Assignment, Examination)
 5. demonstrate satisfactory communication skills (Assignment, Examination).

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	10.00
5. Provisional liquidation	5.00
6. Duties, liabilities, and ethical issues: registered trustees and liquidators	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).

Bankruptcy Act regulations and rules, Butterworths, Sydney OR CCH, 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 OR Corporations Legislation, Thomson (latest edition is required).

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

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

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/ezp_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/ezp_cch.htm)

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

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

Fisher, R 2000, *Corporate insolvency law*, LBC Information Services, North Ryde, New South Wales.

Gronow, M & Mason, R 2006, *McPherson's law of company liquidation*, 5th edn, Thomson Lawbook Co, Pyrmont, New South Wales.

(Also available online at Lawbook Online, USQ Library Database Services http://www.usq.edu.au/library/eservices/ezp_lawbook.htm)

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, New South Wales.

Keay, A 1997, *Avoidance provisions in insolvency law*, LBC Information Services, North Ryde, New South Wales.

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 <http://www.usq.edu.au/library/eservices/b-butt.htm>)

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

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: Lawbook Online, USQ Library Database Services).

(Lawbook Co, Sydney http://www.usq.edu.au/library/eservices/ezp_lawbook.htm)

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, New South Wales.

Townley, A & Pratt, D 1995, *A practical guide to insolvency*, Law Book Company, North Ryde, New South Wales.

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
ASSIGNMENT	40.00	40.00	05 May 2009
3 HOUR EXAMINATION	100.00	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. 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 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 item 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.
- 4 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).

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