



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 II

Subject	Cat-nbr	Class	Term	Mode	Units	Campus
LAW	8111	90132	2, 2009	EXT	1.00	Toowoomba

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

STAFFING

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 UConnect. Current details of computer requirements can be found at <http://www.usq.edu.au/ict/students/standards/default.htm>.

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 should 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.)
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).

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) OR Law Book Co, Corporations Legislation (latest edition).

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

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

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

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.

Harris, J, Hargovan, A & Adams, M 2008, *Australian corporate law*, LexisNexis, Chatswood, New South Wales.

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

Keay, A (ed) 1999, *The law of company liquidation*, 4th edn, LBC Information Services, Sydney, New South Wales.

(also available online on Lawbook Online, USQ Library Database Services)

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 2007, *Understanding company law*, 14th edn, Law Book Co, Sydney, New South Wales.

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

(Lawbook Co, Sydney, New South Wales)

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

(Lawbook Co, Sydney, New South Wales)

STUDENT WORKLOAD REQUIREMENTS

ACTIVITY	HOURS
Assessments	35.00
Directed Study	55.00
Private Study	75.00

ASSESSMENT DETAILS

Description	Marks out of	Wtg (%)	Due date	Objectives assessed	Graduate skill	Level assessed
ASSIGNMENT	40.00	40.00	25 Sep 2009	All		
3-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) PLEASE NOTE: 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) 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 Referencing in assignments: Students studying this course as part of a Juris Doctor must use the Australian Guide to Legal Citation (AGLC) style. Students who are not enrolled in the Juris Doctor 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 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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