The University of Southern Queensland

Course Specification

<table>
<thead>
<tr>
<th>Description: Advanced Insolvency Law and Practice 1</th>
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<tbody>
<tr>
<td>Subject</td>
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<tr>
<td>LAW</td>
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</tbody>
</table>

Academic Group: FOBUS
Academic Org: FOB010
HECS Band: 3
ASCED Code: 090901

STAFFING
Examiner: Rosalind Mason
Moderator: Colin Anderson

PRE-REQUISITES
Pre-requisite: LAW 5503

OTHER-REQUISITES
Pre-requisite: LAW 5503 or an understanding of Australian legal principles.

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
On completion of the course, the student should be able to:

- describe general policies and principles underlying the law of insolvency, in particular the aims of the administrations considered in this course (bankruptcy, provisional and terminal liquidations);
- explain the procedures involved in invoking and terminating selected insolvency administrations;
- recognise the effect of bankruptcy or liquidation on the debtor and the debtor's property and proceedings;
- identify the property available to creditors in a bankruptcy or liquidation and the problems associated with discovering and realising that property;
• assess the potential liability of corporate officers in an insolvency context;
• evaluate the validity of claims by creditors to participate in distributions from the
  insolvent estate and assess the priority of such claims;
• recognise duties, liabilities of, and ethical issues for registered trustees and
  liquidators;
• apply the legal principles considered in this course to given fact situations in order
to determine the likely outcome to issues raised.

TOPICS

<table>
<thead>
<tr>
<th>Description</th>
<th>Weighting (%)</th>
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</thead>
<tbody>
<tr>
<td>1. Underlying Principles of Insolvency Law</td>
<td>5.00</td>
</tr>
<tr>
<td>2. Proceedings in bankruptcy and company liquidations and effect of such</td>
<td>25.00</td>
</tr>
<tr>
<td>proceedings</td>
<td></td>
</tr>
<tr>
<td>3. Discovery and realisation of property available in bankruptcy and</td>
<td>45.00</td>
</tr>
<tr>
<td>liquidations, including voidable transactions, liability of corporate</td>
<td></td>
</tr>
<tr>
<td>officers</td>
<td></td>
</tr>
<tr>
<td>4. Distribution of property to creditors in bankruptcy and liquidation</td>
<td>15.00</td>
</tr>
<tr>
<td>5. Provisional liquidation</td>
<td>5.00</td>
</tr>
<tr>
<td>6. Duties, liabilities, and ethical issues: registered trustees and</td>
<td>5.00</td>
</tr>
<tr>
<td>liquidators</td>
<td></td>
</tr>
</tbody>
</table>

TEXT and MATERIALS required to be PURCHASED or ACCESSED:

Books can be ordered by fax or telephone. For costs and further details use the 'Book Search' facility at http://bookshop.usq.edu.au by entering the author or title of the text.

Australian Corporations Legislation, Butterworths OR,

NOTE: LATEST EDITIONS OF TEXTS ARE 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.


Keay, A. 1997 *Avoidance Provisions in Insolvency Law*, LBC Information Services, North Ryde, NSW.


Keay, A. 1999 *The Law of Company Liquidation*, 4th edn, LBC Information Services, North Ryde, NSW.

Lessing, J. & Corkery, J. 1995 *Corporate Insolvency Law*, Bond University, Gold Coast, Queensland.


Rose D. 1999 *Lewis’ Australian Bankruptcy Law*, 11th edn, LBC Information Services, North Ryde, NSW.


STUDENT WORKLOAD REQUIREMENTS

<table>
<thead>
<tr>
<th>ACTIVITY</th>
<th>HOURS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assessment</td>
<td>40</td>
</tr>
<tr>
<td>Directed Study</td>
<td>50</td>
</tr>
<tr>
<td>Private Study</td>
<td>75</td>
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ASSESSMENT DETAILS

<table>
<thead>
<tr>
<th>Description</th>
<th>Marks Out of</th>
<th>Wtg(%)</th>
<th>Required</th>
<th>Due Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>ASSIGNMENT PROPOSAL</td>
<td>5.00</td>
<td>5.00</td>
<td>Y</td>
<td>04 Mar 2002</td>
</tr>
<tr>
<td>ASSIGNMENT</td>
<td>35.00</td>
<td>35.00</td>
<td>Y</td>
<td>04 Mar 2002</td>
</tr>
<tr>
<td>EXAMINATION (3 HOURS)</td>
<td>60.00</td>
<td>60.00</td>
<td>Y</td>
<td>END S1</td>
</tr>
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<td></td>
<td></td>
<td></td>
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<td>(see note 3)</td>
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NOTES:
3. Students will be advised of the official examination date after the timetable has been finalised.

OTHER REQUIREMENTS

1. To be assured of a passing grade in this course, students must attempt all of the assessments, achieve at least 50% in the examination and at least 50% of the available marks for the course. Final grades for the course will be determined by the addition of the marks obtained in each assessment item, weighted as in the Assessment Details and by considering the student’s level of achievement of the objectives of the course.

2. Students must retain a copy of all pieces of assessment which must be produced if/when required by the lecturer.

3. LATE ASSIGNMENTS (i) All assessments submitted after the due date (and not approved for extension) in accordance with university policy will be penalised 20% per working day. (ii) 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. (iii) The course examiner shall consider the statement accompanying a late assignment and decide on the outcome.

4. Assignments not submitted in the appropriate assignment folders will be deemed as not being received.

5. DISHONEST ACTIONS (i) Any student who is alleged to having 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 course leader. (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, i.e. 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
referred 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.

DEFERRED EXAMINATIONS
(i) Deferred examinations will be granted at the
Dean's discretion based on non-attendance for medical, compassionate or
employment-related reasons having regard to item 1. If a deferred examination is
granted students shall sit the deferred examination in the next semester examination
period. If, for whatever reason, this deferred examination is not taken then the
student will be graded ‘F’. (ii) To be eligible for consideration for a deferred
examination, students must have submitted a genuine attempt at all mandatory
assessment items. (iii) Deferral of an examination CANNOT be granted on an
existing deferral in that course. (iv) Requests must be in writing to the Faculty
Operations Manager clearly stating student name, student number, current address,
course alpha-numeric identifier and name for the examination not attended. (v)
Requests MUST BE supported by original or suitably authenticated documentation.
(vi) Requests and documentation must be submitted to the Faculty Operations
Manager within ten (10) calendar days of the missed examination date. (vii)
Requests based on medical reasons must be supported by medical evidence on the
appropriate University of Southern Queensland medical certificate or doctor's
certificate. A medical certificate must be dated with the same date as the period of
illness for which the absence from examination is being sought and clearly indicate
the student's name and, if possible, student number (retrospective medical
certificates will not be accepted for either assignment work or examinations). Only
original or authenticated medical certificates will be accepted. A student's medical
condition must be stated clearly (IN ENGLISH). (Certificates stating a student has
a 'medical condition' may not be sufficient grounds for deferment of examination).
Medical evidence must cover the student for the day(s) of the missed examination(s).
(viii) Requests based on family/personal reasons must be supported by a clear
statement (IN ENGLISH) from a medical practitioner, counsellor or independent
member of the community. (ix) Requests based on employment-related reasons
must be supported by a clear statement (IN ENGLISH) from the student's employer.
(x) Students who have a medical condition or genuine compassionate or
employment-related problems on the day of the examination are advised to obtain
the relevant documentary evidence and NOT attempt the examination. If a student
makes an attempt at the examination, the assessment item will be marked and a
grade awarded. In these cases, a student cannot, after receiving a 'fail' grade, request
a deferred examination or special consideration. (xi) Students who have been
granted deferred examinations will not be granted a waiver of prerequisites, without
the permission of the Heads of Department, in subsequent semesters (if they do
not have a passing grade).
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.

Mechanised erasers are not permitted in exam venues.

The examination is OPEN which means that students are permitted to bring into the exam room and use any written or printed material.