Description: Insolvency and Restructuring Law

<table>
<thead>
<tr>
<th>Subject</th>
<th>Cat-nbr</th>
<th>Class</th>
<th>Term</th>
<th>Mode</th>
<th>Units</th>
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<tr>
<td>LAW</td>
<td>3110</td>
<td>35207</td>
<td>2, 2004</td>
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Academic group: FOBUS
Academic org: FOB010
Student contribution band: 3
ASCED code: 090901

STAFFING
Examiner: Rosalind Mason
Moderator: Colin Anderson

REQUISITES
Pre-requisite or Co-requisite: LAW2106

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
Completion of this course should enable students to:

1. locate and analyse primary law materials and secondary materials (as relevant) while examining an issue relevant to insolvency and restructuring law;
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;
3. apply such legal principles to given fact situations in order to determine the likely outcome to issues raised; and
4. demonstrate satisfactory skills in communication.

TOPICS

<table>
<thead>
<tr>
<th>Description</th>
<th>Weighting (%)</th>
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<tbody>
<tr>
<td>1. The Principles of Insolvency Law</td>
<td>8.00</td>
</tr>
<tr>
<td>2. Initiating bankruptcy and its effects and termination</td>
<td>16.00</td>
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<tr>
<td>3. Arrangements under Part IX and Part X</td>
<td>8.00</td>
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<tr>
<td>4. Types of Liquidation. The winding up process and the effects of winding up</td>
<td>24.00</td>
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<tr>
<td>5. Receivership</td>
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<tr>
<td>6. Voluntary Administration</td>
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<tr>
<td>7. Deeds of Company Arrangement</td>
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<tr>
<td>8. Cross Border Insolvency</td>
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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.

(Or *Butterworths Australian Corporations Legislation*, Butterworths, Chatswood, New South Wales.)

*CCH Australian Bankruptcy Act*, CCH Australia Ltd, North Ryde, 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.


Fletcher, I 2001, *Fletcher - 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 1997, *The principles of corporate insolvency law*, 2nd 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.)


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


McDonald, E, Henry, H & Meek, H 'Australian bankruptcy law and practice' (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).


**STUDENT WORKLOAD REQUIREMENTS:**

<table>
<thead>
<tr>
<th>ACTIVITY</th>
<th>HOURS</th>
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<tbody>
<tr>
<td>Assessment</td>
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<tr>
<td>Directed Study</td>
<td>52.00</td>
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<tr>
<td>Private Study</td>
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**ASSESSMENT DETAILS**

<table>
<thead>
<tr>
<th>Description</th>
<th>Marks out of</th>
<th>Wtg(%)</th>
<th>Due date</th>
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<tr>
<td>ASSIGNMENT</td>
<td>30.00</td>
<td>30.00</td>
<td>17 Sep 2004</td>
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<tr>
<td>3 HOUR EXAMINATION</td>
<td>70.00</td>
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**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. Failure to attend may infringe the conditions of your student visa. 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:**
   - Students must submit assignments that represent a reasonable attempt as determined by the Examiner. Students must obtain at least 50% of the marks available for the examination.

3. **Penalties for late submission of required work:**
   - If students submit assignments after the due date without prior approval then a penalty of 20% of the total marks available for the assignment will apply for each working day late.

4. **Requirements for student to be awarded a passing grade in the course:**
   - To be assured of receiving a passing grade a student must attempt all of the summative assessment items, achieve at least 50% in the examination and achieve
an aggregated mark of at least 50% of the available weighted marks for the summative assessment items.

5 Method used to combine assessment results to attain final grade:
   The final grades for students will be assigned on the basis of the weighted aggregate of the marks obtained for each of the summative 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 Academic Misconduct for further information and to avoid actions which might contravene University Regulations. These regulations can be found at the URL http://www.usq.edu.au/corporateservices/calendar/part5.htm. Students should also read the Faculty of Business Guide to Policies and Procedures of the Faculty which can be found at the URL http://www.usq.edu.au/handbook/current/buspolproc.html.