**Description: Business Law Honours B**

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<tr>
<th>Subject</th>
<th>Cat-nbr</th>
<th>Class</th>
<th>Term</th>
<th>Mode</th>
<th>Units</th>
<th>Campus</th>
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<tr>
<td>LAW</td>
<td>4103</td>
<td>30197</td>
<td>1, 2004</td>
<td>ONC</td>
<td>1.00</td>
<td>TW MBA</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: (LAW2104 or LAW3108 or LAW3110) and LAW2106

**SYNOPSIS**

Market economies provide the opportunity for risk-taking enterprises to profit from their successes. Concomitantly it is fundamental to such a system that firms risk failure. Insolvency law regulates formal insolvency administrations which result in the liquidation or bankruptcy of debtors. Restructuring law and practice is aimed at maximising the chances of a business, or so much of it as is possible, continuing in existence or at least at providing a better return to creditors than a liquidation or bankruptcy. This course reviews the range of administrations available and examines current trends and issues in insolvency and restructuring law.

**OBJECTIVES**

Upon successful completion of this course students should:

- understand the meaning of insolvency in Law;
- be aware of the options available to insolvent persons and companies and be able to articulate the options;
- be able to outline the procedure which must be followed to initiate and implement Part X arrangements, voluntary administrations, deeds of company arrangement or schemes of arrangement;
- be aware of the major issues in bankruptcy and liquidation proceedings and receiverships;
- identify the powers available to trustees and liquidators to recover property and to be able to analyse the issues relating to the employment of such powers;
• understand the importance of investigations and the role of examinations in bankruptcies and liquidations;
• identify the potential liability of officers and controllers of companies;
• be aware of the issues affecting insolvent corporate groups;
• be able to articulate the problems which exist in relation to international insolvencies and to explain what solutions are available;
• understand the impact and effect of recent statutory amendments and case law developments;
• demonstrate satisfactory skills in legal research and in communication.

TOPICS

<table>
<thead>
<tr>
<th>Description</th>
<th>Weighting (%)</th>
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<tbody>
<tr>
<td>1. Introduction, Meaning of Insolvency, Purposes of Bankruptcy and</td>
<td>7.00</td>
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<tr>
<td>Liquidation and alternatives when insolvency strikes</td>
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<tr>
<td>2. Non-terminal administration: Part X arrangements, voluntary</td>
<td>15.00</td>
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<tr>
<td>administrations, deeds of company arrangement and schemes of</td>
<td></td>
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<tr>
<td>arrangement</td>
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<td>3. Terminal administrations: Issues in bankruptcy and liquidation</td>
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<td>proceedings and administration.</td>
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<td>4. Issues arising from Receiverships</td>
<td>8.00</td>
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<td>5. Recovery of property by trustees in bankruptcy and liquidators</td>
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<td>6. Insolvency Investigations and Examinations</td>
<td>8.00</td>
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<td>7. Liability of officers and controllers of companies</td>
<td>8.00</td>
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<tr>
<td>8. Insolvency of Corporate Groups</td>
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<tr>
<td>9. International Elements in Insolvency Law</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).

(Latest edition is required)

CCH Australian corporations and securities legislation, CCH Australia Ltd, North Ryde, New South Wales.
(Or Australian corporations law - legislation, LexisNexis Butterworths, 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.


(North Ryde, New South Wales)

(North Ryde, New South Wales)


(also available online: http://www.usq.edu.au/library/eservices/b-lawbook.htm)

Lessing, J & Corkery, J (eds) 1995, *Corporate insolvency law*, Bond University, Gold Coast, Queensland.


(Lawbook Co, Sydney)

(Lawbook Co, Sydney (oncampus only))


**ASSESSMENT DETAILS**

<table>
<thead>
<tr>
<th>Description</th>
<th>Marks out of</th>
<th>Wtg(%)</th>
<th>Due date</th>
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<tbody>
<tr>
<td>MINOR ASSIGNMENT (2000 WORDS)</td>
<td>15.00</td>
<td>15.00</td>
<td>02 Mar 2004</td>
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<tr>
<td></td>
<td></td>
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<td>(see note 1)</td>
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<tr>
<td>MAJOR ASSIGNMENT (6000 WORDS)</td>
<td>45.00</td>
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<tr>
<td>2 HOUR EXAMINATION</td>
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**NOTES:**
1. Examiner to advise submission dates for assignments.
2. 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:**
   It is the students' responsibility to attend and participate appropriately in all activities (such as lectures, tutorials, laboratories and practical work) scheduled for them, and 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. 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.

2. **Requirements for students to complete each assessment item satisfactorily:**
   Students must submit assignments that represent a reasonable attempt as determined by the Examiner.

3. **Penalties for late submission of required work:**
   If students submit assignments after the due date without prior approval then a penalty of up to 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 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 (or grades) 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 telephones, 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/2004/bus.html.

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 five days if required by the Examiner. (iii) In accordance with University’s Assignment Extension Policy (Regulation 5.6.1), the Examiner may grant an extension of the due date of an assignment in extenuating circumstances. 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. The Examiner shall consider the statement accompanying a late assignment and decide on the outcome. (iv) Assignments are to be submitted with the appropriate assignment cover. (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.

2 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).