Description: Insolvency and Restructuring Law

<table>
<thead>
<tr>
<th>Subject</th>
<th>Cat-nbr</th>
<th>Term</th>
<th>Mode</th>
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<tr>
<td>LAW</td>
<td>3110</td>
<td>2, 2010</td>
<td>EXT</td>
<td>1</td>
<td>Toowoomba</td>
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Academic group: FOBUS
Academic org: FOB010
Student contribution band: 3
ASCED code: 090901

STAFFING
Examiner: Liam Scott
Moderator: Mark Byrne

REQUISITES
Pre-requisite or Co-requisite: LAW2106

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>.

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
On successful completion of this course, students should be able 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
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. Bankruptcy</td>
<td>16.00</td>
</tr>
<tr>
<td>3. Arrangements under part IX and part X</td>
<td>8.00</td>
</tr>
<tr>
<td>4. Liquidation</td>
<td>24.00</td>
</tr>
<tr>
<td>5. Receivership</td>
<td>8.00</td>
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<tr>
<td>6. Voluntary administration</td>
<td>20.00</td>
</tr>
<tr>
<td>7. Deeds of company arrangement</td>
<td>8.00</td>
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<tr>
<td>8. Cross border insolvency</td>
<td>8.00</td>
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</table>

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).

(The current edition of CCH Australian Bankruptcy Act, CCH Australia Ltd, North Ryde, New South Wales OR Butterworths Australian Bankruptcy Act 1966 Rules and Regulations Annotated, Butterworths, Chatswood, 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.


(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.)


(STUDENT EDITION. 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.)


(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.)

Insall, H, Robertson, D & Lovell, P *Winding up by the court in Australian corporation law - principles and practice*, (Lexis Nexis AU, USQ Library Databases)


Lindwall, R *Receivers and controllers of corporate property in Australian corporation law*, (Lexis Nexis AU, USQ Library Databases)

Lindwall, R *Voluntary winding up in Australian corporation law*, (Lexis Nexis AU, USQ Library Databases)


McDonald, E, Henry, H & Meek, H *Australian bankruptcy law and practice*, (Law Book Online, USQ Library Databases)

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

Robertson, D, Redmond, P & Lovall, D *Recovery of property or compensation in Australian corporation law*, (Lexis Nexis AU, USQ Library Databases)
Robertson, D & Lovall, D "Winding up generally in Australian corporation law - principles and practice.
(Lexis Nexis AU, USQ Library Databases)
Taylor, T, Ferrier, I & Hodgson, T Australian insolvency management practice,
(CCH Electronic Libraries, USQ Library Databases)

STUDENT WORKLOAD REQUIREMENTS

<table>
<thead>
<tr>
<th>ACTIVITY</th>
<th>HOURS</th>
</tr>
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<tbody>
<tr>
<td>Assessments</td>
<td>20.00</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>
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<th>Objectives assessed</th>
<th>Graduate skill</th>
<th>Level assessed</th>
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<tr>
<td>ASSIGNMENT</td>
<td>100</td>
<td>40</td>
<td>08 Sep 2010</td>
<td>All</td>
<td>U1, U2, U3, U4</td>
<td>3, 3, 3, 3</td>
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<tr>
<td>2-HOUR EXAMINATION</td>
<td>60</td>
<td>60</td>
<td>END S2 (see note 1)</td>
<td>All</td>
<td>U1, U2, U3, U4</td>
<td>3, 3, 3, 3</td>
</tr>
</tbody>
</table>

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.

GRADUATE QUALITIES AND SKILLS

Elements of the following USQ Graduate Skills are associated with the successful completion of this course.

<table>
<thead>
<tr>
<th>Ethical Research &amp; Enquiry (Skill U1)</th>
<th>Advanced (Level 3)</th>
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</thead>
<tbody>
<tr>
<td>Problem Solving (Skill U2)</td>
<td>Advanced (Level 3)</td>
</tr>
<tr>
<td>Academic, professional and digital literacy (Skill U3)</td>
<td>Advanced (Level 3)</td>
</tr>
<tr>
<td>Written &amp; Oral Communication (Skill U4)</td>
<td>Advanced (Level 3)</td>
</tr>
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</table>

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 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 Student Policies:
Students should read the USQ policies Definitions, Assessment and Student Academic Misconduct to avoid actions which might contravene University policies and practices. These polices can be found at the URL http://policy.usq.edu.au/portal/custom/search/category/usq_document_policy_type/Student.1.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 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) 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 Bachelor of Laws or Juris Doctor must use the Australian Guide to Legal Citation (AGLC) style. Students who are not enrolled in either of these programs 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 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.

OTHER REQUIREMENTS

1 Computer, e-mail and Internet access: 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>.