

LAWS50093 Insolvency Law

| Credit Points: | 12.5 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| Level: | 5 (Graduate/Postgraduate) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Dates & Locations: | 2015, Parkville This subject commences in the following study period/s: Semester 2, Parkville - Taught on campus. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Time Commitment: | Contact Hours: 36 hours of seminar classes offered intensively, or as 12 weekly 3 hour seminars over a semester. Total Time Commitment: 144 hours. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Prerequisites: | <p>Corporations Law (LAWS50035) is a concurrent prerequisite. A concurrent prerequisite is a requisite that students must either be undertaking concurrently (in exactly the same study period) with their enrolment in the subject, or have already met (student has undertaken the requisite subject previously).</p> <table><tr><th>Subject</th><th>Study Period Commencement:</th><th>Credit Points:</th></tr><tr><td>LAWS50023 Legal Method and Reasoning</td><td>February</td><td>12.50</td></tr><tr><td>LAWS50024 Principles of Public Law</td><td>Semester 1</td><td>12.50</td></tr><tr><td>LAWS50025 Torts</td><td>November, Semester 2</td><td>12.50</td></tr><tr><td>LAWS50026 Obligations</td><td>Semester 1</td><td>12.50</td></tr><tr><td>LAWS50029 Contracts</td><td>Semester 2</td><td>12.50</td></tr><tr><td>LAWS50030 Property</td><td>Semester 1</td><td>12.50</td></tr><tr><td>LAWS50033 Trusts</td><td>Semester 1</td><td>12.50</td></tr><tr><td>LAWS50035 Corporations Law</td><td>Semester 2</td><td>12.50</td></tr></table> | | | Subject | Study Period Commencement: | Credit Points: | LAWS50023 Legal Method and Reasoning | February | 12.50 | LAWS50024 Principles of Public Law | Semester 1 | 12.50 | LAWS50025 Torts | November, Semester 2 | 12.50 | LAWS50026 Obligations | Semester 1 | 12.50 | LAWS50029 Contracts | Semester 2 | 12.50 | LAWS50030 Property | Semester 1 | 12.50 | LAWS50033 Trusts | Semester 1 | 12.50 | LAWS50035 Corporations Law | Semester 2 | 12.50 |
| Subject | Study Period Commencement: | Credit Points: | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| LAWS50023 Legal Method and Reasoning | February | 12.50 | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| LAWS50024 Principles of Public Law | Semester 1 | 12.50 | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| LAWS50025 Torts | November, Semester 2 | 12.50 | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| LAWS50026 Obligations | Semester 1 | 12.50 | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| LAWS50029 Contracts | Semester 2 | 12.50 | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| LAWS50030 Property | Semester 1 | 12.50 | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| LAWS50033 Trusts | Semester 1 | 12.50 | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| LAWS50035 Corporations Law | Semester 2 | 12.50 | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Corequisites: | None | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Recommended Background Knowledge: | None | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Non Allowed Subjects: | <table><tr><th>Subject</th><th>Study Period Commencement:</th><th>Credit Points:</th></tr><tr><td>LAWS70240 Corporate Insolvency and Reconstruction</td><td>Not offered 2015</td><td>12.50</td></tr></table> | | | Subject | Study Period Commencement: | Credit Points: | LAWS70240 Corporate Insolvency and Reconstruction | Not offered 2015 | 12.50 | | | | | | | | | | | | | | | | | | | | | |
| Subject | Study Period Commencement: | Credit Points: | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| LAWS70240 Corporate Insolvency and Reconstruction | Not offered 2015 | 12.50 | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Core Participation Requirements: | <p>The Melbourne Law School welcomes applications from students with disabilities. It is University and Law School policy to take all reasonable steps to enable the participation of students with disabilities, and reasonable adjustments will be made to enhance a student's participation in the School's programs. The inherent academic requirements for the study in the Melbourne Law School are: The ability to attend classes and actively engage in the analysis of complex materials and debate; The ability to read, analyse and comprehend complex written legal materials and complex interdisciplinary materials; The ability to clearly and independently communicate in writing a knowledge and application of legal principles and interdisciplinary materials and critically evaluate these; The ability to clearly and independently communicate orally a knowledge and application of legal principles and interdisciplinary materials and critically evaluate these; The ability to work independently and as a part of a group; The ability to present orally and in writing legal analysis to a professional standard. Students must possess behavioural and social attributes that enable them to participate in a complex learning environment. Students are required to take responsibility for their own participation and learning. They also contribute to the learning of other students in collaborative learning environments, demonstrating interpersonal skills and an understanding of the needs of other students. Assessment may include the outcomes of tasks completed in collaboration with other students. Students who feel their disability will prevent them from participating in tasks involving</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

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| | these inherent academic requirements are encouraged to contact the Disability Liaison Unit: www.services.unimelb.edu.au/disability/ . |
| Coordinator: | Mr Michael Gronow |
| Contact: | Melbourne Law School Student Centre Email: law-studentcentre@unimelb.edu.au (mailto:law-studentcentre@unimelb.edu.au) Tel: +61 3 8344 4475 |
| Subject Overview: | <p>An insolvency regime is a necessary part of the legal system in a capitalist economy. It is a means for dealing with businesses that fail, and individuals who cannot pay their debts. An insolvency regime is required to ensure that in those circumstances the remaining assets are equitably distributed amongst the creditors, the affairs of the insolvent business or individual are administered in an orderly fashion, businesses and individuals are rehabilitated to the extent possible, and that any wrongdoing is investigated and punished. Insolvency Law can aid the wider economy by ensuring that resources and people are devoted to more productive activities. To ensure equitable distribution of assets and to prevent abuses of the insolvency system to avoid paying legitimate creditors, liquidators and trustees in bankruptcy are given powers to enforce claims to assets and undo past transactions.</p> <p>Insolvencies often raise legal, practical and theoretical questions of considerable interest, which are by no means confined to a narrow concept of "insolvency" itself. Consequently, insolvency lawyers require knowledge of many other areas of public and private law, including equity and trusts, corporations law, contract, property and securities law and constitutional and administrative law.</p> <p>This subject involves a practical and theoretical examination of the law of personal insolvency (i.e. bankruptcy), and corporate insolvency. In terms of the practical law, the subject will cover the process and outcomes of placing individuals and companies under the various forms of insolvency administration under the <i>Bankruptcy Act 1966</i> and the <i>Corporations Act 2001</i>.</p> <p>While the subject concentrates on the law currently applicable in Australia, it will do so in the international context. Foreign insolvency regimes will be considered, both to illustrate the content and operation of the Australian insolvency system and to explain how a transnational insolvency is administered and regulated.</p> <p>The examination of the practical aspects of the law will be integrated with the economic and social policy objectives of the applicable laws. This will involve critical reflection on the conflicting demands of different stakeholders in society. Thus, an examination of the national and international scholarship dealing with policy objectives in the context of the current domestic and international law of insolvency will be an important part of the subject. As well as discussing what the law is, students will be expected to research and consider proposed alternatives, and examine critically why the law is as it is and what it should be. International and local reform proposals will be examined to demonstrate different ways of achieving the social and economic objectives of an insolvency system.</p> <p>Students will be expected to form and justify independent opinions on the strengths and weaknesses of current laws and proposed reforms, and to develop, where appropriate, other options.</p> |
| Learning Outcomes: | <p>A student who has successfully completed this subject should have a specialised and integrated understanding of, and be able to independently and critically analyse:</p> <ul style="list-style-type: none"> # The nature and operation of the regimes for personal and corporate insolvency presently operating in Australia; # The law and practice of personal and corporate insolvency in Australia; # Practical and theoretical problems arising in insolvencies and how they might be solved; and # Insolvency law in its economic, social and political context from perspectives including those of debtors, creditors, businesspeople, company shareholders and officers, insolvency practitioners, members of the public and governments. <p>Students should also be able to:</p> <ul style="list-style-type: none"> # Conduct independent legal research at an advanced level in the area of insolvency law; # Both evaluate and generate critical perspectives to understand and reflect on a range of texts including statutes, cases, specialised academic commentary and complex government reports; |

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| | <ul style="list-style-type: none"> # Create in depth legal analyses and arguments to discuss hypothetical practical fact scenarios relating to insolvency; # Respond to sophisticated policy and theoretical questions relating to insolvency law, including comparative insolvency law; and # Communicate complex ideas relating to reforms and proposed reforms of Australian and overseas insolvency law in the context of domestic and international reform proposals. |
| Assessment: | Three hour examination OR a 6,000 word research paper (100%). Students will have the option of sitting a 3 hour exam on topics and materials covered in the subject, or submitting a 6,000 word research paper at the end of semester on a topic set or approved by the coordinator. In both options, students must demonstrate independent thought and mastery of the practical and theoretical aspects of insolvency law. |
| Prescribed Texts: | Specialist printed materials will be made available from Melbourne Law School; Harris, Gronow and Anderson Insolvency Law: Commentary and Materials, Lawbook Co., Sydney, 2015 Corporations Act 2001 (latest edition). This legislation is available in the following formats: - Butterworths: publishes a one-volume Student Edition and a two-volume complete edition; - LawBook Co (Thomson): publishes a one-volume edition; - CCH: publishes a one-volume Student Edition and a three-volume complete edition. Any of the one-volume editions of the Corporations Act is sufficient for this subject. |
| Breadth Options: | This subject is not available as a breadth subject. |
| Fees Information: | Subject EFTSL, Level, Discipline & Census Date, http://enrolment.unimelb.edu.au/fees |
| Generic Skills: | <p>Students who have successfully completed this subject will have developed cognitive, technical and creative skills in:</p> <ul style="list-style-type: none"> # Understanding and reasoning about the processes whereby social and economic policy objectives are translated into statutory and other law; # Applying knowledge gained in Corporations Law and Insolvency Law to analyse and discuss practical and theoretical legal problems; # Evaluating the extent to which legislation and case law achieves acceptable social and economic policy outcomes (including a consideration of what these outcomes should be), and suggesting and designing improvements to the legal system; # Comparing and contrasting the current operation of the Australian legal system with other past and present legal systems; and # Analysing complex legal problems involving the interaction of statute and case law, giving a concise statement of the effect of the relevant law, and applying it to given factual situations. |
| Notes: | This subject has a quota of 60 students. Details on quota subject selection (http://www.law.unimelb.edu.au/jd/current-students/enrolments/quota-subject-selection/) are available on the JD website. |