

# LAWS50093 Insolvency Law

<b>Credit Points:</b>	12.50																																						
<b>Level:</b>	5 (Graduate/Postgraduate)																																						
<b>Dates &amp; Locations:</b>	This subject is not offered in 2012. 36 hours of seminar classes offered intensively over 7 days, or as 12 weekly 3 hour seminars over a semester.																																						
<b>Time Commitment:</b>	Contact Hours: 36 hours. Total Time Commitment: 144 hours.																																						
<b>Prerequisites:</b>	<table border="1"> <thead> <tr> <th>Subject</th> <th>Study Period Commencement:</th> <th>Credit Points:</th> </tr> </thead> <tbody> <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>Semester 2</td> <td>12.50</td> </tr> <tr> <td>LAWS50026 Obligations</td> <td>Semester 1</td> <td>12.50</td> </tr> <tr> <td>LAWS50027 Dispute Resolution</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>Not offered 2012</td> <td>12.50</td> </tr> <tr> <td>LAWS50031 Legal Theory</td> <td>November, Semester 2</td> <td>12.50</td> </tr> <tr> <td>LAWS50032 Administrative Law</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> </tbody> </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	Semester 2	12.50	LAWS50026 Obligations	Semester 1	12.50	LAWS50027 Dispute Resolution	Semester 1	12.50	LAWS50029 Contracts	Semester 2	12.50	LAWS50030 Property	Not offered 2012	12.50	LAWS50031 Legal Theory	November, Semester 2	12.50	LAWS50032 Administrative Law	Semester 1	12.50	LAWS50033 Trusts	Semester 1	12.50	LAWS50035 Corporations Law	Semester 2	12.50
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<b>Core Participation Requirements:</b>	<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>																																						

	these inherent academic requirements are encouraged to contact the Disability Liaison Unit: <a href="http://www.services.unimelb.edu.au/disability/">http://www.services.unimelb.edu.au/disability/</a> .
<b>Contact:</b>	Melbourne Law School Student Centre Email: <a href="mailto:law-studentcentre@unimelb.edu.au">law-studentcentre@unimelb.edu.au</a> (mailto:law-studentcentre@unimelb.edu.au) Tel: +61 3 8344 4475
<b>Subject Overview:</b>	<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 insufficiency of assets is equitably distributed amongst the creditors. To ensure equitable distribution, 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 Bankruptcy Act 1966 and the Corporations Act 2001. 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 organisation is 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 law 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. International reform agendas will be critically examined to demonstrate different mechanisms of achieving specified objectives. Students will be expected to form and justify independent opinions on the strengths and weaknesses of recent proposed reforms, and to develop, where appropriate, other options.</p>
<b>Objectives:</b>	<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"> <li># The nature and operation of the regimes for personal and corporate insolvency presently operating in Australia; and</li> <li># Insolvency law in its economic, social and political context from perspectives including those of debtors, creditors, businesspeople, company shareholders and officers, insolvency practitioners and governments.</li> </ul> <p>Students should also be able to:</p> <ul style="list-style-type: none"> <li># Conduct independent legal research at an advanced level in the area of insolvency law;</li> <li># 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;</li> <li># Create in depth legal analyses and arguments to discuss hypothetical fact scenarios relating to insolvency;</li> <li># Respond to sophisticated policy and theoretical questions relating to insolvency law, including comparative insolvency law; and</li> <li># Communicate complex ideas relating to reforms and proposed reforms of Australian insolvency law in the context of international reform proposals.</li> </ul>
<b>Assessment:</b>	Three hour examination OR a 7,000 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 7,000 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.
<b>Prescribed Texts:</b>	Specialist printed materials will be made available from Melbourne Law School; 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.Either of the one-volume editions is sufficient for this subject.
<b>Breadth Options:</b>	This subject is not available as a breadth subject.
<b>Fees Information:</b>	Subject EFTSL, Level, Discipline & Census Date, <a href="http://enrolment.unimelb.edu.au/fees">http://enrolment.unimelb.edu.au/fees</a>
<b>Generic Skills:</b>	<p>Students who have successfully completed this subject will have developed cognitive, technical and creative skills in:</p> <ul style="list-style-type: none"> <li># Understanding and reasoning about the processes whereby social and economic policy objectives are translated into statutory and other law;</li> <li># Applying knowledge gained in Corporations Law and Insolvency Law to analyse and discuss practical and theoretical legal problems;</li> <li># Evaluating the extent to which legislation and case law achieves acceptable social and economic policy outcomes, and suggesting and designing improvements to the legal system;</li> <li># Comparing and contrasting the current operation of the Australian legal system with other past and present legal systems; and</li> <li># 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.</li> </ul>