



# ACCG751

## Legal Governance for Business Enterprises

S1 Evening 2016

*Dept of Accounting & Corporate Governance*

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## General Information

### Unit convenor and teaching staff

Lecturer/ Convenor

John Garrick

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by appointment

Moderator

Michael Quilter

[michael.quilter@mq.edu.au](mailto:michael.quilter@mq.edu.au)

### Credit points

4

### Prerequisites

Admission to MRes

### Corequisites

### Co-badged status

ACCG951

### Unit description

This unit focuses on special topics relating to the structure and issues affecting the legal governance regime of a business enterprise. Topics include director's functions, insolvency and governance takeovers, financial services and markets, and governance structures relating to corporations and insolvency. Topics are chosen to encourage students to explore, and to develop skills, in analysis and investigation that are necessary and required to undertake more advanced research. A sound understanding of legal governance is a requirement for any advanced study of current corporate governance issues. This unit provides students with essential scholarly experiences that develop the concepts and skills necessary for advanced research in legal governance.

## Important Academic Dates

Information about important academic dates including deadlines for withdrawing from units are available at <https://www.mq.edu.au/study/calendar-of-dates>

## Learning Outcomes

On successful completion of this unit, you will be able to:

Analyse and comprehend the characteristics and framework of the legal system in which

corporations function and in which they are governed.

Develop professional judgement in the various ways that companies are formed, their structure and constitution and how these affect the company's activities and impact on management and governance factors.

Critically evaluate key corporate governance and corporate social responsibility issues, in particular those that relate to the role and obligations of directors.

Appreciate the value of the relationships between director's duties, governance issues and shareholders rights.

Analyse corporate insolvency and related governance issues.

## Assessment Tasks

Name	Weighting	Due
<u>1. Class Test</u>	20%	24 March 2016
<u>2. Presentation and Report</u>	30%	In week allocated.
<u>3. Class Test</u>	50%	9 June 2016

### 1. Class Test

Due: **24 March 2016**

Weighting: **20%**

This test will be held in class on 24 March 2016 (Week 4)

**No extensions will be granted. Students who have not completed the assessment task in accordance with the required time-frame will be awarded a mark of 0 for the task, except for cases in which an application for disruption of studies is made and approved.**

On successful completion you will be able to:

- Analyse and comprehend the characteristics and framework of the legal system in which corporations function and in which they are governed.
- Develop professional judgement in the various ways that companies are formed, their structure and constitution and how these affect the company's activities and impact on management and governance factors.
- Appreciate the value of the relationships between director's duties, governance issues and shareholders rights.

## 2. Presentation and Report

Due: **In week allocated.**

Weighting: **30%**

**Submission:** In-class presentation in week allocated. Marks are awarded individually. Case studies are graded based on content and presentation style.

The purpose of this assessment is to allow students to work on a significant piece of work and communicate their level of understanding of key concepts, theories and issues presented by the case studies during the session.

Each case study requires three (3) elements: A. An oral presentation, approximately 20 minutes, B. A submitted power point presentation, and C. A written report summarising key legal issues raised by the case study including the precedent implications of the case.

Case study questions and will be allocated in week 1 of session.

**Marking Criteria:** This assessment task allows the students to display oral and written communication skills to explain the key concepts. 10 (of 30) marks are awarded for the presentation itself, 20 (of 30) marks are awarded for the written report and presentation slides. To achieve a distinction or high distinction equivalent score, students must be articulate, knowledgeable on the case study in question and demonstrate the ability to coherently answer the questions posed.

**No extensions will be granted. Students who have not completed the assessment task in accordance with the required time-frame will be awarded a mark of 0 for the task, except for cases in which an application for disruption of studies is made and approved.**

On successful completion you will be able to:

- Analyse and comprehend the characteristics and framework of the legal system in which corporations function and in which they are governed.
- Develop professional judgement in the various ways that companies are formed, their structure and constitution and how these affect the company's activities and impact on management and governance factors.
- Critically evaluate key corporate governance and corporate social responsibility issues, in particular those that relate to the role and obligations of directors.
- Appreciate the value of the relationships between director's duties, governance issues and shareholders rights.

## 3. Class Test

Due: **9 June 2016**

Weighting: **50%**

This Test will be held in class in the final week of session (week 13) - it will be a written

assessment covering the whole of the Unit's content. The Class Test represents 50% of the student's overall assessment for this unit. Students must pass the Class Test in order to achieve a passing grade for the unit.

**No extensions will be granted. Students who have not completed the assessment task in accordance with the required time-frame will be awarded a mark of 0 for the task, except for cases in which an application for disruption of studies is made and approved.**

On successful completion you will be able to:

- Analyse and comprehend the characteristics and framework of the legal system in which corporations function and in which they are governed.
- Develop professional judgement in the various ways that companies are formed, their structure and constitution and how these affect the company's activities and impact on management and governance factors.
- Critically evaluate key corporate governance and corporate social responsibility issues, in particular those that relate to the role and obligations of directors.
- Analyse corporate insolvency and related governance issues.

## Delivery and Resources

### Classes

Classes will progress through the various Lecture Areas referred to in this Unit Guide. Students will attend one seminar (time allotted 3 hours) each week. There may be some reorganisation, overlapping, and/or integration of areas to accommodate assessment and unit structure. Note that together with the designated practice questions, the classes may cover other issues relevant to the unit.

The timetable for classes can be found on the University web site at:

<http://www.timetables.mq.edu.au/>

### Required and Recommended Texts and/or Materials

**Lipton, Herzberg and Welsh, *Understanding Company Law*, 18th ed. 2016** Thomson Reuters (Lawbook Co.)

**Quilter, *Company Law Perspectives*, 2nd ed. 2014**, Thomson Reuters (Lawbook Co.)

Both of the above texts can be purchased from the Macquarie University Co-op Bookshop, and are available in the Macquarie University library.

Useful websites

- [www.asic.gov.au](http://www.asic.gov.au)
- [www.asx.com.au](http://www.asx.com.au)

- [www.takeovers.gov.au](http://www.takeovers.gov.au)
- [www.camac.gov.au](http://www.camac.gov.au)

By using www resources students are able to gain a perspective on their studies and be aware of real world situations where company law is relevant. Newspaper coverage of company law gives depth and realism to the formal explanations of the law in texts.

Seminars may make use of PowerPoint; overhead projectors; visualisers.

Unit material is available on the learning management system (iLearn)

There is a web page for this unit.

This unit is taught by way of seminars. Practice questions are discussed to enable application of content.

Students should take responsibility for their own learning and this will incorporate reading as required, attendance at seminars, developing effective study strategies, reflection on their abilities, and a task oriented approach to assessment – that is, do not think solely about gathering information - think about what will be required - what makes for successful performance in tests and exams - how you will use the law you have studied. There are 2 main components of successful commercial and company law study: one is that students must have some knowledge of the core issues of the relevant topics [take short clear notes in classes, think about your task, involve yourself in classes], the second is that students will only be successful if they can apply what they have learned, that is, in your test, presentation, or exam, you have to be able to use the law to solve problems, communicate, analyse and explain.

Students should be ready to allocate at least 150 hours during semester time for ACCG751/951. This includes all classes, assessment, personal study and other learning activities. Here is a sample breakdown of a student workload:

	Activities	Hours
1	Weekly Seminars including required assessment (3×13)	39
2	Assessment Task 1 Class Test (self-study plus preparation)	20
3	Assessment Task 2 Presentation and Report (Self-study plus preparation)	35
4	Assessment Task 3 Examination (self-study plus preparation)	46
5	General reading and research	10
	<b>Total</b>	<b>150</b>

## Unit Schedule

Where specific materials outside of the text may be relevant students will be directed accordingly:

### **Week 1 – LEGAL SYSTEM, CORPORATE FRAMEWORK AND CORE PRINCIPLES**

Contracts; Agency; Associations; Sole Traders; Partnerships

LHW Ch. Partnership Act: [www.austlii.edu.au/au/legis/nsw/consol\\_act/pa1892154/](http://www.austlii.edu.au/au/legis/nsw/consol_act/pa1892154/)

### **Week 2 – DIRECTORS AS AGENTS AND THEIR ROLE IN IDENTIFYING CORPORATE LIABILITY**

Evolution of modern company and Australian developments:

#### **LHW Ch.1**

Applying for registration and the consequences of incorporation:

#### **LHW Ch.2**

Types of Companies:

#### **LHW Ch.3**

The company constitution and the replaceable rules:

#### **LHW Ch. 4**

Company liability in contract, tort and crime:

#### **LHW Ch. 5**

Corporations Act: [www.austlii.edu.au/au/legis/cth/consol\\_act/ca2001172/](http://www.austlii.edu.au/au/legis/cth/consol_act/ca2001172/)

### **Week 3 – RELEVANCE OF GOVERNANCE IN RELATION TO CORPORATE FINANCING AND PAYMENT OF DIVIDENDS**

Disclosure to Investors – fundraising:

#### **LHW Ch. 7**

Share capital:

#### **LHW Ch. 8**

Debentures and Loan Capital:

#### **LHW Ch. 11**

Dividends:

**LHW Ch. 10**

**Week 4 – DIRECTORS AND GOVERNANCE ISSUES IN RELATION TO PROCEDURE AND MANAGEMENT**

**L&H Ch. 12**

ASIC Investigation:

**LHW Ch. 21**

**Week 5 - DIRECTORS DUTIES and CORPORATE GOVERNANCE [1]**

**GENERAL LAW (FIDUCIARY) DUTIES**

**LHW Ch. 13**

**Week 6 - DIRECTORS DUTIES and CORPORATE GOVERNANCE [2]**

**STATUTORY DUTIES**

**LHW Ch. 13**

**Week 7 – DIRECTORS DUTIES and CORPORATE GOVERNANCE [3]**

**FINANCIAL AND REPORTING OBLIGATIONS; ASX CORPORATE GOVERNANCE PRINCIPLES**

**LHW Ch. 13**

Financial and Reporting Obligations of Directors:

**LHW Ch. 15**

**Mid session break 20th September to 5th October, 2014**

**Week 8 – THE ROLE OF DIRECTORS DUTIES AND GOVERNANCE IN RELATION TO MEMBERS RIGHTS**

Members Meetings:

**LHW Ch.14**

Members Rights and the position of the Minority:

**LHW Ch.17**

**Week 9 – GOVERNANCE IN RELATION TO THE WIDER MARKET:**

**TAKEOVERS; FINANCIAL SERVICES AND MARKETS**



Takeovers:

**LHW Ch. 18**

Financial Services and Markets:

**LHW Ch. 19**

## **Week 10 – INSOLVENCY AND GOVERNANCE [1]**

### **CORPORATE RESTRUCTURING**

Insolvency

Arrangements and Reconstructions; Receivership; Voluntary Administration

**LHW Chs.22, 23, and 24**

## **Week 11 – INSOLVENCY AND GOVERNANCE [2]**

### **LIQUIDATION**

Liquidation - Insolvent trading

**LHW Ch. 25 (for insolvent trading Ch.13)**

## **Week 12 – THE FUTURE OF GOVERNANCE PRACTICES**

### **OVERVIEW AND REVISION**

## **Week 13 – TEST TO BE HELD IN CLASS**

# **Policies and Procedures**

Macquarie University policies and procedures are accessible from [Policy Central](#). Students should be aware of the following policies in particular with regard to Learning and Teaching:

Academic Honesty Policy [http://mq.edu.au/policy/docs/academic\\_honesty/policy.html](http://mq.edu.au/policy/docs/academic_honesty/policy.html)

**New Assessment Policy in effect from Session 2 2016** [http://mq.edu.au/policy/docs/assessment/policy\\_2016.html](http://mq.edu.au/policy/docs/assessment/policy_2016.html). For more information visit [http://students.mq.edu.au/events/2016/07/19/new\\_assessment\\_policy\\_in\\_place\\_from\\_session\\_2/](http://students.mq.edu.au/events/2016/07/19/new_assessment_policy_in_place_from_session_2/)

Assessment Policy prior to Session 2 2016 <http://mq.edu.au/policy/docs/assessment/policy.html>

Grading Policy prior to Session 2 2016 <http://mq.edu.au/policy/docs/grading/policy.html>

Grade Appeal Policy <http://mq.edu.au/policy/docs/gradeappeal/policy.html>

Complaint Management Procedure for Students and Members of the Public [http://www.mq.edu.au/policy/docs/complaint\\_management/procedure.html](http://www.mq.edu.au/policy/docs/complaint_management/procedure.html)

Disruption to Studies Policy [http://www.mq.edu.au/policy/docs/disruption\\_studies/policy.html](http://www.mq.edu.au/policy/docs/disruption_studies/policy.html) *The Disruption to Studies Policy is effective from March 3 2014 and replaces the Special Consideration Policy.*

In addition, a number of other policies can be found in the [Learning and Teaching Category](#) of Policy Central.

## Student Code of Conduct

Macquarie University students have a responsibility to be familiar with the Student Code of Conduct: [https://students.mq.edu.au/support/student\\_conduct/](https://students.mq.edu.au/support/student_conduct/)

## Results

Results shown in *iLearn*, or released directly by your Unit Convenor, are not confirmed as they are subject to final approval by the University. Once approved, final results will be sent to your student email address and will be made available in [eStudent](#). For more information visit [ask.mq.edu.au](http://ask.mq.edu.au).

## Academic Honesty

The nature of scholarly endeavour, dependent as it is on the work of others, binds all members of the University community to abide by the principles of academic honesty. Its fundamental principle is that all staff and students act with integrity in the creation, development, application and use of ideas and information. This means that:

- all academic work claimed as original is the work of the author making the claim
- all academic collaborations are acknowledged
- academic work is not falsified in any way
- when the ideas of others are used, these ideas are acknowledged appropriately.

Further information on the academic honesty can be found in the Macquarie University Academic Honesty Policy at [http://www.mq.edu.au/policy/docs/academic\\_honesty/policy.html](http://www.mq.edu.au/policy/docs/academic_honesty/policy.html)

## Grades

Macquarie University uses the following grades in coursework units of study:

- HD - High Distinction
- D - Distinction
- CR - Credit
- P - Pass
- F - Fail

Grade descriptors and other information concerning grading are contained in the Macquarie University Grading Policy which is available at:

<http://www.mq.edu.au/policy/docs/grading/policy.html>

## Grading Appeals and Final Examination Script Viewing

If, at the conclusion of the unit, you have performed below expectations, and are considering lodging an appeal of grade and/or viewing your final exam script please refer to the following website which provides information about these processes and the cut off dates in the first instance. Please read the instructions provided concerning what constitutes a valid grounds for appeal before appealing your grade.

[http://www.businessandconomics.mq.edu.au/new\\_and\\_current\\_students/undergraduate\\_current\\_students/how\\_do\\_i/grade\\_appeals/](http://www.businessandconomics.mq.edu.au/new_and_current_students/undergraduate_current_students/how_do_i/grade_appeals/)

## Disruption to Studies Policy

The University is committed to equity and fairness in all aspects of its learning and teaching. It recognises that students may experience disruptions that adversely affect their academic performance in assessment activities. To assist students through their studies, the University provides support services. Whilst advice and recommendations may be made to a student, it is ultimately the student's responsibility to access these services as appropriate.

[http://www.mq.edu.au/policy/docs/disruption\\_studies/policy.html](http://www.mq.edu.au/policy/docs/disruption_studies/policy.html)

## Student Support

Macquarie University provides a range of support services for students. For details, visit <http://students.mq.edu.au/support/>

## Learning Skills

Learning Skills ([mq.edu.au/learningskills](http://mq.edu.au/learningskills)) provides academic writing resources and study strategies to improve your marks and take control of your study.

- [Workshops](#)
- [StudyWise](#)
- [Academic Integrity Module for Students](#)
- [Ask a Learning Adviser](#)

## Student Services and Support

Students with a disability are encouraged to contact the [Disability Service](#) who can provide appropriate help with any issues that arise during their studies.

## Student Enquiries

For all student enquiries, visit Student Connect at [ask.mq.edu.au](http://ask.mq.edu.au)

## IT Help

For help with University computer systems and technology, visit [http://www.mq.edu.au/about\\_us/offices\\_and\\_units/information\\_technology/help/](http://www.mq.edu.au/about_us/offices_and_units/information_technology/help/).

When using the University's IT, you must adhere to the [Acceptable Use of IT Resources Policy](#).

The policy applies to all who connect to the MQ network including students.

## **Graduate Capabilities**

### **PG - Capable of Professional and Personal Judgment and Initiative**

Our postgraduates will demonstrate a high standard of discernment and common sense in their professional and personal judgment. They will have the ability to make informed choices and decisions that reflect both the nature of their professional work and their personal perspectives.

This graduate capability is supported by:

#### **Learning outcomes**

- Analyse and comprehend the characteristics and framework of the legal system in which corporations function and in which they are governed.
- Develop professional judgement in the various ways that companies are formed, their structure and constitution and how these affect the company's activities and impact on management and governance factors.
- Critically evaluate key corporate governance and corporate social responsibility issues, in particular those that relate to the role and obligations of directors.
- Appreciate the value of the relationships between director's duties, governance issues and shareholders rights.
- Analyse corporate insolvency and related governance issues.

#### **Assessment tasks**

- 1. Class Test
- 2. Presentation and Report
- 3. Class Test

### **PG - Critical, Analytical and Integrative Thinking**

Our postgraduates will be capable of utilising and reflecting on prior knowledge and experience, of applying higher level critical thinking skills, and of integrating and synthesising learning and knowledge from a range of sources and environments. A characteristic of this form of thinking is the generation of new, professionally oriented knowledge through personal or group-based critique of practice and theory.

This graduate capability is supported by:

#### **Learning outcomes**

- Develop professional judgement in the various ways that companies are formed, their structure and constitution and how these affect the company's activities and impact on management and governance factors.

- Critically evaluate key corporate governance and corporate social responsibility issues, in particular those that relate to the role and obligations of directors.
- Appreciate the value of the relationships between director's duties, governance issues and shareholders rights.
- Analyse corporate insolvency and related governance issues.

## **Assessment tasks**

- 1. Class Test
- 2. Presentation and Report
- 3. Class Test

## **PG - Research and Problem Solving Capability**

Our postgraduates will be capable of systematic enquiry; able to use research skills to create new knowledge that can be applied to real world issues, or contribute to a field of study or practice to enhance society. They will be capable of creative questioning, problem finding and problem solving.

This graduate capability is supported by:

## **Learning outcomes**

- Analyse and comprehend the characteristics and framework of the legal system in which corporations function and in which they are governed.
- Develop professional judgement in the various ways that companies are formed, their structure and constitution and how these affect the company's activities and impact on management and governance factors.

## **Assessment tasks**

- 1. Class Test
- 2. Presentation and Report
- 3. Class Test

## **Research, Practice and Global Sustainability**

In addition to the course materials and textbook, students are encouraged to consult different sources and search for external reading materials and practical reports. This will enhance their understanding of the unit concepts and support their learning process. Examples of journals that can be consulted to follow up matters of interest in relation to corporate governance issues are: Australian Journal of Corporate Law; Company and Securities Law Journal.