



# LAWS836

## Advanced Topics in Private Law

S3 External 2017

*Dept of Law*

### Contents

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<a href="#"><u>General Information</u></a>	2
<a href="#"><u>Learning Outcomes</u></a>	2
<a href="#"><u>General Assessment Information</u></a>	3
<a href="#"><u>Assessment Tasks</u></a>	3
<a href="#"><u>Delivery and Resources</u></a>	7
<a href="#"><u>Unit Schedule</u></a>	8
<a href="#"><u>Policies and Procedures</u></a>	9
<a href="#"><u>Graduate Capabilities</u></a>	10

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#### **Disclaimer**

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## General Information

Unit convenor and teaching staff

Peter Radan

[peter.radan@mq.edu.au](mailto:peter.radan@mq.edu.au)

John Gooley

[john.gooley@mq.edu.au](mailto:john.gooley@mq.edu.au)

Credit points

4

Prerequisites

24cp in LAW or LAWS units at 800 level

Corequisites

Co-badged status

Unit description

Private law is a broad classification of law that deals with relationships between individuals, as opposed to the relationship between individuals and the state, or between states (international law). This proposed unit, Advanced Topics in Private Law will allow a deeper examination, analysis and critique of specific issues in private law, as well as the interaction between areas of private obligation. These generally include the laws relating to contract, tort, property, succession and family law. The unit will (from year to year) have a particular focus on one of these areas or on the analysis of the fundamental theories of obligation that underpin them all. The unit will build on prescribed areas of private law covered in core units such as LAWS803 Law of Obligations I – Contracts, LAWS804 Law of Obligations II – Torts and LAWS809 Property as well as on other areas of private obligations.

## 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:

Demonstrate a detailed and thorough knowledge of legal principles relating to insolvency.

Interpret and transmit knowledge, skills and concepts to specialist and non-specialist audiences

Analyse complex factual situations involving insolvency law and apply relevant legal principles

Formulate, present and evaluate oral and written arguments on complex insolvency problems and principles, drawing upon relevant legal authority and policy considerations.

Apply advanced research skills

Assume responsibility for one's own learning by managing one's time effectively so as to complete and submit assessment items on time.

## General Assessment Information

Detailed marking rubrics will be made available in iLearn.

## Assessment Tasks

Name	Weighting	Hurdle	Due
<a href="#"><u>Assignment No 1</u></a>	25%	No	5 pm, 3 January 2018
<a href="#"><u>Assignment No 2</u></a>	25%	No	5 pm, 19 January 2018
<a href="#"><u>Final Examination (Take Home)</u></a>	50%	No	3 pm, 25 January 2018

### Assignment No 1

Due: **5 pm, 3 January 2018**

Weighting: **25%**

Assignment No 1 in this unit is a research paper. This assignment will be marked out of 100 and accounts for 25% of the final mark in this unit.

The question for Assignment No 1 will be available on iLearn.

Assignment No 1 must be a properly referenced formal response with appropriate analysis and argument supported by relevant legal authorities. Assignment No 1 must be typed and must be kept to a maximum 2,000 words (including footnotes, but not the bibliography). The word limit will be strictly applied and work above the word limit will not be marked.

Assignment No 1 must be submitted electronically through Turnitin. Plagiarism software is used in this unit.

In completing Assignment No 1, students must comply with the *Australian Guide to Legal Citation*, compiled by the Melbourne University Law Review. The Guide is available for download free online.

Further instructions and information in relation to Assignment No 1, including rubrics, will be made available on iLearn.

If, for justifiable reasons, a student is unable to submit the Assignment No 1 on time, he or she

may submit an application for special consideration in accordance with the University's Disruption to Studies Policy. If special consideration is granted the student may be given a different research question to be completed at a time determined by the unit convenor.

Applications for special consideration pursuant to the Disruption to Studies Policy are made electronically via [ask.mq.edu.au](http://ask.mq.edu.au) and should be accompanied by supporting documentation. Students should refer to the Disruption to Studies Policy for complete details and a description of the supporting documentation required.

Any Assignment No 1 that is submitted after the due date and time without an approved Disruption to Studies Application, will attract a 2% per day penalty. Any Assignment No 1 that is submitted beyond 7 days of the due date and time will not be graded and will receive a zero mark.

This assessment task relates to the following learning outcomes:

- demonstrate a detailed knowledge of legal principles relating to the law on insolvency law;
- formulate, present and evaluate oral and written arguments on complex insolvency problems and principles, drawing upon relevant legal authority and policy considerations; and
- assume responsibility for one's own learning by managing one's time effectively so as to complete and submit assessment items on time; and
- apply advanced research skills.

On successful completion you will be able to:

- Formulate, present and evaluate oral and written arguments on complex insolvency problems and principles, drawing upon relevant legal authority and policy considerations.
- Assume responsibility for one's own learning by managing one's time effectively so as to complete and submit assessment items on time.

## Assignment No 2

Due: **5 pm, 19 January 2018**

Weighting: **25%**

Assignment No 2 in this unit will require students to answer a problem question or questions. This assignment will be marked out of 100 and accounts for 25% of the final mark in this unit.

The problem question or questions for Assignment No 2 will be available on iLearn.

Assignment No 2 must be a properly referenced formal response with appropriate analysis and argument supported by relevant authoritative cases and commentary. Assignment No 2 must be

typed and must be kept to a maximum 2,000 words (including footnotes). A bibliography is not required for this assignment. The word limit will be strictly applied and work above the word limit will not be marked.

Assignment No 2 must be submitted electronically through Turnitin. Plagiarism software is used in this unit.

In completing Assignment No 2, students must comply with the *Australian Guide to Legal Citation*, compiled by the Melbourne University Law Review. The guide is available for download free online.

Further instructions in relation to Assignment No 2, including rubrics, will be posted on iLearn.

If, for justifiable reasons, a student is unable to submit the Assignment No 2 on time, he or she may submit an application for special consideration in accordance with the University's Disruption to Studies Policy. If special consideration is granted the student may be given a different research question or questions to be completed at a time determined by the unit convenor.

Applications for special consideration pursuant to the Disruption to Studies Policy are made electronically via [ask.mq.edu.au](http://ask.mq.edu.au) and should be accompanied by supporting documentation. Students should refer to the Disruption to Studies Policy for complete details of the policy and a description of the supporting documentation required.

Any Assignment No 2 that is submitted after the due date and time without an approved Disruption to Studies Application, will attract a 2% per day penalty. Any Assignment No 2 that is submitted beyond 7 days of the due date and time will not be graded and will receive a zero mark.

This assessment task relates to the following learning outcomes:

- demonstrate a detailed knowledge of legal principles relating to the law on insolvency law;
- interpret and transmit knowledge, skills and concepts to specialist and non-specialist audiences
- analyse complex factual situations in solving insolvency law problems and applying relevant legal principles;
- assume responsibility for one's own learning by managing one's time effectively so as to complete and submit assessment items on time; and
- apply advanced research skills.

On successful completion you will be able to:

- Demonstrate a detailed and thorough knowledge of legal principles relating to insolvency.
- Analyse complex factual situations involving insolvency law and apply relevant legal

principles

- Formulate, present and evaluate oral and written arguments on complex insolvency problems and principles, drawing upon relevant legal authority and policy considerations.
- Apply advanced research skills
- Assume responsibility for one's own learning by managing one's time effectively so as to complete and submit assessment items on time.

## Final Examination (Take Home)

Due: **3 pm, 25 January 2018**

Weighting: **50%**

The final examination in this unit will be a take home examination. The final examination will be marked out of 100 and accounts for 50% of the final mark in this unit.

The final examination will be based on material covered in the unit, ie all topics and materials covered in the unit.

The final examination will be in the form of a number of problem style questions. All questions will have to be answered.

Students will be able to access the final examination paper on iLearn from 10 am on Thursday 25 January 2018 and must submit their answers to the final examination paper by 3 pm on Thursday 25 January 2018.

A student's answers to the final examination paper's questions cannot exceed 2,500 words (inclusive of footnotes). This is an upper word limit and a student need not write 2,500 words if he or she can answer the questions in less than 2,500 words. A bibliography is not required. The word limit will be strictly applied and work above the word limit will not be marked.

The take home examination must be submitted electronically through Turnitin. Plagiarism detection software is used in this unit.

Further instructions and information in relation to the Take Home Examination, including rubrics, will be made available on iLearn.

If, for justifiable reasons, a student is unable to do the take home examination at the above time, he or she should submit an application for special consideration in accordance with the University's Disruption to Studies Policy, which, if granted, will enable the student to complete an alternative assessment. The alternative assessment may not be in the form of a take home examination - it may take some other form such as a formal sit down examination.

Any take home examination that is submitted after the stipulated time on the due date will not be graded and will receive a zero mark.

This assessment task relates to the following learning outcomes:

- demonstrate a detailed knowledge of legal principles relating to the law on insolvency law;

- interpret and transmit knowledge, skills and concepts to specialist and non-specialist audiences
- analyse complex factual situations in solving insolvency law problems and applying relevant legal principles;
- formulate, present and evaluate oral and written arguments on complex insolvency problems and principles, drawing upon relevant legal authority and policy considerations; and
- assume responsibility for one's own learning by managing one's time effectively so as to complete and submit assessment items on time.

On successful completion you will be able to:

- Demonstrate a detailed and thorough knowledge of legal principles relating to insolvency.
- Interpret and transmit knowledge, skills and concepts to specialist and non-specialist audiences
- Analyse complex factual situations involving insolvency law and apply relevant legal principles
- Formulate, present and evaluate oral and written arguments on complex insolvency problems and principles, drawing upon relevant legal authority and policy considerations.
- Assume responsibility for one's own learning by managing one's time effectively so as to complete and submit assessment items on time.

## **Delivery and Resources**

### **DELIVERY OF THE UNIT**

**To complete this unit students will need the use a computer and have access to the Internet.**

#### **Lectures (Internal and Distance Students)**

Lectures will be delivered on 20-21 December 2017 (9 am-Noon, 1 pm-4 pm); 4 January 2018 (9 am-Noon); and 6 January (9 am-Noon).

#### **Tutorials (Internal and Distance Students)**

Tutorials will be held on 4 January (1 pm-4 pm); 5 January (9 am-Noon, 1 pm-4 pm); and 6 January (1 pm-4 pm).

Tutorials will consist of questions for discussion. The questions to be discussed are available on iLearn.

For class times and classrooms students should consult the MQ Timetable website.

## RESOURCES

The prescribed materials for this unit are:

1. M Murray & J Harris, *Keay's Insolvency: Personal and Corporate Law & Practice*, 9th ed, Thompson Reuters Law Book Co, 2016
2. C Symes, D Brown & M Wellard, *Australian Insolvency Law, Cases & Materials*, LexisNexis, 2016

Other reference material:

1. Gooley, Zammit, Dicker & Russell, *Corporations and Associations: Principles and Issues*, 6th ed, LexisNexis, 2015
2. Gooley & Gooley, *Insolvent Trading and Fraudulent Trading in Australia: Regulation and Context*, LexisNexis, 2016

## Unit Schedule

### TOPICS STUDIED IN THIS UNIT

1. Personal Insolvency: introduction, acts of bankruptcy, bankruptcy notices, creditors' petitions, debtors' petitions, course of a hearing, effects of bankruptcy, administration of the estate, exempt transactions, void transactions, termination of bankruptcy, personal insolvency agreements, and debt agreements.
2. Corporate Insolvency: introduction, compulsory winding-up, winding-up procedures, voluntary winding-up, provisional liquidation, administration of liquidations, the liquidator, administration of the winding-up, effects of winding-up, termination of winding-up, assets available to liquidator, receivership, voluntary administration, and deeds of company arrangement.
3. Corporate Insolvency - Insolvent & Fraudulent Trading: indicators of insolvency, statutory defences, forgiveness, criminal and civil consequences

The required readings for the above topics are set out in detail on iLearn.





## 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)

Assessment Policy [http://mq.edu.au/policy/docs/assessment/policy\\_2016.html](http://mq.edu.au/policy/docs/assessment/policy_2016.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 (in effect until Dec 4th, 2017): [http://www.mq.edu.au/policy/docs/disruption\\_studies/policy.html](http://www.mq.edu.au/policy/docs/disruption_studies/policy.html)

Special Consideration Policy (in effect from Dec 4th, 2017): <https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policies/special-consideration>

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).

## 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

- Apply advanced research skills
- Assume responsibility for one's own learning by managing one's time effectively so as to complete and submit assessment items on time.

## Assessment tasks

- Assignment No 1
- Final Examination (Take Home)

## PG - Discipline Knowledge and Skills

Our postgraduates will be able to demonstrate a significantly enhanced depth and breadth of knowledge, scholarly understanding, and specific subject content knowledge in their chosen fields.

This graduate capability is supported by:

## Learning outcomes

- Demonstrate a detailed and thorough knowledge of legal principles relating to insolvency.
- Analyse complex factual situations involving insolvency law and apply relevant legal principles

## Assessment tasks

- Assignment No 1
- Final Examination (Take Home)

## 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

- Interpret and transmit knowledge, skills and concepts to specialist and non-specialist audiences
- Analyse complex factual situations involving insolvency law and apply relevant legal principles

## Assessment tasks

- Assignment No 1
- Assignment No 2

## 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

- Demonstrate a detailed and thorough knowledge of legal principles relating to insolvency.
- Analyse complex factual situations involving insolvency law and apply relevant legal principles
- Formulate, present and evaluate oral and written arguments on complex insolvency problems and principles, drawing upon relevant legal authority and policy considerations.
- Apply advanced research skills

### Assessment tasks

- Assignment No 1
- Assignment No 2
- Final Examination (Take Home)

## PG - Effective Communication

Our postgraduates will be able to communicate effectively and convey their views to different social, cultural, and professional audiences. They will be able to use a variety of technologically supported media to communicate with empathy using a range of written, spoken or visual formats.

This graduate capability is supported by:

### Learning outcomes

- Interpret and transmit knowledge, skills and concepts to specialist and non-specialist audiences
- Formulate, present and evaluate oral and written arguments on complex insolvency problems and principles, drawing upon relevant legal authority and policy considerations.
- Apply advanced research skills

### Assessment tasks

- Assignment No 1
- Assignment No 2

- Final Examination (Take Home)

## PG - Engaged and Responsible, Active and Ethical Citizens

Our postgraduates will be ethically aware and capable of confident transformative action in relation to their professional responsibilities and the wider community. They will have a sense of connectedness with others and country and have a sense of mutual obligation. They will be able to appreciate the impact of their professional roles for social justice and inclusion related to national and global issues

This graduate capability is supported by:

### **Learning outcome**

- Assume responsibility for one's own learning by managing one's time effectively so as to complete and submit assessment items on time.

### **Assessment task**

- Assignment No 2