The Law Of Corporate Insolvency In Scotland

Vanessa Finch provides a new look at corporate insolvency laws and processes, with two key questions posed throughout. Are current UK laws and procedures efficient, expert, accountable and fair? Are fundamentally different conceptions needed for the law to develop in a way that serves corporate and broader social ends? Topics considered in this fully up-to-date, interdisciplinary and wide-ranging book

include different ways of financing companies, causes of corporate failure and prospects for designing rescue-friendly processes. This will appeal to academics, students at advanced undergraduate and graduate level and legal practitioners. International insolvency is a newly-established branch of the study of insolvency that owes much to the phenomenon of cross-border incorporations and the conduct of business in more than one jurisdiction. It is largely the offspring of globalization and involves looking at both law and economic rules. This book is a compendium of essays by

eminent academics and practitioners in the field who trace the development of the subject, give an account of the influences of economics, legal history and private international law, and chart its relationship with finance and security issues as well as the importance of business rescue as a phenomenon. Furthermore, the essays examine how international instruments introduced in recent years function as well as how the subject itself is continually being innovated by being confronted by the challenges of other areas of law with which it becomes entangled.

This book analyses corporate rescue laws, processes and policies prescribed in corporate insolvency or bankruptcy laws, and employment laws of the UK and the US, with a particular focus on how extant employee rights are treated when a debtor employer initiates corporate insolvency proceedings. The commencement of formal insolvency proceedings by an employer affects employees' rights and interests. Employment laws seek to protect employees' rights and interests, while insolvency laws seek to promote corporate rescue, which may entail workforce changes. Consequently, this creates a tension

between whose interest insolvency law should give primacy of protection. The book analyses how corporate rescue processes such as administration, pre-pack business sales, company voluntary arrangements, receivership and liquidation impact employee rights and protection during corporate rescue proceedings in both jurisdictions. It goes on to address how the federal system of government in the US and the diffusion of power between federal and state law jurisdictions impact a uniform code of employee protection during Chapter 11 bankruptcy reorganisation proceedings. The

book considers how an interpretative approach to law (Dworkin's Interpretative Theory of Law) may be used to balance both employee protection and corporate rescue laws during corporate insolvency in the UK and the US. Of interest to academics, students and employment law practitioners, this book examines the tension between corporate rescue laws and employment protection laws during corporate insolvency in the US and the UK and how this tension may be remedied or balanced.

Corporate Governance and Insolvency

National Corporate Law in a Globalised Market

Economic and Legal Perspectives

The Law of Corporate Insolvency
International Insolvency Law

This important book provides a comprehensive analysis of governance issues that exist in relation to the management of insolvent companies, both while an insolvent company is still controlled by the directors and when it passes into the hands of an insolvency practitioner in a formal insolvency regime. Throughout, the authors argue that the two most important features of corporate governance are transparency and accountability and offer a detailed analysis of the relevant law and practice.

With the increasing interdependence of global economies, international relations are becoming a more complex system. Through this, the growth of any economy is dependent upon the ease of business transactions; however, in recent times, there has

been a growing impact of corporate insolvency law. Corporate Insolvency Law and Bankruptcy Reforms in the Global Economy is an essential reference source that discusses the importance of insolvency laws in the financial architecture of emerging economies, as well as its fundamental issues. Featuring research on topics such as business restructuring, debt recovery, and governance regulations, this book is ideally designed for law students, policymakers, economists, lawyers, and business researchers seeking coverage on the jurisprudence and policy of corporate insolvency law in a globalized context.

The significant role of credit in obtaining corporate capital means that credit and the treatment of creditors ' interests raises distinctive issues in the event of company insolvency. In this book, Kayode Akintola addresses these issues, providing an exceptional in-

depth analysis of the principles, policy and practice of creditor treatment in corporate insolvency law.

A Global View of Business Insolvency Systems

Employee Rights in Corporate Insolvency

Theory and Application

The Law and Economics of Corporate Insolvency

Comparative Insolvency Law

This title provides invaluable guidance to all parties concerned with businesses in financial difficulties, be they modestly-sized enterprises, mega-corporations or indeed banks and insurers. It is a comprehensive statement of the law regarding company insolvency and related aspects of

*receiverships, examinerships and the winding up/liquidation of companies. Key Features * Comprehensive and up-to-date account of the entire corporate insolvency regime including the complex priorities and preferences among competing creditors * Focuses on examinerships, receivers, liquidations and the position of secured creditors * An easy-to-understand reference that provides you with invaluable analysis and interpretation * Up to date and including all important case law and legislation Contents Creditors Remedies; Debentures and Charges; Compromise and Reorganisations; Examinerships;*

Receiverships: Appointment and Effects; Receivers' Powers and Duties; Commencing Insolvent Liquidations; Effects of Liquidations; Liquidators, their Powers and Duties; Avoiding Transactions; Imposing Liability; Paying Off Debts and Claims; Termination and Aftermath of Winding Up; Priorities and Preferences Among Creditors; Employment and Insolvency; The Financial Sector; European and International Aspects About the Authors Michael Forde is a senior counsel. Hugh Kennedy is a barrister. Daniel Simms is a barrister

This timely work is the first to

comprehensively examine directors' responsibilities to creditors in times of financial strife, as well as addressing when these responsibilities arise, and what directors should have to do to ensure that they comply with their obligations. Keay explores the relevant issues from doctrinal, normative and comparative perspectives and addresses the question as to when directors are liable for wrongful trading, fraudulent trading or breach of their duties to creditors and whether directors should be held responsible for the before mentioned. Besides the relevant UK legislation and case

law, legislation and case law from Australia, Canada, Ireland and the United States are examined and compared and reforms which take into account the aims and rationale of the relevant legislation as well as creditors' interests are proposed and assessed. Importantly, new approaches for courts which would make the nature of the responsibility and its timing more precise are suggested. Company directors have certain responsibilities to creditors of their companies. In particular, they should avoid fraudulent and wrongful trading and consider, as part of their duties, the interests of

creditors when their companies might be, or are, in financial difficulty. The work is precipitated by the lack of coherence in the consideration of wrongful trading and the recent delivery of important cases on fraudulent trading. Also, this timely work is the first to comprehensively examine directors' responsibilities to creditors in times of financial strife, as well as addressing when these responsibilities arise, and what directors should have to do to ensure that they comply with their obligations. Keay explores the relevant issues from doctrinal, normative and

comparative perspectives and seeks to address the question as to when directors are liable for wrongful trading, fraudulent trading or breach of their duties to creditors and whether directors should be held responsible for wrongful trading and failing to consider the interests of creditors. Besides the relevant UK legislation and case law, legislation and case law from Australia, Canada, Ireland and the United States are examined and compared, and reforms which take into account the aims and rationale of the relevant legislation as well as creditors' interests are proposed and assessed.

Importantly, new approaches for courts which would make the nature of the responsibility and its timing more precise are suggested. Commercial Law Series European Corporate Insolvency A Practical Guide Edited by Harry Rajak, Professor of Law, University of Sussex and Peter Horrocks and Joe Bannister of Lovell White Durrant In response to an expanding European market and increasing economic integration, what progress has the European Union made towards a unified insolvency regime system? The high-profile cases of BCCI and Maxwell have illustrated the dangers of cross-border corporate

collapses — with no clear integrated policy emerging from Brussels how can the practitioner know which national regime will apply? Following the recent UK Paramount case, what are the implications for receivers and administrators who retained a company's employees after their appointment? Anyone involved in pan-European insolvency will be all too aware of these issues — European Corporate Insolvency provides practical solutions from experts operating in all the key European jurisdictions on a daily basis. In addition to the country-by-country coverage, the measures that currently apply

at European Union level are also analysed with future developments and draft proposals discussed. Detailed research into the rights and privileges available in the various European insolvency regimes is an essential but time-consuming task for busy practitioners — the innovative matrix index incorporated into European Corporate Insolvency is designed specifically to assist in this essential task by providing detailed comparative access to all the areas covered. Each chapter deals with: sources of insolvency law registration of companies survival of the insolvent corporation

liquidation and dissolution augmenting assets public control Law/Finance
The UK Experience in Perspective
European Corporate Insolvency
The New Law : what it Means for You, what You Should be Doing about it
Principles of Corporate Insolvency Law
Corporate Insolvency

Bailey and Groves: Corporate Insolvency - Law and Practice is a leading commentary on the substantive law of corporate insolvency and practical guidance on the various procedures

arising in this important field.Written by recognised experts in the field, it remains a user-friendly text covering all aspects on corporate insolvency in one volume and is accessible to both legal and accountancy practitioners. This interdisciplinary examination of corporate insolvency law assesses recent reforms and anticipates new legislation.

This book examines English corporate insolvency law, in particular the

procedures under the Insolvency Act 1986, from both conceptual and functional points of view. It focuses on identifying either a rational explanation for the form that the rules and institutions of the modern law take, or the history which has resulted in the present position.

Cross-Border Protocols in Insolvencies of Multinational Enterprise Groups

Research Handbook on Corporate Bankruptcy Law

A Practical Guide

The Law of Corporate Insolvency in Scotland

Corporate Rescue Law--an Anglo-American Perspective

Who enjoys statutory preferred creditor status? What justifications exist for jurisdictions to maintain statutes that favour 'priority' creditors over other creditors and contributories? This book examines preferential debts derived from specific legislative provisions applying to corporate insolvency. In exploring the concept of preferential treatment, Statutory Priorities in Corporate Insolvency Law includes

chapters that provide a doctrinal, theoretical and historical analysis of who enjoys preferred creditor status. As well as examining the traditional major categories of priorities, this work also identifies potential new categories for priority status such as environmental clean-up costs, international creditors, tort claimants and consumers among other non-consensual creditors. While the study focuses on Australian corporate insolvency law, where appropriate, comparisons are made with other common law jurisdictions, particularly the UK, Canada, New Zealand and the US.

In this Handbook, today's leading experts on the law and economics of corporate bankruptcy address fundamental issues such as the efficiency of bankruptcy, the role and

treatment of creditors--particularly secured creditors--in the bankruptcy process, the allocation of going-concern surplus among claimants, the desirability of liquidation in the absence of such surplus, the role of contract in bankruptcy resolution, the role of derivatives in the bankruptcy process, the costs of the bankruptcy system, and the special case of financial institutions, among other topics. Chapters trace the historical path of both law and policy analysis, with a focus on how the bankruptcy process serves underlying policy objectives. Proposals to reform corporate bankruptcy are presented.Research Handbook on Corporate Bankruptcy Law includes policy analysis by both lawyers and economists and is thus an invaluable resource to law scholars and students

interested in the economic analysis of corporate bankruptcy law as well as to economics and business scholars and students studying the law of corporate bankruptcy. These pages will prove equally valuable to lawmakers and judges who are interested in policy analysis of corporate bankruptcy. Fiona Tolmie combines a succinct exposition of substantive law with a clear explanation of how the law works in practice. She also highlights key policy issues regarding insolvency and the parts of the law that might be reformed in the future.

The Framework of Corporate Insolvency Law

Corporate and Personal Insolvency Law

Law and Practice

Corporate Insolvency Law

Perspectives and Principles

. . . a highly readable and informative text and an excellent addition to insolvency scholarship. . . In their entirety, the chapters of Corporate Rescue Law An Anglo-American Perspective represent one of the most incisive and relevant treatments of comparative insolvency regimes to date. . . This book is an absolute boon: it provides the reader with a mass of legal and practical insights into the workings of two ostensibly divergent systems and challenges received wisdom in a fluent and persuasive manner. Not only are legal differences examined through the lens of practice, but also commercial, philosophical and social responses to

failure are considered and highlighted as possible drivers of those real distinctions that do exist. Professor McCormack has produced an exceptional work that should be required reading for academics, practitioners and policy makers alike, and is to be warmly congratulated. Sandra Frisby, Banking and Finance Law Review The issues are well chosen. They are easily the most important aspects of any corporate rescue law. The careful analysis of the technical provisions, the incorporation of the extensive scholarship on the two corporate rescue regimes and the reference to practice in the real world all help to make these chapters an indispensable tool for any scholar wishing to gain a better understanding of the similarities and differences

of English and American corporate rescue laws. . . This monograph could not have come at a better time. . . The comparative account in this book will help law reformers, judges and scholars to have a better grasp of the issues and appreciate better how the two systems have dealt with them. . . Comparative law has a critical role to play in promoting mutual understanding and respect. It is hoped that this monograph will help in that respect. Wee Meng Seng, Singapore Journal of Legal Studies This book offers an unprecedented and detailed comparative critique of Anglo-American corporate bankruptcy law. It challenges the standard characterisation that US law in the sphere of corporate bankruptcy is pro-debtor and UK law is pro-creditor ,

and suggests that the traditional thesis is, at best, a potentially misleading over-simplification. Gerard McCormack offers the conclusion that there is functional convergence in practice, while acknowledging that corporate rescue, as distinct from business rescue, still plays a larger role in the US. The focus is on corporate restructurings with in-depth scrutiny of Chapter 11 of the US Bankruptcy Code and the UK Enterprise Act, and offers other comparative oversights. Integrating theoretical and practical insights, this book will be of great interest to academics and practitioners, and also to policymakers in the DTI, Insolvency Service and regulatory bodies.

Cross-border insolvency protocols play a critical role in

facilitating the efficient resolution of complex international corporate insolvencies. This book constitutes the first in-depth study of the use of insolvency protocols, enriching existing knowledge about them and serving as a comprehensive introduction to their application in the context of multinational enterprise group insolvency. It traces the rise of insolvency protocols and discusses their legal basis, contents, effects, major characteristics and limitations.

This book discusses the provisions and legal principles under the Insolvency Law in Malaysia in face of the issue of abandoned housing projects and its rehabilitation. Apart from the Malaysian Insolvency Law,

this book also analyses comparatively between the insolvency legal provisions and legal principles under the United Kingdom and Singapore Insolvency Laws. The approach of this book is by way of legal analyses over the relevant insolvency legal provisions in Malaysia, the United Kingdom and the Republic of Singapore. The discussion is further enriched and collaborated by the case studies conducted over several abandoned housing projects in Malaysia that have been subject to the insolvency administration. In addition, the author also provides relevant official statistics and reports of abandoned housing projects and numerous examples of abandoned housing project cases illustrating the diverse problems, complications, issues

and grievances. The outcome and proposals of this book will be beneficial to the legal practitioners, judicial and legal services, insolvency practitioners, housing developers, financial institutions, contractors, housing consultants, technical agencies, land and state authorities, purchasers of units in abandoned housing projects, consumers' associations, relevant private and government agencies and Federal and States Ministries, students and policy makers in the insolvency legal administration in Malaysia, particularly for those who are directly involved in abandoned housing projects and its rehabilitation in Malaysia.

the relationship between corporate insolvency laws, entrepreneurship and business based on the Colombian

legal framwork
Statutory Priorities in Corporate Insolvency Law
Law of Company Insolvency
Corporate Insolvency Laws in Abandoned Housing Projects : Issues and Prospects (UUM Press)
Themes and Perspectives

Corporate Insolvency in Scotland provides comprehensive coverage of all aspects of this technical and complex subject, including liquidation, receivership, administration and voluntary arrangements.

This book provides a logically ordered guide to the substantive law and practice relating to corporate insolvency as it currently stands. Procedures for commencing and

conducting various types of insolvency proceedings are set out alongside the latest legislation (the Insolvency Act 1986, theInsolvency Rules 1986 and the two Insolvency Acts of 1994) and any relevant case law which supports, modifies or interprets that legislation

Comparative Insolvency Law argues that the most important development in contemporary insolvency law and practice is the shift towards a rescue culture rather than full creditor satisfaction. This book is the first to specifically examine the rise of the pre-pack approach, which permits debtor companies to formulate a clear pre-arranged exit before entering into formal insolvency proceedings.

A Review

A UK and US Perspective
The impact of insolvency law on business
An Analysis of Preferred Creditor Status
Corporate Bankruptcy

We live in an age of economic turmoil. The recent crises emphasize the need for modern, sophisticated rules to govern businesses in financial distress in order to realize value from distressed companies and to protect economic institutions. This book provides information for legislators, policymakers, lawyers, accountants, academics, and administrators who seek to understand the workings of insolvency laws. Guided by the World Bank's Principles and Guidelines, it supplements the work in this field done by UNCITRAL.

This volume analyses corporate insolvency law as a coherent whole, stemming from common fundamental principles and amenable to being justified or criticised on that basis. The author explains why consistency of principle must be sought and how it might be found in the relevant statutory and case law. He then constructs an egalitarian theory for the analysis of corporate insolvency law, based on the premise that all the parties affected by this law are to be treated as equals. He argues that this theory can reconcile the dictates of fairness with the demands of economic efficiency. The theory is employed to analyse some of the most important aspects of insolvency law. Why should the individualistic method of enforcing claims against solvent companies give way to a collective method during insolvency? Why are there different formal mechanisms for dealing with troubled companies? What role does

the pari passu principle play in the distribution of an insolvent company s assets?The controversial issues of whether and when secured creditors should be accorded priority over others receive detailed consideration. The functional role of the floating charge and its relationship with receivership are also analysed in this context. The many questions relating to the operation of the new administration procedure introduced by the Enterprise Act 2002 are considered in the light of principle. The book also analyses the role of the wrongful trading provisions. It examines, finally, why insolvency law objects to certain transactions at an undervalue and those having a preferential effect. This volume aims to enhance understanding of this important branch of the law, and to suggest principled solutions to problems which have not yet received judicial attention.

This book provides a critical examination of modern English corporate insolvency law, in particular the procedures under the Insolvency Act 1986, from both conceptual and functional points of view. It focuses throughout on identifying a rational explanation for the form that the rules and institutions of the modern law take or, where there is no such rational explanation, the history which has resulted in the present position. A central theme of the book is that the nature and fundamental purpose of insolvency proceedings themselves dictate many of the features of English insolvency proceedings. For example, collective execution on behalf of creditors necessitates definition of the insolvent estate and the provision of rules concerning provable debts and transaction avoidance. Many key features of the insolvency procedures are therefore essentially matters of practicality rather than principle,

albeit practicalities applied justly and fairly. The book covers the nature and purpose of insolvency law; the procedures; the administration, supervision and regulation of insolvency proceedings; the insolvent estate and transaction avoidance; investigation and wrongdoing by directors; phoenixism and pre-packing; distribution of the insolvent estate; and, lastly, cross-border insolvency. It examines the various principles of insolvency law in the context of practice, drawing upon historical perspectives where appropriate. By explaining how the law takes the form that it does, the book promotes an understanding of the present law and institutions as a whole, and shows how this understanding might inform future developments.

Corporate Insolvency Law and Bankruptcy Reforms in the Global Economy

Law and Practice of Corporate Insolvency
Pennington's Corporate Insolvency Law
Company Directors' Responsibilities to Creditors
Creditor Treatment in Corporate Insolvency Law

This interdisciplinary examination of corporate insolvency law assesses recent reforms and anticipates new legislation. Finch poses two critical questions: first, are current laws and procedures efficient, expert, accountable and fair?; second, are fundamentally different conceptions of insolvency law necessary to enable it to serve both corporate and broader social ends?

The classic text on corporate insolvency law, providing

a clear and comprehensive treatment of the fundamental principles underpinning insolvency law, and long relied upon by practitioners and the courts. In this work particular attention is paid to what assets are available for distribution on insolvency, transactions vulnerable to being set aside, and the liability of directors. The core features of liquidation, administration (and administrative receivership), schemes of arrangement and company voluntary arrangements, are identified and explained with reference to practice and underlying policy. This new edition has been thoroughly updated throughout. This is an ambitious, original, fascinating and eminently

readable study of UK company law in its European and international context. As well as doctrinal company law (whether purely domestic or European), it touches on theory and other laws, especially insolvency, fiscal and private international law affecting the corporate form. It provides insights that will be of interest and use to academic company lawyers across the world and should be on the reading list for any postgraduate course on company law. John Birds, University of Manchester, UK In this book, David Milman explains the significant impact and effect of global trends on the regulation and implementation of UK corporate law, exposing both the historical and future advancement of

the global convergence (and divergence) of corporate principles in jurisdictions across the world. The treatment of the subject area is unique, informative and a compelling read. The exposition of the subject matter is thought provoking. The book is comprehensively crafted, exhibiting the author s enviable ability to import detailed and complex issues into a most readable text. Stephen Griffin, University of Wolverhampton, UK In this timely book, David Milman considers how UK corporate law has been affected by the forces of globalisation, arguing that this is not a new development, but rather is part of an historical continuum. He examines corporate law regulatory

strategy in general, treatment of foreign shareholders and multinational groups, aspects of private international law and issues connected with cross border insolvency. The substantive chapters cover a full range of issues, from the harmonisation of corporate law, and the common denominators in corporate law principles, to the regulation of overseas companies and foreign stakeholders and transnational cooperation. The book concludes with a consideration of the wider issue of convergence in corporate law and examines whether total convergence is a realistic possibility. National Corporate Law in a Globalised Market is set against the backdrop of the progressive

implementation of the Companies Act 2006 and the turmoil of the current world financial crisis. With a scholarly review of current theoretical and policy issues in corporate law this book will be an invaluable resource tool for academics and advanced students as well as practitioners.

Accountability and Transparency

The Pre-pack Approach in Corporate Rescue

Principles of Insolvency Law is widely regarded as 'the' text on Insolvency law. Professor Sir Roy Goode's reputation as the "doyen of commercial law" has established a unique position for the Work as a leading

authority in the field. The book provides a clear and concise treatment of the general philosophical principles underpinning Insolvency law. It works as an introduction to this complex area and as such it has a broad market, ranging from students and newly qualified practitioners to barristers in Court.

This new edition of Corporate Insolvency Law builds on the unique and influential analytical framework established in previous editions - which outlines the values to be served by insolvency law and the need for it to further corporate as well as broader

social ends. Examining insolvency law in the fast-evolving commercial world, the third edition covers the host of new laws, policies and practices that have emerged in response to the fresh corporate and financial environments of the post-2008 crisis era. This third edition includes a new chapter on the growing issue of cross border insolvency and deals with a host of recent developments, notably; the consolidation of the rescue culture in the UK, the rise of the pre-packaged administration, and the substantial replacement of administrative receivership with administration. Suitable for advanced

undergraduate and graduate students, professionals and academics, Corporate Insolvency Law offers an organised basis for rising to the challenges of an ever-shifting area of the law.

This collection is the first comprehensive selection of readings focusing on corporate bankruptcy. Its main purpose is to explore the nature and efficiency of corporate reorganization using interdisciplinary approaches drawn from law, economics, business, and finance. Substantive areas covered include the role of credit, creditors' implicit bargains, nonbargaining

features of bankruptcy, workouts of agreements, alternatives to bankruptcy, and proceedings in countries including the United States, United Kingdom, Europe, and Japan. The Honorable Richard A. Posner, Chief Judge of the U.S. Court of Appeals for the Seventh Circuit, offers a foreword to the collection.