

**Module** : **Equity & Trusts II**

**Theme** : **Principles of Law**

### **Aims**

This module aims to provide students with:

- An understanding of the concept of the trust, including its creation (both implied and express) and the roles of trustees.
- Familiarity with and understanding of the different types of both express and implied trusts.
- An understanding of the role of trusts within the commercial environment.
- An understanding of the practical operation of the law of trusts.
- The opportunity to build on the knowledge and skills attained in Equity & Trusts I.

### **Syllabus**

- Introduction
- The Historical Development of the Trust
- Comparison with other legal concepts
- The Creation of an Express Trust
- The Three Certainties
- Complete Constitution
- Formal Requirements
- Particular Forms of Trust
- Secret Trusts
- Charitable Trusts and the Cy-pres Doctrine
- Purpose Trusts
- Resulting/Implies Trusts
- Constructive Trusts
- Trusteeship
- Trustees powers
- Duties on appointment; duty to invest, to distribute, to keep account, not to delegate, not to profit from the trust
- Breach of Trust Remedies
- Personal Liability of Trustees
- Tracing

### **Workload**

Contact 60 hours

|                           |           |
|---------------------------|-----------|
| Directed Learning Time    | 50 hours  |
| Independent Learning Time | 25 hours  |
| Assessment Time           | 15 hours  |
| Total                     | 150 hours |

### **Teaching and Learning Methods**

Lectures will be participative, incorporating critical discussion, practical problem analysis and question and answer sessions. Tutorials are an integral part of this course whereby students are given a more intimate forum for expressing their views on the law as it is and as it might be. This opportunity should, in turn, improve the students' critical and cognitive skills. An important aim of the tutorials and seminars is to ensure that the student has carried out independent research work.

#### *Integration and Linkage*

The linkages referred to in Equity and Trusts I similarly apply to Equity and Trusts II. In this semester students will be lectured on the taxation implications of creating a discretionary trust and, in the context of resulting trusts, they will be introduced to the Family Home Protection Act 1976 and its legal consequences, an area which is intertwined with Land Law and Family Law.

### **Learning Outcomes**

On successful completion of the module, students will be able to:

- Identify, analyse and suggest solutions to problems relating to express and implied trust situations
- Distinguish between different forms of trusts
- Critically evaluate the duties, powers and liabilities of trustees
- Analyse complex trust law problems and present solutions
- Assess judicial and legislative rules on equity & trusts law
- Suggest and formulate proposals for reform.

### **Assessment**

This module will be assessed by way of a written assignment (30%) and a traditional closed book examination (70%). The assignment will be either an analytical essay or a problem question, both of which will require students to identify pertinent issues, describe and discuss the applicable rules of law, and then either critically assess those rules or apply them to the applied factual scenario. The examination will consist of a mixture of descriptive, analytical and application questions, taking the form of essay style questions and problem style questions.

### **Reading List**

#### *Essential*

Bell, *Equity and Trusts – Essential Law Text*, (2004, Dublin; Round Hall)  
Delaney, *Equity and the Law of Trusts in Ireland*, 3<sup>rd</sup> Edition, (2003, Dublin; Thompson Round Hall)  
Delaney, *The Law of Equity and Trusts: Cases and Materials*, (2002, Dublin; Round Hall)

*Recommended*

Keane, *The Law of Equity and Trusts in the Republic of Ireland*, (1998, Dublin; Butterworths)  
Wylie, *Casebook on Equity and Trusts*, (1998, Dublin; Abington Press (now Butterworths)).  
Hanbury & Martin, *Modern Equity*, 16<sup>th</sup> Edition, (2001, London; Sweet & Maxwell)