

Units Coded L- Faculty of Law

LAW101 - Introduction to Law

Special Note: *compulsory unit for all intending law students. Subject to quota*

Description: Has three principal aims -- to give students a 'feel' for the study of law. This includes understanding: approaches to legal problems and issues; classification of various areas of the law; skills that need to be developed to study law; the scope and dynamics of legal systems; roles and responsibilities of the legal profession. To develop, at an introductory level, the intellectual skills of fact-finding, analysis, reasoning, evaluation and communication and to encourage students to think logically. Semester 1 is an introduction to several key aspects of the legal system.

Assessment: sem 1: 2 x court reports, total 1,500 words (30%), 1 closed-book exam (20%); sem 2: 1 open-book exam (50%)

Required Texts: Miller J, *Getting into Law*, Butterworths, Syd, 2002

Corkery JF, *Starting Law*, 2nd edn, Scribblers Publ, 2002

Hall K, *Legislation*, Butterworths, Syd, 2002

Stuhmcke A, *Legal Referencing*, 2nd edn, Butterworths, Syd, 2001

Butterworth's Concise Australian Legal Dictionary, Butterworths, Syd, 1996

Offered in Courses: [L3D] [L3E] [L3F] [L3G] [L3K] [L3L] [S3Z] [S3I]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LAW101 | 25% | | | H,L,W | | | |

LAW200 - Contract Law

Special Note: *compulsory unit; the unit is weighted at 20% for combined degrees*

Description: Develops an understanding of the law of contract and the enforceability of contractual obligations in the contemporary contexts of Australian and international commercial relations. The unit deals with the common law and statutory principles of contract law including the elements of enforceable agreement; the functions of contract; the construction and interpretation of terms; terms implied in contracts; formalities for making contracts; factors affecting enforceability including, misrepresentation, duress, undue influence, unconscionability and illegality; privity; and discharge and remedies for breach of contract. Topics such as quasi-contract and the internationalisation of modern contract law are discussed. These principles are considered critically to enable students to recognise the values inherent in contemporary contract law, the possible directions for future development of contract law and the issues of fairness in modern contract law.

The unit also aims to develop study skills in library research, problem solving and case briefing which improves students' capacity to synthesise complex legal arguments. Students will also be introduced to basic legal drafting in contract. Skills of decision making and the exercise of judgment will be developed in the tutorial program. The importance of effective negotiations leading up to contracts and the nature of the existence of alternative dispute resolution mechanisms will be discussed.

Assessment: tba

Required Texts: latest editions of the following --

Carter J & Harland D, *Contract Law in Australia*, Butterworths

Carter J & Harland D, *Cases and Materials on Contract Law*, Butterworths.

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LAW200 | 25% | | | H | | | |

LAW201 - Torts

Special Note: *compulsory unit*

Description: Introduces students to the elements of tort liability and provides a comprehensive survey of the principal causes of action in the Law of Torts as well as assessing the impact of tort law reforms through the *Civil Liability Act 2002* (Tas). This unit covers the general principles of negligence as well as the more specific areas such as negligent misstatement and pure economic loss. It deals with statutory schemes of compensation in addition to the common law remedies. Beyond the tort of negligence, the unit provides detailed coverage of the intentional torts of assault, battery, false imprisonment, trespass to land and goods, conversion, detainee, and the special torts of defamation and nuisance. Particular attention is also given to the defences to the intentional torts, the tortious causes of action available in cases of medical treatment, and remedies. Practical skills incorporated into this unit include legal problem solving, legal reasoning and oral presentation.

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Assessment: tba

Required Texts: Davies M and Malkin I, - *Torts*, 4th edn, Butterworths, Vic, 2003.

Recommended Texts: Balkin R & Davis J, *The Law of Torts*, 3rd edn, Butterworths, Syd, 2004.

Lunz H and Hambly D, *Torts: Cases and Commentary* 5th Ed, Butterworths, 2002.

Trindade F & Cane P, *the Law of Torts in Australia*, 3rd edn, OUP, Vic, 1999.

Fleming J, *the Law of Torts*, 9th edn, LBC, Syd, 1998

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LAW201 | 25% | | | H | | | |

LAW202 - Criminal Law

Special Note: compulsory unit for students of Law; may be taken as a BSocSc(PoliceStudies) unit

Description: Develops a sound understanding and knowledge of the general principles of criminal responsibility in a Code jurisdiction and of particular criminal laws together with an appreciation of the social and legal context in which the substantive criminal law operates. Strong emphasis is placed on the development of problem-solving skills. The unit begins with an introduction to criminal procedure. The interpretation of the code is dealt with followed by the study of criminal responsibility and defences. Particular offences studied in detail include assault, homicide, sexual offences, traffic offences, drug offences and property offences.

Assessment: tutorial papers (30%), 2-hr closed-book exam (20%), 3-hr closed-book exam (50%)

Required Texts: Blackwood J & Warner K, *Tasmanian Criminal Law: Text and Cases*, 2004 (vol 1); (vol 2)

Criminal Code, 1924 (Tas).

Police Offences Act 1935 (Tas) *Misuse of Drugs Act 2001* (Tas)

Recommended Texts: Bronitt S & McSherry B, *Principles of Criminal Law*, LBC, Sydney, 2001.

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [R3K] [L3L] [S3I]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LAW202 | 25% | | | H | | | |

LAW204 - Administrative Law

Special Note: internal, supplemented by WEB CT, compulsory unit

Description: Provides a critical overview of the general principles of administrative law as they operate in areas such as judicial review, merits review, Ombudsman and Freedom of Information.

Topics that may be covered, at a general level, in the course include an introduction to some of the theoretical issues underlying administrative law, the role of the State, the governmental structures that influence the administrative law system, the principles of good administration and the protection of individual rights; the nature of discretionary decision making, and theories of decision making; practical applications of the theories; the requirement of giving reasons for decisions; freedom of information legislation, both Commonwealth and State and internal and external review of decisions, including the administrative appeals mechanisms; a theoretical review of judicial review; the practice of judicial review, with special reference to the Commonwealth experience; principles expressed in judicial review, including procedural fairness; public law issues such as justiciability, standing and rule making; and the public/private divide.

Assessment: 1,500-word essay (collaborative) (30%), Selective Reflective Journal (10%), 2 x 2,500-word briefing papers(60%)

or

1,500-word essay (collaborative) (30%), Selective Reflective Journal (10%), 3,000--5,000-word research assignment (60%)

Required Texts: tba

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LAW204 | 12.5% | H | | | | | |

LAW205 - Constitutional Law 1**Special Note:** *compulsory unit*

Description: Introduces students to some of the basic features of the Federal and State Constitutions and of the Australian federal system. Topics covered include: The basis of judicial review; The powers of state parliaments; Parliamentary control of government finances; The interpretation of Commonwealth powers; The characterisation of Commonwealth laws; Inconsistency between Commonwealth and State laws; Immunity of Commonwealth and State Governments from the laws of the other; Section 96 and Commonwealth State financial relations; Commonwealth State cooperative schemes including referrals of power and request and consent legislation under s 51(37) and (38).

The unit has a strong emphasis on the study of leading High Court cases and aims to develop student abilities to analyse these cases.

Requisites: PREREQ - LAW101 MEXCL - LAW203

Assessment: 1,500--2,000-word paper (40%); 2 hr exam (60%)

Required Texts: *Constitution of the Commonwealth of Australia*

Cases and Materials, available from faculty.

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LAW205 | 12.5% | | H | | | | |

LAW303 - Property Law**Special Note:** *compulsory unit*

Description: Provides students with a general understanding of the principles of law applicable to the relationship of persons to property, especially real property. The nature, creation, acquisition and remedies for the protection of interests in real property are analysed. Topics include: the doctrine of tenures and estates; the development of legal and equitable interests; statutory regulation and registration of proprietary interests in land, both under general law and the Torrens system; basic principle of co-ownership, leases, easements, freehold covenants and securities (particularly in respect of real property). The unit also briefly explores the basic principles of the law of personal and intellectual property. Practical legal skills incorporated within this unit include principles of statutory interpretation.

Assessment: tba

Required Texts: tba

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LAW303 | 25% | | | H | | | |

LAW305 - Corporations Law 1**Special Note:** *compulsory unit*

Description: Outlines the various forms of business organisation: the sole trader, partnership, joint venture, association and corporation (the trading trust is considered in [LAW401](#)) in order to gain: an understanding of the differences between each form of business organisation, their respective advantages and disadvantages, and the importance of the separate entity doctrine; an appreciation of the legislative and common law regime that governs each form of business; a broad understanding of the mechanics involved in the creation and management of each type of entity; and to serve as an introduction to commercial units. Specific topics analysed include business ethics; the justiciability and liability of associations; the origins of corporate law; the theoretical framework of the corporation; the separate entity doctrine; the formation, promotion and establishment of the corporate entity; corporate governance rules and policies - both domestically and internationally; the relationship between the board of directors and members, meeting procedure, directors' duties; accounting and auditing procedures, member remedies and corporate capacity. In the discussion of each type of organisation, the concept and nature of that form are analysed and the legal problems that flow from the adoption of that structure are considered.

Requisites: MEXCL - [LAW304](#)

Assessment: tba

Required Texts: Corporations Act 2001 (C'th)

Recommended Texts: tba

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LAW305 | 12.5% | H | | | | | |

LAW306 - Constitutional Law 2 (Unit not offered in 2005)**Special Note:** *compulsory unit*

Description: Builds upon the introductory principles and basic constitutional law institutional and procedural features of Australian federalism covered in LAW205 Constitutional Law 1. Provides a detailed exposition and analysis of High Court jurisprudence and

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associated issues from the powers of the Legislative, Executive and Judicial branches of government and chapter structure under the *Commonwealth Constitution*. Students are familiarised with the Executive power and the Judicial power, including the relationships between Executive and nationhood powers and Judicial power and due process. Key Commonwealth legislative powers such as the External Affairs, Races, Defence and Corporations powers are examined in depth. The Constitution's implied protection of political communication, movement and association is considered as an immunity on constitutional power. All topics are intended to draw upon contemporary, historical and political developments and policy background so as to expound the High Court's role as the constitutional keystone of the Australian federation.

Requisites: PREREQ - LAW205 MEXCL - LAW644

Assessment: 1 x 2--3-hr open book exam (70%), 1 x 1--1.5-hr class test (30%)

Required Texts: Blackshield A & Williams G, *Australian Constitutional Law and Theory Commentary and Materials*, 3rd edn, Federation Press, Syd, 2002

Constitution of the Commonwealth of Australia (publication details available from the Law School)

Recommended Texts: Blackshield A, Coper M & Williams G, *The Oxford Companion To The High Court of Australia*, OUP, Melb, 2001

Booker K, Glass A & Watt R, *Federal Constitutional Law An Introduction*, 2nd edn. Butterworths, Syd, 1998.

Joseph S & Castan M, *Federal Constitutional Law A Contemporary View*, Law Book Co, Syd, 2001

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

LAW307 - Trusts (Unit not offered in 2005)

Special Note: *compulsory core unit*

Description: The unit covers the law pertaining to trusts, and deals with the following topics: (1) the nature of a trust, and how it compares to other legal relationships; (2) the essentials for the creation of an express trust; (3) the incidents of trusteeship: the appointment and removal of trustees, as well as trustees' duties, powers and rights; (4) remedies for breach of trust, both personal and proprietary; (5) the application of the law of trusts in particular commercial contexts, specifically in trading and investment, and the use of the trust as a vehicle for insolvency protection; (6) the law pertaining to charitable trusts; (7) non-express trusts, namely resulting trusts and constructive trusts.

Requisites: PREREQ - LAW200, LAW201, LAW202, LAW204, LAW205 MEXCL - LAW401

Assessment: 1x3-hr exam (80%), class participation (20%)

Required Texts: Dal Pont GE & Chalmers DRC, *Equity and Trusts in Australia and New Zealand*, 2nd edn, LBC Info Services, 2000

Dal Pont GE, Chalmers DRC & Maxton JK, *Equity and Trusts -- Commentary and Materials*, 2nd edn, LBC Info Services, 2000

Recommended Texts: Ford HAJ & Lee WA, *Principles of the Law of Trusts*, 3rd edd, LBC, 1996

Meagher RP & Gummow WMC, *Jacobs' Law of Trusts in Australia* 6th edn, Butterworths, 1997

Dal Pont GE, *Charity Law in Australia and New Zealand*, OUP, 2000

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

LAW401 - Equity and Trusts

Special Note: *compulsory unit*

Description: Examines the equity jurisdiction of the Australian courts. The unit conveys to students an appreciation of the dynamic and flexible nature of equity and its interrelationship with other subjects in the law curriculum. There is a brief survey of the historical background of the English equity jurisdiction leading to a consideration of the features and practice of modern equity. The evolving nature of equity jurisdiction is considered with emphasis on fiduciary obligations. The unit also considers the requirements for the creation of trusts and the obligations which arise from resulting and constructive trusts. It includes a discussion of charitable trusts and the modern discretionary trust in its commercial context; and deals with superannuation trusts. It concludes with a discussion of the duties and powers of trustees, breach of trust and the termination of trust.

Assessment: 2 exams (1 mid-semester one hour exam worth 30%, and 1 end of semester exam worth 70%)

Required Texts: Dal Pont G & Chalmers D, *Equity and Trusts in Australia*, 3rd edn, Lawbook Co, Syd, 2004

Dal Pont G, Chalmers D & Maxton J, *Equity and Trusts -- Commentary and Materials*, 3rd edn, Lawbook, Syd, 2004.

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LAW401 | 12.5% | H | | | | | |

LAW402 - Litigation

Special Note: *compulsory unit*

Description: Imparts an understanding of the principles and rules relating to the rules of procedure and evidence in both civil and criminal litigation in the pre-trial and trial stages of litigation; develops an appreciation of the determinative role that pre-trial activities and rules of evidence can have on the course and outcome of civil and criminal trials; encourages a critical appraisal of the evidential and procedural rules governing the formal resolution of civil and criminal matters. Studies cover: the objectives underlying civil and criminal procedure; pre-trial civil procedure, from identification of the parties and causes of action to settlement of the dispute, including originating process, defining the questions for trial and obtaining evidence in support of the case; pre-trial criminal procedure, including police powers of investigation and arrest, the rights of suspects, bail, the initiation of criminal proceedings and the accused's pleadings; the rules of evidence, including basic evidential concepts, obtaining testimony, questioning witnesses in court, protective mechanisms in respect of unreliable evidence, the exclusionary rules against hearsay and opinion evidence, limitations on evidence against the accused in a criminal trial and documentary evidence. Practical legal skills incorporated within this unit include case analysis, preliminary techniques in witness questioning.

Requisites: PREREQ - LAW200, LAW201, LAW202, LAW303

Assessment: sem 1: 3-hr exam in June (40%), mid-sem-1 test (10%), 1,000-word written court report (10%); sem 2: 2-hr exam in Nov (30%), case report (10%). Students must pass both sem 1 and 2 to obtain a pass in the unit

Required Texts:

Cameron, Hunter and Henning, *Litigation*, 7th edition

Anderson, Hunter & Williams, *The New Evidence Law*, ISBN 0409312053

Cairns, *Australian Civil Procedure*, ISBN 0455210594

Evidence Act 2001 (Tas)

Evidence Act 1995 (Cwlth)

Evidence (Children and Special Witnesses) Act 2001 (Tas)

Criminal Law (Detention and Interrogation) Act 1995 (Tas)

Judiciary Act 1903 (Cwlth)

Justices Act 1959 (Tas)

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LAW402 | 25% | | | H | | | |

LAW407 - Mooting

Special Note: *compulsory unit*

Description: Students are required to participate in at least one moot normally in 4th and 5th year. Moots are held in both first and second semesters and require attendance at the Supreme Court of Tasmania, at least two lectures and meetings with the moot coordinator. One staff member and a sitting practitioner normally adjudicate each moot. The moots are adjudicated under the following headings: organisation presentation (15%); development of argument (30%); questions from the bench (30%); speaking ability and delivery (25%).

Requisites: PREREQ - year 2 and 3 of Law course

Assessment: adjudicated by appointed staff member and practitioner

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LAW407 | 0% | H | H | | | | |

LAW450 - Equity (Unit not offered in 2005)

Special Note: *compulsory core unit*

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Description: Provides students with an integrated understanding of the role of equity in the law, though exposure to various equitable doctrines and remedies. The first half of the unit deals with various equitable doctrines, including fiduciaries (including government and the public trust), confidential information, undue influence, the doctrine of unconscionability, relief from forfeiture, and equitable assignments.

The second half of the unit deals with equitable remedies, both personal (injunction, specific performance, equitable compensation, equitable damages, account of profits, declarations, etc) and proprietary (constructive trusts and equitable charges).

Requisites: PREREQ - LAW200, LAW201, LAW202, LAW204, LAW205, LAW306, LAW303, LAW305 and LAW307

Assessment: 3-hr exam (80%), class participation (20%)

Required Texts: Dal Pont GE & Chalmers DRC, *Equity and Trusts in Australia and New Zealand*, 2nd edn, LBC Info Services, 2000

Dal Pont GE, Chalmers DRC & Maxton JK, *Equity and Trusts -- Commentary and Materials*, 2nd edn, LBC Info Services, 2000

Recommended Texts: Meagher RP, Gummow WMC & Lehane JRL, *Equity: Doctrines and Remedies*, 3rd edn, Butterworths, 1992

Parkinson P (ed), *Principles of Equity*, LBC Info Services, 1996

Spry ICF, *The Principles of Equitable Remedies*, 6th edn, Law Book Co, 2001

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

LAW602 - Foundations of Media and Information Technology Law

Description: Provides students studying journalism and information systems with an introduction to basic legal concepts and an overview of the major legal issues in their respective disciplines. Topics include: the Australian legal system and the Australian Constitution; basic common law principles; the balance between freedom of speech, defamation, censorship and privacy; intellectual property law; regulation of electronic commerce; and media regulation.

Assessment: 3-hr open book examination (60%), coursework (40%)

Majors (BA degree course only): [BSAHEJ]

Required Texts: Pearson M, *The Journalist's Guide to Media Law*, Allen & Unwin, second edition, 2004

Quirk P and Forder J, *Electronic Commerce and the Law*, Wiley, second edition, 2003

Offered in Courses: [C3S] [R3A] [L3D] [L3K]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LAW602 | 12.5% | H,L | | | | | |

LAW603 - Labour Law (Unit not offered in 2005)

Description: Introduces students to the law regulating relationships at the workplace. The unit outlines the foundational principles of Australian labour law and the legal framework for regulation of work relationships. This encompasses both 'employment law' dealing with the individual contract between employer and employee as well as the collective aspects of labour law including award making, enterprise bargaining and controls on industrial action. The interaction and overlap between the individual and collective aspects of labour law will also be explored. The unit examines the nature and attributes of different types of work relationships and the various sources of rights and obligations in the workplace. It seeks to instill in students awareness of the political and ideological dimensions of labour law and to expose contemporary trends and policy directions.

Topics cover all key areas of Australian labour law including: the constitutional framework and its impact on the federal industrial relations system; the development of distinctly Australian labour law tracing the emergence of conciliation and arbitration, the development of the award system and the modern day shift away from this model towards decentralised and individualised bargaining; the nature of the employment relationship at common law and how it differs from other work relationships, with particular reference to the distinction between contracts of employment and independent contracting; the content of the employment relationship with particular focus on the common law rights and duties of employers and employees; the respective rights and duties of employers and employees in relation to the termination of employment at common law and under unfair dismissal legislation; the regulation of industrial conflict.

Requisites: MEXCL - LAW646, LAW647

Assessment: tba

Required Texts: tba

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

LAW604 - Competition Law

Description: Inquires into the theoretical and practical aspects of governmental intervention of commerce. The particular emphasis is on the regulation of anti-competitive behaviour as determined by Part IV of the *Trade Practices Act 1974* (Cwlth). The lectures touch upon the

philosophical, economic and legal difficulties that arise during the investigation of anti-competitive arrangements. Part IV of the Act is examined in light of recent decisions and possible legislative change.

Requisites: MEXCL - [LAW666](#)

Assessment: tba

Required Texts: *Trade Practices Act 1974* (Cwlth)

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LAW604 | 12.5% | H | | | | | |

LAW606 - Law of the Oceans and the Antarctic

Description: Considers the public international law aspects of the law of the sea and the Antarctic continent. The unit examines the [Antarctic Treaty](#), [Madrid Protocol](#), [Convention for the Conservation of Antarctic Marine Living Resources](#), Australia's maritime zones of jurisdiction and international marine captive fisheries law including UN Law of the Sea Convention, UN Fish Stocks Agreement, Compliance Agreement, and relevant soft law instruments.

Requisites: PREREQ - LAW200, LAW201, LAW202, LAW203 MEXCL - LAW632

Assessment: 1 x mid-sem test (20%), 1 x 3-hr closed-book take-home exam (papers distributed in week 10, exam conducted in week 12) (80%)

Required Texts: Lecture notes available via WebCT format

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LAW606 | 12.5% | H | | | | | |

LAW607 - Corporations Law 2

Description: Examines the methods of financing the corporation, the legal control of takeovers and securities regulation. External administration, such as receivership, arrangements, winding up and voluntary administration are also featured. Students are expected to develop an understanding of the legislation and judicial decisions surrounding these issues in addition to an appreciation of the policy objectives. Possible reforms are also analysed.

Assessment: 2-hr open-book exam (70%) and assignment (30%)

Required Texts: *Ford's Principles of Corporations Law*, ISBN 0409320633

Recommended Texts: Lipton and Herzberg, *Understanding Company Law*, ISBN 045521901X

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LAW607 | 12.5% | | H | | | | |

LAW608 - Law of Nations

Special Note: unit replaces *LAW635

Description: Examines in detail controversial and topical issues in contemporary public international law including -- Politicisation and Subversion of the United Nations, International Environmental Law, International Humanitarian Law -- including Armed Conflict Law, the Use of Force by States, self determination of stateless peoples.

Requisites: PREREQ - [LAW200](#), [LAW201](#), [LAW202](#), [LAW203](#) MEXCL - [LAW635](#)

Assessment: 1 x mid-sem test (20%), 1 x 3-hr closed-book take-home exam (papers distributed in week 10, exam conducted in week 12) (80%)

Required Texts:

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LAW608 | 12.5% | | H | | | | |

LAW609 - Comparative Administrative Law (Unit not offered in 2005)

Description: Explores in greater depth the principles examined in [LAW203](#) and considers important aspects of review of administrative action not covered in that unit. Alternative extrajudicial review systems, including Ombudsmen, independent appeal tribunals and internal review systems are examined as well as the Federal and State systems of review which are studied in some detail -- especially freedom of information legislation. Topics may include subordinate legislation dealing with corruption, and administrative remedies.

Requisites: PREREQ - [LAW203](#) MEXCL - [LAW642](#)

Assessment: major 3,000 to 5,000-word assignment (55%), 1,500-word group essay (15%), selective reflective journal (10%), class participation (10%), class presentation (10%).

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Recommended Texts: Douglas R, *Douglas and Jones' Administrative Law*, 4th edn, Federation Press, 2002

Katzen H & Douglas R, *Administrative Law*, Butterworths Tutorial Series, 1999

Streets S, *Administrative Law*, 2nd edn, Butterworths Casebook Companions, 2000

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

LAW610 - International Environmental Law and Policy

Description: The focus in this course will be on the international law of the environment. The course aims to provide an understanding of key concepts in this area of international law through case studies in substantive areas as diverse as climate change, forests and biological diversity. The course also aims to give an understanding of the structures and political processes involved in the negotiation of environmental treaties. Problems of domestic implementation will be addressed through case studies involving the implementation of global treaties of particular importance to Tasmania, e.g. The World Heritage and Ramsar Wetlands Conventions.

Requisites: MEXCL - [LAW645](#), [LAW698](#)

Assessment: Research assignment (50%), class presentation (30%), class participation (20%)

Required Texts: P.W. Bernie and A.E. Boyle, *"International Law and Environment"*, Second Edition, Oxford University Press, 2002.

Recommended Texts: tba

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L] [S6L] [S7U]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LAW610 | 12.5% | H | | | | | |

LAW611 - Jurisprudence A: Concepts of Justice

Description: Examines the nature of justice from both a theoretical and a practical point of view. Students have the opportunity to study ancient and contemporary approaches to the concepts of corrective justice, distributive justice, retributive justice and restorative justice, and engage in the current debates over the justification for state responses to wrong-doing, the problem of harm, and the tort-crime debate. The unit relates the academic analysis of justice to the practical problems facing the community and the courts in the areas of tort law and criminal law, using recent cases as a springboard for discussion.

Requisites: PREREQ - [LAW200](#), [LAW201](#), [LAW202](#), [LAW203](#)

Assessment:

Attendance, participation and presentations 20%

Essay of 2 000 - 2 500 words 30%

Exam (2 hours, closed book) 50%

Required Texts: Solomon RC & Murphy MC (eds), *What is Justice?*, 2nd ed, (Oxford University Press, 1999)

Recommended Texts:

Campbell T, *Justice*, 2nd ed, (MacMillan, Basingstoke, 2001)

Raphael DD, *Concepts of Justice*, (Oxford University Press, 2001)

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LAW611 | 12.5% | H | | | | | |

LAW612 - Jurisprudence B

Description: Introduces students to moral debates about what the content of the law ought to be and to some of the major theories of law, such as Natural Law, Positivism and Realism and some of the most influential modern theories, including those of Professors Hart and Dworkin with a view to encouraging students to think about the possible justifications for law and for the powers judges exercise. The unit is divided into two parts: (a) a consideration of whether the criminal law should be used to enforce popular morality; and (b) an analysis of the types of justification which could be given for judicial decisions.

Assessment: 2,000-word paper (25%), 4,000-word paper (75%)

Required Texts: Hart HLA, *The Concept of Law*, ISBN 0198761228

Dworkin R, *Laws Empire*, ISBN 0006860281

Recommended Texts: Dworkin R, *Taking Rights Seriously*, ISBN 071567154

Mill JS, *On Liberty*,

Devlin P, *The Enforcement of Morals*, ISBN 0192850180

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LAW612 | 12.5% | | H | | | | |

LAW615 - Criminology (Unit not offered in 2005)

Special Note: *may be taken as a BSocSc(PoliceStudies) unit*

Description: The unit seeks an understanding of the nature of crime, its incidence, explanations for it and society's response to it in its historical, social and political context. Studies cover: the phenomenon of crime, why some forms of conduct are criminalised; theories and explanations of crime, focusing on the extent to which these approaches deal with the crimes of women as well as of men; and selected criminological issues; eg juvenile offenders, victims and any contemporary issues.

Assessment: 2 x 2,000-word assignments (40% ea), oral presentation, seminar paper (10%), participation (10%)

Recommended Texts: White R & Hains F, *Crime and Criminology, An Introduction*, 2nd edn ISBN 0195513401

White R & Perrone S, *Crime and Social Control, An Introduction*, ISBN 0195537750

Braithwaite J, *Crime, Shame and Reintegration*, ISBN 0521356687

Chappel D & Wilson P, *Crime and the Criminal Justice in Australia: 2000 and Beyond*, ISBN 0409316466

Goldsmith A, et al, *Crime and Justice, An Australian Textbook in Criminology*, 2nd edn ISBN 0455218315

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [R3K] [L3L] [S3I]

LAW616 - Sociology of Law

Description: Provides a sociological perspective on the relationship between law and society through a critical analysis of the basic processes of law, issues of social power and legal institutions, and law reform and social change. The aims of the subject are to evaluate the social basis of the construction of the legal subject; to assess liberal conceptions of rights and justice; and to analyse the relationship between law and social inequality by considering issues related to rurality, disability, class, gender, sexuality and ethnicity.

Requisites: MEXCL - HAF209/309, HGA207/307

Assessment: major 3,000-word essay (50%), 2-hr exam (50%)

Majors (BA degree course only): [[HAF] [HGA]]

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [R3A] [R3K] [L3L]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LAW616 | 12.5% | | H | | | | |

LAW617 - Comparative Law

Description: Gives students an overview of the principal features of the world's major legal systems and, through concentration on the sources of law in those systems, of the methods of resolving legal problems in those systems as compared to our own. The unit covers civil systems of law, Asian legal systems, customary legal systems, law in post-communist societies and in emerging federal structures. Where appropriate, the emphasis of the unit will involve a comparative approach to problems which have a practical relevance in Australian law or which impact on Australia's international obligations. Specifically the 2005 course will offer an introduction to the aims, methods and problems of Comparative Law. The notion of Legal Families and Traditions. An introduction to Roman Law as a basis for Civil Law Systems as they affect Australia. An introduction to Islam's law and systems most relevant to Australia today. A case study on comparative law, using the law of torts as a vehicle.

Assessment: tba

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LAW617 | 12.5% | | | | | H | |

LAW619 - Biotechnology Law

Special Note: *Law students will be required to participate in a 3 to 4-hr primer on basic biotechnology concepts; Biotechnology students will be required to participate in a 3 to 4-hr primer on basic legal concepts.*

Description: Designed to provide law students and biotechnology students with an overview of the major legal issues being encountered by

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participants in the biotechnology industry in both the public and the private sector, including scientists, lawyers, company executives, clinicians, regulators and policy makers. Topics include: research and industry ethics, with particular focus on the conduct of research with commercial implications; regulation of biotechnology, cloning and stem cell technology; legal issues in the use of animals and human tissue in research; intellectual property issues, including international perspectives; access to natural resources, with particular focus on developing countries; access to the benefits of the biotechnology revolution.

Requisites: PREREQ - First year law units

Assessment: 3-hr exam (60%), internal assessment (40%)

Required Texts: tba

Recommended Texts: tba

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L] [S3V] [OCS]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LAW619 | 12.5% | | | | | H | |

LAW620 - Insurance and Superannuation Law (Unit not offered in 2005)

Special Note: *offered alternate years*

Description: The unit is divided into two parts: insurance and superannuation. Insurance law will constitute the first two thirds of the course, and superannuation law the remaining third. The insurance law component focuses on three main areas: the contract of insurance, the policy of insurance; and payment under that policy. Intertwined within this treatment is the relationship between statute governing insurance contracts, and the general law (both common law and equity) applicable in this respect. The superannuation law component of the course involves a basic introduction to the role of superannuation in society, the basic aspects of its regulation, and selected (from year to year) implications of superannuation law in the context of other areas of law (such as superannuation and tax, superannuation and family law, superannuation and succession).

Requisites: PREREQ - First year law units

Assessment: 2-hr exam (50%), 2 shorter assignments (1,500 words; 1 practical, 1 essay (25% ea)

Required Texts: KCT Sutton, *Insurance Law in Australia*, 3rd edn, LBC Information Services, 1999

LM Butler & GE Dal Pont, *Law of Superannuation*, LexisNexis Butterworths, 2005

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

LAW631 - International Law (Unit not offered in 2005)

Description: Introduces the structure of the international legal system and the legal relations between states and other entities recognised in the international legal system. The unit commences with a discussion of the nature of international law, and an assessment of the role and legal significance of the UN General Assembly, Security Council and International Court of Justice. A study is made of the relationship between international law and domestic law. The unit further considers the content and workings of international law, by reference to its sources and doctrines. A special study is included of the principles and developments in international criminal responsibility. Extensive reference is made throughout to current international issues and particular attention is given to the relevance of international law to recent Australian issues. The development of an interest in international and current affairs is encouraged in the study of this unit. The unit provides a solid foundation for the more specialised Group B International law units LAW634 Human Rights, LAW606 Law of the Oceans and the Antarctic, LAW608 Law of Nations - . (formerly *Advanced International Law*), LAW 678 Refugee Law and *Jessup International Law Moot*. The subject also provides useful background information to LAW 663 International Trade.

Assessment: 2,000--2,500-word research essay (35%), 2--3-hr open-book exam (65%)

Required Texts: Dixon M & McCorquodale R, *Cases and Material on International Law*, 4th edn, Oxford University Press, 2003.

International Law LAW 631: Readings in International Law (Available from Faculty of Law Reception)

Recommended Texts: Dixon M, *Textbook on International Law*, 4th edn, Blackstone Press, 2000.

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

LAW634 - Human Rights (Unit not offered in 2005)

Description: Examines the theory of human rights and their development in international law and application to Australian domestic law. A consideration is made of the basic principles, instruments and issues in international human rights law. A study is conducted of United Nations and regional treaty and committee processes and structures for the protection of human rights, with a thematic reference to such topics as terrorism and human rights and the prohibitions against genocide and torture. Difficulties of enforcement of international human rights instruments are discussed. A consideration is made of some aspects of international humanitarian law, with a particular focus upon developments in international criminal responsibility and enforcement. International human rights are also considered in an Australian domestic context. An examination is made of the impact of human rights on Australian law and policy, including constitutional and federal issues, as well as Australian legislative mechanisms implementing United Nations human rights treaties.

Assessment: 2,000 to 2,500-word research essay (35%), 2--3-hr open-book exam (65%)

Required Texts: Piotrowicz & Kaye, *Human Rights in International and Australian Law*, Butterworths, 2000

Human Rights LAW 644: *Readings and Materials in Human Rights* (Available from Faculty of Law Reception)

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

LAW636 - Law of the European Union (Unit not offered in 2005)

Description: Covers the following topics: (a) Origins and framework of the EU: Treaty of Rome. Merger of early Communities/EU Institutions (Court, Council, Commission, Parliament); (b) EU Law making: by treaty, regulation, directive, decision, incorporation into member states' legal systems (Doctrine of Direct Effects). Conflict of EU and national law. Enforcement by citizens and states; procedures under Article 169; (c) EU Common Market Principles: Four freedoms (movement of goods, persons, capital and services). Competition policies (Articles 85-90), dominant markets and relevant case law; and (d) The relationship between EU and Australian/International Trade law. Community power and competence in external trade agreements

Requisites: PREREQ - LAW631 is useful

Assessment: 3-hr exam or 5,000-word assignment (100%)

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

LAW641 - Environmental Law: Development Control (Unit not offered in 2005)

Description: Familiarises students with the land use planning system of Tasmania. Students will become familiar with the types of planning controls and their relationship to environmental controls and other controls over the use and development of land; the appeals system and the legal effects of planning. The controls studied include State government planning policies, planning schemes, special planning orders and subdivision controls.

Assessment: 3-hour exam (80%), 1,500 to 2,000-word seminar paper (20%)

Recommended Texts: Archer, *Annotated Land Use Planning and Approvals Act 1993*, and *Annotated Resource Management and Planning Appeal Tribunal Act 1993*.

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L] [S6L] [S7U]

LAW644 - Advanced Constitutional Law (Unit not offered in 2005)

Description: Comprises an examination and analysis of key powers in the *Commonwealth Constitution* and related issues. Students are familiarised with the Executive and implied nationhood powers and the Judicial power, including the relationship between Judicial power and due process. Key Commonwealth legislative powers such as the External Affairs, Races and Defence powers are examined in some detail. The Constitution's protection of civil and political rights is studied in the form of the implied freedoms of political communication, movement and association and selected express rights. Practical aspects of the process and conduct of litigation before the High Court will also be canvassed. Opportunities for constitutional change, such as a bill of rights or a republic may also be considered. Topics are intended to have a distinct focus upon contemporary constitutional law issues and will draw upon relevant historical and policy considerations to illustrate context in which constitutional law is developed.

Requisites: PREREQ - LAW203

Assessment: 2,000--2,500 word take home essay (30%), 2-hr open book exam (70%)

Required Texts: Blackshield & Williams, *Australian Constitutional Law and Theory, Commentary and Materials*, Federation Press, Sydney, 2002, and web-based supplement

Constitution of the Commonwealth of Australia

Recommended Texts: Joseph, S and Castan, M *Federal Constitutional Law: A Contemporary View*, Law Book Company, Sydney, 2001

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

LAW652 - Media Law (Unit not offered in 2005)

Description: Investigates the common law and statutory controls over the broadcasting, print and online media in Australia. The unit examines legal and economic aspects of the regulatory regimes which apply to the media, including issues of licensing, ownership and control. Legal controls on the content of media, including those imposed by the laws of defamation, contempt, privacy and censorship are examined in the context of the democratic notion of freedom of speech.

Assessment: 2x2,500-word assignments, 1 x oral presentation

Majors (BA degree course only): [HEJ]

Required Texts: Butler D & Rodrick S, *Media Law*, LBC, second edition 2004.

Walker S, *Media Law, Commentary and Materials*, Law Book Co, 2000

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [R3A] [L3L]

LAW662 - Tax 1

Special Note: *prereq for enrolment in LAW671 Tax 2*

Description: Involves the study of the taxation of income under the *Income Tax Assessment Acts*. The unit provides an understanding of the assessment of income tax adequate for those not planning on specialising in income tax practice. The unit is divided into the following parts: the concepts of assessable income (including the taxation of capital gains); allowable deductions; the taxation of tax entities; tax avoidance; tax planning; and tax administration.

Requisites: PREREQ - completion of all first-year core units

Assessment: 3-hr exam (100%)

Required Texts: *Australian Income Tax Assessment Act 1936*,

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Australian Income Tax Assessment Act 1997,

Woellner RH et al, *Australian Taxation Law*, CCH, (latest edn),

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LAW662 | 12.5% | H | | | | | |

LAW663 - International Trade

Description: Deals with the principal legal issues relating to purchase and sale of goods and services between countries. The international trading structure of the last 50 years is analysed, including GATT and WTO. Particular attention is paid to Australia's interests in international trade, including APEC.

Assessment: tba

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LAW663 | 12.5% | | H | | | | |

LAW664 - Intellectual Property

Description: Provides an overview of the major forms of intellectual property protection. The unit covers the statutory systems of copyright, designs, trade marks and patents as well as related areas including protection of trade secrets by the action for breach of confidence, passing off and the protection provided by the *Trade Practices Act and the Fair Trading Act*.

Assessment: assignment (30%), 3-hr open-book exam (70%)

Required Texts: Reynolds R and Stoianoff N, *Intellectual Property Text and Essential Cases* The Federation Press 2003

van Caenegem W, *Intellectual Property*, Butterworths, 2001

Recommended Texts: McKeough J, Bowrey K & Griffith P, *Intellectual Property, Commentary and Materials*, Law Book Co, 2002

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LAW664 | 12.5% | H | | | | | |

LAW669 - Consumer Protection

Description: Recognises the development of consumer protection law as a discrete area of study and practice, largely as a consequence of statutory initiatives. The unit focuses on the following areas of law: (1) consumer protection provisions of the *Trade Practices Act 1974* (Cwlth) (namely Pts IVA, IVB and V) as well as associated remedies, and fair trading legislation equivalents; (2) sale of goods legislation to the extent that it impacts upon consumer protection; (3) liability for dangerous and defective products, including rights and remedies at common law and statute (both State and Federal).

Requisites: MEXCL - [LAW661](#)

Assessment: tba

Required Texts: Corones and Clark, "Consumer Protection and Product Liability Law", 2002, 2nd edn, LBC

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LAW669 | 12.5% | | H | | | | |

LAW670 - Information Technology Law (Unit not offered in 2005)

Description: Provides an overview of the legal issues concerned with the internet structure and governance, sources of legal material over the internet, intellectual property and copyright of electronic material, current developments in regulation and self-regulation of transmission over the internet, privacy, security and encryption standards, digital signatures, establishing contracts over the internet, current technological issues including digital cash, smart cards and electronic commerce.

Requisites: PREREQ - C3S: [BSA101](#)

Assessment: coursework (30%), 3-hr open-book exam (70%)

Required Texts: Quirk P and Forder J, *Electronic Commerce and the Law* Wiley, second edition, 2003

Recommended Texts: Lim YF, *Cyberspace Law: Commentaries and Materials* Oxford University Press 2002

A. Fitzgerald, B. Fitzgerald, C. Cifuentes and P. Cook (eds) *Going Digital 2000. Legal Issues for E-commerce, Software and the Internet* LexisNexis Butterworths, second edition, 2002

Offered in Courses: [C3C] [C3S] [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

LAW671 - Tax 2 (Unit not offered in 2005)

Description: Is for those seeking a specialist knowledge of the subject with a view to practising as a tax specialist. The topics covered will vary from year to year, but will generally include advanced capital gains, advanced deductions, international tax, superannuation, and an introduction to GST. It also includes a discussion of ethics and the tax practitioner.

Requisites: PREREQ - LAW662

Assessment: 2-hr open-book exam (60%), 2,000-word assignment (40%)

Required Texts: *Australian Income Tax Assessment Act 1936,*

Australian Income Tax Assessment Act 1997,

Either Woellner RH et al, *Australian Taxation Law*, CCH, (latest edn),

or Lehmann G & Coleman C, *Taxation Law in Australia*, LBC, (latest edn).

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

LAW673 - Financial Institutions Law (Unit not offered in 2005)

Special Note: *a summer school unit*

Description: Examines the law and practice of domestic and international financial institutions. Among the topics covered are: regulatory framework of the financial industry in Australia; the securities industry; financial market instruments and other facilities such as cards and electronic funds transfers; financial institution-customer relationships; the law of negotiable instruments; cheques and payment orders; lending and security; and international financial institution arrangements such as letters of credit.

Assessment:

Required Texts: tba

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

LAW677 - Law Elective 2

Special Note: *For students enrolled in Law prior to 2004 the elective group for this unit is E*

Description: The aim of the course will be to explore the limits of the criminal sanction, by selecting a range of contemporary issues and subjecting each one to detailed analysis. The method of the course will be to focus on arguments and counter-arguments, rather than on the accumulation of information. To this end the prescribed reading will be relatively brief, but each session will involve a careful analysis of the steps in arguing for and against certain positions. The topics will range from the role of the victim in the criminal process to the lawfulness of professional boxing, from the effect of previous convictions on sentencing to the wrongfulness of rape. Class participation, and a willingness to re-examine one's own views, will be encouraged.

Requisites: MEXCL - [LAW615](#)

Assessment: tba

Required Texts: tba

Recommended Texts: tba

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LAW677 | 12.5% | | | | | H | |

LAW678 - Law Elective 3

Special Note: *topics to be advised; normally offered as summer school units*

Description: Allows students to undertake a specific study during the summer semester under the supervision of a lecturer and/or guest lecturer with specific expertise in an accredited unit not normally offered by the Faculty or only offered by the Faculty periodically. The unit must be completed during one semester. Details of the units to be offered are advertised annually.

Assessment: tba

Required Texts: tba

Recommended Texts: tba

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LAW678 | 12.5% | | | | | H | |

LAW679 - Elective 2 (Supervised Research)

Description: Allows students to undertake a sustained piece of research under the supervision of a member of staff. There are no classes as such; teaching takes place through the interaction between the student and staff member. Students select their own research topics in consultation with, and subject to the approval of, a staff member. The research may be on any topic subject to approval. The work must be

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completed during one semester. Students must have a Distinction grade average in their law units to be eligible for enrolment in this unit.

Requisites: MEXCL - LAW699 Elective 3 (Supervised Research)

Assessment: tba

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LAW679 | 12.5% | H | H | | | | |

LAW681 - Family 1 -- the Family and the Child (Unit not offered in 2005)

Description: Examines the legal relationships arising out of the family (with the exception of financial relationships which are dealt with in LAW682 Family 2 -- Financial Aspects of Family Law). Topics covered in this unit include marriage, nullity, and dissolution of marriage; the role and operation of the Family Court; methods of dispute resolution in family law; children's rights (particularly *vis a vis* their parents); principles of child placement on the breakdown of the parent's relationship. Students will be encouraged to consider the application of family law from a broad perspective including consideration of relevant policy issues. Students will also be given an understanding of the changing nature of the law in this area with particular attention being given to areas of family law that have recently undergone reform as well as other areas where reform may be desirable.

Assessment: tba

Required Texts: Finlay, Bailey-Harris & Otlowski, *Family Law in Australia*, 5th edn Butterworths, 1997

Recommended Texts: Parkinson & Behrens, *Australian Family Law in Context: Commentary and Materials*, 3rd edn Law Book Co, 2004.

Dickey, *Family Law*, 4th edn Lawbook Co, 2002.

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

LAW682 - Family 2 -- Financial Aspects of Family Law

Description: Gives students an understanding of the financial aspects of family law. Topics covered include the areas of maintenance, property division and financial agreements and child support. The position of both married and de facto couples will be considered and contrasted with a view to highlighting the differences in the present law regulating the financial aspects of these relationships. Students will be encouraged to examine the underlying policy issues in this area, particularly with regard to the approach of the law to parties in unformalised relationships. Students will also be required to consider the application of the law in its wider socio-economic context, particularly in relation to the unequal economic effects of family breakdown upon men and women. The changing nature of the law in this area will be emphasised with special consideration being given to proposed reforms with respect to both married and unmarried couples.

Requisites: PREREQ - LAW681 is desirable

Assessment: tba

Required Texts: Finlay, Bailey-Harris & Otlowski, *Family Law in Australia*, 5th edn Butterworths, 1997.

Recommended Texts: Parkinson & Behrens, *Australian Family Law in Context: Commentary and Materials*, 3rd edn Law Book Co, 2004.

Dickey, *Family Law*, 4th edn, Lawbook Co, 2002.

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LAW682 | 12.5% | | H | | | | |

LAW683 - Succession

Description: Gives a general coverage of the law relating to succession to property on death. Topics include: the law relating to intestacy; the execution, revocation, alteration and republication of wills; the legal and equitable doctrines relating to testamentary gifts; the powers, duties and liabilities of executors and administrators; the general administration of estates including different types of grants; and family provision.

Assessment: tba

Required Texts: Mackie K & Burton M, *Outline of Succession*, 2nd edn, Butterworths, 2000

Atherton R & Vines P, *Australian Succession Law: Commentary and Materials*, 2nd edn, Butterworths, 2002

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LAW683 | 12.5% | H | | | | | |

LAW684 - Conflicts (Private International Law)

Description: Conflicts, also known as Private International Law, looks at the unique legal problems that arise when a court must decide a case which involves an element of foreign law. The foreign element may arise either out of a connection with a different country, ie another sovereign state, or it may arise out of a dispute which crosses state boundaries within a federation. The main objectives of this unit are to

give students an appreciation of the theory of international conflicts law and a sound practical understanding of the techniques involved in resolving problem cases that arise in private international law, both in Australian and international courts.

The unit content focuses on the four main issues that arise out of the necessity for interaction between different legal systems. They involve arguments about: the factors connecting a case to the law of another state; whether the court has jurisdiction and whether the court is an appropriate forum to hear a case; the choice of the proper law to apply in cases of contract, tort, property and family law; and the recognition and enforcement of foreign judgements.

Assessment: tba

Required Texts: Davies M, Ricketson S, Lindell G, *Conflict of Laws: Commentary and Materials*, ISBN 0409307599

Mortensens R, *Private International Law*, ISBN 0409311073

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LAW684 | 12.5% | | H | | | | |

LAW688 - Sentencing

Description: Seeks: (a) an understanding of the growing statute and common law relating to the sentencing of offenders; and the range, nature and efficacy of sentencing options; and (b) to evaluate critically sentencing law, the role of the judiciary and criminal justice policy. The unit studies the law and practice in Tasmania governing the sentencing of offenders, including: the general sentencing principles enunciated by the courts; procedures at the sentencing stage of a criminal trial or hearing; mechanisms of appellate review; the sentencing options available to the courts and sentencing practice and policy in relation to some common offences. Current developments in sentencing and sentencing reform are also studied.

Requisites: PREREQ - Criminal Law

Assessment: 3-hr open-book exam (70%), presentation (20%), class participation (10%)

Required Texts: Warner K, *Sentencing in Tasmania*, 2nd edn, ISBN 1862873488

Sentencing Act 1997(Tas)

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LAW688 | 12.5% | | H | | | | |

LAW692 - Elective 1 (Jessup Moot)

Description: Is directed towards the preparation of a University team to participate in the Philip C Jessup International Law Moot Court Competition. Participation is limited to between 3 and 5 students and is by invitation only. The unit involves participating in the Australian rounds of the Jessup in Canberra, held in February each year.

Requisites: PREREQ - LAW631, LAW608 are desirable

Assessment: moot participation (100%)

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LAW692 | 12.5% | | | | | H | |

LAW693 - Law Elective 1

Description: Jurisprudence, the philosophical study of law and the study of philosophical theories in relation to law, is frequently thought of as a dry and daunting subject. The approach adopted in this course aims to dispel and disprove that thesis. The critical understanding of theories about law and approaches to law - conceived of as a system of rules - can be enriched and enlightened by an understanding of how rules actually operate in decided cases and the use of rules and rule making in other contexts. Law's philosophies can be understood and explored through an examination of legal and non-legal texts. That's what you get here. Hence, the set texts are Margaret Davies, *Asking the Law Question*; Gabriel Garcia Marquez, *Chronicle of a Death Foretold*, and Baz Luhrmann, *Strictly Ballroom*. And various cases. Come and enjoy.

Assessment: tba

Required Texts: tba

Recommended Texts: tba

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LAW693 | 12.5% | | | | | H | |

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LAW695 - Law and Ethics of Health Care (Unit not offered in 2005)

Description: This unit examines the relationship of law and ethics to the delivery of health care. The unit concentrates on Australian law but examines international developments with particular reference to the UK, USA, Canada and the European Union. Studies cover: the major areas of law relevant to the delivery of health services; the consideration of the policy issues underlining delivery of health services (the regulation of medical practice, medical indemnity and hospital care); the consideration of the ethical issues involved in the delivery of health services; the consideration of the major areas of law relevant to the practice of medicine; case studies of some of the major issues in bioethical debates (IVF, law and genetics and medical research).

Assessment: 2-hr open-book examination (70%), assignment (20%) and class participation (10%).

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

LAW696 - Professional Conduct

Description: Conveys to students the onerous responsibilities that are cast on lawyers by virtue of their position and role in society. The unit deals with the lawyer's duty to her or his clients, to the administration of justice, and to the community as a whole. It also addresses issues relating to lawyers' costs and lawyers' discipline.

Requisites: PREREQ - completion of first-year core units MEXCL - LAW302 Lawyers and Legal Institutions

Assessment: 3-hr exam (100%)

Required Texts: Dal Pont G, *Lawyers' Professional Responsibility in Australia and New Zealand*, 2nd edn, Lawbook Co, Syd, 2001

Legal Profession Act 1993 (Tas)

Rules of Practice 1994 (Tas)

Law Council of Australia, *Model Rules of Professional Conduct and Practice*.

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LAW696 | 12.5% | H | | | | | |

LAW699 - Elective 3 (Supervised Research)

Description: Allows students to undertake a sustained piece of research under the supervision of a member of staff. There are no classes as such; teaching takes place through the interaction between the student and staff member. Students select their own research topics in consultation with, and subject to the approval of, a staff member. The research may be on any topic subject to approval. The work must be completed over two semesters. Students must have a Distinction grade average in their law units to be eligible for enrolment in this unit.

Requisites: MEXCL - LAW693

Assessment: 15,000 to 16,000-word research project

Offered in Courses: [L3B] [L3D] [L3E] [L3F] [L3G] [L3K] [L3L]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LAW699 | 25% | | | H | | | |

LCA101 - Supreme Court Practice & Advocacy

Description: The principal objectives of the unit are to teach: the principles that govern the practice of litigation in the Supreme Court of Tasmania; and the fundamental skills of persuasion by the art of advocacy.

The unit commences with a tour of the Supreme Court and an explanation of its jurisdiction. At the same time, there is a discussion about the scope and function of the Rules of Court as well as about the methodology underpinning the conduct of the unit.

Exercises involve the use of affidavit evidence, drafting pleadings, interrogatories, disputed discovery applications, compulsory conferences, expert opinion evidence and pre-trial conferences. Although the unit sets guide lines for the practitioners to follow, the detailed conduct of the litigation is left to the initiative of the individual practitioners, instructed to act against the trainees in each case.

Requisites: PREREQ - LLB

Assessment: trainees are required to achieve a 50% overall pass rating in written and oral work, and a 50% pass in end-of-unit test

Required Texts: *Supreme Court Rules*

Offered in Courses: [L5B]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LCA101 | 12.5% | H | | | | | |

LCA102 - Magistrates' Court Practice & Advocacy

Description: The principal objectives of this unit are to teach: the legislative framework and principles which govern practice in courts of summary jurisdiction; the basic skills of advocacy required for the rigours of day to day practice in those courts, particularly courts of petty sessions exercising criminal jurisdiction.

As for LCA101 at the outset there is a tour of the Magistrates Court and an introduction to the key personnel. Lectures and court presentations will be coordinated in time as the unit develops through the various subject matters. For the bulk of the matter on each subject matter, trainees are required to file written exercises at the Court. These are designed to have the trainees note relevant statutory provisions and applicable principles. The submission of the exercises is then followed by a presentation in court. The particular subject matters to be covered are: formal appearances and entry of pleas; elections between Supreme Court and summary disposition: bail applications, pleas in mitigation of sentence, restricted licence applications; restraining order applications; *ex tempore* 'surprise' pleas and applications.

Requisites: PREREQ - LLB

Assessment: trainees are required to achieve a 50% overall pass rating in written and oral work, and a 50% pass in end-of-unit test

Offered in Courses: [L5B]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LCA102 | 12.5% | H | | | | | |

LCA103 - Commercial Practice

Description: Familiarises trainees with most of the commercial law topics they will encounter in the first 6 or more months of practice. The unit includes both an overview of the current stamp duties law, the practical application of stamp duties to each topic and how duty is calculated.

Trainees are taken through the processes involved, documents required, stamp duty and registration fees for preparing and, where appropriate, registering: business names (and changing particulars following registration); powers of attorney; bills of sale; mortgages; incorporated associations; partnerships; commercial & residential leasing, licences and sub-leasing; and companies (their formation, statutory requirements and applications to be struck off).

Trainees are introduced to the ways in which companies raise funds, the different types of trusts and are also assisted in identifying where prescribed interests arise and what to advise clients in those circumstances. If time permits, the topic will conclude with an update on recent legislative changes.

At each meeting, the trainees are given file instructions to complete for the next meeting. Meetings generally commence with a review and discussion of the instructions given at the previous meeting, with a random selection of file instructions being collected for assessment. A short briefing follows on the next topic. The meeting concludes with the distribution of further file instructions.

Requisites: PREREQ - LLB

Assessment: trainees are required to achieve a 50% overall pass rating in written and oral work, and a 50% pass in end-of-unit test

Offered in Courses: [L5B]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LCA103 | 12.5% | H | | | | | |

LCA104 - Conveyancing and Property Practice

Description: The unit is concerned with the transfer of interests in real estate, and business and other assets, and will be primarily transaction based. There is a series of formal introductory lectures, which will cover the following areas: The searches, inquires and work to be undertaken by the solicitors for the parties prior to the formation of a contract for the sale and purchase of the subject matter; the drafting and execution of the contract documentation and the various ways in which the contract is brought into existence; the searches, inquiries and work to be undertaken by the solicitors for the parties after the contract has been brought into existence and prior to its completion (settlement); the completion of the contract, and the work to be undertaken by the solicitors for the parties after the completion of the contract.

Lectures are supplemented by written material designed to assist trainees with the transactions they are required to undertake during the unit. Throughout the unit groups and individual information sessions are conducted.

Trainees are required to complete four transactions. Two of these involve the transfer (sale and purchase) of domestic real estate, and two involve the transfer of business assets.

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In each transaction, trainees are paired off. One trainee will act for the vendor, the other for the purchaser. It may be that in one transaction each student will be paired with an experienced legal practitioner.

On regular occasions during the unit, the instructor attends the offices of the Trainees for the purposes of giving such assistance with the transactions as may be required. That assistance is given on an informal basis to individual trainees, or groups of trainees.

Requisites: PREREQ - LLB

Assessment: trainees are required to achieve a 50% overall pass rating in written and oral work, and a 50% pass in end-of-unit test

Offered in Courses: [L5B]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LCA104 | 12.5% | H | | | | | |

LCA105 - Trust and Office Accounts

Description: Provides instruction with the aim of equipping trainees with sufficient accounting skills to enable them to keep accurate records of monies received from and held on behalf of clients in accordance with the *Rules of Practice* 1994 Part 3, Accounting rules 17-59.

Trainees are given a thorough briefing on the general principles of trust accounting and the requirements of the trust accounting rules of practice. A number of preliminary exercises are undertaken to ensure all trainees understand the concepts. Those trainees without any accounting experience, either at University or at Matriculation college are also given a grounding in basic accounting principles. Trainees are tutored in computerised trust accounting skills using the Locus software available at the Centre.

Assessment: The Instructor, fulfilling the role of the Law Society auditor will on an irregular basis visit all firms (i.e. all trainees) and conduct an audit on their trust accounting records. A pass rating is required. Accordingly all trainees are required to be up to date with their records at all times, in accordance with the requirements of the *Trust Accounting Rules of Practice*, as at any time an audit may be imposed. Records to be maintained for audit purpose include all other client files. There is also an end-of-unit test in which trainees must achieve a pass.

Offered in Courses: [L5B]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LCA105 | 12.5% | H | | | | | |

LCA106 - Family Law Practice

Description: The principle objectives of the unit are to: ensure that trainee practitioners are proficient in the bringing of proceedings in the Family Court of Australia; and ensure that trainees are proficient in the interlocutory aspects of and the preparation for trial in matters pertaining to both property and children's issues in the court. The unit is divided into three basic areas: Property matters; Children's matters; Restraint orders.

The relevant procedures pertaining to each of these areas are taught, including the conduct of practical exercises. Trainees are made familiar with the principles of conciliation and counselling, as applicable to this jurisdiction.

Requisites: PREREQ - LLB

Assessment: oral and written assessment

Offered in Courses: [L5B]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LCA106 | 12.5% | H | | | | | |

LCA107 - Professional Skills, Responsibilities & Ethics

Description: Familiarises trainees with the areas in which difficulty in legal practice is most often encountered, and to examine the ways in which these issues are resolved. Focus is on issues of conflict of interest and client confidentiality, the tension between the duty to the court and the duty to the client, and issues relating to retainer and the termination of the solicitor/client relationship.

Instruction is carried out by way of written exercises and group discussion of exercises given in advance; all trainees are expected to prepare for and participate in these discussions.

Requisites: PREREQ - LLB

Assessment: oral and written assessment

Recommended Texts: Dal Pont G, *Lawyers` Professional Responsibility*

Offered in Courses: [L5B]

Unit Delivery Information:

| Unit | Weight | Sem 1 | Sem 2 | Full Year | Spring | Summer | Winter |
|--------|--------|-------|-------|-----------|--------|--------|--------|
| LCA107 | 25% | H | | | | | |