



# LAWS802

## Criminal Justice and Public Policy

S2 External 2014

*Dept of Law*

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## General Information

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Credit points 4
Prerequisites Admission to JD
Corequisites
Co-badged status
Unit description This unit aims to develop an advanced understanding of the substantive principles of criminal law, the administration of criminal justice and related public policy dimensions in contemporary Australian society. Students will critically examine principles of criminal responsibility, a range of criminal offences, and aspects of the investigation, prosecution and defence of criminal matters. They will carry out an independent piece of research to analyse and evaluate historical, social, political, philosophical and ethical factors that inform policy development in this area, including a current priority area for legal and policy reform.

## Important Academic Dates

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

## Learning Outcomes

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

Demonstrate advanced level understanding of the principles of criminal law in order to comply with Priestley requirements for legal practice

Demonstrate coherent skills in analysis of the elements of select substantive offences

Demonstrate competence in techniques of statutory interpretation. In particular, students will be introduced to the operation of legislation and its interaction with case law and academic commentary.

Develop, critique and advocate law reform proposals in the area of criminal justice, identifying and interpreting key legislative provisions and stakeholders. This will

necessitate independent research.

Communicate an integrated body of knowledge about the criminal law through active and informed participation in class discussion. Students will be expected to communicate through oral and written means with legal and non-legal audiences at an advanced level.

Solve complex hypothetical problem questions by the application of doctrinal and procedural rules of criminal law

## General Assessment Information

**Assessment criteria:** All assignments submitted in this unit will be subject to the following assessment criteria:

1. Comprehension of statutory interpretation, common law doctrine and legal theory within the criminal law;
2. Application of statutory interpretation, common law doctrine and techniques of analysis to problem questions;
3. Comprehension and application of principles of criminal procedure and their relevance to the pre-trial process;
4. A coherent analysis of the elements of select substantive offences;
5. Clarity of expression and presentation of all written work including the ability to present a coherent argument supported by reasons;
6. Critical analysis of existing law and law reform proposals.
7. Correct legal referencing and citation in accordance with AGLC3 guidelines.

## Assessment Tasks

Name	Weighting	Due
<u>Statutory Interpretation</u>	15%	25 August 2014, 5pm (Week 4)
<u>Problem Question</u>	30%	6 October 2014, 5pm (Week 8)
<u>Take-Home Examination</u>	50%	21 November 2014, 5pm
<u>Class Participation</u>	5%	2,3 & 26 October 2014

### Statutory Interpretation

Due: **25 August 2014, 5pm (Week 4)**

Weighting: **15%**

Locate **two** current Bills each relating to an aspect of criminal law and/or procedure in NSW. In

essay format, argue a position for or against the Bill.

Throughout your analysis, you must:

- (i) Identify the social issue(s) that the Bill seeks to address;
- (ii) Correctly outline the legal issue(s) that the Bill seeks to address;
- (iii) Define and cite the current law in NSW that the Bill seeks to address. Such a law may be prescribed by legislation or case law or may not exist at all. You will need to research this carefully before coming to a conclusion (and don't forget to refer to the commencement date of the relevant Bill or Act);
- (vi) You must use refer to at least one case in respect to each Bill in which the Court has interpreted legislation (an existing statute) relevant to your argument. Discuss what kind of interpretation the Court has adopted in respect to the legislation;
- (iv) Refer to relevant legislation, case law, academic commentary, law reform commission reports and other extrinsic materials to support your argument. Ensure that you refer to the relevant provision within either the *Acts Interpretation Act 1901 (Cth)* or the *Interpretation Act 1987 (NSW)* that allows you to introduce these materials in support of your argument (one reference to this provision throughout the essay is sufficient);
- (v) Correctly cite all references in accordance with the appropriate style prescribed by the *Australian Guide to Legal Citation 3rd Edition (AGLC3)*. Marks will be deducted for incorrect citation;
- (vi) Use *Laying Down the Law*, 'Part 3' to assist your understanding of the legislative process and statutory interpretation.

On successful completion you will be able to:

- Demonstrate competence in techniques of statutory interpretation. In particular, students will be introduced to the operation of legislation and its interaction with case law and academic commentary.

## Problem Question

Due: **6 October 2014, 5pm (Week 8)**

Weighting: **30%**

This assessment involves a legal problem question based on a fictional scenario. Students must correctly identify the relevant legal issues and advise (either the Police or a Criminal Defendant) on the possible consequences of criminal prosecution.

Legal issues are confined to course material covered between Weeks 2-7. This includes police powers, general principles of criminal responsibility, summary offences, common assault (as opposed to aggravated and sexual assault) and defences. Disregard all legal issues relating to bail and sentencing (apart from the maximum sentence in respect to any relevant offence provisions).

Students will be required to correctly identify 10 legal issues in total. One mark will be awarded in respect to each issue for:

- i) correctly identifying the legal issue; AND
- ii) correctly citing the relevant statutory provision (including the section number) and/or case law (including the paragraph number) that defines the issue; AND
- iii) drawing conclusions by following or distinguishing your case from the dominant statutory interpretation outlined in the relevant case law.

On successful completion you will be able to:

- Demonstrate advanced level understanding of the principles of criminal law in order to comply with Priestley requirements for legal practice
- Demonstrate coherent skills in analysis of the elements of select substantive offences
- Communicate an integrated body of knowledge about the criminal law through active and informed participation in class discussion. Students will be expected to communicate through oral and written means with legal and non-legal audiences at an advanced level.
- Solve complex hypothetical problem questions by the application of doctrinal and procedural rules of criminal law

## Take-Home Examination

Due: **21 November 2014, 5pm**

Weighting: **50%**

The exam has two component parts, (A) and (B). Part (A) is an essay question and Part (B) is a problem question.

Part (A):

Students will be given a choice of three discussion questions based on three discrete topics from Weeks 3 to 13. All assignments must:

- (i) introduce a theoretical perspective to contextualise their discussion;
- (ii) locate a recent Act (enacted within the past 2 years) or current Bill addressing an issue related to the essay topic;
- (iii) argue a coherent position for or against the problem addressed by the question by outlining and explain the key technical elements of the relevant law;
- (iii) outline and explain the key technical elements of the new law;
- (iv) support your position by arguing for or distinguishing between relevant case law and/or historical examples;
- (v) introduce and cite relevant criminology and jurisprudence in the form of Law Reform Commission Reports, recommendations and academic scholarship;

## Part B:

Part B involves a legal problem question based on a fictional scenario. Students must correctly identify the relevant legal issues and advise a client on the possible consequences of criminal prosecution.

(Part A: Weighting 30%; Part B: Weighting 20%)

Word Limit (Part A): 2000 words

Word Limit (Part B): 1000 words

## **Exam questions released 14 November at 9am.**

On successful completion you will be able to:

- Demonstrate advanced level understanding of the principles of criminal law in order to comply with Priestley requirements for legal practice
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- Develop, critique and advocate law reform proposals in the area of criminal justice, identifying and interpreting key legislative provisions and stakeholders. This will necessitate independent research.
- Communicate an integrated body of knowledge about the criminal law through active and informed participation in class discussion. Students will be expected to communicate through oral and written means with legal and non-legal audiences at an advanced level.
- Solve complex hypothetical problem questions by the application of doctrinal and procedural rules of criminal law

## **Class Participation**

Due: **2,3 & 26 October 2014**

Weighting: **5%**

Attendance:

Macquarie University students must attend 70% of classes to pass any given course. In semester 2, 2014 this course is offered by intensive mode only. The class participation mark will be awarded for meaningful participation at the compulsory on campus session.

Participation:

Meaningful contributions to class discussion demonstrating an appreciation of course content and skills acquired throughout the course.

On successful completion you will be able to:

- Demonstrate advanced level understanding of the principles of criminal law in order to comply with Priestley requirements for legal practice
- Demonstrate coherent skills in analysis of the elements of select substantive offences
- Demonstrate competence in techniques of statutory interpretation. In particular, students will be introduced to the operation of legislation and its interaction with case law and academic commentary.
- Communicate an integrated body of knowledge about the criminal law through active and informed participation in class discussion. Students will be expected to communicate through oral and written means with legal and non-legal audiences at an advanced level.

## Delivery and Resources

This unit has an online presence on iLearn, Macquarie's online learning management system ([ilearn.mq.edu.au](http://ilearn.mq.edu.au)). Students will require access to reliable broadband internet and a computer. More information is available at:

[www.mq.edu.au/iLearn/student\\_info/index.htm](http://www.mq.edu.au/iLearn/student_info/index.htm)

Students will also be required to use a computer to interact with online research databases and web-based research tools.

The unit has a blended mode of delivery. Students are required to access online materials and resources. In semester 2, 2014 this unit is offered by intensive attendance mode only. All students are required to attend the compulsory, 2 day on campus session on 2 - 3 October. Attendance at the 1 day on campus session on 26 October is voluntary.

The following textbooks are required:

- Brown, Farrier, Egger, McNamara, Steel, Grewcock and Spears, *Criminal Laws: Materials and Commentary on Criminal Law and Process in NSW*, (The Federation Press, 5th Edition, 2011).
- Howie and Johnson, *Annotated Criminal Legislation New South Wales 2013-2014*, (LexisNexis, 2014).
- Cook, Creyke, Geddes and Hamer, *Laying Down the Law*, (LexisNexis, 8th Edition, 2012).

## Unit Schedule

Students are referred to the iLearn page for this unit for further details.

## Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central](#).

Students should be aware of the following policies in particular with regard to Learning and Teaching:

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

Assessment Policy <http://mq.edu.au/policy/docs/assessment/policy.html>

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

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

Grievance Management Policy [http://mq.edu.au/policy/docs/grievance\\_management/policy.html](http://mq.edu.au/policy/docs/grievance_management/policy.html)

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

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

## Student Code of Conduct

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

## Student Support

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

## Learning Skills

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

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

## Student Services and Support

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

## Student Enquiries

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



## IT Help

For help with University computer systems and technology, visit <http://informatics.mq.edu.au/help/>.

When using the University's IT, you must adhere to the [Acceptable Use Policy](#). The policy applies to all who connect to the MQ network including students.

## Graduate Capabilities

### PG - Discipline Knowledge and Skills

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

This graduate capability is supported by:

#### Learning outcomes

- Demonstrate advanced level understanding of the principles of criminal law in order to comply with Priestley requirements for legal practice
- Demonstrate coherent skills in analysis of the elements of select substantive offences
- Demonstrate competence in techniques of statutory interpretation. In particular, students will be introduced to the operation of legislation and its interaction with case law and academic commentary.
- Communicate an integrated body of knowledge about the criminal law through active and informed participation in class discussion. Students will be expected to communicate through oral and written means with legal and non-legal audiences at an advanced level.
- Solve complex hypothetical problem questions by the application of doctrinal and procedural rules of criminal law

#### Assessment tasks

- Statutory Interpretation
- Problem Question
- Take-Home Examination

### PG - Critical, Analytical and Integrative Thinking

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

This graduate capability is supported by:

## **Learning outcomes**

- Demonstrate advanced level understanding of the principles of criminal law in order to comply with Priestley requirements for legal practice
- Demonstrate coherent skills in analysis of the elements of select substantive offences
- Demonstrate competence in techniques of statutory interpretation. In particular, students will be introduced to the operation of legislation and its interaction with case law and academic commentary.
- Develop, critique and advocate law reform proposals in the area of criminal justice, identifying and interpreting key legislative provisions and stakeholders. This will necessitate independent research.
- Solve complex hypothetical problem questions by the application of doctrinal and procedural rules of criminal law

## **Assessment tasks**

- Statutory Interpretation
- Problem Question
- Take-Home Examination
- Class Participation

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

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

This graduate capability is supported by:

## **Learning outcomes**

- Demonstrate coherent skills in analysis of the elements of select substantive offences
- Develop, critique and advocate law reform proposals in the area of criminal justice, identifying and interpreting key legislative provisions and stakeholders. This will necessitate independent research.
- Solve complex hypothetical problem questions by the application of doctrinal and procedural rules of criminal law

## **Assessment tasks**

- Problem Question
- Take-Home Examination

## PG - Effective Communication

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

This graduate capability is supported by:

### Learning outcomes

- Develop, critique and advocate law reform proposals in the area of criminal justice, identifying and interpreting key legislative provisions and stakeholders. This will necessitate independent research.
- Communicate an integrated body of knowledge about the criminal law through active and informed participation in class discussion. Students will be expected to communicate through oral and written means with legal and non-legal audiences at an advanced level.
- Solve complex hypothetical problem questions by the application of doctrinal and procedural rules of criminal law

### Assessment tasks

- Take-Home Examination
- Class Participation

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

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

This graduate capability is supported by:

### Learning outcomes

- Demonstrate competence in techniques of statutory interpretation. In particular, students will be introduced to the operation of legislation and its interaction with case law and academic commentary.
- Develop, critique and advocate law reform proposals in the area of criminal justice, identifying and interpreting key legislative provisions and stakeholders. This will necessitate independent research.
- Communicate an integrated body of knowledge about the criminal law through active and informed participation in class discussion. Students will be expected to communicate

through oral and written means with legal and non-legal audiences at an advanced level.

## **Assessment tasks**

- Statutory Interpretation
- Take-Home Examination
- Class Participation

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

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

This graduate capability is supported by:

## **Learning outcomes**

- Demonstrate advanced level understanding of the principles of criminal law in order to comply with Priestley requirements for legal practice
- Demonstrate coherent skills in analysis of the elements of select substantive offences
- Solve complex hypothetical problem questions by the application of doctrinal and procedural rules of criminal law

## **Assessment tasks**

- Statutory Interpretation
- Problem Question
- Take-Home Examination
- Class Participation