



# LAW 315

## Administrative Law

S2 Day 2016

*Dept of Law*

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## General Information

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Credit points

3

Prerequisites

LAW314

Corequisites

Co-badged status

Unit description

This unit provides a basic introduction to administrative law. It covers access to information (including the provision of reasons for decisions, freedom of information, and privacy), merits review, and judicial review, as well as considering varying theories, overarching concepts and doctrines, and statutory interpretation.

## 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:

Acquire knowledge of the basic mechanisms and principles of administrative law (merits review, judicial review, Freedom of Information, natural justice, errors of law).

Demonstrate and improve the skill of interpretation of statutes.

Demonstrate legal problem-solving.

Understand and apply case analysis.

Critical analysis of facts and the law.

Contextualise administrative law within the government, legal, constitutional and social contexts

Produce clear and grammatical writing and analysis.

Communicate clearly and thoughtfully

## General Assessment Information

**All written work must be submitted on time. Any work submitted late will receive a mark of zero. No extensions are granted**, other than in accordance with the Disruption to Study Policy, available at [http://www.mq.edu.au/policy/docs/disruption\\_studies/policy.html](http://www.mq.edu.au/policy/docs/disruption_studies/policy.html).

## Assessment Tasks

Name	Weighting	Due
<a href="#">Optional Refresher Quiz</a>	0%	End Week 1
<a href="#">Essay Statutory Interpretation</a>	15%	3 pm, Friday 2 September 2016
<a href="#">Problem Question.</a>	25%	3 pm, Monday 10 October 2016.
<a href="#">Sit down closed book exam</a>	60%	Exam period

## Optional Refresher Quiz

Due: **End Week 1**

Weighting: **0%**

This Quiz of 10 questions is designed to refresh students' memories of constitutional law studied in Semester 1, especially relating to the judicial power, Chapter III, and constitutional interpretation and characterization. **It is optional**, and designed merely to assist students recall basic principles. If students choose to do the Quiz, it should be completed by the end of Week 1. The answers will be available in Week 2.

On successful completion you will be able to:

- Acquire knowledge of the basic mechanisms and principles of administrative law (merits review, judicial review, Freedom of Information, natural justice, errors of law).
- Contextualise administrative law within the government, legal, constitutional and social contexts

## Essay Statutory Interpretation

Due: **3 pm, Friday 2 September 2016**

Weighting: **15%**

This is a short essay dealing with statutory interpretation: 750 words.

On successful completion you will be able to:

- Acquire knowledge of the basic mechanisms and principles of administrative law (merits review, judicial review, Freedom of Information, natural justice, errors of law).
- Demonstrate and improve the skill of interpretation of statutes.
- Contextualise administrative law within the government, legal, constitutional and social contexts
- Produce clear and grammatical writing and analysis.
- Communicate clearly and thoughtfully

## Problem Question.

Due: **3 pm, Monday 10 October 2016.**

Weighting: **25%**

A Problem question [1000 words].

On successful completion you will be able to:

- Acquire knowledge of the basic mechanisms and principles of administrative law (merits review, judicial review, Freedom of Information, natural justice, errors of law).
- Demonstrate and improve the skill of interpretation of statutes.
- Demonstrate legal problem-solving.

- Understand and apply case analysis.
- Critical analysis of facts and the law.
- Contextualise administrative law within the government, legal, constitutional and social contexts
- Produce clear and grammatical writing and analysis.
- Communicate clearly and thoughtfully

## Sit down closed book exam

Due: **Exam period**

Weighting: **60%**

This is a sit-down closed book exam; It deals solely with judicial review. There will be 1 Essay question (20%) and 1 Problem question (40%). Students may take 2 A4 pages of notes into the exam room.

On successful completion you will be able to:

- Acquire knowledge of the basic mechanisms and principles of administrative law (merits review, judicial review, Freedom of Information, natural justice, errors of law).
- Demonstrate and improve the skill of interpretation of statutes.
- Demonstrate legal problem-solving.
- Understand and apply case analysis.
- Critical analysis of facts and the law.
- Produce clear and grammatical writing and analysis.
- Communicate clearly and thoughtfully

## Delivery and Resources

*Technology:* This Unit uses iLearn; students must read the LAW315 Unit page religiously. Lectures are recorded through iLearn and are available through the Echo recordings on the LAW315 iLearn site.

*Delivery:* 1x2 hour lecture, and 1x1 hour tutorial per week. **Attendance at tutorials and the OCS is required.** Lecture Notes will be made available on iLearn.

*Resources:* The required text is text is: **MRLK Kelly, *LawBrief: Administrative Law* (Lawbook Co, 2015)**

The following three texts are also recommended:

- R Creyke, J McMillan, and M Smyth, *Control of Government Action: Text, Cases and Commentary* (Lexisnexis, 4th ed, 2015)
- Judith Bannister, Gabrielle Appleby, Anna Olijnyk, Joanna Howe, *Government Accountability: Australian Administrative Law* (Cambridge University Press, 2014)

- M Aronson and M Groves, *Judicial Review of Administrative Action* (Thomson Reuters, 5th ed., 2013)

## **Unit Schedule**

**LAW315 2016: Administrative Law**

**Complete Lecture and Tutorial Breakdown**

(begins next page)

*mrlk june 2016.*

Week	Topic	Readings (Kelly <i>Law Brief</i> Thomson 1st edn, 2015 [ <i>LB</i> ])
<p><b>Please Note:</b> each tutorial deals with issues raised in the <i>previous week's lectures</i>.</p>		
<p><b>ASSESSMENTS</b></p> <p><b>The Quiz is optional</b>, and due 3 pm, Friday, 5 August 2016.</p> <p><b>Assessment 1 (essay 15%)</b>: is compulsory and is available from the date of access and is due 3pm, Friday 2 September 2016.</p> <p><b>Assessment 2 (problem) 25%</b>: is compulsory and is available from the date of access and is due 3 pm, Monday 10 October 2016.</p> <p><b>The sit-down exam 60%</b> is on a date to be advised.</p>		

<p><b>Week 1</b> (beginning 1.8.16) <b>Lecture</b></p>	<p>1. Introduction to the course: Course outline; <i>Assessments (and What students must do to succeed)</i></p> <p>2. The nature of Administrative Law.</p> <p>3. Historical background to the development of administrative law generally.</p> <p>4. Theories relating to administrative law and its purpose.</p> <p>5. The Australian Reforms</p>	<ul style="list-style-type: none"> <li>· See iLearn</li> <li>· <b>LB</b> Chapter 1</li> </ul>
<p>Week 1 <b>Tutorial</b></p>	<p>General Introduction.</p> <p>Any questions?</p> <p>General discussion of significance of administrative law</p>	<p>No reading necessary.</p>
<p><b>Week 2</b> (beginning 8.8.16) <b>Lecture</b></p>	<p><b>1. Underlying doctrines</b></p> <ul style="list-style-type: none"> <li>- Sovereignty of Parliament; the Rule of Law; the separation of the judicial power.</li> </ul> <p><b>2. Statutory Interpretation and ‘the principle of legality’.</b></p> <ul style="list-style-type: none"> <li>- Bills and Statutes (what they are and how they are made)</li> <li>- See <a href="https://www.legislation.gov.au/">https://www.legislation.gov.au/</a> (formerly comlaw.gov.au.)</li> <li>- <i>Acts Interpretation Act 1901</i> (Cth).</li> <li>- Policy and law-making</li> <li>- <b>Legislative Instruments (delegated or subordinate legislation).</b></li> <li>- <i>Project Blue Sky</i></li> </ul>	<ul style="list-style-type: none"> <li>· <b>LB</b> Chapter 2</li> <li>· <b>LB</b> Chapter 2</li> <li>· See links on <b>iLearn</b></li> <li>· <b>LB</b> Chapter 17 326-334; 337-339</li> <li>· See <i>Blue Sky</i> highlighted on <b>iLearn</b>.</li> </ul>



<p>Week 2</p> <p><i>Tutorial</i></p>	<p>1. Discussion of the meaning of Administrative Law remedies:</p> <ul style="list-style-type: none"> <li>- The prerogative writs: <i>Certiorari</i>, Prohibition, Mandamus, <i>Quo warranto</i>, <i>Habeas corpus</i>; equity: Injunction, Declaration</li> <li>- What are they, and what is their purpose?</li> <li>- Why do they matter?</li> </ul> <p>2. The Australian constitutional issues:</p> <ul style="list-style-type: none"> <li>- What is the relevance of Chapter III?</li> <li>- Why is s 75 significant?</li> <li>- What are the 'constitutional writs'?</li> </ul>	<p><b>Reading:</b> As for Lecture 1.</p>
<p><b>Week 3</b></p> <p>(beginning 15.8. 16)</p> <p><b>Lecture</b></p>	<p>1. The 'principle of legality' continued.</p> <p>2. Basic Concepts: <b>Jurisdiction</b></p> <p>3. Basic Concepts: <b>Standing</b></p>	<ul style="list-style-type: none"> <li>· <b>LB</b> Chapter 2, 27-42</li> <li>· <b>LB</b> Chapter 3</li> <li>· <b>LB</b> Chapter 5.</li> </ul>

Week 3	<b>STATUTORY INTERPRETATION EXERCISE: AAT ACT</b>	<b>Reading:</b> As for Lecture 2.
Tutorial	<p data-bbox="296 226 400 248"><b>1975 (CTH)</b></p> <p data-bbox="296 277 991 353">Look at the <i>Administrative Appeals Tribunal Act 1975</i> (Cth) on <a href="https://www.legislation.gov.au/"><u>https://www.legislation.gov.au/</u></a> (formerly <a href="https://www.comlaw.gov.au/"><u>comlaw.gov.au</u></a>), and find the answers to the following questions by looking at the Act and its schedules.</p> <p data-bbox="296 383 639 405"><b>1. When did the Bill become an Act?</b></p> <p data-bbox="296 434 616 456">Refer to the relevant part of the Act.</p> <p data-bbox="296 486 703 508">Which government was in power at that time?</p> <p data-bbox="296 537 592 560"><b>2. What is the name of the Act?</b></p> <p data-bbox="296 589 472 611">Where is this found?</p> <p data-bbox="296 640 576 663"><b>3. How may the Act be cited?</b></p> <p data-bbox="296 692 632 714">Refer to any relevant parts of the Act.</p> <p data-bbox="296 743 695 766"><b>4. When did the Act come into operation?</b></p> <p data-bbox="296 795 632 817">Refer to any relevant parts of the Act.</p> <p data-bbox="296 846 624 869"><b>5. How did it come into operation?</b></p> <p data-bbox="296 898 616 920">(refer to the relevant part of the Act)</p> <p data-bbox="296 949 703 972">Which government was in power at that time?</p> <p data-bbox="296 1001 703 1023"><b>6. Where and to whom does the Act apply?</b></p> <p data-bbox="296 1052 632 1075">Refer to any relevant parts of the Act.</p> <p data-bbox="296 1104 783 1126"><b>7. How should one interpret provisions of this Act?</b></p> <p data-bbox="296 1155 344 1178">Why?</p> <p data-bbox="296 1207 783 1229"><b>8. How does one ascertain the purpose of this Act?</b></p> <p data-bbox="296 1258 839 1281">Refer to any relevant sections of any relevant Acts as well as the <i>AAT Act</i>.</p> <p data-bbox="296 1310 671 1332"><b>9.. What is the purpose of the AAT Act?</b></p> <p data-bbox="296 1361 671 1384">Refer to any relevant parts of the <i>AAT Act</i>.</p> <p data-bbox="296 1413 727 1469"><b>10. What is the purpose of the Administrative Appeals Tribunal?</b></p> <p data-bbox="296 1498 592 1520">Refer to relevant parts of the Act.</p> <p data-bbox="296 1550 632 1572"><b>11. How does the Tribunal operate?</b></p> <p data-bbox="296 1601 679 1624">Is the AAT bound by the rules of evidence?</p> <p data-bbox="296 1653 991 1697">Refer to relevant parts of the Act. (Why do you suppose this provision is in the Act?)</p> <p data-bbox="296 1727 903 1783"><b>12. Who may be appointed to the Tribunal and who appoints the members?</b></p> <p data-bbox="296 1812 592 1834">Refer to relevant parts of the Act.</p> <p data-bbox="296 1863 959 1886">Is there any outstanding or significant qualification for particular members?</p> <p data-bbox="296 1915 647 1937"><b>13. Who may appeal to the Tribunal?</b></p> <p data-bbox="296 1966 592 1989">Refer to relevant parts of the Act.</p> <p data-bbox="296 2018 991 2040"><b>14. Does the Act provide for the making of subordinate legislation? If so, where? Is there a particular name given to such provisions?</b></p>	

	<p>Who may make the subordinate legislation? What is the purpose of subordinate legislation?</p> <p>Where can one find the relevant subordinate legislation?</p>	
<p><b>Week 4</b> (beginning 22.8.16)</p> <p><b>Lecture</b></p>	<p><b>Decisions and Merits Review generally.</b></p> <p><b>Investigative bodies</b> (Recommendatory only)</p> <ul style="list-style-type: none"> <li>- Anti-corruption, whistleblowing</li> <li>- Royal Commissions</li> <li>- Judicial Inquiries</li> <li>- Human rights bodies</li> <li>- Ombudsmen</li> </ul> <p><b>Political merits review</b> (can replace decision)</p> <p><b>Informal</b> merits review (can replace decision)</p>	<p>Reading: <b>LB</b> Chapters 6 and 7; and 8 (Ombudsman).</p>
	<p><b>The Ombudsmen</b> (recommendatory only)</p> <p><b>Formal merits</b> review (can replace decision)</p> <ul style="list-style-type: none"> <li>- AAT, SSAT, VRB, RRT, MRT (Cth)</li> <li>- States – e.g. NCAT (ADT), VCAT</li> </ul> <p><b>Constitutional issues:</b> separation of powers</p> <ul style="list-style-type: none"> <li>- Judges as <i>Persona designata</i></li> <li>- Merits review and principles</li> </ul> <p>s <i>Ultra vires</i> and the ‘principle of legality’</p> <p><b>Merits Review by the Executive:</b></p> <ul style="list-style-type: none"> <li>- The AAT and the NCAT (ADT)</li> <li>- Inquisitorial or adversarial tribunals? (AAT, ADT; RRT, MRT)</li> </ul> <p><b>Judicial merits review</b></p> <ul style="list-style-type: none"> <li>- Appeals</li> </ul> <p><b>Legislative merits review</b></p> <ul style="list-style-type: none"> <li>- Parliamentary processes and Parliamentary Committees</li> <li>- Disallowance of delegated legislation</li> </ul> <p><b>Relationship between Merits Review and Judicial Review</b></p>	

<p>Week 4</p> <p><i>Tutorial</i></p>	<p><b>Discussion:</b></p> <ol style="list-style-type: none"> <li>1. What is the 'principle of legality'?</li> <li>2. What is the relationship between 'the principle of legality' and statutory interpretation?</li> <li>3. What is 'jurisdiction'?</li> <li>4. What is the relationship between them?</li> <li>5. Why is 'jurisdiction' important?</li> <li>6. What, if any, relationship exists between 'jurisdiction' and <i>ultra vires</i>?</li> </ol>	<p><b>Reading:</b> As for Lecture 3.</p>
<p><b>Assessment 1(essay) due in 3 pm Friday 2 September 2016 (end Week 5).</b></p>		
<p>Week 5 (beginning 29.8.16)</p> <p><b>Lecture</b></p>	<p><b>1. Facts and Evidence</b></p> <ul style="list-style-type: none"> <li>- The distinction</li> <li>- Errors of law and errors of fact</li> <li>- The distinction between merits review and judicial review</li> <li>- The relationship between merits review and judicial review</li> <li>- The separation of the judicial power</li> </ul> <p>The <b><i>Pochi</i></b> saga</p> <ul style="list-style-type: none"> <li>- 'logical probative material/evidence'?</li> </ul> <p>s Effect on later cases: <i>Bond</i>; <i>Eshetu</i>; <i>S20</i>; <i>SGLB</i>; <i>Rajamanikkam</i>; <i>SZMDS</i>; <i>FTZK</i></p> <p><b>Jurisdictional facts</b></p> <ul style="list-style-type: none"> <li>- Discussed in detail in Lectures 10 and 11.</li> </ul> <p><b>2. Reasons for decisions</b></p> <ul style="list-style-type: none"> <li>- Effect of ADJR Act s 13 (c.f. <i>Osmond</i>; <i>Kioa</i>; <i>Wainohu</i>) ['the Deane doctrine']</li> <li>- <i>Wu Shan Liang</i></li> <li>- <i>Osmond and Wainohu</i></li> <li>- <b>NOTE</b> <i>Haneef No 1</i>. (effect of giving reasons).</li> </ul>	<p><b>LB</b> Chapter 8.</p> <p><b><i>Pochi</i></b> cases highlighted on iLearn</p> <p><b>LB</b> Chapter 20, 422-427 (Cases highlighted on iLearn).</p>

<p>Week 5</p> <p><i>Tutorial</i></p>	<p><b>Merits Review:</b></p> <ol style="list-style-type: none"><li>1. What is an 'original decision'?</li><li>2. What are 'the merits' and what is 'merits review'?</li><li>3. Give at least 3 different examples of merits review.</li><li>4. What is the relationship between 'merits review' and the separation of powers doctrine?</li><li>5. Does the legislature engage in merits review? If so, how? If not, why not?</li><li>6. Does the judiciary engage in merits review? If so how? If not why not?</li><li>7. Why are there judges on the AAT and does this pose a problem?</li></ol> <p><b>Reasons:</b></p> <ol style="list-style-type: none"><li>8. Are reasons important? If so, why?<ul style="list-style-type: none"><li>- What purpose or purposes do they serve?</li></ul></li><li>9. Why is ADJR section 13 relevant to the giving of reasons, and what effect has it had?</li><li>10. What is the current law on reasons?<ul style="list-style-type: none"><li>- For administrators?</li><li>- For judges?</li></ul></li></ol>	<p><b>Reading:</b></p> <p>As for Lecture 4</p>	
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<p><b>Week 6</b> (beginning 5.9.16) <b>Lecture</b></p>	<p><b>Introduction to Judicial Review Generally</b> (including a brief overview of ADJR)</p> <p><b>Judicial Review: what is it?</b></p> <ul style="list-style-type: none"> <li>- What is its purpose?</li> <li>- Theories? Practical? Accountability? People? Citizens?</li> <li>- Common law and statutory judicial review</li> </ul> <p><b>Basic principles of judicial review</b></p> <ul style="list-style-type: none"> <li>- Standing, jurisdiction, justiciability</li> </ul> <p><b>Constitutional Judicial review (s 75(v))</b></p> <ul style="list-style-type: none"> <li>- 'constitutional writs' (mandamus and prohibition)</li> </ul> <p><b>Review for errors of law</b></p> <ul style="list-style-type: none"> <li>- Not errors of fact (<i>Waterford; Bond</i>)</li> </ul> <p>s <b>Except:</b> re jurisdictional facts</p> <p>s <i>Ultra vires/intra vires</i></p> <p>s Cannot replace decision</p> <p>s <b>Exceptions:</b> <i>habeas corpus</i>; jurisdictional facts</p> <p><b>Policy ramifications</b> (<i>S157; M70; S156</i>)</p> <p><b>Review decisions</b></p> <ul style="list-style-type: none"> <li>- Which decisions? ('justiciability'; 'matters')</li> <li>- What is a 'decision'?</li> </ul> <p><b>Justiciability:</b> what is it?</p> <p><b>Jurisdiction</b> : Recall significance of jurisdiction.</p> <p><b>Duties and Discretions</b></p> <p>The peculiar position in <b>M61</b></p> <p>Remedies at common law and statute</p> <p>Remedies under the <i>Constitution</i>: 'constitutional writs'</p> <p><b>The ADJR Act</b> (and State counterparts)</p> <p>The '<b>ultra vires</b>' issue</p>	<p><b>LB Chapter 10.</b> (N.B. Brennan J in <i>Quin</i> 1990; and 'the principle of legality' <b>LB</b> Chapter 2, especially 27-34.</p> <p>Recall <b>LB</b> Chapters 3,4 and 5.</p> <p><b>M70 and S156</b> highlighted on iLearn (see also <b>LB</b> 334; 381-390).</p> <p><b>LB</b> Chapter 4 on Justiciability</p> <p><b>LB</b> Chapter 3 on Jurisdiction.</p> <p><b>LB</b> 168-170</p> <p>See <b>M61</b> highlighted on <i>iLearn</i></p> <p><b>LB</b> Chapter 11 (ADJR)</p> <p><b>LB</b> Chapter 10: 171-176</p>
<p>Week 6 <b>Tutorial</b></p>	<p><b>Problem TBA</b></p>	

<p><b>Week 7</b> (beginning 12.9.16) <b>Lecture</b></p>	<p><b>Grounds for Judicial Review: Errors of Law:</b></p> <p><b>Natural Justice: The Hearing Rule</b></p> <ul style="list-style-type: none"> <li>· Background to natural justice</li> <li>· 2 arms: hearing rule, rule against bias</li> <li>· The Hearing Rule (<i>audi alterem partem</i>)</li> <li>· A breach of natural justice will be a 'jurisdictional error' (<i>Aala</i>)</li> <li>· The approaches to natural justice (Mason J; Brennan J (<i>Kioa</i>); <i>Annetts</i>; <i>M61</i>; <i>S10</i>)</li> <li>- The difficulties with the idea of 'procedural fairness' (Mason J <i>Kioa</i>) and 'practical injustice' (Gleeson CJ in <i>Lam</i>; c.f. <i>Parker</i>)</li> <li>· 'Legitimate expectations'</li> <li>· The <i>M61</i> situation</li> </ul>	<p><b>Reading:</b> <b>LB</b> Chapters 12, 13, 14.</p> <p>Cases highlighted on learn.</p> <p><b>LB</b> Chapter 14 <b>M61</b> highlighted on learn</p>
<p>Week 7 <i>Tutorial</i></p>	<p><b>Problem : TBA</b></p>	<p><b>Reading:</b> As for Lecture 6.</p>
<p><b>Mid-Semester Recess: 17.9.16-2.10.16.</b></p>		
<p><b>OnCampus Session for Externals: Monday 19 and Tuesday 20 September 2016</b></p>		
<p><b>Week 8</b> (beginning 3.10.16) <b>Lecture</b></p>	<p><b>Natural Justice: The Hearing Rule Continued.</b></p> <p><b>The Rule against Bias.</b></p>	<p><b>Reading:</b> as for Lecture 7 (<b>LB</b> Chapters 12, 13, 14).</p> <p><b>LB</b> Chapter 15 <b>LB:</b> Chapter 15.</p>
<p>Week 8 <i>Tutorial</i></p>	<p><b>Problem Question: TBA</b></p>	<p><b>Reading:</b> as for Lecture 7</p>
<p><b>Assessment 2 (problem) due in 3 pm Monday 10 October 2016 (Week 9).</b></p>		

<p><b>Week 9</b> (beginning 10.10.16)</p> <p><b>Lecture</b></p>	<p><b>Grounds for Judicial Review: Other Errors of Law: Errors of law in a decision involving a <u>discretion</u>:</b></p> <ul style="list-style-type: none"> <li>· Distinction between discretion and a duty</li> <li>- The ADJR problem</li> <li>· Relevant and irrelevant considerations</li> <li>· Improper purpose and bad faith</li> <li>· ‘Unreasonableness’, ‘proportionality’, ‘rationality’, and <i>Wednesbury</i></li> <li>- The distinction between the UK and Australia</li> <li>- Rationality; ‘proportionality’</li> <li>- Separation of powers</li> <li>- The ADJR situation</li> <li>- <i>Li</i>.</li> <li>· Other ‘error of law’ (<i>M76</i>).</li> </ul> <p><b>Errors of law in a decision involving a <u>discretion</u>— <u>delegated legislative decisions</u>:</b></p> <ul style="list-style-type: none"> <li>· What is delegated legislation?</li> <li>- The Federal Register of Legislation (used to be FRLI), the <i>Legislative Instruments Act 2003</i>, and disallowance</li> <li>· Rules of statutory interpretation</li> <li>- Inapplicability of ADJR</li> <li>· <b>The <i>Blue Sky</i> principle</b></li> <li>· <b><i>M70</i> and <i>S156</i></b></li> </ul>	<p><b>Reading:</b> <i>LB</i> Chapter 16.</p> <p><i>Wednesbury</i>; <i>Li</i>. (on iLearn)</p> <p><i>LB</i> Chapter 17.</p> <p><a href="https://www.legislation.gov.au/">https://www.legislation.gov.au/</a> (used to be <a href="http://www.comlaw.gov.au">www.comlaw.gov.au</a>)</p> <p>Cases highlighted on iLearn</p>
<p>Week 9 <i>Tutorial</i></p>	<p><b>Problem: TBA</b></p>	<p><b>Reading:</b> as for Lectures 7 and 8.</p>
<p><b>Week 10</b> (beginning 17.10.16)</p> <p><b>Lecture</b></p>	<p><b>Errors of Law Jurisdictional Errors I</b></p> <p>§ Recall ‘Jurisdiction’ (<i>LB</i> Chapter 3).</p> <p>§ What is a jurisdictional error?</p> <p>§ Why does this kind of error of law matter?</p> <ul style="list-style-type: none"> <li>- <i>Anisimic</i>; <i>Craig</i>; <i>Aala</i>; <i>Kirk</i>.</li> </ul> <p>§ What does the HCA now say is a jurisdictional error?</p> <ul style="list-style-type: none"> <li>- For administrators? <ul style="list-style-type: none"> <li>- For courts?</li> </ul> </li> </ul>	<p><b>LB</b> Chapter 18.</p>



<p>Week 10 Tutorial</p>	<p><b>Problem: TBA</b></p>	<p><b>Reading:</b> As for Lecture 9 <i>MIAC v Li</i> and <i>Wednesbury</i> Also READ <i>MIAC v Li</i> in <b>LB</b> 305-12</p>
<p><b>Week 11</b> (beginning 24.10.16) <b>Lecture</b></p>	<p><b>Errors of Law Jurisdictional Errors II</b> (including <b>jurisdictional facts</b>)</p> <ul style="list-style-type: none"> <li>- What is a 'jurisdictional fact'?</li> <li>- What is a 'non-jurisdictional fact'?</li> <li>- What is so significant about a 'jurisdictional fact'?</li> </ul> <p>s <i>Bellbird Collieries</i>; <i>Eshetu</i>; <i>S20</i>; <i>Rajamanikkam</i>; <i>SZMDS</i>; <i>M70</i></p> <p>s <i>Blue Sky</i>; <i>Futuris</i> and no-invalidity clauses</p> <p>s the (US) <i>Chevron</i> doctrine; <i>Corporation of the City of Enfield</i>; <i>Kirk</i>; <i>M70</i>; <i>S156</i>.</p> <ul style="list-style-type: none"> <li>- Consider the separation of powers doctrine.</li> </ul>	<p><b>LB</b> Chapter 18.</p>
<p>Week 11 Tutorial</p>	<p><b>Problem: TBA</b></p>	<p><b>Reading:</b> as for Lecture 10</p>
<p><b>Week 12</b> (beginning 31.10.16) <b>Lecture</b></p>	<p><b>Errors of law: Jurisdictional Errors: <u>Habeas corpus</u></b></p> <ul style="list-style-type: none"> <li>- <i>Ruddock v Vadarlis</i>; <i>Al Masri</i>; <i>Al Kateb</i>; <i>M47</i>; <i>M76</i></li> </ul> <p><b>Privative Clauses</b></p> <ul style="list-style-type: none"> <li>- What is their purpose?</li> <li>- <i>The Hickman principle</i>; <i>Plaintiff S157</i>; <i>Batterham</i>; <i>Kirk</i>; <i>Wainohu</i></li> </ul>	<p><b>LB</b> Chapter 18</p> <p><b>LB</b> Chapter 19</p>
<p>Week 12 Tutorial</p>	<p><b>Problem: TBA</b></p>	<p><b>Reading:</b> As for Lectures 10 and 11</p>
<p><b>Week 13</b> (beginning 7.11.16) <b>Lecture</b></p>	<p><b>Privative Clauses Continued:</b></p> <ul style="list-style-type: none"> <li>- <i>The 'Kable principle'</i></li> <li>- <b>Effect on the states</b> (<i>Batterham</i>; <i>Fish v Solution 6</i>; <i>Kirk</i>; <i>Wainohu</i>; <i>AG (NT) v Emmerson</i>)</li> </ul> <p><b>FOI and Privacy</b></p> <p><b>The Exam</b></p>	<p><b>LB</b> 18-20, 416.</p> <p><b>LB</b> Chapter 20.</p>

Week 13	Discussion of problem-solving, isolation of issues	Reading: As for Lectures 7-12.
Tutorial		
<b>Examination period: 14 November -25 November 2016</b>		
<b>LAW315 Sit-Down exam (TBA: usually in the first week of the examination period)</b>		
<b>Results released 16 December 2016</b>		

## 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)

**New Assessment Policy in effect from Session 2 2016** [http://mq.edu.au/policy/docs/assessment/policy\\_2016.html](http://mq.edu.au/policy/docs/assessment/policy_2016.html). For more information visit [http://students.mq.edu.au/events/2016/07/19/new\\_assessment\\_policy\\_in\\_place\\_from\\_session\\_2/](http://students.mq.edu.au/events/2016/07/19/new_assessment_policy_in_place_from_session_2/)

Assessment Policy prior to Session 2 2016 <http://mq.edu.au/policy/docs/assessment/policy.html>

Grading Policy prior to Session 2 2016 <http://mq.edu.au/policy/docs/grading/policy.html>

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

Complaint Management Procedure for Students and Members of the Public [http://www.mq.edu.au/policy/docs/complaint\\_management/procedure.html](http://www.mq.edu.au/policy/docs/complaint_management/procedure.html)

Disruption to Studies Policy [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/)

## Results

Results shown in *iLearn*, or released directly by your Unit Convenor, are not confirmed as they are subject to final approval by the University. Once approved, final results will be sent to your student email address and will be made available in [eStudent](#). For more information visit [ask.mq.edu.au](http://ask.mq.edu.au).

## Student Support

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

### Learning Skills

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

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

## Student Services and Support

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

## Student Enquiries

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

## IT Help

For help with University computer systems and technology, visit [http://www.mq.edu.au/about\\_us/offices\\_and\\_units/information\\_technology/help/](http://www.mq.edu.au/about_us/offices_and_units/information_technology/help/).

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

## Graduate Capabilities

### Creative and Innovative

Our graduates will also be capable of creative thinking and of creating knowledge. They will be imaginative and open to experience and capable of innovation at work and in the community. We want them to be engaged in applying their critical, creative thinking.

This graduate capability is supported by:

### Learning outcomes

- Demonstrate legal problem-solving.
- Critical analysis of facts and the law.
- Contextualise administrative law within the government, legal, constitutional and social contexts

## Assessment tasks

- Essay Statutory Interpretation
- Problem Question.
- Sit down closed book exam

## Capable of Professional and Personal Judgement and Initiative

We want our graduates to have emotional intelligence and sound interpersonal skills and to demonstrate discernment and common sense in their professional and personal judgement. They will exercise initiative as needed. They will be capable of risk assessment, and be able to handle ambiguity and complexity, enabling them to be adaptable in diverse and changing environments.

This graduate capability is supported by:

## Learning outcomes

- Acquire knowledge of the basic mechanisms and principles of administrative law (merits review, judicial review, Freedom of Information, natural justice, errors of law).
- Demonstrate and improve the skill of interpretation of statutes.
- Demonstrate legal problem-solving.
- Understand and apply case analysis.
- Critical analysis of facts and the law.
- Contextualise administrative law within the government, legal, constitutional and social contexts
- Produce clear and grammatical writing and analysis.
- Communicate clearly and thoughtfully

## Assessment tasks

- Optional Refresher Quiz
- Essay Statutory Interpretation
- Problem Question.
- Sit down closed book exam

## Discipline Specific Knowledge and Skills

Our graduates will take with them the intellectual development, depth and breadth of knowledge, scholarly understanding, and specific subject content in their chosen fields to make them competent and confident in their subject or profession. They will be able to demonstrate, where relevant, professional technical competence and meet professional standards. They will be able to articulate the structure of knowledge of their discipline, be able to adapt discipline-specific knowledge to novel situations, and be able to contribute from their discipline to inter-disciplinary solutions to problems.

This graduate capability is supported by:

## **Learning outcomes**

- Acquire knowledge of the basic mechanisms and principles of administrative law (merits review, judicial review, Freedom of Information, natural justice, errors of law).
- Demonstrate and improve the skill of interpretation of statutes.
- Demonstrate legal problem-solving.
- Understand and apply case analysis.
- Critical analysis of facts and the law.
- Contextualise administrative law within the government, legal, constitutional and social contexts
- Produce clear and grammatical writing and analysis.
- Communicate clearly and thoughtfully

## **Assessment tasks**

- Optional Refresher Quiz
- Essay Statutory Interpretation
- Problem Question.
- Sit down closed book exam

## **Critical, Analytical and Integrative Thinking**

We want our graduates to be capable of reasoning, questioning and analysing, and to integrate and synthesise learning and knowledge from a range of sources and environments; to be able to critique constraints, assumptions and limitations; to be able to think independently and systemically in relation to scholarly activity, in the workplace, and in the world. We want them to have a level of scientific and information technology literacy.

This graduate capability is supported by:

## **Learning outcomes**

- Demonstrate legal problem-solving.
- Understand and apply case analysis.
- Critical analysis of facts and the law.
- Contextualise administrative law within the government, legal, constitutional and social contexts
- Produce clear and grammatical writing and analysis.
- Communicate clearly and thoughtfully

## **Assessment tasks**

- Optional Refresher Quiz

- Essay Statutory Interpretation
- Problem Question.
- Sit down closed book exam

## Problem Solving and Research Capability

Our graduates should be capable of researching; of analysing, and interpreting and assessing data and information in various forms; of drawing connections across fields of knowledge; and they should be able to relate their knowledge to complex situations at work or in the world, in order to diagnose and solve problems. We want them to have the confidence to take the initiative in doing so, within an awareness of their own limitations.

This graduate capability is supported by:

### Learning outcomes

- Acquire knowledge of the basic mechanisms and principles of administrative law (merits review, judicial review, Freedom of Information, natural justice, errors of law).
- Demonstrate and improve the skill of interpretation of statutes.
- Demonstrate legal problem-solving.
- Understand and apply case analysis.
- Critical analysis of facts and the law.
- Contextualise administrative law within the government, legal, constitutional and social contexts
- Produce clear and grammatical writing and analysis.
- Communicate clearly and thoughtfully

### Assessment tasks

- Optional Refresher Quiz
- Essay Statutory Interpretation
- Problem Question.
- Sit down closed book exam

## Effective Communication

We want to develop in our students the ability to communicate and convey their views in forms effective with different audiences. We want our graduates to take with them the capability to read, listen, question, gather and evaluate information resources in a variety of formats, assess, write clearly, speak effectively, and to use visual communication and communication technologies as appropriate.

This graduate capability is supported by:

## Learning outcomes

- Critical analysis of facts and the law.
- Produce clear and grammatical writing and analysis.
- Communicate clearly and thoughtfully

## Assessment tasks

- Essay Statutory Interpretation
- Problem Question.
- Sit down closed book exam

## Engaged and Ethical Local and Global citizens

As local citizens our graduates will be aware of indigenous perspectives and of the nation's historical context. They will be engaged with the challenges of contemporary society and with knowledge and ideas. We want our graduates to have respect for diversity, to be open-minded, sensitive to others and inclusive, and to be open to other cultures and perspectives: they should have a level of cultural literacy. Our graduates should be aware of disadvantage and social justice, and be willing to participate to help create a wiser and better society.

This graduate capability is supported by:

## Learning outcomes

- Acquire knowledge of the basic mechanisms and principles of administrative law (merits review, judicial review, Freedom of Information, natural justice, errors of law).
- Critical analysis of facts and the law.
- Contextualise administrative law within the government, legal, constitutional and social contexts

## Assessment tasks

- Optional Refresher Quiz
- Essay Statutory Interpretation
- Problem Question.

## Changes from Previous Offering

The programme of Lectures and tutorials for 2016 has been changed slightly from that given in 2015.

## Changes since First Published

Date	Description
05/07/2016	Changes as requested by Director L&T.

