



# LAWS556

## Succession

S2 External 2016

*Dept of Law*

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## General Information

Unit convenor and teaching staff

Unit Convenor

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Credit points

3

Prerequisites

24cp in LAW or LAWS units

Corequisites

Co-badged status

Unit description

This unit explores the law relating to the making and construction of wills; the grant of probate and administration; and the distribution of testate and intestate estates. The provisions of the Family Provision Act 1982 are considered as well as those of the Wills, Probate and Administration Act 1898 (NSW). Emphasis is given to the role of the lawyer in planning the client's affairs in the light of the above legislation. Will drafting, including drafting exercises, to comply effectively with clients' instructions, forms an important part of this unit.

## 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:

Describe the nature of wills and family provision

Draft and interpret wills

Advise competing family claims and deal with intestacy

Analyse case law on the Succession Act 2006 (NSW) and apply to the interpretation of wills

Assess the various needs of a family in order to give appropriate advice on wills and family provision

Understand the competing nature of family claims

Develop theoretical understanding as regards different conceptions of inheritance

## Assessment Tasks

Name	Weighting	Due
<a href="#"><u>Research Essay</u></a>	40%	Monday 17th October
<a href="#"><u>Tutorial Participation / OCS</u></a>	30%	Weeks 1 - 12
<a href="#"><u>Final Assessment Quiz</u></a>	30%	Monday 7th November

### Research Essay

Due: **Monday 17th October**

Weighting: **40%**

Research essay 3,000 words.

Please refer to iLearn for full details of the essay topic.

This essay will test students understanding of inheritance law and theory. Students will also be assessed on their ability to apply the principles of plain English.

All work is to be submitted via Turnitin.

Late submissions will not be marked and will receive a score of 0.

On successful completion you will be able to:

- Describe the nature of wills and family provision
- Advise competing family claims and deal with intestacy
- Analyse case law on the Succession Act 2006 (NSW) and apply to the interpretation of wills
- Assess the various needs of a family in order to give appropriate advice on wills and family provision
- Understand the competing nature of family claims
- Develop theoretical understanding as regards different conceptions of inheritance

### Tutorial Participation / OCS

Due: **Weeks 1 - 12**

Weighting: **30%**

Specific readings and exercises will be set for each tutorial. The tutorial program is set out on iLearn in a weekly format.

External students will be assessed on their participation at the compulsory on-campus session to be held on the 17th and 18th September.

External students should also undertake the readings and look at the exercises for the tutorials, as this material will form the basis for the activities undertaken at the on campus session. More information on the structure of the on campus session will be provided closer to the time on iLearn.

You must attend all tutorials. Tutors will engage in ongoing assessment of student participation in the tutorial discussions, debates, and exercises using the following criteria:

- 1. Preparation and understanding of material:** the student has listened to the lecture materials and other learning resources provided online, read the required reading and has attempted to link the tutorial materials to the lectures, to other course materials and to their life experience
- 2. Ability to critically discuss the material:** the student is able to critically discuss the tutorial materials and contributes to class discussions in a way that assists the learning of others
- 3. Clear expression of ideas:** the student is able to clearly express their ideas about the materials
- 4. Engaging with other students:** the student engages with others in the class taking an active role in discussions, and other activities assigned by the tutor. The student responds to others in the class by listening to them, providing constructive feedback and asking questions.
- 5. Demonstration of skills:** The student is able to demonstrate good communication skills and engage with others in a professional and respectful manner.

From time to time, tutors will collect examples of student work completed in tutorials. Tutors may set impromptu quizzes in class or at the on campus session to assess a student's knowledge of the tutorial preparation material.

If you cannot attend a tutorial you must send a message to your tutor on iLearn to inform them of your absence. Your tutor may assign you work to complete in lieu of attendance.

Extended absences of more than two tutorials must meet the criteria for Disruption to Studies. Applications for Disruptions to Studies are made online at [ask.mq.edu.au](http://ask.mq.edu.au) in response to a serious and unavoidable event.

On successful completion you will be able to:

- Describe the nature of wills and family provision
- Draft and interpret wills
- Advise competing family claims and deal with intestacy

- Analyse case law on the Succession Act 2006 (NSW) and apply to the interpretation of wills
- Assess the various needs of a family in order to give appropriate advice on wills and family provision
- Understand the competing nature of family claims
- Develop theoretical understanding as regards different conceptions of inheritance

## Final Assessment Quiz

Due: **Monday 7th November**

Weighting: **30%**

The Final Assessment Quiz will cover all aspects of Succession Law.

This is a time limited quiz of one hour to test students' understanding of all the unit materials from week 1 to week 12.

Students can open the quiz at any time after 6pm. The quiz will automatically shut down at 9pm. Students will have one hour to complete the quiz from the time that they open it. When one hour has expired, all saved answers will be automatically submitted.

Full details will be released on iLearn.

On successful completion you will be able to:

- Describe the nature of wills and family provision
- Draft and interpret wills
- Advise competing family claims and deal with intestacy
- Analyse case law on the Succession Act 2006 (NSW) and apply to the interpretation of wills
- Assess the various needs of a family in order to give appropriate advice on wills and family provision
- Understand the competing nature of family claims
- Develop theoretical understanding as regards different conceptions of inheritance

## Delivery and Resources

There are no "live" lectures for this unit. This unit is delivered via online learning content and weekly one hour tutorials from weeks 1-12 for internals and a compulsory two day on campus session for external students.

The required text is: Croucher, R; Vines, P, *Succession: Families, Property and Death* (LexisNexis, 4th ed, 2013). Available from the Macquarie University Co-op Bookshop.

Additional reading will be available via iLearn and the unit reading list maintained by the library.

Students require access to a computer and a secure and reliable server. All Unit requirements and a weekly teaching and reading schedule are outlined in iLearn.

All assessments are to be submitted electronically via Turnitin.

## Unit Schedule

The complete schedule of readings, learning materials and tutorial requirements is outlined on iLearn	
<b>Week 1 - NB Tutorials start in Week1</b>	
The Scope and Boundaries of Succession Law	
<b>Week 2</b>	
Family Provision: History, Jurisdiction and Eligible Applicants	
<b>Week 3</b>	
Family Provision: Approach to Applications	
<b>Week 4</b>	
Family Provision: Matters to be Considered by the Court	
<b>Week 5</b>	
Intestacy and Spouses	
<b>Week 6</b>	
Intestacy and Other Relationships, Estates of Indigenous Persons and Bona Vacantia	
<b>Week 7</b>	
Formal Requirements of Wills and the Dispensing Power	
<b>Week 8</b>	
Capacity and Undue Influence	
<b>Week 9</b>	
Life Estates and Other Testamentary Trusts	
<b>Week 10</b>	
Rectification and Construction of Wills	
<b>Week 11</b>	
Ademption, Lapse and Equitable Doctrines	
<b>Week 12</b>	
Revocation and Alteration of Wills	

Week 13

Revision

## Learning and Teaching Activities

### Developing and applying analytical and research abilities in succession law

Students will be presented with a variety of legal problems related to the application of the law and principles of succession and will be expected to engage in class discussions, debates and other activities to develop their analytical and research skills.

## 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](#).

## 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

- Advise competing family claims and deal with intestacy
- Understand the competing nature of family claims
- Develop theoretical understanding as regards different conceptions of inheritance



## Assessment task

- Tutorial Participation / OCS

## Learning and teaching activity

- Students will be presented with a variety of legal problems related to the application of the law and principles of succession and will be expected to engage in class discussions, debates and other activities to develop their analytical and research skills.

## 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

- Draft and interpret wills
- Assess the various needs of a family in order to give appropriate advice on wills and family provision

## Learning and teaching activities

- Students will be presented with a variety of legal problems related to the application of the law and principles of succession and will be expected to engage in class discussions, debates and other activities to develop their analytical and research skills.

## Commitment to Continuous Learning

Our graduates will have enquiring minds and a literate curiosity which will lead them to pursue knowledge for its own sake. They will continue to pursue learning in their careers and as they participate in the world. They will be capable of reflecting on their experiences and relationships with others and the environment, learning from them, and growing - personally, professionally and socially.

This graduate capability is supported by:

## Learning and teaching activities

- Students will be presented with a variety of legal problems related to the application of the law and principles of succession and will be expected to engage in class discussions, debates and other activities to develop their analytical and research skills.

## 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

- Describe the nature of wills and family provision
- Draft and interpret wills
- Advise competing family claims and deal with intestacy
- Analyse case law on the Succession Act 2006 (NSW) and apply to the interpretation of wills
- Assess the various needs of a family in order to give appropriate advice on wills and family provision
- Understand the competing nature of family claims
- Develop theoretical understanding as regards different conceptions of inheritance

### Assessment tasks

- Research Essay
- Tutorial Participation / OCS
- Final Assessment Quiz

### Learning and teaching activities

- Students will be presented with a variety of legal problems related to the application of the law and principles of succession and will be expected to engage in class discussions, debates and other activities to develop their analytical and research skills.

## 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

- Describe the nature of wills and family provision
- Draft and interpret wills
- Advise competing family claims and deal with intestacy
- Analyse case law on the Succession Act 2006 (NSW) and apply to the interpretation of wills

## Assessment tasks

- Research Essay
- Final Assessment Quiz

## Learning and teaching activities

- Students will be presented with a variety of legal problems related to the application of the law and principles of succession and will be expected to engage in class discussions, debates and other activities to develop their analytical and research skills.

## 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

- Describe the nature of wills and family provision
- Advise competing family claims and deal with intestacy
- Develop theoretical understanding as regards different conceptions of inheritance

## Assessment tasks

- Research Essay
- Tutorial Participation / OCS
- Final Assessment Quiz

## Learning and teaching activities

- Students will be presented with a variety of legal problems related to the application of the law and principles of succession and will be expected to engage in class discussions, debates and other activities to develop their analytical and research skills.

## 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

- Draft and interpret wills
- Advise competing family claims and deal with intestacy
- Assess the various needs of a family in order to give appropriate advice on wills and family provision
- Develop theoretical understanding as regards different conceptions of inheritance

### Assessment task

- Tutorial Participation / OCS

### Learning and teaching activity

- Students will be presented with a variety of legal problems related to the application of the law and principles of succession and will be expected to engage in class discussions, debates and other activities to develop their analytical and research skills.

## 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 and teaching activities

- Students will be presented with a variety of legal problems related to the application of the law and principles of succession and will be expected to engage in class discussions, debates and other activities to develop their analytical and research skills.

## Socially and Environmentally Active and Responsible

We want our graduates to be aware of and have respect for self and others; to be able to work with others as a leader and a team player; to have a sense of connectedness with others and

country; and to have a sense of mutual obligation. Our graduates should be informed and active participants in moving society towards sustainability.

This graduate capability is supported by:

### **Learning and teaching activities**

- Students will be presented with a variety of legal problems related to the application of the law and principles of succession and will be expected to engage in class discussions, debates and other activities to develop their analytical and research skills.