



# LAWS808

## Administrative Law

S2 Day 2017

*Dept of Law*

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## General Information

Unit convenor and teaching staff

Daniel Ghezelbash

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Contact via 98507042

W3A517

Wednesday, 12-1pm (except for weeks 5-8 when I will be on research leave)

Elisa Tringali

[elisa.tringali@mq.edu.au](mailto:elisa.tringali@mq.edu.au)

Credit points

4

Prerequisites

LAWS807

Corequisites

Co-badged status

Unit description

In this unit students examine the principles of administrative law, that is, the law governing government decision-making within the Commonwealth of Australia. It considers the fundamental principles that underpin good decision-making, such as accountability, integrity and procedural fairness, and explores the various avenues available to challenge the merits and the legality of government decisions. It also considers modern developments, such as the increasing involvement of the private sector in providing goods and services traditionally provided by the public sector, and the impact this is having in the field of administrative law

## 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 an advanced understanding of key mechanisms and principles of administrative law (merits review, judicial review, Freedom of Information, natural justice, errors of law).
- Identify contemporary administrative law questions and develop, critical, coherent and well-researched arguments

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

Demonstrate advanced legal problem-solving skills

Collaborate with peers to develop arguments and optimise learning and reflective practices

Produce clear and grammatical writing and analysis

## General Assessment Information

### Macquarie Law School Policy on Assessment

In the absence of a successful application for special consideration due to a disruption to studies, any assessment task submitted after its published deadline will not be graded and will receive a mark of zero. Applications for a Disruption to Studies are made electronically via [ask.mq.edu.au](http://ask.mq.edu.au) and should be accompanied by supporting documentation. Students should refer to the [Disruption to Studies policy](#) for complete details of the policy and a description of the supporting documentation required.

Word limits will be strictly applied and work above the word limit will not be marked.

All assessments in the unit are to be submitted electronically. Plagiarism detection software is used in this unit.

### Supplementary examinations

Any student who is unable to sit the final exam or who sits the exam but then makes a successful application for Disruption to Studies will be provided with an alternative assessment. This may be in the form of an oral examination to be conducted by the unit convenor.

### Moderation

Detailed marking rubrics will be made available on ilearn.

### OCS

For external students, the on-campus session is compulsory. Students who are unable to attend must apply for a disruption to studies. If that application is accepted, alternative work will be set in lieu of on-campus attendance.

## Assessment Tasks

Name	Weighting	Hurdle	Due
<a href="#">Group Presentation</a>	15%	No	Beginning Week 5
<a href="#">Research Essay</a>	35%	No	Friday 6 October
<a href="#">Final Examination</a>	50%	No	Examination Period

## Group Presentation

Due: **Beginning Week 5**

Weighting: **15%**

### Internal students:

From Week 5, groups will begin the seminar with a 20 minute presentation, followed by questions. Groups will be allocated in Week 1, and presentation weeks will be randomly allocated. As a group, your task will be to:

1. Formulate a question, based on that week's topic, to be discussed and argued before the class. Groups must check their question with the convenor prior to presenting.
2. Develop a thesis. The group must present an argument that answers the question they have chosen. This should include: presenting the question and why it is important; addressing counter-argument; reaching well-reasoned conclusions.
3. Deliver the presentation in an articulate, accessible, and engaging manner; involve the entire presenting group; and provide a well-researched resource for the class.
4. Be able to answer subsequent questions from the convenor and/or class members

### External students:

An individual presentation of ten minutes, followed by questions, will be required on either day two of the first compulsory on campus session (27 September) or the final, voluntary on campus session (28 October). Topics will be allocated online; students should then check their chosen question with the convenor. The requirements are the same as those set out above.

On successful completion you will be able to:

- Acquire an advanced understanding of key mechanisms and principles of administrative law (merits review, judicial review, Freedom of Information, natural justice, errors of law).
- Identify contemporary administrative law questions and develop, critical, coherent and well-researched arguments
- Contextualise administrative law within the government, legal, constitutional and social settings
- Demonstrate advanced legal problem-solving skills
- Collaborate with peers to develop arguments and optimise learning and reflective practices

## Research Essay

Due: **Friday 6 October**

Weighting: **35%**

Students will develop a 2000 word research essay on a topic that will consolidate their learning

in this subject.

Detailed instructions regarding this assessment task will be provided on iLearn and outlined in the Seminars regularly from Week 1.

On successful completion you will be able to:

- Acquire an advanced understanding of key mechanisms and principles of administrative law (merits review, judicial review, Freedom of Information, natural justice, errors of law).
- Identify contemporary administrative law questions and develop, critical, coherent and well-researched arguments
- Contextualise administrative law within the government, legal, constitutional and social settings
- Produce clear and grammatical writing and analysis

## Final Examination

Due: **Examination Period**

Weighting: **50%**

A sit-down closed book exam; but student may take 2 A4 pages of notes into the exam room.

On successful completion you will be able to:

- Acquire an advanced understanding of key mechanisms and principles of administrative law (merits review, judicial review, Freedom of Information, natural justice, errors of law).
- Identify contemporary administrative law questions and develop, critical, coherent and well-researched arguments
- Contextualise administrative law within the government, legal, constitutional and social settings
- Demonstrate advanced legal problem-solving skills
- Produce clear and grammatical writing and analysis

## Delivery and Resources

Convening duties are carried out by Dr Daniel Ghezelbash.

Weekly lectures in this unit will be pre-recorded and available to students on iLearn. They are two hours in duration. They are shared with the UG Admin Law unit and delivered by Pallavi Sinha.

Elisa Tringali will lead the 1.5 hour weekly seminars, which **begin in week 2** for internals. External students will have a compulsory two day on campus session on Tuesday 26 and Wednesday 27 September, with an additional optional on campus session on Saturday 28 October.

From time to time, there will also be an additional supplementary recorded material prepared/curated by Elisa Tringali. This will consist of short recorded lectures, videos and other multimedia online content.

The lectures will commence in Week 1 and go through to Week 13.

The required text is: **MRL Kelly, *LawBrief: Administrative Law* (Lawbook Co, 2014)**

The following two texts are also recommended:

- R Creyke, J McMillan, and M Smyth, *Control of Government Action: Text, Cases and Commentary* (Lexisnexis, 4th ed, 2015)
- M Aronson, M Groves and G Weeks, *Judicial Review of Administrative Action* (Thomson Reuters, 6th ed., 2017)

## Unit Schedule

Week 1 (31/7)	Introduction
Week 2 (7/8)	Underlying doctrines; Statutory Interpretation and the Principle of Legality
Week 3 (14/8)	Basic Concepts: Jurisdiction & Standing
Week 4 (21/8)	Decisions and Merits Review
Week 5 (28/8)	Facts and Evidence; Reasons for Decisions
Week 6 (4/9)	Introduction to Judicial Review
Week 7 (11/9)	Grounds for Judicial Review; Natural Justice: The Hearing Rule
Week 8 (2/10)	Natural Justice: Hearing Rule (cont); and Rule Against Bias
Week 9 (9/10)	Natural Justice: Rule Against Bias (cont); other errors of law; Jurisdictional errors (I)
Week 10 (16/10)	Jurisdictional Errors (II): 'Jurisdictional Fact'
Week 11 (23/10)	Jurisdictional Errors (II): 'Jurisdictional Fact' (cont)
Week 12 (30/10)	Habeas Corpus, Privative and non-invalidity clauses
Week 13 (6/11)	FOI and Privacy; Revision

## 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\\_2016.html](http://mq.edu.au/policy/docs/assessment/policy_2016.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 (in effect until Dec 4th, 2017): [http://www.mq.edu.au/policy/docs/disruption\\_studies/policy.html](http://www.mq.edu.au/policy/docs/disruption_studies/policy.html)

Special Consideration Policy (in effect from Dec 4th, 2017): <https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policies/special-consideration>

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).

### Macquarie Law School Policy on Assessment

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Word limits will be strictly applied and work above the word limit will not be marked.

All assessments in the unit are to be submitted electronically. Plagiarism detection software is used in this unit.

## 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

### 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 legal problem-solving skills
- Collaborate with peers to develop arguments and optimise learning and reflective practices

### Assessment tasks

- Group Presentation
- Research Essay



## 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

- Acquire an advanced understanding of key mechanisms and principles of administrative law (merits review, judicial review, Freedom of Information, natural justice, errors of law).
- Identify contemporary administrative law questions and develop, critical, coherent and well-researched arguments
- Contextualise administrative law within the government, legal, constitutional and social settings
- Demonstrate advanced legal problem-solving skills
- Collaborate with peers to develop arguments and optimise learning and reflective practices

### Assessment tasks

- Group Presentation
- Research Essay
- Final 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

- Identify contemporary administrative law questions and develop, critical, coherent and well-researched arguments
- Contextualise administrative law within the government, legal, constitutional and social settings
- Demonstrate advanced legal problem-solving skills
- Collaborate with peers to develop arguments and optimise learning and reflective practices

## Assessment tasks

- Group Presentation
- Research Essay
- Final Examination

## 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

- Identify contemporary administrative law questions and develop, critical, coherent and well-researched arguments
- Demonstrate advanced legal problem-solving skills

## Assessment tasks

- Group Presentation
- Research Essay
- Final 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

- Demonstrate advanced legal problem-solving skills
- Collaborate with peers to develop arguments and optimise learning and reflective practices
- Produce clear and grammatical writing and analysis

## Assessment tasks

- Group Presentation
- Research Essay
- Final Examination

## 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

- Acquire an advanced understanding of key mechanisms and principles of administrative law (merits review, judicial review, Freedom of Information, natural justice, errors of law).
- Identify contemporary administrative law questions and develop, critical, coherent and well-researched arguments
- Contextualise administrative law within the government, legal, constitutional and social settings
- Collaborate with peers to develop arguments and optimise learning and reflective practices

### Assessment tasks

- Group Presentation
- Research Essay

## Changes since First Published

Date	Description
18/07/2017	Ditto. Publication date of textbook updated.
12/07/2017	Changed seminars to start in week 2 (based on availability of the tutor)