



# LAWS814

## Evidence

S2 Day 2017

*Dept of Law*

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### **Disclaimer**

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## General Information

Unit convenor and teaching staff  
Lecturer, Unit Convenor  
Ilija Vickovich  
[ilija.vickovich@mq.edu.au](mailto:ilija.vickovich@mq.edu.au)  
Contact via [ilija.vickovich@mq.edu.au](mailto:ilija.vickovich@mq.edu.au)  
W3A 624  
Monday 11am-12pm

Credit points  
4

Prerequisites  
LAWS813

Corequisites

Co-badged status

Unit description

This unit examines the principles and rules of evidence in civil and criminal proceedings under the uniform evidence legislation in New South Wales. Major topics include important aspects of proof, privilege and the adducing of testimonial, documentary and real evidence, as well as unreliable evidence. The principal areas of admissibility of evidence are also examined in detail, including relevance, hearsay and admissions, opinion evidence, tendency and coincidence evidence, credibility and character, as well as identification evidence.

## 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:

- 1 Demonstrate a detailed and thorough knowledge of legal principles relating to the law of evidence.
- 2 Analyse complex factual situations involving the law of evidence and apply relevant legal principles to solving problems.
- 3 Formulate, present and evaluate oral and written arguments on complex problems and principles related to the law of evidence, drawing upon relevant legal authority and policy

considerations.

4 Apply advanced research skills.

5 Assume responsibility for one's own learning by managing one's time effectively so as to complete and submit correct assessment tasks online.

## Assessment Tasks

Name	Weighting	Hurdle	Due
<a href="#">Assignment 1</a>	25%	No	1 Sep
<a href="#">Assignment 2</a>	25%	No	20 Oct
<a href="#">Final Examination</a>	50%	No	8 Nov

### Assignment 1

Due: **1 Sep**

Weighting: **25%**

Assignment No 1 in this unit is a research paper. The question for Assignment No 1 will be available on iLearn by the end of the first week of semester. Assignment No 1 must be a properly referenced formal response with appropriate analysis and argument supported by relevant legal authorities. Assignment No 1 must be typed and must be kept to a maximum 2,500 words (excluding footnotes and the bibliography). In completing Assignment No 1, students must comply with the Australian Guide to Legal Citation, compiled by the Melbourne University Law Review. The Guide is available for download free at: <http://www.law.unimelb.edu.au/mulr/aglc.htm>. Further instructions in relation to Assignment No 1, including on how to submit it, will be posted on iLearn. If, for justifiable reasons, a student is unable to submit the Assignment No 1 on time, he or she may submit a disruption to study application in accordance with the University's Disruption to Studies Policy. If special consideration is granted the student will be given a different research question to be completed at a time determined by the unit convenor.

On successful completion you will be able to:

- 1 Demonstrate a detailed and thorough knowledge of legal principles relating to the law of evidence.
- 3 Formulate, present and evaluate oral and written arguments on complex problems and principles related to the law of evidence, drawing upon relevant legal authority and policy considerations.
- 4 Apply advanced research skills.
- 5 Assume responsibility for one's own learning by managing one's time effectively so as

to complete and submit correct assessment tasks online.

## Assignment 2

Due: **20 Oct**

Weighting: **25%**

Assignment No 2 in this unit will require students to answer a problem question or questions. The problem question or questions for Assignment No 2 will be available on iLearn by the end of Week 4 of the semester. Assignment No 2 must be a properly referenced formal response with appropriate analysis and argument supported by relevant authoritative cases and commentary. Assignment No 2 must be typed and must be kept to a maximum 2,500 words (excluding footnotes and the bibliography). In completing Assignment No 2, students must comply with the Australian Guide to Legal Citation, compiled by the Melbourne University Law Review. The Guide is available for download free at: <http://www.law.unimelb.edu.au/mulr/aglc.htm>. Further instructions in relation to Assignment No 2, including on how to submit it, will be posted on iLearn. If, for justifiable reasons, a student is unable to submit the Assignment No 2 on time, he or she may submit a disruption to study application in accordance with the University's Disruption to Studies Policy. If special consideration is granted the student will be given a different hypothetical problem assignment to be completed at a time determined by the unit convenor.

On successful completion you will be able to:

- 1 Demonstrate a detailed and thorough knowledge of legal principles relating to the law of evidence.
- 2 Analyse complex factual situations involving the law of evidence and apply relevant legal principles to solving problems.
- 3 Formulate, present and evaluate oral and written arguments on complex problems and principles related to the law of evidence, drawing upon relevant legal authority and policy considerations.
- 5 Assume responsibility for one's own learning by managing one's time effectively so as to complete and submit correct assessment tasks online.

## Final Examination

Due: **8 Nov**

Weighting: **50%**

The final examination in this unit will be a take home examination. The final examination will be based on material covered in the unit, ie all topics and materials covered in the unit. The final examination will be in the form of a number of problem style questions. All questions will have to be answered. **Students will be able to access the final examination paper on iLearn from 9 am on Wed 8 Nov and must submit their answers to the final examination paper by 1 pm on the same day.** Detailed information about the date, submission details and format of the exam will be provided to students well before the due date.

A student's answers to the final examination questions must not exceed a total of 2,500 words (exclusive of footnotes). This is an upper word limit and a student need not write 2,500 words if he or she can answer the questions in less than 2,500 words. A bibliography is not required. If, for justifiable reasons, a student is unable to attempt the take home examination at the above time, the student should not make any attempt whatsoever. If the student submits a written response, he or she will be marked on that response. The student should instead submit nothing at the required time, but instead contact the unit convenor by email and also apply for special consideration in accordance with the University's Disruption to Studies Policy, which, if granted, will enable the student to complete an alternative comparable assessment at a time determined by the unit convenor.

On successful completion you will be able to:

- 1 Demonstrate a detailed and thorough knowledge of legal principles relating to the law of evidence.
- 2 Analyse complex factual situations involving the law of evidence and apply relevant legal principles to solving problems.
- 3 Formulate, present and evaluate oral and written arguments on complex problems and principles related to the law of evidence, drawing upon relevant legal authority and policy considerations.
- 5 Assume responsibility for one's own learning by managing one's time effectively so as to complete and submit correct assessment tasks online.

## Delivery and Resources

**DELIVERY AND RESOURCES** Delivery: Day, External

**This unit will use:** iLearn webpage and Echo recorded lectures

**Weekly Lectures (Internal and Distance Students):** Weekly lectures in this unit will be pre-recorded and available to students on iLearn. Weekly lectures will commence in Week 1 and go through to Week 12.

**Weekly Tutorials (Internal Students):** For internal students, weekly tutorials of 1.5 hours duration will commence in Week 2 and go through to week 13. Tutorials will consist of questions for discussion. The questions to be discussed each week are available in the Unit Outline. Tutorials will take place on **Tuesdays from 2pm to 3.30pm in W5A 105.**

**On Campus Sessions (Distance Students):** For distance students, there are three days of on campus sessions. Distance students **must** attend the first **two days of on campus sessions (Mon-Tue 18-19 Sep in C5C 240)**. Attendance at **the third day of on campus sessions (Sat 14 Oct in C5C 240)** is not compulsory, but is strongly recommended. On campus sessions will run from 9-am to 12 noon and 1 pm to 4 pm on each of the three days. Further information about the on campus sessions will be made available in due course.

**Prescribed Text:**

John Anderson, *Uniform Evidence Law: Text and Essential Cases*, 3rd ed, The Federation Press, 2016

**Recommended Texts**

A Ligertwood & G Edmond, *Australian Evidence: A Principled Approach to the Common Law and the Uniform Acts*, 5th ed, LexisNexis, 2010

J Anderson, N Williams & L Clegg, *The New Law of Evidence: Annotation and Commentary on the Uniform Evidence Acts*, 2nd ed, LexisNexis 2009

Hon D Heydon, *Cross on Evidence*, 8th ed. LexisNexis, 2009

S Odgers, *Uniform Evidence Law*, 9th ed, Lawbook Co, 2010

M Kumar, S Odgers & E Peden, *Uniform Evidence Law: Commentary and Materials*, 3rd ed, Lawbook Co, 2009

F Feld, T Alexander & M Bagaric, *Uniform Evidence Law: Principles and Practice*, 2nd ed, Oxford UP, 2015

J Gans & A Palmer, *Uniform Evidence*, 2nd ed, Oxford UP, 2014

## Unit Schedule

Wk	Week Commencing	Lecture Topic	Tutorial Topic
1	31 July	Introduction to Unit; Overview of Litigation Systems	<b>No Tutorial</b>
2	6 August	Trial Fundamentals; Judicial Discretions	<b>1 Introduction to Unit; Overview of Litigation Systems</b>
3	13 August	Testamentary Evidence	<b>2 Trial Fundamentals; Judicial Discretions</b>
4	20 August	Documentary Evidence; Real Evidence	<b>3 Testamentary Evidence</b>
5	27 August	Proof; Relevance	<b>4 Documentary Evidence; Real Evidence</b>

6	4 September	Hearsay Evidence I	<b>5 Proof; Relevance</b>
7	11 September	Hearsay Evidence II; Admissions	<b>6 Hearsay Evidence I</b>
		<b>Mid-Semester Break</b> <b>[On-Campus Session 28-29 Sep]</b>	
8	2 October	Tendency and Coincidence Evidence	<b>7 Hearsay Evidence II; Admissions</b>
9	9 October	Opinion Evidence	<b>8 Tendency and Coincidence Evidence</b>
10	16 October	Credibility Evidence	<b>9 Opinion Evidence</b>
11	23 October	Character Evidence	<b>10 Credibility Evidence</b>
12	30 October	Identification Evidence	<b>11 Character Evidence</b>
13	6 November	No Lecture	<b>12 Identification Evidence</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)

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).

## 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/](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

- 2 Analyse complex factual situations involving the law of evidence and apply relevant legal principles to solving problems.
- 3 Formulate, present and evaluate oral and written arguments on complex problems and principles related to the law of evidence, drawing upon relevant legal authority and policy considerations.
- 5 Assume responsibility for one's own learning by managing one's time effectively so as to complete and submit correct assessment tasks online.

#### Assessment tasks

- Assignment 2
- Final Examination

### 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

- 1 Demonstrate a detailed and thorough knowledge of legal principles relating to the law of evidence.
- 2 Analyse complex factual situations involving the law of evidence and apply relevant legal principles to solving problems.
- 3 Formulate, present and evaluate oral and written arguments on complex problems and principles related to the law of evidence, drawing upon relevant legal authority and policy

considerations.

## Assessment tasks

- Assignment 1
- Assignment 2
- 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

- 1 Demonstrate a detailed and thorough knowledge of legal principles relating to the law of evidence.
- 2 Analyse complex factual situations involving the law of evidence and apply relevant legal principles to solving problems.
- 3 Formulate, present and evaluate oral and written arguments on complex problems and principles related to the law of evidence, drawing upon relevant legal authority and policy considerations.
- 4 Apply advanced research skills.

## Assessment tasks

- Assignment 1
- Assignment 2

## 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

- 1 Demonstrate a detailed and thorough knowledge of legal principles relating to the law of evidence.

- 2 Analyse complex factual situations involving the law of evidence and apply relevant legal principles to solving problems.
- 4 Apply advanced research skills.

## Assessment tasks

- Assignment 1
- Assignment 2
- 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

- 1 Demonstrate a detailed and thorough knowledge of legal principles relating to the law of evidence.
- 2 Analyse complex factual situations involving the law of evidence and apply relevant legal principles to solving problems.
- 3 Formulate, present and evaluate oral and written arguments on complex problems and principles related to the law of evidence, drawing upon relevant legal authority and policy considerations.
- 4 Apply advanced research skills.
- 5 Assume responsibility for one's own learning by managing one's time effectively so as to complete and submit correct assessment tasks online.

## Assessment tasks

- Assignment 1
- Assignment 2
- 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**

- 3 Formulate, present and evaluate oral and written arguments on complex problems and principles related to the law of evidence, drawing upon relevant legal authority and policy considerations.
- 5 Assume responsibility for one's own learning by managing one's time effectively so as to complete and submit correct assessment tasks online.

## **Assessment task**

- Assignment 1