



LAWS504

Advanced Administrative Law

S1 Day 2018

Dept of Law

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General Information

Unit convenor and teaching staff

Joel Harrison

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W3A Rm 512

N/A

Credit points

3

Prerequisites

LAW315

Corequisites

Co-badged status

This unit is co-badged with LAWS837

Unit description

Administrative law, as a living offshoot of constitutional law, is a challenging, changing, highly political, fundamentally interesting and extraordinarily important facet of the way in which Australians are governed, and illustrative of the way in which the rule of law, the sovereignty of parliament, and the separation of powers doctrines are applied in the Australian jurisdiction. The unit, after a brief refresher in basic administrative law principles, undertakes an intensive examination of merits and judicial review principles and jurisprudential issues in the context of decisions made in the migration jurisdiction.

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:

- Develop knowledge of central aspects of administrative law in the migration jurisdiction
- Demonstrate problem-solving through isolation of issues in complex migration issues in administrative law
- Demonstrate critical analysis of facts, legislation and case law
- Cultivate independent research and thinking skills, showing both understanding and creativity in analysis

Communicate clearly with well-cited, logical, grammatically correct, and substantiated arguments and analysis

General Assessment Information

Special Consideration

Unless a Special Consideration request has been submitted and approved:

(a) a penalty for lateness will apply – two (2) marks out of 100 will be deducted per day for assignments submitted after the due date; and

(b) no assignment will be accepted more than seven (7) days (including weekends) after the original submission deadline.

(c) No late submissions will be accepted for timed assessments.

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.

Moderation

Marking rubrics will be made available on iLearn. Fail papers are double marked.

Assessment Tasks

Name	Weighting	Hurdle	Due
Research Essay	40%	No	7 May, 3pm
Take-Home Examination	60%	No	15 June, 3pm

Research Essay

Due: **7 May, 3pm**

Weighting: **40%**

This is an independent research essay. Students will be required to analyse a complex question of administrative law, and show independent research in their response.

Essays must be submitted in double line spaced text, 12 point font. The word limit is **2,500 words**, excluding footnotes. Footnotes should only be used for references, with no further discussion. Content over 2,500 words will not be marked. A bibliography should not be provided.

The essay must comply with the *Australian Guide to Legal Citation (3 ed)*. The Guide is available here <http://mulr.law.unimelb.edu.au/go/AGLC3>

All work is to be submitted via Turnitin on iLearn.

The essay question and assessment guidance will be released via iLearn.

On successful completion you will be able to:

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Take-Home Examination

Due: **15 June, 3pm**

Weighting: **60%**

This is a take-home examination. It will consist of two questions: one essay question and one problem question. The examination can cover any material in the unit. It is designed to test students' knowledge and capacity to apply principles, to analyse, and to advise. Further details on the examination and a marking rubric will be provided on iLearn.

Students will be able to access the examination paper on iLearn from **9am, Friday 15 June** and must submit their answers by **3pm, Friday 15 June**. All work is to be submitted via Turnitin on iLearn.

This is a timed assessment and no late submissions will be accepted.

A bibliography is not required. Footnoting is not required. Rather, a student should provide references for the examination in this manner:

e.g. 'The High Court has held that [proposition] (*Case Name*).'

e.g. 'As Goldsworthy argues, "[Quote]".' OR 'As Goldsworthy argues, [paraphrase].' [Here, there is no need to reference the source.]

The **word limit** for the examination (including both questions) is **3000 words**.

As with all Law units, Laws504 has an exception to the assessment policy allowing a take-home examination during the formal exam period.

On successful completion you will be able to:

- Develop knowledge of central aspects of administrative law in the migration jurisdiction
- Demonstrate problem-solving through isolation of issues in complex migration issues in administrative law
- Demonstrate critical analysis of facts, legislation and case law

Delivery and Resources

Technology

This Unit uses iLearn; students must read the LAWS504 Unit page, which also has resources such as cases.

Lectures are recorded through iLearn and are available through the iLearn Active Learning Platform. Lectures will either be presented live, or pre-recorded on a weekly basis.

All assessments are to be submitted through Turnitin.

Internal Delivery

Students are expected to attend or listen to the lectures and work their way through the other materials on a weekly basis.

There is a weekly one-hour face to face tutorial from weeks 2-13 for internal students.

External Delivery

External students are expected to listen to the weekly lectures, recorded. Attendance at the On Campus Session (OCS) is compulsory. Students who are unable to attend must apply for a special consideration. If that application is accepted, alternative work will be set in lieu of on-campus attendance.

Resources

The **required texts** are:

- MRL Kelly, *LawBrief: Administrative Law* (Lawbook Co, 2014). This text should be available from the Co-op Bookstore. (Students may already have a copy from studying LAW315).
- R Creyke, J McMillan and M Smyth, *Control of Government Action: Text, Cases and Commentary* (Lexisnexis, 4th ed, 2015)

The following texts may also be of **wider interest or additional texts for reference**, but are not required. Those textbooks with 'UK' after them are primarily related to administrative law in the United Kingdom.

- Aronson, M, Groves, M, and Weeks, G, *Judicial Review of Administrative Action* (Thomson Reuters, 6th ed, 2017)
- Allars, Margaret, *Butterworths Casebook Series ; Administrative Law - Cases and Commentary* (Butterworths, 1997) [Now a very old book; but with good case summaries of the older cases]
- Cane, P, and McDonald, L, *Principles of Administrative Law: Regulation and Governance* (Oxford University Press, 2008)
- Cane, P, and McDonald, L, *Cases and Materials for Principles of Administrative Law: Legal Regulation of Governance* (Oxford University Press, 2009)
- Clark, David, and McCoy, Gerard, *Habeas Corpus: Australia, New Zealand, The South*

Pacific (The Federation Press, Sydney, 2000)

- Craig, PP, *Administrative Law* (5th ed, Sweet & Maxwell, 2003) [UK]
- Creyke, R, and Keyzer, P, *The Brennan Legacy : Blowing the Winds of Legal Orthodoxy* (The Federation Press, Sydney, 2002)
- Creyke, R, and McMillan, J, (eds), *The Kerr Vision of Australian Administrative Law at the Twenty-Five Year Mark* (CIPL, 1998) [excellent reproduction of the original 3 reports leading to the reforms]
- Crock, M and Berg, L, *Immigration, Refugees and Forced Migration Law, Policy and Practice in Australia* (Federation Press, Sydney, 2011)
- Douglas, R (ed.) *Douglas & Jones' Administrative Law* (6th ed, The Federation Press, Sydney, 2009)
- Endicott, Timothy, *Administrative Law*, (OUP, 2009) [UK: excellent, clear introduction to UK administrative law]
- Forsyth, C and Hare, I, (eds), *The Golden Metwand and the Crooked Cord: Administrative Law Essays in Honour of Sir William Wade QC* (Clarendon Press, Oxford, 1998) [UK- very interesting book]
- Forsyth, C, *Judicial Review and the Constitution* (Hart Publishing, London, 2000) [UK]
- Germov, Roz, former Member of the Refugee Review Tribunal and Motta, Francesco, former Adviser to the Minister for Immigration and Member of the Refugee Review Tribunal, *Refugee Law in Australia* (OUP, 2002)
- *LexisNexis Administrative Law Collection*, Legislation, (ADJR, AAT, FOI, Ombudsman), LexisNexis, Sydney, 2004
- Pearce, D C, and Geddes, R S, *Statutory Interpretation in Australia* (7th ed, LexisNexis Butterworths, 2011)
- Sharpe, R J, *The Law of Habeas Corpus* (2nd ed, Clarendon Press, Oxford, 1989)
- Wade, H W R, and Forsyth, C, *Administrative Law* (9th ed, OUP, 2004) [UK]
- Woolf, H, Jowell, J, and Le Sueur, A, (eds) *De Smith, Woolf & Jowell's Principles of Judicial Review* (Sweet & Maxwell, London, 1999) [UK]

Journals

There are five journals specifically devoted to Australian and British administrative law:

- In Australia: *Public Law Review*, *Australian Journal of Administrative Law*, and the *AIAL Forum* (produced by the [Australian Institute of Administrative Law](http://www.aial.org.au));
- In Britain: *Public Law*, and *Public Administration*

The *Federal Law Review* also contains many articles on administrative law. Most other law journals also contain frequent articles on public law.

Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central \(https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central\)](https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central). Students should be aware of the following policies in particular with regard to Learning and Teaching:

- [Academic Appeals Policy](#)
- [Academic Integrity Policy](#)
- [Academic Progression Policy](#)
- [Assessment Policy](#)
- [Fitness to Practice Procedure](#)
- [Grade Appeal Policy](#)
- [Complaint Management Procedure for Students and Members of the Public](#)
- [Special Consideration Policy](#) (**Note:** *The Special Consideration Policy is effective from 4 December 2017 and replaces the Disruption to Studies Policy.*)

Undergraduate students seeking more policy resources can visit the [Student Policy Gateway \(https://students.mq.edu.au/support/study/student-policy-gateway\)](https://students.mq.edu.au/support/study/student-policy-gateway). It is your one-stop-shop for the key policies you need to know about throughout your undergraduate student journey.

If you would like to see all the policies relevant to Learning and Teaching visit [Policy Central \(https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central\)](https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/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/study/getting-started/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) 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

IT Help

For help with University computer systems and technology, visit 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 problem-solving through isolation of issues in complex migration issues in administrative law
- Demonstrate critical analysis of facts, legislation and case law
- Cultivate independent research and thinking skills, showing both understanding and creativity in analysis
- Communicate clearly with well-cited, logical, grammatically correct, and substantiated arguments and analysis

Assessment task

- Take-Home Examination

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

- Cultivate independent research and thinking skills, showing both understanding and creativity in analysis
- Communicate clearly with well-cited, logical, grammatically correct, and substantiated arguments and analysis

Assessment task

- Take-Home Examination

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 outcome

- Develop knowledge of central aspects of administrative law in the migration jurisdiction

Assessment task

- Take-Home Examination

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

- Develop knowledge of central aspects of administrative law in the migration jurisdiction
- Demonstrate problem-solving through isolation of issues in complex migration issues in

administrative law

- Demonstrate critical analysis of facts, legislation and case law
- Cultivate independent research and thinking skills, showing both understanding and creativity in analysis
- Communicate clearly with well-cited, logical, grammatically correct, and substantiated arguments and analysis

Assessment tasks

- Research Essay
- Take-Home Examination

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 problem-solving through isolation of issues in complex migration issues in administrative law
- Demonstrate critical analysis of facts, legislation and case law
- Cultivate independent research and thinking skills, showing both understanding and creativity in analysis
- Communicate clearly with well-cited, logical, grammatically correct, and substantiated arguments and analysis

Assessment tasks

- Research Essay
- Take-Home Examination

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

- Demonstrate problem-solving through isolation of issues in complex migration issues in administrative law
- Demonstrate critical analysis of facts, legislation and case law
- Cultivate independent research and thinking skills, showing both understanding and creativity in analysis
- Communicate clearly with well-cited, logical, grammatically correct, and substantiated arguments and analysis

Assessment tasks

- Research Essay
- Take-Home Examination

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

- Demonstrate problem-solving through isolation of issues in complex migration issues in administrative law
- Demonstrate critical analysis of facts, legislation and case law
- Cultivate independent research and thinking skills, showing both understanding and creativity in analysis

Assessment tasks

- Research Essay
- Take-Home Examination

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 outcome

- Cultivate independent research and thinking skills, showing both understanding and creativity in analysis

Assessment tasks

- Research Essay
- Take-Home Examination