



# LAWS5056

## Succession

Session 1, Online-scheduled-weekday 2022

*Macquarie Law School*

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### **Disclaimer**

Macquarie University has taken all reasonable measures to ensure the information in this publication is accurate and up-to-date. However, the information may change or become out-dated as a result of change in University policies, procedures or rules. The University reserves the right to make changes to any information in this publication without notice. Users of this publication are advised to check the website version of this publication [or the relevant faculty or department] before acting on any information in this publication.

## General Information

Unit convenor and teaching staff

Richard McCullagh

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Contact via iLearn

Consultation by appointment

Credit points

10

Prerequisites

80cp 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) and the Succession Act 2006 (NSW). Emphasis is given to the role of the lawyer in planning the client's affairs in the light of the above legislation. Students in this unit will study will drafting and complete exercises in drafting a will that complies with a client's instructions.

## 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:

**ULO1:** Describe and explain links between understandings of property and relationships in the context of succession law.

**ULO2:** Analyse case law on the Succession Act 2006 (NSW) and apply to the validity and interpretation of wills.

**ULO3:** Critically evaluate the law on family provision and apply family provision legislation to complex factual situations involving estate disputes.

**ULO4:** Advise on competing family claims dealing with testate estates, intestate estates and partial intestacy.

**ULO5:** Assess the various legal principles to give appropriate advice on wills.

## General Assessment Information

Students should be aware of and apply the University policy on academic honesty.

Unless a Special Consideration request has been submitted and approved, (a) a penalty for lateness will apply – 10 marks out of 100 credit will be deducted per day for assignments submitted after the due date – and (b) no assignment will be accepted seven days (incl. weekends) after the original submission deadline.

No late submissions will be accepted for timed assessments - e.g. quizzes, online tests.

All assessments are submitted electronically. Turnitin plagiarism detection software is used to check all written assessments.

Students should carefully check that they submit the correct file for an assessment as no re-submissions will be accepted after the due date and time, including instances where students upload an incorrect file in error.

Word limits are strictly applied. Work above the word limit will not be marked. Footnotes are to be used only for referencing. Referencing must conform to the requirements set out in the Australian Guide to Legal Citation.

Marking of all assessments is moderated through a process of blind marking and the use of detailed marking rubrics.

## Assessment Tasks

Name	Weighting	Hurdle	Due
<a href="#"><u>Participation Tasks</u></a>	20%	No	ongoing
<a href="#"><u>Succession Law essay</u></a>	40%	No	22/04/22 11:59pm
<a href="#"><u>Written response to a succession law problem</u></a>	40%	No	06/06/22 11:59pm

### Participation Tasks

Assessment Type <sup>1</sup>: Participatory task

Indicative Time on Task <sup>2</sup>: 24 hours

Due: **ongoing**

Weighting: **20%**

Students will be assessed on their informed participation in discussions, role plays, debates, online forums, quizzes and other activities.

On successful completion you will be able to:

- Describe and explain links between understandings of property and relationships in the context of succession law.
- Analyse case law on the Succession Act 2006 (NSW) and apply to the validity and interpretation of wills.
- Critically evaluate the law on family provision and apply family provision legislation to complex factual situations involving estate disputes.
- Advise on competing family claims dealing with testate estates, intestate estates and partial intestacy.
- Assess the various legal principles to give appropriate advice on wills.

## Succession Law essay

Assessment Type <sup>1</sup>: Essay

Indicative Time on Task <sup>2</sup>: 35 hours

Due: **22/04/22 11:59pm**

Weighting: **40%**

Students will be required to prepare an essay on an aspect of proposed reform to Succession Law in NSW

On successful completion you will be able to:

- Describe and explain links between understandings of property and relationships in the context of succession law.
- Analyse case law on the Succession Act 2006 (NSW) and apply to the validity and interpretation of wills.
- Critically evaluate the law on family provision and apply family provision legislation to complex factual situations involving estate disputes.
- Assess the various legal principles to give appropriate advice on wills.

## Written response to a succession law problem

Assessment Type <sup>1</sup>: Professional writing

Indicative Time on Task <sup>2</sup>: 35 hours

Due: **06/06/22 11:59pm**

Weighting: **40%**

An essay applying succession law to resolve a problem scenario

On successful completion you will be able to:

- Analyse case law on the Succession Act 2006 (NSW) and apply to the validity and interpretation of wills.
- Critically evaluate the law on family provision and apply family provision legislation to complex factual situations involving estate disputes.
- Advise on competing family claims dealing with testate estates, intestate estates and partial intestacy.
- Assess the various legal principles to give appropriate advice on wills.

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<sup>1</sup> If you need help with your assignment, please contact:

- the academic teaching staff in your unit for guidance in understanding or completing this type of assessment
- the [Writing Centre](#) for academic skills support.

<sup>2</sup> Indicative time-on-task is an estimate of the time required for completion of the assessment task and is subject to individual variation

## Delivery and Resources

Lectures will be delivered via iLearn on a weekly basis. There is also a compulsory weekly one-hour face to face tutorial from weeks 1 – 13 for students. Students are expected to listen to the lectures, attend the tutorials and work their way through the other materials on a weekly basis.

The convenor will be available for consultations at times to be advised.

The required text is Croucher, R and Vines, P, *Succession: Families, Property & Death* (LexisNexis, 5th ed, 2019).

Additional reading may be required from time to time and will be available via iLearn and the unit reading list maintained by the library.

All unit requirements and a weekly teaching and reading schedule are outlined on iLearn.

## Unit Schedule

### Week 1:

Introduction and overview: The valid Will, or lack of it

### Week 2:

A well made Will, on the face of it

**Week 3:**

A badly drafted Will, on the face of it

**Week 4:**

A badly created Will, at the time

**Week 5:**

An unfortunate Will, given changed circumstances

**Week 6:**

A non-existent, or only partially effective, Will – intestacy

**Week 7 & 8: Administration**

Authorising the legal person representative on death

Administering the deceased's estate

**Week 9 & 10: Family provision**

Claims for family provision out of the estate

Claims for family provision out of notional estate

**Weeks 11 & 12: Other interventions**

Statutory interventions

Equitable interventions

## **Policies and Procedures**

Macquarie University policies and procedures are accessible from [Policy Central \(https://policies.s.mq.edu.au\)](https://policies.s.mq.edu.au). 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](#)
- [Assessment Procedure](#)
- [Complaints Resolution Procedure for Students and Members of the Public](#)
- [Special Consideration Policy](#)

Students seeking more policy resources can visit [Student Policies \(https://students.mq.edu.au/support/study/policies\)](https://students.mq.edu.au/support/study/policies). It is your one-stop-shop for the key policies you need to know about

throughout your undergraduate student journey.

To find other policies relating to Teaching and Learning, visit [Policy Central \(https://policies.mq.edu.au\)](https://policies.mq.edu.au) and use the [search tool](#).

## Student Code of Conduct

Macquarie University students have a responsibility to be familiar with the Student Code of Conduct: <https://students.mq.edu.au/admin/other-resources/student-conduct>

## Results

Results published on platform other than [eStudent](#), (eg. iLearn, Coursera etc.) 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](https://ask.mq.edu.au) or if you are a Global MBA student contact [globalmba.support@mq.edu.au](mailto:globalmba.support@mq.edu.au)

## Academic Integrity

At Macquarie, we believe [academic integrity](#) – honesty, respect, trust, responsibility, fairness and courage – is at the core of learning, teaching and research. We recognise that meeting the expectations required to complete your assessments can be challenging. So, we offer you a range of resources and services to help you reach your potential, including free [online writing and maths support](#), [academic skills development](#) and [wellbeing consultations](#).

## Student Support

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

## The Writing Centre

[The Writing Centre](#) provides resources to develop your English language proficiency, academic writing, and communication skills.

- [Workshops](#)
- [Chat with a WriteWISE peer writing leader](#)
- [Access StudyWISE](#)
- [Upload an assignment to Studiosity](#)
- [Complete the Academic Integrity Module](#)

The Library provides online and face to face support to help you find and use relevant information resources.

- [Subject and Research Guides](#)
- [Ask a Librarian](#)

## Student Services and Support

Macquarie University offers a range of [Student Support Services](#) including:

- [IT Support](#)
- [Accessibility and disability support](#) with study
- Mental health [support](#)
- [Safety support](#) to respond to bullying, harassment, sexual harassment and sexual assault
- [Social support including information about finances, tenancy and legal issues](#)

## Student Enquiries

Got a question? Ask us via [AskMQ](#), or contact [Service Connect](#).

## 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.

## Changes since First Published

Date	Description
02/02/2022	In relation to the prescribed textbook I have (a) deleted the reference to where it may be purchased and (b) inserted the name of publisher, 'LexisNexis'.