



LAWS8013

Civil and Criminal Procedure

Session 1, Online-scheduled-weekday 2022

Macquarie Law School

Contents

<u>General Information</u>	2
<u>Learning Outcomes</u>	2
<u>General Assessment Information</u>	3
<u>Assessment Tasks</u>	3
<u>Delivery and Resources</u>	5
<u>Unit Schedule</u>	5
<u>Policies and Procedures</u>	6

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

Co-Convenor

Andrew Burke

Contact via via iLearn

6FW 622

Co-Convenor

Sonya Willis

Contact via via iLearn

6FW 520

Credit points

10

Prerequisites

(LAWS802 or LAWS8002) and (LAWS803 or LAWS8030) and (LAWS806 or LAWS8006)

Corequisites

Co-badged status

Unit description

This unit examines the principles of civil and criminal procedure in New South Wales. The unit canvasses general principles of civil procedure, the nature of adversarial disputation, case management, pre-litigation issues and protocols, and pre-trial procedures of originating process, gathering of evidence for trial, class actions and the conduct and disposal of civil proceedings. Select topics in criminal procedure, such as classification of offences, police powers and bail, the conduct of criminal trials and sentencing will be covered. Themes of the unit concern procedural fairness, access to justice and the balance between efficiency and individual rights.

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:

ULO2: Display legal advocacy skills

ULO1: Explain, apply and critique the principles and stages of civil and criminal

procedure

ULO3: Apply statutory interpretation to problems of civil and criminal procedural law

ULO4: Communicate an integrated body of procedural law knowledge both orally and in writing

ULO5: Analyse civil and criminal procedural law in its historical, social and legal context

General Assessment Information

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.

Assessment Tasks

Name	Weighting	Hurdle	Due
<u>Class Presentation</u>	20%	No	Ongoing
<u>Procedural fairness in criminal procedure</u>	25%	No	5pm Friday 22nd April
<u>Quizzes</u>	30%	No	Weeks: 3, 4, 5, 6, 8, 10, 11 & 13
<u>Timed Civil Procedure Hypothetical Case Task</u>	25%	No	9am-1pm Friday 10 June 2022

Class Presentation

Assessment Type ¹: Presentation

Indicative Time on Task ²: 12 hours

Due: **Ongoing**

Weighting: **20%**

Students must contribute in class through on-call presentations and contributions across the semester

On successful completion you will be able to:

- Explain, apply and critique the principles and stages of civil and criminal procedure
- Display legal advocacy skills
- Apply statutory interpretation to problems of civil and criminal procedural law
- Communicate an integrated body of procedural law knowledge both orally and in writing
- Analyse civil and criminal procedural law in its historical, social and legal context

Procedural fairness in criminal procedure

Assessment Type ¹: Report

Indicative Time on Task ²: 20 hours

Due: **5pm Friday 22nd April**

Weighting: **25%**

Students are required to consider procedural fairness in the context of New South Wales criminal courts. This may involve court observation. Findings are to be critically assessed drawing on literature provided in readings and independent research.

On successful completion you will be able to:

- Explain, apply and critique the principles and stages of civil and criminal procedure
- Display legal advocacy skills
- Apply statutory interpretation to problems of civil and criminal procedural law
- Analyse civil and criminal procedural law in its historical, social and legal context

Quizzes

Assessment Type ¹: Quiz/Test

Indicative Time on Task ²: 20 hours

Due: **Weeks: 3, 4, 5, 6, 8, 10, 11 & 13**

Weighting: **30%**

There will be a number of low-value quizzes across semester on both civil and criminal procedure topics.

On successful completion you will be able to:

- Explain, apply and critique the principles and stages of civil and criminal procedure
- Apply statutory interpretation to problems of civil and criminal procedural law
- Analyse civil and criminal procedural law in its historical, social and legal context

Timed Civil Procedure Hypothetical Case Task

Assessment Type ¹: Professional writing

Indicative Time on Task ²: 20 hours

Due: **9am-1pm Friday 10 June 2022**

Weighting: **25%**

Problem-based scenario requiring students to demonstrate professional writing skills in a number of civil procedure tasks which would be performed by lawyers in practice.

On successful completion you will be able to:

- Explain, apply and critique the principles and stages of civil and criminal procedure
- Apply statutory interpretation to problems of civil and criminal procedural law
- Communicate an integrated body of procedural law knowledge both orally and in writing
- Analyse civil and criminal procedural law in its historical, social and legal context

¹ 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.

² 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

Tutorials begin in Week 1.

There are two textbooks:

Roderick Howie, Paul Sattler and Marissa Hood, *Hayes & Eburn Criminal Law and Procedure in New South Wales* (LexisNexis Butterworths, 6th ed, 2019). (This is the same textbook that you used in LAWS8002 Criminal Justice).

Sonya Willis, *Civil Dispute Resolution: Balancing Themes and Theory* (Cambridge University Press, 2022).

Unit Schedule

1. Fairness, Rights & Liberties
2. Police Powers I
3. Police Powers II
4. Bail

5. Sentencing
6. Introduction to Civil Procedure
7. Balancing Themes: Access to Justice and Open Justice and Pre-commencement issues
8. Commencing Proceedings and Pleadings
9. Gathering Evidence: Discovery, Subpoenas, Notices and Interrogatories
10. Evidentiary Issues: Privilege, Expert Witnesses, Tribunal Alternatives
11. Appearing in Court: Interlocutory Hearings, Notices of Motion and Trials
12. Post Trial: Costs, Finality, Appeals, Enforcement

Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central \(https://policies.mq.edu.au\)](https://policies.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 or if you are a Global MBA student contact 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/.

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.