



# LAWS3400

## Evidence

Session 2, Online-scheduled-weekday 2024

*Macquarie Law School*

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### **Disclaimer**

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## General Information

### Unit convenor and teaching staff

Convenor

Keith Williams

Contact via iLearn

See iLearn

### Credit points

10

### Prerequisites

LAWS398 or LAWS3200

### Corequisites

### Co-badged status

### Unit description

This unit examines and teaches the principles and rules of evidence in civil and criminal matters in New South Wales. The focus is on the uniform evidence scheme, with particular attention given to the Evidence Act 1995 (NSW) and relevant judicial decisions that affect an interpretation of the Act. The unit starts with an introduction to litigation systems, and then proceeds to the fundamentals of trials, and the statutory and discretionary powers of courts to control their proceedings. The adducing of testamentary, documentary and real evidence is addressed, as are issues relating to proof and relevance. Detailed coverage is then given to the rules of admissibility relating to hearsay, admissions, opinion, tendency, coincidence, credibility, character and 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:

**ULO1:** Explain the reasons for and describe the principal rules of evidence.

**ULO2:** Explain the reasons for and describe the main exceptions to the principal rules of evidence.

**ULO3:** Critically analyse the appropriateness and fairness of the principal evidentiary rules.

**ULO4:** Synthesise, evaluate and apply the principal evidentiary rules and their exceptions to factual scenarios and problems.

**ULO5:** Communicate, interact and collaborate professionally and effectively in verbal and non-verbal contexts across diverse settings.

**ULO6:** Work independently, meet deadlines, take initiative and be adaptable to diverse and changing environments.

## General Assessment Information

All written assessments submitted electronically must be submitted through the link provided in iLearn. This unit will utilise Turnitin plagiarism detection software. Students should carefully check that they submit the correct file for an assessment, as re-submissions will not be accepted after the due date and time, including instances where students upload an incorrect file in error.

The design, moderation and feedback of all assessments is in accordance with the Macquarie University Assessment Procedure (link provided under 'Policies and Procedures' below).

### Late Submission Policy

A maximum penalty of five (5) percentage points of the total possible marks will be applied per day to late submissions, for up to a maximum of seven calendar days. Tasks that have not been submitted within the maximum number of additional late days will receive a mark of zero. This provision does not apply to online exams or other assessment with a time limit of less than 24 hours.

Penalties for late submission will be applied consistently and equitably to all students enrolled in the unit. Where short-term, serious and unavoidable circumstances have affected their ability to submit an assessment task, a student must submit a formal application for Special Consideration as per the Special Consideration Policy. Students should not request an informal arrangement from their tutor, lecturer or Unit Convenor.

Where an application for Special Consideration is approved, and the outcome is an extension to the due date of a task, submissions that are received after the new due date will be subject to late penalties that are calculated from the new due date. This only applies where the outcome is an extension to the due date – see the Special Consideration Policy for a schedule of all possible outcomes.

### Special Consideration

Students should submit applications for Special Consideration electronically via [ask.mq.edu.au](https://ask.mq.edu.au), along with the supporting documentation. Before submitting their applications, students should refer to the Special Consideration Policy (link provided under 'Policies and Procedures' below).

## Assessment Tasks

Name	Weighting	Hurdle	Due
<a href="#">Class Participation</a>	20%	No	Ongoing
<a href="#">Practice-Based Task</a>	40%	No	Monday 9 September 2024 at 11.55 PM
<a href="#">Exam</a>	40%	No	University Exam Period

### Class Participation

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

Indicative Time on Task <sup>2</sup>: 0 hours

Due: **Ongoing**

Weighting: **20%**

An assessment of students' participation in tutorials which may include participation in tutorial discussions and debates, problem-solving, role plays, critical engagement with the unit materials, and other activities. This may require preparation before the tutorial including completing the required readings and considering or preparing responses to the tutorial materials.

On successful completion you will be able to:

- Explain the reasons for and describe the principal rules of evidence.
- Explain the reasons for and describe the main exceptions to the principal rules of evidence.
- Critically analyse the appropriateness and fairness of the principal evidentiary rules.
- Synthesise, evaluate and apply the principal evidentiary rules and their exceptions to factual scenarios and problems.
- Communicate, interact and collaborate professionally and effectively in verbal and non-verbal contexts across diverse settings.
- Work independently, meet deadlines, take initiative and be adaptable to diverse and changing environments.

### Practice-Based Task

Assessment Type <sup>1</sup>: Practice-based task

Indicative Time on Task <sup>2</sup>: 30 hours

Due: **Monday 9 September 2024 at 11.55 PM**

Weighting: **40%**

An assessment on professional skills and knowledge relevant to the unit. This could be a legal or policy brief, a report, an essay, a law reform proposal, legal pleadings or other related professional task. This assessment may require students to prepare a response through research and adhere to discipline-specific scholarly conventions.

On successful completion you will be able to:

- Explain the reasons for and describe the principal rules of evidence.
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- Critically analyse the appropriateness and fairness of the principal evidentiary rules.
- Synthesise, evaluate and apply the principal evidentiary rules and their exceptions to factual scenarios and problems.
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## Exam

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

Indicative Time on Task <sup>2</sup>: 12 hours

Due: **University Exam Period**

Weighting: **40%**

An invigilated exam held in the formal examination period. The exam may cover any or all topics and materials covered in the unit.

On successful completion you will be able to:

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- Explain the reasons for and describe the main exceptions to the principal rules of evidence.
- Critically analyse the appropriateness and fairness of the principal evidentiary rules.
- Synthesise, evaluate and apply the principal evidentiary rules and their exceptions to factual scenarios and problems.
- Communicate, interact and collaborate professionally and effectively in verbal and non-

verbal contexts across diverse settings.

- Work independently, meet deadlines, take initiative and be adaptable to diverse and changing environments.

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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

### Delivery

2 hours of lectures weekly (comprising a one hour live lecture and a 1 hour recorded lecture) for 12 weeks (excluding the mid semester break)

### Resources

#### **Prescribed Text:**

Bellew, Arthur, Boas, Chifflet & Vickovich: *Australian Uniform Evidence Law: Principles and Context*,

2<sup>nd</sup> ed, LexisNexis 2022.

#### **Recommended Texts:**

S Odgers, *Uniform Evidence Law*, 17th ed, Lawbook Co, 2022

Hon D Heydon, *Cross on Evidence*, 13th ed. LexisNexis, 2021

John Anderson, *Uniform Evidence Law: Text and Essential Cases*, 4th ed, The Federation Press, 2021

Students can purchase these textbooks online from online resellers such as [Booktopia](#), [Amazon](#) and [Zookal](#).

Additional readings will be accessible through iLearn.

Students require access to a computer, internet with decent speed and a secure/reliable server. The iLearn page contains all Unit requirements and a weekly schedule for teaching, readings and tutorials. Information about all assessment tasks is also available on iLearn.

# Unit Schedule

## Unit Schedule

Wk	Week Commencing	Lecture Topic	Tutorial Topic
1	22 Jul	Introduction to Evidence	<b>No Tutorial</b>
2	29 Jul	Trials; Judicial Powers and Discretions	<b>1 Introduction to Evidence</b>
3	5 Aug	Adducing Evidence 1	<b>2 Trials; Judicial Powers and Discretions</b>
4	12 Aug	Adducing Evidence 2	<b>3 Adducing Evidence 1</b>
5	19 Aug	Proof and Relevance	<b>4 Adducing Evidence 2</b>
6	26 Aug	Hearsay Evidence 1	<b>5 Proof and Relevance</b>
7	2 Sep	Hearsay Evidence 2	<b>6 Hearsay Evidence 1</b>
8	9 Sept	Hearsay Evidence 3; Admissions	<b>7 Hearsay Evidence 2</b>
		<b>Mid-Semester Break</b>	

9	30 Sept	Opinion Evidence	<b>8 Hearsay Evidence 3; Admissions</b>
10	7 Oct	Tendency and Coincidence Evidence	<b>9 Opinion Evidence</b>
11	14 Oct	Credibility and Character Evidence	<b>10 Tendency and Coincidence Evidence</b>
12	21 Oct	Identification Evidence; Exam Preparation	<b>11 Credibility and Character Evidence</b>
13	28 Oct	No Lecture	<b>12 Identification Evidence</b>

## 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](http://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 Advocacy](#) provides independent advice on MQ policies, procedures, and processes

## 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 from Previous Offering

This unit now includes an invigilated exam that will be run centrally by the university and held in the University Exam Period

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Unit information based on version 2024.03 of the [Handbook](#)