



LAWS8013

Civil and Criminal Procedure

Session 1, Online-scheduled-weekday 2025

Macquarie Law School

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Disclaimer

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General Information

Unit convenor and teaching staff

Convenor

Sonya Willis

Contact via iLearn

see iLearn

Convenor

Andrew Burke

Contact via iLearn

see iLearn

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:

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

ULO2: Display legal advocacy skills

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

ULO4: Analyse civil and criminal procedural law in its historical, social and legal context

ULO5: Communicate professionally, effectively and in a timely manner, and participate in verbal and non-verbal exchanges with diverse audiences and in diverse contexts.

ULO6: Learn and work independently, meet deadlines, and reflect on performance using feedback to support personal and professional development.

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. The late submission policy does not apply to online exams or other assessment with a time limit of less than 24 hours (which must be undertaken and submitted on time).

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 the Service Connect portal, 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 |
|----------------------------|-----------|--------|------------------------|
| <u>Professional Skills</u> | 20% | No | Ongoing |
| <u>Practice-Based Task</u> | 40% | No | 17 April 2025 11:55pm |
| <u>Exam</u> | 40% | No | University Exam Period |

Professional Skills

Assessment Type ¹: Practice-based task

Indicative Time on Task ²: 0 hours

Due: **Ongoing**

Weighting: **20%**

Students will develop essential legal professional skills through structured classroom activities such as oral advocacy, critical reasoning, strategic problem-solving, collaborative work, team leadership, mooting, simulated client consultations, legal presentations or demonstrations, doctrinal analysis and problem solving, and/or collaborative legal research. These activities are designed to develop students' professional capabilities including capacity to communicate legal concepts clearly and engage professionally with diverse audiences in diverse contexts.

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
- Communicate professionally, effectively and in a timely manner, and participate in verbal and non-verbal exchanges with diverse audiences and in diverse contexts.
- Learn and work independently, meet deadlines, and reflect on performance using feedback to support personal and professional development.

Practice-Based Task

Assessment Type ¹: Practice-based task

Indicative Time on Task ²: 15 hours

Due: **17 April 2025 11:55pm**

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, 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
- Learn and work independently, meet deadlines, and reflect on performance using feedback to support personal and professional development.

Exam

Assessment Type ¹: Examination

Indicative Time on Task ²: 15 hours

Due: **University Exam Period**

Weighting: **40%**

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

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
- Learn and work independently, meet deadlines, and reflect on performance using feedback to support personal and professional development.

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

Delivery

Lectures: There will be 12 weeks of lectures each of 2 hours duration **commencing on Week 1** and finishing on Week 12. Lectures will be delivered live from 3:00pm-5:00pm on Thursdays in 27WW Lotus Lecture Theatre. Lectures will also be recorded for those unable to attend in person.

Tutorials: Face to face students will undertake 13 tutorials each of 1 hour duration **commencing on Week 1** and finishing on Week 13. Online students will undertake 6 tutorials of 2 hours duration fortnightly with an additional 1 hour tutorial at the beginning or end of semester (depending on your group). (NB **Check iLearn before commencement of semester for details as to which online group commences on Week 1 as timetables does not reflect Week 1 commencement**).

This unit is worth 10 credit points, which equates to 150 hours of work. Therefore, students should expect to commit an average of 10 hours per week to this unit, including all scheduled and unscheduled activities and preparing and executing the assessment tasks.

Resources

The required textbooks are:

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

Criminal Procedure: Roderick Howie, Paul Sattler and Marissa Hood, *Hayes & Eburn Criminal Law and Procedure in New South Wales* (LexisNexis Butterworths, 7th ed, 2023)

Students can purchase these textbooks online.

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

Lecture Schedule

Week 1 Introduction to Civil and Criminal Procedure (civil and criminal)

Week 2 Balancing Themes; Access to Justice, Open Justice, Pre-commencement issues (civil)

Week 3 Commencing Proceedings and Pleadings (civil)

Week 4 Gathering Evidence: Discovery, Subpoenas, Notices and Interrogatories (civil)

Week 5 Evidentiary Issues: Privilege, Lay and Expert Witnesses, Tribunal Alternatives (civil)

Week 6 Appearing in Court: Interlocutory Hearings, Notices of Motion and Trials (civil)

Week 7 Post Trial: Costs, Finality, Appeals, Enforcement (civil)

Week 8 Fairness, Rights & Liberties (criminal)

Week 9 Police Powers I - Arrest and Use of Force (criminal)

Week 10 Police Powers II – Search (criminal)

Week 11 Bail (criminal)

Week 12 Sentencing (criminal)

Tutorial Schedule

Week 1 Introduction to Civil and Criminal Procedure (civil and criminal no preparation required)

Week 2 Introduction to Civil and Criminal Procedure (civil and criminal based on Week 1 lecture)

Week 3 Balancing Themes; Access to Justice, Open Justice, Pre-commencement issues (civil based on Week 2 lecture)

Week 4 Commencing Proceedings and Pleadings (civil based on Week 3 lecture)

Week 5 Gathering Evidence: Discovery, Subpoenas, Notices and Interrogatories (civil based on Week 4 lecture)

Week 6 Evidentiary Issues: Privilege, Lay and Expert Witnesses, Tribunal Alternatives (civil based on Week 5 lecture)

Week 7 Appearing in Court: Interlocutory Hearings, Notices of Motion and Trials (civil based on Week 6 lecture)

Week 8 Post Trial: Costs, Finality, Appeals, Enforcement (civil based on Week 7 lecture)

Week 9 Fairness, Rights & Liberties (criminal based on Week 8 lecture)

Week 10 Police Powers I - Arrest and Use of Force (criminal based on Week 9 lecture)

Week 11 Police Powers II – Search (criminal based on Week 10 lecture)

Week 12 Bail (criminal based on Week 11 lecture)

Week 13 Sentencing (criminal based on Week 12 lecture)

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 connect.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 Advocacy](#) provides independent advice on MQ policies, procedures, and processes

Student Enquiries

Got a question? Ask us via the [Service Connect Portal](#), 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.

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.

Unit information based on version 2025.03 of the [Handbook](#)