# LAW 115
## Foundations of Law

S2 External 2014

*Dept of Law*

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General Information

Unit convenor and teaching staff
Unit Convenor
Carlos Bernal-Pulido
carlos.bernal-pulido@mq.edu.au
Contact via carlos.bernal-pulido@mq.edu.au
W3A 625
Mon 2-4

Credit points
3

Prerequisites
(Admission to LLB or BAAppFinLLB or BALLB or BA-MediaLLB or BA-PsychLLB or BBALLB or BComLLB or BCom-ProfAccgLLB or BEnvLLB or BITLLB or BIntStudLLB or BPSych(Hons)LLB or BScLLB or BSocScLLB) or (admission to the pre-law pathway)

Corequisites

Co-badged status

Unit description
This unit will enable students to attain the key legal skills (legal research, reasoning, and writing; applying precedent; statutory interpretation; and legal problem solving) and to acquire the foundational legal knowledge (Australia legal institutions; legal theory; comparative legal systems; parliamentary process; role of the judiciary) necessary for further study in law. This unit will challenge students to apply their skills and knowledge to examine a contemporary socio-legal issue through a collaborative group project. Students will also engage in reflective practice.

Important Academic Dates
Information about important academic dates including deadlines for withdrawing from units are available at https://students.mq.edu.au/important-dates

Learning Outcomes
On successful completion of this unit, you will be able to:

Define and describe basic principles of the doctrine of precedent and statutory interpretation and apply them to interpret primary legal sources (case law and legislation), for the purpose of deriving and constructing legal rules and principles
Analyse factual scenarios and identify relevant legal issues
Perform basic legal research tasks including finding and analysing relevant primary and secondary sources
Define, describe and apply basic principles of legal problem solving and reasoning
Engage creatively with contemporary legal problems in their social context and to propose innovative solutions
Communicate effectively in both oral and written form to both legal and non-legal audiences
Collaborate effectively with other students to complete a multi-staged project and present outcomes in both written and oral form
Apprise the broader philosophical, ethical and socio-political context of legal issues and problems
Define and describe the foundational elements of the Australian legal system, Australian Public Law, indigenous customary law, the different types of legal systems in the world, and international law
Apply, on a preliminary basis, their understanding of ethical issues, principles of academic honesty, professional duties and options for resolving legal disputes in Australia
Engage in reflective practice relating to their future development as law students and professionals

Assessment Tasks

<table>
<thead>
<tr>
<th>Name</th>
<th>Weighting</th>
<th>Due</th>
</tr>
</thead>
<tbody>
<tr>
<td>Academic Honesty &amp; Referencing</td>
<td>10%</td>
<td>Week 3</td>
</tr>
<tr>
<td>Statutory Interpretation</td>
<td>10%</td>
<td>Week 3</td>
</tr>
<tr>
<td>Case Brief</td>
<td>10%</td>
<td>Week 4</td>
</tr>
<tr>
<td>Research note</td>
<td>10%</td>
<td>Week 6</td>
</tr>
<tr>
<td>Hypothetical Problem</td>
<td>20%</td>
<td>Week 7</td>
</tr>
<tr>
<td>Group Project</td>
<td>20%</td>
<td>Week 7</td>
</tr>
<tr>
<td>Group Project 2</td>
<td>10%</td>
<td>Weeks 8-12</td>
</tr>
<tr>
<td>Reflective Case Analysis</td>
<td>10%</td>
<td>Week 13</td>
</tr>
</tbody>
</table>
Academic Honesty & Referencing

Due: **Week 3**
Weighting: **10%**

These two multiple choice quizzes will require students to demonstrate:

**Understanding and application of principles of academic honesty and proper referencing.**

On successful completion you will be able to:

- Apply, on a preliminary basis, their understanding of ethical issues, principles of academic honesty, professional duties and options for resolving legal disputes in Australia

Statutory Interpretation

Due: **Week 3**
Weighting: **10%**

This short answer assignment will require students to demonstrate:

**Understanding of principles of statutory interpretation; and the ability to apply them to interpret legislation for the purpose of deriving and constructing legal rules and principles.**

On successful completion you will be able to:

- Define and describe basic principles of the doctrine of precedent and statutory interpretation and apply them to interpret primary legal sources (case law and legislation), for the purpose of deriving and constructing legal rules and principles
- Analyse factual scenarios and identify relevant legal issues
- Define, describe and apply basic principles of legal problem solving and reasoning
- Engage creatively with contemporary legal problems in their social context and to propose innovative solutions

Case Brief

Due: **Week 4**
Weighting: **10%**

In this short essay (500 words), students will be required to demonstrate:

- the ability to clearly and concisely summarise a case;
- understanding of the doctrine of precedent; and

**The ability to apply them to interpret case law for the purpose of deriving and constructing legal rules and principles.**
On successful completion you will be able to:

- Define and describe basic principles of the doctrine of precedent and statutory interpretation and apply them to interpret primary legal sources (case law and legislation), for the purpose of deriving and constructing legal rules and principles
- Analyse factual scenarios and identify relevant legal issues
- Define, describe and apply basic principles of legal problem solving and reasoning
- Engage creatively with contemporary legal problems in their social context and to propose innovative solutions

Research note
Due: **Week 6**
Weighting: **10%**

Students will prepare a short research note (500 words) on a contemporary legal issue in which they will be required to demonstrate:

- the ability to carry out basic legal research tasks, including finding and analysing relevant primary and secondary sources; and
- **the ability to communicate effectively in a written form to a non-legal audience.**

On successful completion you will be able to:

- Define and describe basic principles of the doctrine of precedent and statutory interpretation and apply them to interpret primary legal sources (case law and legislation), for the purpose of deriving and constructing legal rules and principles
- Analyse factual scenarios and identify relevant legal issues
- Perform basic legal research tasks including finding and analysing relevant primary and secondary sources
- Define, describe and apply basic principles of legal problem solving and reasoning
- Communicate effectively in both oral and written form to both legal and non-legal audiences
- Apprise the broader philosophical, ethical and socio-political context of legal issues and problems

Hypothetical Problem
Due: **Week 7**
Weighting: **20%**

In this essay (1,000 words), students will solve a hypothetical problem in public law. This problem will be the fact scenario for the annual Foundations Public Law Mooting Competition.
Students will be required to demonstrate:

- the ability to analyse factual scenarios and identify relevant legal issues;
- the ability to understand and apply basic principles of legal problem solving and reasoning;
- the ability to carry out basic legal research tasks, including finding and analysing relevant primary and secondary sources;
- the ability to communicate effectively in a written form to a legal audience.

On successful completion you will be able to:

- Define and describe basic principles of the doctrine of precedent and statutory interpretation and apply them to interpret primary legal sources (case law and legislation), for the purpose of deriving and constructing legal rules and principles
- Analyse factual scenarios and identify relevant legal issues
- Perform basic legal research tasks including finding and analysing relevant primary and secondary sources
- Define, describe and apply basic principles of legal problem solving and reasoning

Group Project

Due: **Week 7**
Weighting: **20%**

Using the wiki platform on the unit iLearn web page, students will publish a written submission (1,500 – 2,000 words) for their group project. Students will be required to demonstrate:

- the ability to apply them to interpret primary and secondary sources for the purpose of deriving and constructing legal rules and principles;
- the ability to engage creatively with contemporary legal problems in their social context and to propose innovative solutions;
- the ability to collaborate effectively in a time-sensitive, multi-stage project;
- the ability to communicate effectively in written form with a non-legal audience; and
- the ability to demonstrate their understanding of the broader philosophical, ethical and/or socio-political context of legal issues and problems.

https://unitguides.mq.edu.au/unit_offerings/34341/unit_guide/print
All individual student contributions to the Group Project must be evidenced by meaningful posts recorded on the wiki (including submission of original text, editing, revision and online discussion). Collaboration that occurs outside the wiki online platform will not be credited. Students who demonstrably fail to contribute meaningfully to the group project will receive a grade of ‘unsatisfactory’ for this assessment task and will be precluded from participating in Assessment 6.

On successful completion you will be able to:

- Define and describe basic principles of the doctrine of precedent and statutory interpretation and apply them to interpret primary legal sources (case law and legislation), for the purpose of deriving and constructing legal rules and principles
- Analyse factual scenarios and identify relevant legal issues
- Perform basic legal research tasks including finding and analysing relevant primary and secondary sources
- Define, describe and apply basic principles of legal problem solving and reasoning
- Engage creatively with contemporary legal problems in their social context and to propose innovative solutions
- Communicate effectively in both oral and written form to both legal and non-legal audiences
- Collaborate effectively with other students to complete a multi-staged project and present outcomes in both written and oral form
- Apprise the broader philosophical, ethical and socio-political context of legal issues and problems
- Define and describe the foundational elements of the Australian legal system, Australian Public Law, indigenous customary law, the different types of legal systems in the world, and international law

**Group Project 2**

**Due:** **Weeks 8-12**  
**Weighting:** **10%**

Each group will be allocated 10 minutes to present their work, followed by up to 5 minutes for questions and answers in relation to the outcomes of their Group Project (assessment task 5). Students will demonstrate their ability to communicate research outcomes effectively in oral form to both legal (their tutors) and non-legal (their peers) audiences.
Students who failed to contribute meaningfully to Assessment task 5 will be precluded from completing this assessment task.

Note: Distance education students will commence their projects online prior to the residential school dates. They will be provided with an opportunity to meet for one hour at the end of Day 1 to coordinate their ‘work in progress’ presentations, which they will deliver in Day 2.

On successful completion you will be able to:
- Define and describe basic principles of the doctrine of precedent and statutory interpretation and apply them to interpret primary legal sources (case law and legislation), for the purpose of deriving and constructing legal rules and principles
- Analyse factual scenarios and identify relevant legal issues
- Perform basic legal research tasks including finding and analysing relevant primary and secondary sources
- Define, describe and apply basic principles of legal problem solving and reasoning
- Engage creatively with contemporary legal problems in their social context and to propose innovative solutions
- Communicate effectively in both oral and written form to both legal and non-legal audiences
- Collaborate effectively with other students to complete a multi-staged project and present outcomes in both written and oral form
- Apprise the broader philosophical, ethical and socio-political context of legal issues and problems
- Define and describe the foundational elements of the Australian legal system, Australian Public Law, indigenous customary law, the different types of legal systems in the world, and international law

Reflective Case Analysis

Due: Week 13
Weighting: 10%

Students will write a short essay (750 words) in which they reflect on their own group project and that of one other groups and set out (1) how the relevant principles of public law would ground a solution for the issues at stake; and (2) how further study in the LLB program would assist them to build their knowledge base and legal skills to provide more rigorous, critical and innovative solutions. Students will be challenged to reflect on the anticipated relevance of each of the other compulsory units in the LLB program and at least four electives of their choice.

Through this assessment task, students will also be required to demonstrate their knowledge of foundational public law concepts covered in the lectures and their capacity to engage in
reflective practice.

On successful completion you will be able to:

- Analyse factual scenarios and identify relevant legal issues
- Perform basic legal research tasks including finding and analysing relevant primary and secondary sources
- Define, describe and apply basic principles of legal problem solving and reasoning
- Engage creatively with contemporary legal problems in their social context and to propose innovative solutions
- Communicate effectively in both oral and written form to both legal and non-legal audiences
- Define and describe the foundational elements of the Australian legal system, Australian Public Law, indigenous customary law, the different types of legal systems in the world, and international law
- Engage in reflective practice relating to their future development as law students and professionals

Delivery and Resources

REQUIRED READING

Michelle Sanson, Thalia Anthony and David Worswick, *Connecting with the Law* (Oxford University Press, 2nd ed, 2010).


Additional required and recommended materials will be posted at the website of the Unit.
UNIT WEBPAGE AND TECHNOLOGY USED AND REQUIRED

Online units can be accessed at: http://ilearn.mq.edu.au/.

PC and Internet access are required. Basic computer skills (e.g., internet browsing) and skills in word processing are also a requirement.

Please consult teaching staff for any further, more specific requirements.

**Unit Schedule**

<table>
<thead>
<tr>
<th>Week</th>
<th>Lecture (1 hour)</th>
<th>Tutorials (1 hour per topic)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>L1 – Overview</td>
<td>T1 – Academic Honesty and Referencing</td>
</tr>
<tr>
<td>2</td>
<td>L2 - Australian Parliaments, Separation of Powers, Legislative Process and the Executive</td>
<td>T2 – Statutory Interpretation</td>
</tr>
<tr>
<td>3</td>
<td>L3 – Judicial Reasoning and The Doctrine of Precedent</td>
<td>T3 – Briefing a Case</td>
</tr>
<tr>
<td>4</td>
<td>L4 - The Australian Constitution, Democratic Institutions and the Rule of Law</td>
<td>T4 – Solving Legal Problems</td>
</tr>
<tr>
<td>5</td>
<td>L5 – Project Overview</td>
<td>T5 – Understanding Legal Scholarship and Legal Writing</td>
</tr>
</tbody>
</table>
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<table>
<thead>
<tr>
<th>6</th>
<th>L6 – Comparative Legal Systems</th>
<th>T6 – Group Project (start - finalise groups and brainstorm)</th>
</tr>
</thead>
<tbody>
<tr>
<td>7</td>
<td>L7 - International Law &amp; Human Rights</td>
<td>T7 - Review of foundational skills</td>
</tr>
<tr>
<td>8</td>
<td>L8 - Origins of the Australian Legal System and Indigenous Customary Law</td>
<td>T8 - Group Presentation - Topic 1</td>
</tr>
<tr>
<td>9</td>
<td>L9 - Tribunals</td>
<td>T9 - Group Presentation - Topic 2</td>
</tr>
<tr>
<td>10</td>
<td>L10 - Australian Courts and Legal Traditions</td>
<td>T10 - Group Presentation - Topic 3</td>
</tr>
<tr>
<td>11</td>
<td>L11 - Law, Policy and Public Interest</td>
<td>T11 - Group Presentation - Topic 4</td>
</tr>
<tr>
<td>12</td>
<td>L12 - Ethics, Professional Practice and Alternative Dispute Resolution</td>
<td>T12 - Group Presentation - Topic 5</td>
</tr>
<tr>
<td>13</td>
<td>L13 - Conclusion - The Rest of your Law Degree</td>
<td>T13 – Reflective practice</td>
</tr>
</tbody>
</table>

In addition, there will be three workshops (two hours long) in Week 2 (on Legal Research); in Week 5 (on Statutory Interpretation and Case Briefs); and in Week 9 (on solving Hypothetical Problems). Timetable and classroom to be announced.

**Indicative Schedule for Distance LL.B Cohort two-day Intensive:**

<table>
<thead>
<tr>
<th>Time</th>
<th>Activities</th>
</tr>
</thead>
<tbody>
<tr>
<td>9:00 – 10:00</td>
<td>L1 – Welcome and Overview</td>
</tr>
<tr>
<td>10:00 – 11:00</td>
<td>T1 – Academic Honesty and Referencing</td>
</tr>
<tr>
<td>11:00 – 11:30</td>
<td>BREAK</td>
</tr>
</tbody>
</table>

Day 1 – 24 September 2014
### Policies and Procedures

Macquarie University policies and procedures are accessible from Policy Central. Students should be aware of the following policies in particular with regard to Learning and Teaching:


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<table>
<thead>
<tr>
<th>Time</th>
<th>Content</th>
</tr>
</thead>
<tbody>
<tr>
<td>11:30 – 12:30</td>
<td>Library Workshop</td>
</tr>
<tr>
<td>12:30 – 13:30</td>
<td>LUNCH</td>
</tr>
<tr>
<td>13:30 – 14:30</td>
<td>T2 – Statutory Interpretation</td>
</tr>
<tr>
<td>14:30 – 15:00</td>
<td>BREAK</td>
</tr>
<tr>
<td>15:00 – 16:00</td>
<td>T3 – How to Brief a Case</td>
</tr>
<tr>
<td>16:00 – 17:00</td>
<td>T4 – Group Project</td>
</tr>
<tr>
<td>Day 2 – 25 September 2014</td>
<td></td>
</tr>
<tr>
<td>9:00 – 10:00</td>
<td>T5 – Understanding Legal Scholarship</td>
</tr>
<tr>
<td>10:00 – 11:00</td>
<td>T6 – Solving Legal Problems</td>
</tr>
<tr>
<td>11:00 – 11:30</td>
<td>BREAK</td>
</tr>
<tr>
<td>11:30 – 12:30</td>
<td>T7 – Group Presentations, Topic 1</td>
</tr>
<tr>
<td>12:30 – 13:00</td>
<td>LUNCH</td>
</tr>
<tr>
<td>13:00 – 13:30</td>
<td>T8 – Group Presentations, Topic 2</td>
</tr>
<tr>
<td>13:30 – 14:30</td>
<td>T9 – Group Presentations, Topic 3</td>
</tr>
<tr>
<td>14:30 – 15:00</td>
<td>BREAK</td>
</tr>
<tr>
<td>15:00 – 16:30</td>
<td>T10/11 – Group Presentations, Topics 4 and 5</td>
</tr>
</tbody>
</table>


In addition, a number of other policies can be found in the Learning and Teaching Category of 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/support/student_conduct/](https://students.mq.edu.au/support/student_conduct/)

**Student Support**

Macquarie University provides a range of support services for students. For details, visit [http://students.mq.edu.au/support/](http://students.mq.edu.au/support/)

**Learning Skills**

Learning Skills ([mq.edu.au/learningskills](http://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 Enquiry Service**

For all student enquiries, visit Student Connect at [ask.mq.edu.au](http://ask.mq.edu.au)

**Equity 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.

**IT Help**

For help with University computer systems and technology, visit [http://informatics.mq.edu.au/help/](http://informatics.mq.edu.au/help/)

When using the University’s IT, you must adhere to the Acceptable Use Policy. The policy applies to all who connect to the MQ network including students.
Graduate Capabilities

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

• Analyse factual scenarios and identify relevant legal issues
• Perform basic legal research tasks including finding and analysing relevant primary and secondary sources
• Define, describe and apply basic principles of legal problem solving and reasoning
• Apprise the broader philosophical, ethical and socio-political context of legal issues and problems

Assessment tasks

• Academic Honesty & Referencing
• Statutory Interpretation
• Case Brief
• Research note
• Hypothetical Problem
• Group Project
• Group Project 2
• Reflective Case Analysis

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

• Define and describe basic principles of the doctrine of precedent and statutory interpretation and apply them to interpret primary legal sources (case law and
legislation), for the purpose of deriving and constructing legal rules and principles

- Analyse factual scenarios and identify relevant legal issues
- Perform basic legal research tasks including finding and analysing relevant primary and secondary sources
- Define, describe and apply basic principles of legal problem solving and reasoning

**Assessment tasks**

- Statutory Interpretation
- Case Brief
- Research note
- Hypothetical Problem
- Group Project
- Group Project 2
- Reflective Case Analysis

**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 outcome**

- Communicate effectively in both oral and written form to both legal and non-legal audiences

**Assessment tasks**

- Research note
- Hypothetical Problem
- Group Project
- Group Project 2
- Reflective Case Analysis

**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**

- Engage in reflective practice relating to their future development as law students and professionals

**Assessment task**

- Reflective Case Analysis

**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**

- Define and describe basic principles of the doctrine of precedent and statutory interpretation and apply them to interpret primary legal sources (case law and legislation), for the purpose of deriving and constructing legal rules and principles
- Define and describe the foundational elements of the Australian legal system, Australian Public Law, indigenous customary law, the different types of legal systems in the world, and international law
- Apply, on a preliminary basis, their understanding of ethical issues, principles of academic honesty, professional duties and options for resolving legal disputes in Australia

**Assessment tasks**

- Academic Honesty & Referencing
- Statutory Interpretation
- Case Brief
- Research note
- Hypothetical Problem
- Group Project
- Group Project 2
• Reflective Case Analysis