



LAWS808

Administrative Law

S2 External 2018

Dept of Law

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General Information

Unit convenor and teaching staff

Convenor

Holly Doel-Mackaway

holly.doel-mackaway@mq.edu.au

W3A Room 625

Wednesday 1-2pm

Credit points

4

Prerequisites

LAWS807

Corequisites

Co-badged status

Unit description

In this unit students examine the principles of administrative law, that is, the law governing government decision-making within the Commonwealth of Australia. It considers the fundamental principles that underpin good decision-making, such as accountability, integrity and procedural fairness, and explores the various avenues available to challenge the merits and the legality of government decisions. It also considers modern developments, such as the increasing involvement of the private sector in providing goods and services traditionally provided by the public sector, and the impact this is having in the field of administrative law

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:

Acquire an advanced understanding of key mechanisms and principles of administrative law (merits review, judicial review, Freedom of Information, natural justice, errors of law).

Identify contemporary administrative law questions and develop, critical, coherent and well-researched arguments

Contextualise administrative law within the government, legal, constitutional and social settings

Demonstrate advanced legal problem-solving skills

Collaborate with peers to develop arguments and optimise learning and reflective practices

Present well researched legal analysis through clear written expression and sophisticated oral communication

General Assessment Information

Unless a Special Consideration request has been submitted and approved, (a) a penalty for lateness will apply – two (2) marks out of 100 will be deducted per day for assignments submitted after the due date – and (b) no assignment will be accepted more than seven (7) days (incl. weekends) after the original submission deadline. No late submissions will be accepted for timed assessments – e.g. quizzes, online tests.

Word limits will be strictly applied and work above the word limit will not be marked.

All assessments in the unit are to be submitted electronically. Plagiarism detection software is used in this unit.

Moderation

Detailed marking guidelines will be made available on iLearn. The convenor moderates all assessments. All Fail research essays and fail take-home exams are double marked.

Assessment Tasks

Name	Weighting	Hurdle	Due
<u>Participation/Discussion Task</u>	20%	No	During OCS
<u>Research Essay</u>	30%	No	Monday 8 October, 2018
<u>Final Take-Home Examination</u>	50%	No	Wednesday 14 November, 2018

Participation/Discussion Task

Due: **During OCS**

Weighting: **20%**

Active participation in the 3 day on-campus session (OCS) is compulsory and is assessed (see rubric on iLearn page). External students are required to attend the 3 day OCS on 25, 26 and 27 September, 2018. Students who do not attend the OCS and do not have an approved special consideration request will receive zero for this assessment. Students who do not attend the OCS and have an approved special consideration request will be set an alternative assessment that equates to the sum of the preparation time for the OCS and the assessment tasks set during the OCS.

Groups of students will lead in-depth seminar discussions during the OCS. Groups will be

allocated in Week 1, and weeks will be randomly allocated. As a group, your collaborative task will be to:

1. Lead the class in an in-depth discussion (with help from the convenor) about the overall topic and address the questions/hypothetical scenarios proposed in the weekly tutorial questions posted on the iLearn page.
2. Ensure all members of the group bring to the OCS a well-developed understanding of the topic that demonstrates high-level engagement with, and understanding of, the course material for that week.
3. Ensure all members of the group take equal responsibility for leading the in-depth discussion in the class and provide opportunities for all members of the class to engage in the discussion.
4. Lead the seminar discussion in an engaging and accessible way so all members of the class are able to participate in a thorough analysis of the topic and the seminar material.
5. Be able to answer any questions that arise from the convenor and/or class members.

Groups may run the in-depth discussions in whatever way you wish. You may be as creative as you like. You may use any resource you wish to in order to facilitate a productive and collaborative learning experience. You may wish to use a range of strategies to do this for example use videos, photographs, case studies, you may wish to hold a debate/moot court, run a live quiz, hold a Q and A session, or divide the group into small groups with individual tasks. Whatever method is used groups must focus on maximising the learning experience to the greatest degree possible and creating an environment of intellectual inquiry into the given topic.

All groups can prepare to lead the in-depth discussion under the assumption that all of the class participants have done the readings and listened to the lectures for that class. It is not the role of the groups to educate the class about the basic course material. This is assumed knowledge. Further, all groups can work on the expectation that all class members will come to the class ready to actively participate in the in-depth discussion (as the OCS is compulsory and active participation in the OCS is being assessed).

The group leaders and the class members share responsibility for the success of the OCS's in-depth discussions. The convenor will actively participate in supporting the group leaders and the OCS participants to engage in high-level analysis of the respective topics. The purpose of the in-depth discussion is to advance and develop the knowledge of all class members beyond the course materials.

All groups will have a private forum on the iLearn page to discuss and plan their allocated in-depth discussion topics. This forum will only be visible to the group members and the convenor.

An assessment rubric for this task is available on the unit's iLearn page.

This is a timed assessment and no late submissions will be accepted. Any student who is not able to participate in this activity AND has an approved special consideration request will be set an alternative assessment in lieu of this activity.

On successful completion you will be able to:

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- Contextualise administrative law within the government, legal, constitutional and social settings
- Demonstrate advanced legal problem-solving skills
- Collaborate with peers to develop arguments and optimise learning and reflective practices
- Present well researched legal analysis through clear written expression and sophisticated oral communication

Research Essay

Due: **Monday 8 October, 2018**

Weighting: **30%**

Students will write a 2000 word research essay on a topic that will consolidate their learning in this subject.

Detailed instructions regarding this assessment task will be provided on the iLearn page.

On successful completion you will be able to:

- Acquire an advanced understanding of key mechanisms and principles of administrative law (merits review, judicial review, Freedom of Information, natural justice, errors of law).
- Identify contemporary administrative law questions and develop, critical, coherent and well-researched arguments
- Contextualise administrative law within the government, legal, constitutional and social settings
- Present well researched legal analysis through clear written expression and sophisticated oral communication

Final Take-Home Examination

Due: **Wednesday 14 November, 2018**

Weighting: **50%**

A final take-home open book exam will be held on **Wednesday 14 November, 2018**.

This is a take-home examination and will be completed online. It will consist of two questions:

- one hypothetical scenario, asking you to apply administrative law to a new set of facts and
- one general essay question asking you to develop an argument that demonstrates an in-depth understanding of administrative law doctrine, principles and theory.

The questions are equally weighted.

The examination can cover any material in the unit.

Access to the examination paper will be available on iLearn from **12noon-8pm, Wednesday 14 November 2018** and students must submit their answers by **8pm, Wednesday 14 November**. All work is to be submitted via the correct Turnitin link on iLearn.

This exam is designed to be completed in 3 hours and once the examination is opened students have 4 hours to complete the exam. An 8-hour window to commence the exam is designed to accommodate student and work timetables. Answers to the exam questions cannot exceed 3,000 words (combined) however it is desirable to write shorter responses as this is an upper word limit. It is not necessary to write 3,000 words if students can answer the questions in less than 3,000 words.

This is a timed assessment and no late submissions will be accepted. Any student who has an approved special consideration request will sit a supplementary examination.

A bibliography is not required. Footnoting is not required. Rather, a student should provide references for the examination in brackets in the text.

Further details and assessment guidance/marking rubrics will be provided on iLearn.

As with all Law units, Laws808 has an exception to the assessment policy allowing a take-home examination during the formal exam period.

On successful completion you will be able to:

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- Identify contemporary administrative law questions and develop, critical, coherent and well-researched arguments
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- Demonstrate advanced legal problem-solving skills
- Present well researched legal analysis through clear written expression and sophisticated oral communication

Delivery and Resources

This unit is convened by, and the OCS (**which will take place over 3 days on 25, 26 and 27 September**) are conducted by, Dr Holly Doel-Mackaway.

Weekly lectures in this unit will be pre-recorded and available to students on iLearn. They are shared with the undergraduate Administrative Law unit and delivered by Dr Doron Goldbarsht. There may also be additional supplementary recorded material prepared/posted on the iLearn page for the week's topic. This may consist of short recorded lectures, videos and other multimedia online content and is designed to enhance learning in the unit.

Each week, one lecture or set of lectures will be pre-recorded and available to students on iLearn. A second on-site lecture will then be given on Thursdays, 10:00-11:00am (JD students are welcome, indeed encouraged, to attend these lectures if you wish to face to face; however recordings of these lectures will be available on the iLearn page). These face-to-face lectures will take place from **Week 1 to Week 12**. The schedule of topics to be covered in the lectures, and notes on required readings, will be available in detail on the iLearn page. The list of weekly topics is provided below in the Unit Schedule.

A schedule for the OCS is provided on the iLearn page. Discussion questions for each of the topics covered during the OCS is also available on the iLearn page.

The required text is: Robin Creyke, John McMillan, Mark Smyth, *Control of Government Action: Text, Cases and Commentary* (LexisNexis Butterworths, 2015). It is available from the Macquarie University Co-op Bookshop. Additional readings will be available via iLearn.

Students require access to a computer and a secure and reliable internet connection.

Unit Schedule

* For OCS times and location see <https://timetables.mq.edu.au/2018/>.

* Seminar content will cover the topics from the previous week's lectures.

LAW315 S2 2018 - Lecture Schedule		
WEEK	DATES: WEEKS STARTING	LECTURE
Week 1	30 Jul	- INTRODUCTION TO THE UNIT - ADMIN LAW - THEORY, HISTORY AND CONTEXT - THE FRAMEWORK FOR JUDICIAL REVIEW
Week 2	6 Aug	- MERITS REVIEW AND ADMINISTRATIVE TRIBUNALS
Week 3	13 Aug	- OTHER METHODS OF ADMINISTRATIVE LAW REVIEW - CONSTITUTIONAL CONSIDERATIONS
Week 4	20 Aug	- RULE-MAKING AND CONTROL OF SUBORDINATE LEGISLATION - FOUNDATION CONCEPTS OF JUDICIAL REVIEW

Week 5	27 Aug	- UNAUTHORISED DECISION-MAKING
Week 6	3 Sep	- STATUTORY PURPOSE AND RELEVANT CONSIDERATION - NATURAL JUSTICE
Week 7	10 Sep	- EXECUTIVE POLICIES, DIRECTIONS AND REPRESENTATIONS - LAW, FACT AND EVIDENCE
Break	17-28 Sep (OCS 17 and 18 Sep)	
Week 8	1 Oct	- FAILURE TO PERFORM A STATUTORY DUTY - <i>WEDNESBURY</i> UNREASONABLENESS, GOOD ADMINISTRATION AND THE OUTER LIMITS OF LEGALITY
Week 9	8 Oct	- EXECUTIVE POWER AND DECISION-MAKING - THE CONSEQUENCES OF UNLAWFUL DECISION-MAKING
Week 10	15 Oct	- JUDICIAL REVIEW REMEDIES - STANDING
Week 11	22 Oct	- ACCESS TO INFORMATION - PRIVACY
Week 12	29 Oct	- OBTAINING REASONS FOR GOVERNMENT DECISIONS - PROBLEM-SOLVING
Week 13	5 Nov	NO LECTURE

Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central \(https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central\)](https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central). 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](#)

- [Grade Appeal Policy](#)
- [Complaint Management Procedure for Students and Members of the Public](#)
- [Special Consideration Policy](#) (**Note:** *The Special Consideration Policy is effective from 4 December 2017 and replaces the Disruption to Studies Policy.*)

Undergraduate students seeking more policy resources can visit the [Student Policy Gateway](https://students.mq.edu.au/support/study/student-policy-gateway) (<https://students.mq.edu.au/support/study/student-policy-gateway>). It is your one-stop-shop for the key policies you need to know about throughout your undergraduate student journey.

If you would like to see all the policies relevant to Learning and Teaching visit [Policy Central](http://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central) (<http://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/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/study/getting-started/student-conduct>

Results

Results shown in *iLearn*, 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.

Word limits will be strictly applied and work above the word limit will not be marked.

All assessments in the unit are to be submitted electronically. Plagiarism detection software is used in this unit.

Student Support

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

Learning Skills

Learning Skills (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 Services and 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.

Student Enquiries

For all student enquiries, visit Student Connect at ask.mq.edu.au

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.

Graduate Capabilities

PG - Capable of Professional and Personal Judgment and Initiative

Our postgraduates will demonstrate a high standard of discernment and common sense in their professional and personal judgment. They will have the ability to make informed choices and decisions that reflect both the nature of their professional work and their personal perspectives.

This graduate capability is supported by:

Learning outcomes

- Contextualise administrative law within the government, legal, constitutional and social settings
- Demonstrate advanced legal problem-solving skills
- Collaborate with peers to develop arguments and optimise learning and reflective practices
- Present well researched legal analysis through clear written expression and sophisticated oral communication

Assessment tasks

- Participation/Discussion Task
- Research Essay

PG - Discipline Knowledge and Skills

Our postgraduates will be able to demonstrate a significantly enhanced depth and breadth of knowledge, scholarly understanding, and specific subject content knowledge in their chosen fields.

This graduate capability is supported by:

Learning outcomes

- Acquire an advanced understanding of key mechanisms and principles of administrative

law (merits review, judicial review, Freedom of Information, natural justice, errors of law).

- Identify contemporary administrative law questions and develop, critical, coherent and well-researched arguments
- Contextualise administrative law within the government, legal, constitutional and social settings
- Demonstrate advanced legal problem-solving skills
- Collaborate with peers to develop arguments and optimise learning and reflective practices
- Present well researched legal analysis through clear written expression and sophisticated oral communication

Assessment tasks

- Participation/Discussion Task
- Research Essay
- Final Take-Home Examination

PG - Critical, Analytical and Integrative Thinking

Our postgraduates will be capable of utilising and reflecting on prior knowledge and experience, of applying higher level critical thinking skills, and of integrating and synthesising learning and knowledge from a range of sources and environments. A characteristic of this form of thinking is the generation of new, professionally oriented knowledge through personal or group-based critique of practice and theory.

This graduate capability is supported by:

Learning outcomes

- Acquire an advanced understanding of key mechanisms and principles of administrative law (merits review, judicial review, Freedom of Information, natural justice, errors of law).
- Identify contemporary administrative law questions and develop, critical, coherent and well-researched arguments
- Contextualise administrative law within the government, legal, constitutional and social settings
- Demonstrate advanced legal problem-solving skills
- Collaborate with peers to develop arguments and optimise learning and reflective practices
- Present well researched legal analysis through clear written expression and sophisticated oral communication

Assessment tasks

- Participation/Discussion Task
- Research Essay
- Final Take-Home Examination

PG - Research and Problem Solving Capability

Our postgraduates will be capable of systematic enquiry; able to use research skills to create new knowledge that can be applied to real world issues, or contribute to a field of study or practice to enhance society. They will be capable of creative questioning, problem finding and problem solving.

This graduate capability is supported by:

Learning outcomes

- Identify contemporary administrative law questions and develop, critical, coherent and well-researched arguments
- Demonstrate advanced legal problem-solving skills

Assessment tasks

- Participation/Discussion Task
- Research Essay
- Final Take-Home Examination

PG - Effective Communication

Our postgraduates will be able to communicate effectively and convey their views to different social, cultural, and professional audiences. They will be able to use a variety of technologically supported media to communicate with empathy using a range of written, spoken or visual formats.

This graduate capability is supported by:

Learning outcomes

- Demonstrate advanced legal problem-solving skills
- Collaborate with peers to develop arguments and optimise learning and reflective practices
- Present well researched legal analysis through clear written expression and sophisticated oral communication

Assessment tasks

- Participation/Discussion Task
- Research Essay

- Final Take-Home Examination

PG - Engaged and Responsible, Active and Ethical Citizens

Our postgraduates will be ethically aware and capable of confident transformative action in relation to their professional responsibilities and the wider community. They will have a sense of connectedness with others and country and have a sense of mutual obligation. They will be able to appreciate the impact of their professional roles for social justice and inclusion related to national and global issues

This graduate capability is supported by:

Learning outcomes

- Acquire an advanced understanding of key mechanisms and principles of administrative law (merits review, judicial review, Freedom of Information, natural justice, errors of law).
- Identify contemporary administrative law questions and develop, critical, coherent and well-researched arguments
- Contextualise administrative law within the government, legal, constitutional and social settings
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Assessment tasks

- Participation/Discussion Task
- Research Essay