



# LAW 315

## Administrative Law

S2 External 2018

*Dept of Law*

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#### **Disclaimer**

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## General Information

### Unit convenor and teaching staff

#### Convenor

Dr Doron Goldbarsht

[doron.goldbarsht@mq.edu.au](mailto:doron.goldbarsht@mq.edu.au)

6 First Walk (W3A) 514

Thursday, 15:00 - 16:00

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### Credit points

3

### Prerequisites

LAW314

### Corequisites

### Co-badged status

### Unit description

This unit provides a basic introduction to administrative law. It covers access to information (including the provision of reasons for decisions, freedom of information, and privacy), merits review, and judicial review, as well as considering varying theories, overarching concepts and doctrines, and statutory interpretation.

## 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 knowledge of the basic mechanisms and principles of administrative law (merits review, judicial review, Freedom of Information, natural justice, errors of law).

Demonstrate and improve the skill of interpretation of statutes.

Demonstrate legal problem-solving.

Understand and apply case analysis.

Critical analysis of facts and the law.

Contextualise administrative law within the government, legal, constitutional and social contexts.

Produce clear and grammatical writing and analysis.

Communicate clearly and thoughtfully.

## General Assessment Information

### Late Assessment Penalty

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.

Applications for a Disruption to Studies are made electronically via [ask.mq.edu.au](http://ask.mq.edu.au) and should be accompanied by supporting documentation. Students should refer to the Disruption to Studies policy for complete details of the policy and a description of the supporting documentation required.

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 rubrics will be made available on iLearn. Markers in this unit undertake a process of 'blind marking' to establish a common marking standard and all Fail papers are double marked

## Assessment Tasks

Name	Weighting	Hurdle	Due
Participation	20%	No	on going

Name	Weighting	Hurdle	Due
<u>Research Essay</u>	30%	No	21/09/2018 17:00
<u>Hypothetical Problem</u>	50%	No	9/11/2018 17:00

## Participation

Due: **on going**

Weighting: **20%**

Students are required to attend both days of the On-Campus Session, if they are an external student. The On-Campus Session will be held on Monday, 17 September and Tuesday, 18 September 2018 from 9 am to 5 pm with breaks through the day. In the absence of a successful Disruption to Studies application: external students will lose 5% of their marks for attendance and participation for each day of the On-Campus Session that they do not attend.

### Participation in-class:

This individual component is worth 10% of student's grade and it will be based on attendance at the On-Campus Session and an assessment by the tutor of student individual contribution to the class discussion and presentation.

If students are unable to attend the On-Campus Session due to a serious and unavoidable disruption, they should submit a Disruption to Studies application online by visiting [ask.mq.edu.au](http://ask.mq.edu.au).

### Participation on-line (Q&A postings):

This individual component is worth 10% of student's grade.

Starting in Week 2, a forum will be open for Q&A posting on iLearn. In this forum, students will post 2 times in total during the semester: Questions that has occurred as a result of listening to the weekly lectures, or from the material covered in tutorials. Along with the question students will post an answer to the question, based on a research into the weekly readings/resources and a justification for the answer. Student question and answer together should be no more than 150 words for each Q&A (please note, 150 words is the limit, not a challenge). Content over 150 words will not be marked.

Assessment guideline for in-class and on-line participation will be released via iLearn.

On successful completion you will be able to:

- Acquire knowledge of the basic mechanisms and principles of administrative law (merits review, judicial review, Freedom of Information, natural justice, errors of law).
- Demonstrate and improve the skill of interpretation of statutes.
- Demonstrate legal problem-solving.
- Understand and apply case analysis.

- Critical analysis of facts and the law.
- Contextualise administrative law within the government, legal, constitutional and social contexts.
- Produce clear and grammatical writing and analysis.
- Communicate clearly and thoughtfully.

## Research Essay

Due: **21/09/2018 17:00**

Weighting: **30%**

Essays must be submitted in double line spaced text, 12 point font, Times New Roman. The word limit is 1,500 words, excluding footnotes. Footnotes should only be used for references, with no further discussion. Content over 1,500 words will not be marked. A bibliography should not be provided.

The essay must comply with the Australian Guide to Legal Citation (3 ed). The Guide is available here: <<http://mulr.law.unimelb.edu.au/go/AGLC3>>

All work, in WORD format, is to be submitted via Turnitin on iLearn. The essay question and assessment guidance will be released via iLearn.

On successful completion you will be able to:

- Acquire knowledge of the basic mechanisms and principles of administrative law (merits review, judicial review, Freedom of Information, natural justice, errors of law).
- Demonstrate and improve the skill of interpretation of statutes.
- Demonstrate legal problem-solving.
- Understand and apply case analysis.
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- Contextualise administrative law within the government, legal, constitutional and social contexts.
- Produce clear and grammatical writing and analysis.
- Communicate clearly and thoughtfully.

## Hypothetical Problem

Due: **9/11/2018 17:00**

Weighting: **50%**

Release date: 30 October 2018, 17:00 PM

Essays must be submitted in double line spaced text, 12 point font. The word limit is 2,000 words, excluding footnotes. Footnotes should only be used for references, with no further discussion. Content over 2,000 words will not be marked. A bibliography should not be provided.

The essay must comply with the Australian Guide to Legal Citation (3 ed). The Guide is available here <<http://mulr.law.unimelb.edu.au/go/AGLC3>>

All work, in WORD format, is to be submitted via Turnitin on iLearn. The hypothetical problem and assessment guidance will be released via iLearn.

Once the hypothetical problem is released to students the Unit Convenor/Tutors will not be in a position to answer any questions about it.

On successful completion you will be able to:

- Acquire knowledge of the basic mechanisms and principles of administrative law (merits review, judicial review, Freedom of Information, natural justice, errors of law).
- Demonstrate and improve the skill of interpretation of statutes.
- Demonstrate legal problem-solving.
- Understand and apply case analysis.
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- Communicate clearly and thoughtfully.

## Delivery and Resources

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, 10:00-11:00. These will take place 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 iLearn. A list of covered topics is provided below in the Unit Schedule.

Weekly one hour tutorials begin in Week 2 and finish in Week 13. Discussion questions for each tutorial will be available on the iLearn page for the unit.

External students have a compulsory two day on-campus session and the dates are available via timetables. The two days will mirror most of the tutorial classes.

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 or else they will be linked to a publicly available source.

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

## Unit Schedule

LAW315 S2 2018 - LECTURE SCHEDULE

Week	DATES: WEEKS STARTING	Lecture [tutorial content will cover the topics from the previous week's lectures].
Week 1	30 JUL	<ul style="list-style-type: none"> <li>- Introduction to the unit</li> <li>- Admin law - theory, history and context</li> <li>- The framework for judicial review</li> </ul>
Week 2	6 AUG	<ul style="list-style-type: none"> <li>- Merits review and administrative tribunals</li> </ul>
Week 3	13 AUG	<ul style="list-style-type: none"> <li>- Other methods of administrative law review</li> <li>- Constitutional considerations</li> </ul>
Week 4	20 AUG	<ul style="list-style-type: none"> <li>- Rule-making and control of subordinate legislation</li> <li>- foundation concepts of judicial review</li> </ul>
Week 5	27 AUG	<ul style="list-style-type: none"> <li>- Unauthorised decision-making</li> </ul>
Week 6	3 SEP	<ul style="list-style-type: none"> <li>- Statutory purpose and relevant consideration</li> <li>- Natural justice</li> </ul>
Week 7	10 SEP	<ul style="list-style-type: none"> <li>- Executive policies, directions and representations</li> <li>- Law, fact and evidence</li> </ul>
Break	17-28 SEP (OCS 17 AND 18 SEP)	
Week 8	1 OCT	<ul style="list-style-type: none"> <li>- Failure to perform a statutory duty</li> <li>- <i>Wednesbury</i> unreasonableness, good administration and the outer limits of legality</li> </ul>
Week 9	8 OCT	<ul style="list-style-type: none"> <li>- Executive power and decision-making</li> <li>- The consequences of unlawful decision-making</li> </ul>
Week 10	15 OCT	<ul style="list-style-type: none"> <li>- Judicial review remedies</li> <li>- Standing</li> </ul>
Week 11	22 OCT	<ul style="list-style-type: none"> <li>- Access to information</li> <li>- Privacy</li> </ul>
Week 12	29 OCT	<ul style="list-style-type: none"> <li>- Obtaining reasons for government decisions</li> <li>- Problem solving</li> </ul>
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](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>).

## 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](https://ask.mq.edu.au).

## 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](https://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](http://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/](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

### Creative and Innovative

Our graduates will also be capable of creative thinking and of creating knowledge. They will be imaginative and open to experience and capable of innovation at work and in the community. We want them to be engaged in applying their critical, creative thinking.

This graduate capability is supported by:

### Learning outcomes

- Acquire knowledge of the basic mechanisms and principles of administrative law (merits review, judicial review, Freedom of Information, natural justice, errors of law).
- Demonstrate and improve the skill of interpretation of statutes.
- Demonstrate legal problem-solving.
- Understand and apply case analysis.
- Critical analysis of facts and the law.
- Contextualise administrative law within the government, legal, constitutional and social contexts.
- Produce clear and grammatical writing and analysis.
- Communicate clearly and thoughtfully.

### Assessment task

- Participation

## 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

- Acquire knowledge of the basic mechanisms and principles of administrative law (merits review, judicial review, Freedom of Information, natural justice, errors of law).
- Demonstrate and improve the skill of interpretation of statutes.
- Demonstrate legal problem-solving.
- Understand and apply case analysis.
- Critical analysis of facts and the law.
- Contextualise administrative law within the government, legal, constitutional and social contexts.
- Produce clear and grammatical writing and analysis.
- Communicate clearly and thoughtfully.

### Assessment tasks

- Participation
- Research Essay
- Hypothetical Problem

## 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

- Acquire knowledge of the basic mechanisms and principles of administrative law (merits review, judicial review, Freedom of Information, natural justice, errors of law).
- Demonstrate and improve the skill of interpretation of statutes.

- Demonstrate legal problem-solving.
- Understand and apply case analysis.
- Critical analysis of facts and the law.
- Contextualise administrative law within the government, legal, constitutional and social contexts.
- Produce clear and grammatical writing and analysis.
- Communicate clearly and thoughtfully.

## **Assessment tasks**

- Participation
- Research Essay
- Hypothetical Problem

## **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**

- Acquire knowledge of the basic mechanisms and principles of administrative law (merits review, judicial review, Freedom of Information, natural justice, errors of law).
- Demonstrate and improve the skill of interpretation of statutes.
- Demonstrate legal problem-solving.
- Understand and apply case analysis.
- Critical analysis of facts and the law.
- Contextualise administrative law within the government, legal, constitutional and social contexts.
- Produce clear and grammatical writing and analysis.
- Communicate clearly and thoughtfully.

## **Assessment tasks**

- Participation
- Research Essay
- Hypothetical Problem

## 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 outcomes

- Acquire knowledge of the basic mechanisms and principles of administrative law (merits review, judicial review, Freedom of Information, natural justice, errors of law).
- Demonstrate and improve the skill of interpretation of statutes.
- Demonstrate legal problem-solving.
- Understand and apply case analysis.
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- Communicate clearly and thoughtfully.

### Assessment tasks

- Participation
- Research Essay
- Hypothetical Problem

## Changes from Previous Offering

This unit involves a change in Unit Convenor. The assessment scheme has also been changed class participation has been added and there will only be 2 assessments (research assignment and hypothetical problem) without a sit down closed book exam. The programme of Lectures and tutorials for 2018 has been changed from that given in 2017, and may be subject to further change due to developments. Students should consult the Unit Schedule and prepare tutorial questions for classes and written assignments according to the new lecture regime.