



LAWS829

Succession

S1 Day 2018

Dept of Law

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Disclaimer

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General Information

Unit convenor and teaching staff

Convenor

Caitriona McCabe

caitriona.mccabe@mq.edu.au

Contact via Email

W3A 519

Wed 1pm - 2pm

Credit points

4

Prerequisites

16cp of LAW or LAWS units at 800 level

Corequisites

Co-badged status

LAWS829 Ext

Unit description

Succession law involves the study of wills, probate matters and inheritance. This unit is designed to explore the legal philosophical basis for the principles existing in this area of law, comprised of a combination of distinct categories of law such as property law and equity. In addition, an understanding of the formalities and requirements for valid wills, as well as the interpretative and constructive powers of the courts will be examined. This will equip a law student with the knowledge required to advise on estate planning matters and disputes relating to wills or on intestacy.

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:

1. Demonstrate a detailed and thorough knowledge of legal principles relating to the nature of succession law and the theoretical basis for the law.
2. Analyse case law on the Succession Act 2006 (NSW) and apply to family provision and the validity and interpretation of wills.
3. Analyse complex factual situations involving estate disputes and

the provisions of wills. 4. Advise on competing claims dealing with testate estates, intestate estates and partial intestacy. 5. Assess the various needs of a family in order to give appropriate advice on wills and family provision. 6. Formulate, present and evaluate arguments on theoretical issues, drawing upon relevant legal authority and policy considerations as regards different conceptions of inheritance.

General Assessment Information

Compulsory Text

Croucher, R; Vines, P, *Succession: Families, Property and Death* (LexisNexis, 4th ed, 2013). Available from the Macquarie University Co-op Bookshop.

Recommended additional references (students are not expected to purchase these references):

Certoma, GL, *The Law of Succession in NSW* (Thomson Reuters, 4th ed, 2010)

Mackie, K, *Principles of Australian Succession Law* (LexisNexis, 3rd ed, 2017)

Dal Pont, G E; Mackie, K F, *Law of Succession* (LexisNexis, 2nd ed, 2017)

Lectures

Weekly lectures in this unit will be pre-recorded and available to students on iLearn. Weekly lectures will commence in Week 1 and go through to Week 12.

Tutorials

Weekly tutorials will be conducted for internal students commencing in week 2 and concluding in week 13 inclusive. Tutorials will be based on the preceding week's materials set out in the weekly schedule on iLearn. References to weekly materials for assessment purposes are based on the iLearn schedule. An On Campus Session is scheduled for Saturday and Sunday, the 21st and 22nd April 2018 in Room 211 on 4 Western Road. Please check the timetable closer to the date for confirmation: timetables@mq.edu.au

Tutorials and the On Campus Session are beneficial but not compulsory.

Online Units

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.

Assessment Tasks

Name	Weighting	Hurdle	Due
Online Quiz	20%	No	11th April
Hypothetical Problem Question	30%	No	11th May, 9pm

Name	Weighting	Hurdle	Due
Theoretical Research Essay	30%	No	30th May, 9pm
Online Quiz	20%	No	20th June

Online Quiz

Due: **11th April**

Weighting: **20%**

This quiz will test your understanding of the materials covered in weeks 1 - 4 inclusive. Although the submission portal will remain open from 12pm – 8pm, the quiz is designed to be completed in 1 hour; the 8 hour time span is to accommodate the range of commitments and needs of both internal and external students. It will consist of 10 multiple choice questions some of which will be based on short hypothetical problem questions. When a student accesses the quiz they have 1 hour in which to complete it. The questions and responses available to each student will vary as they will be allocated from a bank of questions, with the order of the responses presented to each student also varying. Answers will be automatically submitted at the end of the hour.

On successful completion you will be able to:

- 1. Demonstrate a detailed and thorough knowledge of legal principles relating to the nature of succession law and the theoretical basis for the law.
- 2. Analyse case law on the Succession Act 2006 (NSW) and apply to family provision and the validity and interpretation of wills.
- 3. Analyse complex factual situations involving estate disputes and the provisions of wills.
- 4. Advise on competing claims dealing with testate estates, intestate estates and partial intestacy.
- 5. Assess the various needs of a family in order to give appropriate advice on wills and family provision.
- 6. Formulate, present and evaluate arguments on theoretical issues, drawing upon relevant legal authority and policy considerations as regards different conceptions of inheritance.

Hypothetical Problem Question

Due: **11th May, 9pm**

Weighting: **30%**

The hypothetical problem question will be based on the materials in weeks 5 - 8 inclusive and will require a response to a hypothetical problem question involving succession law.

Word limit 2500 including footnotes.

Further information and a marking rubric will be available on the question.

On successful completion you will be able to:

- 1. Demonstrate a detailed and thorough knowledge of legal principles relating to the nature of succession law and the theoretical basis for the law. 2. Analyse case law on the Succession Act 2006 (NSW) and apply to family provision and the validity and interpretation of wills. 3. Analyse complex factual situations involving estate disputes and the provisions of wills. 4. Advise on competing claims dealing with testate estates, intestate estates and partial intestacy. 5. Assess the various needs of a family in order to give appropriate advice on wills and family provision. 6. Formulate, present and evaluate arguments on theoretical issues, drawing upon relevant legal authority and policy considerations as regards different conceptions of inheritance.

Theoretical Research Essay

Due: **30th May, 9pm**

Weighting: **30%**

The theoretical research essay will be based on a topic of your choosing as a framework for critical analysis of Succession Law in New South Wales.

Word limit 2500 including footnotes.

Further information and a marking rubric will be available on iLearn.

On successful completion you will be able to:

- 1. Demonstrate a detailed and thorough knowledge of legal principles relating to the nature of succession law and the theoretical basis for the law. 2. Analyse case law on the Succession Act 2006 (NSW) and apply to family provision and the validity and interpretation of wills. 3. Analyse complex factual situations involving estate disputes and the provisions of wills. 4. Advise on competing claims dealing with testate estates, intestate estates and partial intestacy. 5. Assess the various needs of a family in order to give appropriate advice on wills and family provision. 6. Formulate, present and evaluate arguments on theoretical issues, drawing upon relevant legal authority and policy considerations as regards different conceptions of inheritance.

Online Quiz

Due: **20th June**

Weighting: **20%**

This quiz will test your understanding of the materials covered in weeks 9 - 12 inclusive.

Although the submission portal will remain open from 12pm – 8pm, the quiz is designed to be completed in 1 hour; the 8 hour time span is to accommodate the range of commitments and needs of both internal and external students. It will consist of 10 multiple choice questions some of which will be based on short hypothetical problem questions. When a student accesses the

quiz they have 1 hour in which to complete it. The questions and responses available to each student will vary as they will be allocated from a bank of questions, with the order of the responses presented to each student also varying. Answers will be automatically submitted at the end of the hour.

On successful completion you will be able to:

- 1. Demonstrate a detailed and thorough knowledge of legal principles relating to the nature of succession law and the theoretical basis for the law.
- 2. Analyse case law on the Succession Act 2006 (NSW) and apply to family provision and the validity and interpretation of wills.
- 3. Analyse complex factual situations involving estate disputes and the provisions of wills.
- 4. Advise on competing claims dealing with testate estates, intestate estates and partial intestacy.
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Delivery and Resources

Late Submission 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. No late submissions will be accepted for timed assessments – e.g. quizzes, online tests.

Unit Schedule

LECTURE SCHEDULE, SEMESTER 1, 2018 - SUBJECT TO REVISION: CHECK ILEARN FOR DETAILED SCHEDULE

TOPIC	Week commencing 2018	ISSUES
1	26/2	Introduction to the Unit Theories of Succession Law; Succession Law as a reflection of Societal Theories
2	5/3	Family Provision: History, Jurisdiction & Eligibility
3	12/3	Family Provision: Priority of Competing Claims
4	19/3	Family Provision: The Court's Criterion & Approach
5	26/3	Intestacy and Spouses

6	2/4	Intestacy and Other Relationships, Estates of Indigenous Persons and Bona Vacantia
7	9/4	Formal Requirements of Wills and the Dispensing Power
MID SEMESTER BREAK – ON CAMPUS SESSION 21 and 22 April		
8	30/4	Capacity and Undue Influence
9	7/5	Life Estates and Other Testamentary Trusts
10	14/5	Rectification and Construction of Wills
11	21/5	Ademption, Lapse and Equitable Doctrines
12	28/5	Revocation and Alteration of Wills
13	4/6	NO LECTURE THIS WEEK

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.

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 outcome

- 1. Demonstrate a detailed and thorough knowledge of legal principles relating to the nature of succession law and the theoretical basis for the law. 2. Analyse case law on the Succession Act 2006 (NSW) and apply to family provision and the validity and interpretation of wills. 3. Analyse complex factual situations involving estate disputes and the provisions of wills. 4. Advise on competing claims dealing with testate estates, intestate estates and partial intestacy. 5. Assess the various needs of a family in order to give appropriate advice on wills and family provision. 6. Formulate, present and evaluate arguments on theoretical issues, drawing upon relevant legal authority and policy considerations as regards different conceptions of inheritance.

Assessment tasks

- Online Quiz
- Hypothetical Problem Question
- Theoretical Research Essay
- Online Quiz

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 outcome

- 1. Demonstrate a detailed and thorough knowledge of legal principles relating to the nature of succession law and the theoretical basis for the law. 2. Analyse case law on the Succession Act 2006 (NSW) and apply to family provision and the validity and interpretation of wills. 3. Analyse complex factual situations involving estate disputes and the provisions of wills. 4. Advise on competing claims dealing with testate estates, intestate estates and partial intestacy. 5. Assess the various needs of a family in order to give appropriate advice on wills and family provision. 6. Formulate, present and evaluate arguments on theoretical issues, drawing upon relevant legal authority and policy considerations as regards different conceptions of inheritance.

Assessment tasks

- Online Quiz
- Hypothetical Problem Question
- Theoretical Research Essay
- Online Quiz

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 outcome

- 1. Demonstrate a detailed and thorough knowledge of legal principles relating to the nature of succession law and the theoretical basis for the law. 2. Analyse case law on the Succession Act 2006 (NSW) and apply to family provision and the validity and interpretation of wills. 3. Analyse complex factual situations involving estate disputes and the provisions of wills. 4. Advise on competing claims dealing with testate estates, intestate estates and partial intestacy. 5. Assess the various needs of a family in order to give appropriate advice on wills and family provision. 6. Formulate, present and evaluate arguments on theoretical issues, drawing upon relevant legal authority and policy considerations as regards different conceptions of inheritance.

Assessment tasks

- Online Quiz
- Hypothetical Problem Question
- Theoretical Research Essay
- Online Quiz

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 outcome

- 1. Demonstrate a detailed and thorough knowledge of legal principles relating to the nature of succession law and the theoretical basis for the law. 2. Analyse case law on the Succession Act 2006 (NSW) and apply to family provision and the validity and interpretation of wills. 3. Analyse complex factual situations involving estate disputes and the provisions of wills. 4. Advise on competing claims dealing with testate estates, intestate estates and partial intestacy. 5. Assess the various needs of a family in order to give appropriate advice on wills and family provision. 6. Formulate, present and evaluate arguments on theoretical issues, drawing upon relevant legal authority and policy considerations as regards different conceptions of inheritance.

Assessment tasks

- Online Quiz
- Hypothetical Problem Question
- Theoretical Research Essay
- Online Quiz

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 outcome

- 1. Demonstrate a detailed and thorough knowledge of legal principles relating to the nature of succession law and the theoretical basis for the law. 2. Analyse case law on the Succession Act 2006 (NSW) and apply to family provision and the validity and interpretation of wills. 3. Analyse complex factual situations involving estate disputes and the provisions of wills. 4. Advise on competing claims dealing with testate estates, intestate estates and partial intestacy. 5. Assess the various needs of a family in order to give appropriate advice on wills and family provision. 6. Formulate, present and evaluate arguments on theoretical issues, drawing upon relevant legal authority and policy considerations as regards different conceptions of inheritance.

Assessment tasks

- Online Quiz

- Hypothetical Problem Question
- Theoretical Research Essay
- Online Quiz

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 outcome

- 1. Demonstrate a detailed and thorough knowledge of legal principles relating to the nature of succession law and the theoretical basis for the law. 2. Analyse case law on the Succession Act 2006 (NSW) and apply to family provision and the validity and interpretation of wills. 3. Analyse complex factual situations involving estate disputes and the provisions of wills. 4. Advise on competing claims dealing with testate estates, intestate estates and partial intestacy. 5. Assess the various needs of a family in order to give appropriate advice on wills and family provision. 6. Formulate, present and evaluate arguments on theoretical issues, drawing upon relevant legal authority and policy considerations as regards different conceptions of inheritance.

Assessment tasks

- Online Quiz
- Hypothetical Problem Question
- Theoretical Research Essay
- Online Quiz