



LAWS808

Administrative Law

S2 External 2019

Macquarie Law School

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General Information

Unit convenor and teaching staff

Convenor

Dr Doron Goldbarsht

doron.goldbarsht@mq.edu.au

6 First Walk (W3A) 514

Monday, 13:00-14:00

Tutor

Dr Uche Ngwaba

uche.ngwaba@mq.edu.au

Tutor

Christine Mikhael

christine.mikhael@mq.edu.au

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 and constitutional contexts.

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

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.

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
Research Essay	30%	No	13/09/2019 17:00
Hypothetical Problem	50%	No	8/11/2019 17:00

Participation

Due: **on going**

Weighting: **20%**

Due: Ongoing

Participation in-class:

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

If students are unable to attend a tutorial or the On-Campus Session due to a serious and unavoidable disruption, they should submit a Special Consideration application online by visiting ask.mq.edu.au.

External Students: If you miss the OCS due to an approved Special Consideration application you are to complete the following:

If you miss one day you are to complete 3 tutorial questions (relating to different lectures - ie 1 question each from Lecture 1, Lecture 2 and Lecture 7 tutorial questions) and 3 hypothetical problems (relating to different lectures). Max 4 pages double-spaced.

If you miss both days you are to complete 6 tutorial questions (relating to different lectures) and 6 hypothetical problems (relating to different lectures). Max 8 pages double-spaced.

You are to submit this work to the Unit Convenor. You will have seven (7) days (incl. weekends) after your original OCS date to complete this work unless your case for special consideration requires that you be given more time.

Participation on-line (Q&A postings):

Last day to post: End of S2 Week 13, 5pm.

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 have 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, answer and justification together should be no more than 150 words for each Q&A. 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 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 and constitutional contexts.
- 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: **13/09/2019 17:00**

Weighting: **30%**

Essays must be submitted in double line spaced text, 12 point font, Times New Roman. The word limit is **2,000 words**, excluding footnotes but including anything else you write (for example headings). 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* (4th edition).

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 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 and constitutional contexts.
- Present well researched legal analysis through clear written expression and sophisticated oral communication.

Hypothetical Problem

Due: **8/11/2019 17:00**

Weighting: **50%**

Release date: 29 October 2019, 17:00 PM

This assignment will consist of three questions:

- Two 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.

Essays must be submitted in double line spaced text, 12 point font. The word limit is **2,000 words**, excluding footnotes but including anything else you write (for example

headings). 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* (4th edition).

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 and Tutors will not be in a position to answer any questions about it.

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 and constitutional contexts.
- Demonstrate advanced legal problem-solving skills.
- Present well researched legal analysis through clear written expression and sophisticated oral communication.

Delivery and Resources

Weekly lectures in this unit will be pre-recorded and available to students on iLearn. They are shared with the undergraduate Administrative Law unit. 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 Monday, 14:00-15:00 (JD students are welcome, indeed encouraged, to attend these lectures face to face; however recordings of these lectures will be available on the iLearn page). 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.

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

Unit Schedule

LAWS808 S2 2019 - LECTURE SCHEDULE		
WEEK	DATES: WEEKS STARTING	LECTURE
		[Tutorial content will cover the topics from the previous week's lectures].
WEEK 1	29 JUL	<ul style="list-style-type: none"> - INTRODUCTION TO THE UNIT - ADMIN LAW - THEORY, HISTORY AND CONTEXT - THE FRAMEWORK FOR JUDICIAL REVIEW
WEEK 2	5 AUG	<ul style="list-style-type: none"> - MERITS REVIEW AND ADMINISTRATIVE TRIBUNALS
WEEK 3	12 AUG	<ul style="list-style-type: none"> - OTHER METHODS OF ADMINISTRATIVE LAW REVIEW - CONSTITUTIONAL CONSIDERATIONS
WEEK 4	19 AUG	<ul style="list-style-type: none"> - RULE-MAKING AND CONTROL OF SUBORDINATE LEGISLATION - FOUNDATION CONCEPTS OF JUDICIAL REVIEW
WEEK 5	26 AUG	<ul style="list-style-type: none"> - UNAUTHORISED DECISION-MAKING
WEEK 6	2 SEP	<ul style="list-style-type: none"> - STATUTORY PURPOSE AND RELEVANT CONSIDERATION - NATURAL JUSTICE
WEEK 7	9 SEP	<ul style="list-style-type: none"> - EXECUTIVE POLICIES, DIRECTIONS AND REPRESENTATIONS - LAW, FACT AND EVIDENCE
BREAK	OCS 18 and 19 SEP	
WEEK 8	30 SEP	<ul style="list-style-type: none"> - FAILURE TO PERFORM A STATUTORY DUTY - <i>WEDNESBURY</i> UNREASONABLENESS, GOOD ADMINISTRATION AND THE OUTER LIMITS OF LEGALITY
WEEK 9	7 OCT	<ul style="list-style-type: none"> - EXECUTIVE POWER AND DECISION-MAKING - THE CONSEQUENCES OF UNLAWFUL DECISION-MAKING
WEEK 10	14 OCT	<ul style="list-style-type: none"> - JUDICIAL REVIEW REMEDIES - STANDING
WEEK 11	21 OCT	<ul style="list-style-type: none"> - ACCESS TO INFORMATION - PRIVACY

WEEK 12	28 OCT	- OBTAINING REASONS FOR GOVERNMENT DECISIONS - PROBLEM SOLVING
WEEK 13	4 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 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 ask.mq.edu.au or if you are a Global MBA student contact globalmba.support@mq.edu.au

Student Support

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

dents.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

If you are a Global MBA student contact globalmba.support@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

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

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 and constitutional contexts.
- 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
- Research Essay
- Hypothetical Problem

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 and constitutional contexts.
- 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
- Research Essay
- Hypothetical Problem

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
- Research Essay
- Hypothetical Problem

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
- Research Essay
- Hypothetical Problem

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 and constitutional contexts.
- 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
- Research Essay

Changes from Previous Offering

This unit involves a change in Unit Convenor. The assessment scheme has also been changed - there will be 2 assignments without a timed assessment.