



ANU COLLEGE OF LAW

Graduate Studies in Law

**GOVERNMENT &  
COMMERCIAL LAW**

Updated: November 2008

# WELCOME TO GRADUATE STUDIES IN LAW

## CONTACT INFORMATION

Please ensure that we have an up-to-date contact address and telephone number. The facility to change your address and other personal information is available through the Interactive Student Information Service (ISIS) using your Student ID and Password. <http://ISIS.anu.edu.au>.

All course correspondence will be conducted with your University Webmail account. You can access this email account at <http://students.anu.edu.au/> and clicking on the Webmail icon. There exists the facility to redirect your university email to a preferred account. You can do this at: <http://students.anu.edu.au/StudentITGuide/7olams.asp>

For all postgraduate enquiries please contact the Postgraduate Administrator:

Telephone: 02 6125 0510 or 02 6125 3965  
Facsimile: 02 6125 3971  
Email: [pgadmin.law@anu.edu.au](mailto:pgadmin.law@anu.edu.au)

The Director, Postgraduate Coursework Program, is Professor Don Rothwell, email: [rothweld@law.anu.edu.au](mailto:rothweld@law.anu.edu.au)

The Postgraduate International Student Advisor is Ms Anne McNaughton:

Telephone: 02 6125 9619  
Facsimile: 02 6125 3971  
Email: [anne.mcnaughton@anu.edu.au](mailto:anne.mcnaughton@anu.edu.au)

## COURSE INFORMATION

- We endeavour to have the full-course outlines available 4-6 weeks before the start of a course. When available they can be found on the web at: <http://law.anu.edu.au/PostGraduate/Courses.asp> under the course name.
- Reading materials are available from the Law Services Office. Copies of the reading materials are also placed in the Law Library. A list of materials can be found at the following website when they become available: <http://law.anu.edu.au/servicesoffice/index.asp>. Credit card payments are accepted by completing the online payment process. Cash payments must be made to the Cashier in the Student Administration Office. See the relevant Course Outline for more information.
- For details on essay submission, please see the relevant Means of Assessment. For hard copy submission, please use the Services Office essay chute near the counter. Essays submitted after hours can be placed in the Law Library book return chute. All assignments must be submitted with an Assignment Cover Sheet which is available at the following website: <http://law.anu.edu.au/servicesoffice/>
- The Services Office is open during the following hours:

DURING SEMESTER: Monday to Thursday 10.30am – 5.30pm, Fridays 10.30 – 5.00pm  
First semester: 23 February – 5 June  
Second semester: 20 July – 30 October

OUTSIDE SEMESTER: Monday to Friday 10.30 – 5.00pm

- Where enrolments in a course are less than 10, that course may not proceed. Students will be given as much notice as possible when a course has to be cancelled or changed.

## STUDENT SERVICES

- There is a postgraduate student common room, Room 258, which is for your use at any time. The College supplies the room with disposable cups, coffee, tea and sugar.
- During the normal semester period the Law Library is open at the following hours:

Monday – Thursday 8.30am – 9.00pm;  
Friday 8.30am – 5.00pm  
Saturday – Sunday 1.00pm – 5.00pm

First semester: 23 February – 5 June  
Second semester: 20 July – 30 October

For further information please check the website: <http://anulib.anu.edu.au/about/open/>

- Computer facilities are available to all students at a number of locations across campus. Please visit the following website for further information: <http://students.anu.edu.au/>
- Voucher parking is available in the car park in front of the Law School and other car parks on campus. Parking permits are also available from Parking Administration, John Yenken Building, Sullivans Creek Road. Parking is free at the ANU grounds after 5.00pm and at weekends.

We hope that you will enjoy your time studying here and that you will find it a rewarding and instructive experience. If you have any problems or need assistance of any kind, please do not hesitate to contact one of us. We would be pleased to be able to help you.

Postgraduate Administrator

Telephone: 02 6125 0510 or 02 6125 3965

Facsimile: 02 6125 3971

Email: [pgadmin.law@anu.edu.au](mailto:pgadmin.law@anu.edu.au)

<http://law.anu.edu.au/Postgraduate/>

Sue Hancock

Student Administration Manager

Telephone: 02 6125 3489

Facsimile: 02 6125 3971

Email: [HancockS@law.anu.edu.au](mailto:HancockS@law.anu.edu.au)

<http://law.anu.edu.au/Postgraduate/>

## WORKING RULES

See the following website for the working rules.

(this site will be updated with the 2009 rules in January 2009)

<http://law.anu.edu.au/Postgraduate/policies/Coursework/WorkingRules/workingrulesindex.asp>

## HOW TO ENROL

Students enrol using the Interactive Student Information Service (ISIS). ISIS is used for updating your contact details, enrolling/re-enrolling and viewing your results. When you first login to ISIS there is an enrolment checklist that will take a few minutes to complete.

The steps for enrolling are as follows:

1. LOGON to ISIS using your username & password at: <https://anubis.anu.edu.au/login.asp>
2. **Task Wizard** - complete steps 1 to 4.
3. Read through any messages, check the boxes and click on '**Continue**'
3. **Student Home:**
  - a) Click on '**Enrolment**'
  - b) Click on '**Enrolment Details**' corresponding to the appropriate Program\Session combination
  - c) Click on '**Add**' button to add a new course
  - d) **Class Number** – enter number and click on '**Add Class**' or use '**Search**' button to find the class number
  - e) To **Add** another class - repeat Step d)
  - f) Click '**Continue**' when all courses of enrolment for the semester have been added.
  - g) Ensure the status is Successful and Click '**Save**' to confirm enrolment.

## ANNUAL ENROLMENT

Every year you must re-enrol. The closing dates for re-enrolment are published in the SEAP Guide. SEAP Guides are available each year from late October and on the web at [www.anu.edu.au/sas/SEAP\\_guide/](http://www.anu.edu.au/sas/SEAP_guide/). There are financial penalties for late enrolment.

## ENROLMENT

The ANU College of Law Postgraduate Program offers courses in Semesters and Non-Standard Sessions. Each year you will need to enrol in both halves of the year, or you will need to apply for program leave. The year is divided as follows;

Summer Session, Semester One, Autumn Session	=	First half of the year
Winter Session, Semester Two, Spring Session	=	Second half of the year

## RESULTS & GRADUATION

Results for postgraduate courses may not be available when standard semester results are released. This may affect your ability to graduate in the next ceremony. For approximate date of release, please check your means of assessment. As a general rule, results need to be available by mid-June for the July ceremony and mid-November for the December ceremony. Students should be aware that any late submission of work may mean that conferring of their award/degree may be delayed or that the offer to transfer to a higher level will be delayed to the point that a leave of absence may be required.

## Graduate Policy on Attendance

Effective: 1 January 2009

For those graduate courses in law that are offered by face-to-face instruction via lectures or seminars the following policy on attendance has been adopted:

1. For those courses offered in the graduate programs in either intensive or semester-length mode the Postgraduate Studies Committee considers participation in the classes offered to be an important part of the educational experience of graduate study. Accordingly students are expected to attend those classes and Class Rolls will be taken for the purposes of verifying attendance. As courses may be scheduled on either weekdays or the weekends, upon enrolling in a course the college assumes that students have taken into account work, family, religious and all other commitments and are able to attend all advertised lectures or seminars in a course consistent with this policy.
2. Subject to paragraphs 3 and 5, or unless specified differently in the course description, students are required to attend all classes.
3. Recognising that some students face significant work place obligations which may, for example, require work-related travel to be undertaken at short notice, in exceptional circumstances a student may be granted permission by the teacher in consultation with the program/specialisation Convenor or Director, Postgraduate Coursework Program to be absent from some classes, provided:
  - (a) it does not exceed a maximum of 25% of the classes,
  - (b) permission is requested in advance of the classes from which the student will be absent, and
  - (c) the request is supported, where appropriate, by adequate documentation.In cases where permission is granted to be absent from some classes, the lecturer may request that the student undertake additional assessable or other non-assessable tasks.
4. Failure to comply with paragraph 2 may result in a student receiving the grade of NCN (non complete fail).
5. (1) Paragraph 2 does not apply to a student enrolled in a course in which a significant amount of teaching is delivered in whole on-line or by other means and this is made clear in the course description and materials.  
(2) In such a case the student must substantially comply with any attendance requirement laid down for that course.
6. The normal pressures of work or planned personal trips do not constitute exceptional circumstances for the purpose of paragraph 3 to justify an exemption from full compliance of this policy. Students who have enrolled in courses which are conducted on weekdays are expected to have made appropriate arrangements with their employers for study leave.
7. This policy does not apply to students enrolled in the Graduate Diploma in Legal Practice.
8. This policy will be interpreted and applied consistent with all University policies relating to attendance including that applying in the case of misadventure.

Approved by Board of Studies –Graduate Program in Law meeting No.5/2002 held on 23/10/02 revised 10/12/02; revised Postgraduate Studies Committee (PSC) 10/08/05; revised 26/09/07; revised 13/08/08

*This was correct at the time of printing, for future updates please see: <http://law.anu.edu.au/Postgraduate/Policies.asp>*

ANU College of Law

## POLICY ON EXTENSIONS

for submission of assessment in postgraduate courses taught in **intensive mode**

Effective: 1 January 2006

Unless otherwise stated in the Course Outline or agreed with students, the following deadlines for submission of pieces of assessment will apply in postgraduate courses taught in **intensive mode**:

1. The assessment for a course must be submitted no later than 6 weeks after the completion of the last class in the course.
2. The teacher in a course may grant an extension of up to four weeks beyond this date.
3. The Director, Postgraduate Coursework Program may, in exceptional circumstances, grant a further extension of up to an additional two months.
4. No further extensions will be granted beyond a total of three months from the original deadline for submission, unless the Director, Postgraduate Coursework Program considers that the circumstances would satisfy a special examination. <http://www.anu.edu.au/cabs/rules/examstfrules.pdf>
5. Examiners in intensive courses should endeavour to submit final results by four weeks after receipt of assignments from students.
6. Applications for extensions should be made before the applicable deadline.
7. If assessment is submitted after the due date and time without an approved extension, the mark awarded will be reduced by 1% of the marks available for that assessment item (when expressed as a mark out of 100) for each day or part thereof (including weekends and Public Holidays) that it is submitted late. For example, if an individual assessment item is given an initial mark of 65% but is submitted 2 days late, the mark awarded will be reduced to 63%. If the item is submitted 5 days late, the mark awarded will be reduced to 60%.

The normal pressures of work - including predictable periods of high workload - are not generally sufficient to justify extensions. Students are encouraged when planning for their participation in postgraduate courses to set aside not just the days needed to attend classes, but also a sufficient number of days to research and write the assignment.

Students should note that those who seek extensions may not receive their results in time to graduate at the next ceremony or at the advertised time for the release of results. International students should in particular take note of the delays that may result from submission of assessment after the original deadline.

This policy does not apply to students enrolled in the Graduate Diploma in Legal Practice.

*Approved by the Board of Studies-Graduate Program in Law meeting no.4/2002 held on 04/07/02 revised 10/12/02; revised: Postgraduate Studies Committee (PSC) 10/08/05*

*This was correct at the time of printing, for future updates please see: <http://law.anu.edu.au/Postgraduate/Policies.asp>*

## Government and Commercial Law

The ANU College of Law combined its strengths in commercial law and public law to create a program called Government and Commercial Law. This program reflects important developments in the modern legal environment, as the public and private spheres of legal practice increasingly intersect.

Commercial law now touches most aspects of private business and public government, and public law is a field in which the ANU College of Law is nationally pre-eminent. The College's close links with government, the Parliament and its proximity to the High Court makes it an ideal place to study the intersection of commercial law and government. The program is designed for lawyers to expand their expertise in areas of importance to their day-to-day practice. The program also caters for non-lawyers in both the public and private sectors who have had relevant business experience and who need to acquire familiarity with legal issues.

Teachers in the program are drawn from the ANU College of Law and, in some courses, from outside the College.

**Convenor:** Professor Robin Creyke

### Programs offered:

Program	Program Code	Background
Master of Laws specialising in Government and Commercial Law	7300SGCL	Lawyers
Master of Government and Commercial Law	7313XMGCL	Non-Lawyers
Graduate Diploma in Law specialising in Government and Commercial Law	6300SGCL	Lawyers
Graduate Diploma in Government and Commercial Law	6313XGDGCL	Non-Lawyers

### Program Requirements:

The master degrees require courses totalling 48 units, with at least 36 units from the government and commercial law courses listed, including Fundamentals of Government and Commercial Law for non-lawyers.

The graduate diplomas require courses totalling 36 units, with at least 24 units from the government and commercial law courses listed, including Fundamentals of Government and Commercial Law for non-lawyers.

### Duration:

The programs may be completed over one academic year full-time, or up to a maximum of 5 years part-time (including approved periods of leave).

The following courses are offered in Government and Commercial Law. Please note not all courses will be offered every year:

\*all courses are worth 6 units unless specified

Advanced Contracts	LAWS8218
Australian Human Rights and Anti-Discrimination Law	LAWS8240
Australian Constitutional Law	LAWS8139
Citizenship Law in Context	LAWS8175
Commercial Drafting	LAWS8131
Commercial Law	LAWS8140
Commonwealth Compensation Law	LAWS8156
Competition Law	LAWS8154
Conflict of Laws	LAWS8144
Contemporary Issues in Administrative Law	LAWS8271
Contemporary Issues in Constitutional Law	LAWS8128
Dispute Management	LAWS8116

European Union, The	LAWS8239
Executive Power	LAWS8241
Federal Litigation	LAWS8143
Freedom of Information & Privacy	LAWS8243
Fundamentals of Government and Commercial Law - 12 units	LAWS8568 (compulsory for non-lawyers)
Government Contracts	LAWS8220
Government Corporations	LAWS8209
Graduate Research Unit (Government & Commercial Law) - 12 units	LAWS8306 (Masters only)
Health Law & Bioethics in a Global Context	LAWS8237
High Court of Australia	LAWS8246
Human Rights Litigation	LAWS8155
International Business Transactions	LAWS8277
International Law of World Trade	LAWS8229
Introduction to Legal Reasoning and Research	LAWS8153 (compulsory for non-lawyers)
Investigations, Inquiries and Inquisitorial Processes	LAWS8174
Judicial Review of Government Action	LAWS8141
Kyoto Seminar: Japanese Law in the Global Era	LAWS8171
Law and Economics	LAWS8228
Law of Corporate Governance, The	LAWS8125
Legal Framework of Regulation	LAWS8570
Legislation and Legislative Drafting	LAWS8104
Media and Communications Law	LAWS8172
Principles of Intellectual Property Law	LAWS8126
Special Topics in Government and Commercial Law:	LAWS8147
Themes in Administrative Law	LAWS8149
Tort Liability and Public Authorities	LAWS8142
Tribunals and Government	LAWS8236

## Advanced Contracts

LAWS8218

<b>Units:</b>	6
<b>Hours:</b>	26 (intensive delivery or online)
<b>Specialisation:</b>	Government and Commercial Law
<b>Prerequisites:</b>	Introduction to Legal Reasoning and Research (non-lawyers); Fundamentals of Government and Commercial Law (non-lawyers)
<b>Staff:</b>	Professor Jim Davis

**Content:** The course covers a number of aspects of contract law and associated doctrines which are either the subject of recent litigation or are in the process of change. The course is consequently flexible to a degree.

Topics to be covered include:

- Extra-contractual liability which may arise in the course of negotiating for a contract;
- The ability of parties to defer agreement on particular matters;
- The doctrine of privity of contract and means of overcoming its limitations
- The various remedies for breach - equitable, common law and self-help

**Learning Outcomes:** A participant who has successfully completed this course should have:

- A deeper understanding of aspects of the law relating to a contractual relationship than is possible in an undergraduate degree;
- A rounded knowledge of specific areas of the law relating to a contractual relationship;
- A thorough grasp of those elements of contract law and related areas of the law that are relevant to commercial life.

**Assessment:** Assessment is likely to comprise an 8,000 word assignment on a topic of the student's choice (subject to the lecturer's approval). Students must rely on the Approved Assessment, which will be posted to the course homepage on the ANU Law website, prior to the commencement of the course.

## **Australian Human Rights and Anti-Discrimination Law** **LAWS8240**

<b>Units:</b>	6
<b>Hours:</b>	26 (intensive delivery)
<b>Specialisation:</b>	Government and Commercial Law
<b>Prerequisites:</b>	Introduction to Legal Reasoning and Research (non-lawyers); Fundamentals of Government and Commercial Law (non-lawyers)
<b>Staff:</b>	Prof Peter Bailey

**Objectives:** To give an overview of anti-discrimination law in Australia, with a focus on Commonwealth laws; the emphasis throughout is on important current issues. Current issues will include the human rights principles relating to terrorism, refugee and industrial relations law. The course is designed to bring those working in the area up to date, as well as to introduce those interested in the subject to an important developing area of law. It is practical in orientation, and will assist any who want to become more acquainted with the working of anti-discrimination/equal opportunity law ('discrimination law').

**Content:** The course reviews the underpinning human rights standards set by international law and their application to aspects of Australian law. As part of the human rights enterprise, special attention will be given to the principle of equality and its expression in discrimination law. The course will have a practical as well as conceptual focus and will include:

- analysis of Australian constitutionalism and its impact on the inclusion of human rights standards in Australian law
- critical analysis of the decisions in the courts about the constitutional underpinnings for discrimination law and freedom of speech and the issues associated with the existence of both Commonwealth and State law in discrimination law
- a critical examination of implementation methods

discussion of key issues in various areas of law, such as relating to the right to life (euthanasia and death penalty), terrorism law, refugee law and indigenous law and, in the area of discrimination law, to such issues as indirect discrimination, the concept of reasonableness, racial vilification law and the challenge of disability discrimination law.

**Assessment:** Students must rely on the Approved Assessment, which will be posted to the course homepage on the ANU Law website, prior to the commencement of the course.

## **Australian Constitutional Law** **LAWS8139**

<b>Units:</b>	6
<b>Hours:</b>	26 (intensive delivery)
<b>Specialisation:</b>	Government and Commercial Law
<b>Prerequisites:</b>	Students who have completed an LLB prior to enrolling in the Program must have completed an undergraduate course in the principles of Constitutional Law. All other students must complete Introduction to Legal Reasoning and Research (non-lawyers); Fundamentals of Government and Commercial Law (non-lawyers)
<b>Staff:</b>	TBA

**Objectives:** This course provides a specialist study of the main features of the Commonwealth Constitution. The course will approach this topic in three ways:

- by examining from a legal perspective the main structural features of the Australian federal system, and the principles developed by the High Court for interpreting the Constitution
- by examining recent cases and trends in Australian constitutional law

- by reflecting on the role of the High Court in Australian constitutional law, and the impact of its decisions on Australian government and society

**Content:**

- the Australian federal system
- general principles of interpretation of the Constitution
- governmental immunity in a federal system from laws enacted by another legislature
- Commonwealth legislative powers – trade and commerce; corporations power; external affairs power
- Commonwealth financial powers – taxation; grants
- Express and implied restrictions on Commonwealth and State legislative power

**Assessment:** Students must rely on the Approved Assessment, which will be posted to the course homepage on the ANU Law website, prior to the commencement of the course.

## Citizenship Law in Context

**LAWS8175**

<b>Units:</b>	6
<b>Hours:</b>	26 (intensive delivery)
<b>Specialisation:</b>	Government and Commercial Law; International Law (Supplementary Elective)
<b>Prerequisites:</b>	LLB
<b>Staff:</b>	Prof Kim Rubenstein

**Objectives:** This course looks at the way citizenship in law sits with broader notions of citizenship; it compares the legal notion of citizenship with the normative notion. The course also uses Australia as a case study to look at citizenship law and policy. There will also be a strong comparative country aspect to the course.

It is expected that students will on the completion of the course be able to:

- Comprehend the theoretical debates about citizenship;
- Understand the relationship between the theoretical debates and citizenship law;
- Describe the elements of citizenship law covered during the subject;
- Evaluate and discuss the policy issues arising from the areas covered in the subject; and
- Consider comparative country citizenship laws.

**Content:** It is expected that the following topics will be covered:

- Introduction: the concept of citizenship
- Citizenship and constitutions
- Birthright citizenship
- Citizenship by grant
- Citizenship by descent
- Citizenship and administrative law/merits review
- The difference that citizenship makes
- Loss of citizenship
- Dual citizenship
- Post-national citizenship
- International law and citizenship/nationality
- Summary/overview

**Assessment:** Students must rely on the Approved Assessment, which will be posted to the course homepage on the ANU Law website, prior to the commencement of the course.

## Commercial Drafting

**LAWS8131**

<b>Units:</b>	6
<b>Hours:</b>	26 (WebCT - online)
<b>Specialisation:</b>	LLM(LegPrac); Government and Commercial Law
<b>Prerequisites:</b>	LLB degree
<b>Staff:</b>	Mr Barry Yau

**Objectives:** This course provides students with:

- an understanding of drafting concepts and techniques for commercial documents, particularly commercial contracts;
- practice and feedback in solving common drafting problems.

**Content:** Principal topics include:

- drafting techniques;
- structure of commercial contracts;
- formal requirements and drafting to fit other documents and statutes;
- risk management in drafting;
- sources of ambiguity and drafting solutions;
- mechanisms such as dispute resolution.

**Assessment:** Students must rely on the Approved Assessment which will be posted to the course homepage on the ANU Law website, prior to the commencement of the course.

**Other Information:** This course is run on WebCT (<https://webct.anu.edu.au>). Once enrolled logon to WebCT at: <http://webct.anu.edu.au/login/> using your ISIS username and password. When available students will be able to gain access to the course materials and the first module.

## Commercial Law

LAWS8140

<b>Units:</b>	6
<b>Hours:</b>	26 (intensive delivery)
<b>Specialisation:</b>	Government and Commercial Law
<b>Prerequisites:</b>	Introduction to Legal Reasoning and Research (non-lawyers); Fundamentals of Government and Commercial Law (non-lawyers)
<b>Staff:</b>	Dr Elisabeth Peden

**Objectives:** This course is designed to give students an understanding of the key areas of commercial law and how they relate to each other. The course will deal with recent developments in the areas under discussion and is suitable for those students who want an overview of commercial law as well as those who want to bring themselves up to date with recent developments in this field.

**Content:** Anchored in the sale of goods, the course covers a range of issues including the law relating to the transfer of property rights under a contract of sale, the delivery of goods, the various remedies available. Areas that are dealt with in greater detail in other courses (such as dispute resolution), will only be touched on in this course.

**Learning Outcomes:** This course is designed to give students an understanding of the key areas of commercial law and how they relate to each other. The course offers students an opportunity to examine certain areas of commercial law. The focus is on the idea of personal property, which forms the basis of all commercial law. The course will focus on concepts of bailment, agency and then deal with the complex provisions dealing with sale of goods. It is suitable for those students who want an overview of commercial law as well as those who want to bring themselves up to date with recent developments in this field.

Consistent with student-centred learning, the course is directed towards achieving the following specific objectives:

By the end of the course students should have a detailed knowledge of the topics covered in this subject and be able to appreciate the development of these topics. Students should also be able to think critically about the topics covered in the course.

Students should be able to read and understand all material on the course outline including case law, statutes, textbooks and articles. They should be able to communicate both orally and in writing their knowledge of the topics covered and be able to apply their knowledge of the material in constructing arguments to resolve problems. Students should acquire an understanding of the theoretical underpinnings

of the topics covered, and should develop their skills in legal research and legal writing. They should be able to co-operate with their colleagues within limits set by rules governing proper academic discourse.

**Assessment:** Students must rely on the Approved Assessment, which will be posted to the course homepage on the ANU Law website, prior to the commencement of the course.

## Commonwealth Compensation Law

LAWS8156

<b>Units:</b>	6
<b>Hours:</b>	26 (WebCT – online)
<b>Specialisation:</b>	LLM(LegPrac); Government & Commercial Law
<b>Prerequisites:</b>	Introduction to Legal Reasoning and Research and Fundamentals of Government & Commercial Law (non-lawyers)
<b>Staff:</b>	David Richards

### Objectives:

This course has been designed for either:

- Lawyers and Decision Makers who practice in, or who desire an understanding of Commonwealth Compensation Law relating to injuries at work; or
- Commonwealth employees who are in management, human resources, personnel or legal sections where a detailed understanding of Commonwealth Compensation law is desirable.

**Content:** This course will give students an understanding of the practical application of the *Safety Rehabilitation and Compensation Act 1988* (the SRC Act). At the conclusion of the course students will have an understanding of;

- 1. the entitlement provisions of the SRC Act;
- 2. The review process of decisions made under the SRC Act.

### Learning Outcomes:

- demonstrate an understanding of the core entitlement principles for compensation under the SRC Act
- construct a proposition of law established by case law
- identify the relevant legal issues that arise on a given set of facts
- make arguments about the way in which those legal issues are likely to be resolved, noting contrary arguments and their strengths
- provide case authorities for propositions of law that they use in those arguments
- apply case law and legislation to a given set of facts
- structure an answer to a problem question in a logical and effective way
- comment critically on the outcome and reasoning in cases studied during the course and identify the considerations of policy that may underpin them.

**Assessment:** Students must rely on the Approved Assessment which will be posted to the course homepage on the ANU Law website, prior to the commencement of the course.

**Other Information:** This course is run on WebCT (<https://webct.anu.edu.au>). Once enrolled logon to WebCT at: <http://webct.anu.edu.au/login/> using your ISIS username and password. When available, students will be able to gain access to the course materials and the first module.

## Competition Law

LAWS8154

<b>Units:</b>	6
<b>Hours:</b>	26 (intensive delivery)
<b>Specialisation:</b>	Government and Commercial Law
<b>Prerequisite:</b>	LLB or Introduction to Legal Reasoning and Research; Fundamentals of Government and Commercial Law
<b>Staff:</b>	Alex Bruce

Students who have passed LAWS8124 Competition Law - Enforcement and/or LAWS8231 Competition Law - Principles are not permitted to enrol in this course

**Objectives:** A participant who has successfully completed this unit should:

- have a good working knowledge of and be able to apply the legal principles which regulate competitive behaviour of firms
- understand and be adept in the application of the relevant economic principles which are applied in the assessment of market structure and behaviour
- understand the policy considerations which underlie the competition laws
- have an understanding of the way the Trade Practices Act 1974 (Cth) ('the TPA') captures the trading activities of various entities
- have an understanding of the objectives and priorities of the ACCC in enforcing the TPA.

**Content:** economic principles underpinning competition legislation

- legal application of economic principles in enforcing the TPA and related state competition legislation legal and procedural implementation of competition law principles
- public enforcement and regulatory powers of the ACCC
- private enforcement of competition laws.

**Assessment:** Students must rely on the Approved Assessment, which will be posted to the course homepage on the ANU Law website, prior to the commencement of the course.

## Conflict of Laws

LAWS8144

<b>Units:</b>	6
<b>Hours:</b>	26 (intensive delivery)
<b>Specialisation:</b>	Government and Commercial Law; LLM (LegPrac); International Law (Supp Elective)
<b>Prerequisites:</b>	LLB
<b>Staff:</b>	Professor Jim Davis

**Course Description:** The course deals with the law which a court will apply to an action which contains some "foreign" element - ie, one or more of the facts of the case occurred outside the State or Territory which is hearing the matter.

It also deals with the basis upon which a court in Australia may take jurisdiction over a defendant not resident within the jurisdiction, and the circumstances in which judgments obtained overseas, or arbitral awards given overseas, may be enforced in Australia.

Selected topics include:

- Choice of Law in Contract
- Choice of Law in Tort
- Jurisdiction in actions in contract, tort, for misleading conduct and estoppel
- Refusal to exercise jurisdiction (forum non conveniens)
- Enforcement of Foreign Judgments and arbitral awards

**Learning Outcomes:** A candidate who successfully completes this course should have a clear understanding of the approach of the Courts to any matter raising issues of the law of contract or the law of tort where the facts are referable to more than one State or Territory of Australia, or more than one country.

In particular, a candidate will have a clear understanding of

- the choices open to a court as to the law to be applied to a contract or tort matter, and the means by which that choice is resolved;
- the bases on which Supreme Courts determine whether they ought to hear cases commenced in that court;
- the principles on which Australian courts recognise and give effect to judgments handed down in countries outside Australia

**Assessment:** Students must rely on the Approved Assessment, which will be posted to the course homepage on the ANU Law website, prior to the commencement of the course.

## Contemporary Issues in Administrative Law

LAWS8271

<b>Units:</b>	6
<b>Hours:</b>	26 (intensive delivery)
<b>Specialisation:</b>	Government and Commercial Law
<b>Prerequisites:</b>	Introduction to Legal Reasoning and Research (non-lawyers); Fundamentals of Government and Commercial Law (non-lawyers)
<b>Staff:</b>	Prof. Robin Creyke

**Objectives:** This course is designed to give students an opportunity to undertake a scholarly examination of contemporary issues in Australian administrative law. Issues will be examined both from a practical and theoretical dimension.

**Content:** The contemporary topics examined in the course may change each year, to reflect administrative law developments and the interest of participants. Illustrative examples of issues that could be covered at present include:

- reform of the Commonwealth, States and Territory systems of administrative law
- recent trends in judicial review of administrative action
- the status of international conventions in administrative decision making
- the nature, advantages and limitations of executive power
- rule-making in Australian administrative law
- discrimination and human rights laws in Australian administrative law
- the implications of administrative law principles to the private sector
- the impact of technology on administrative law principles
- legal protection of whistleblowers, codes of conduct, and other forms of administrative law protection

**Assessment:** Students must rely on the Approved Assessment, which will be posted to the course homepage on the ANU Law website, prior to the commencement of the course.

This course will be run with the undergraduate class however assessment will reflect the Working Rules for the Postgraduate coursework program.

## Contemporary Issues in Constitutional Law

LAWS8128

<b>Units:</b>	6
<b>Hours:</b>	26 (intensive delivery)
<b>Specialisation:</b>	Government and Commercial Law
<b>Prerequisites:</b>	Introduction to Legal Reasoning and Research (non-lawyers); Fundamentals of Government and Commercial Law (non-lawyers)
<b>Staff:</b>	James Stellios

**Objectives:** This course builds upon core constitutional law concepts and doctrines.

It is anticipated that there will be two main components to the course in 2008. First, the course will focus on Chapter III of the Constitution, including consideration of federal jurisdiction and its exercise by federal courts (particularly the High Court) and state courts. Secondly, the course will give close attention to express and implied "constitutional rights" and critically assess whether their "rights" status is compatible with constitutional history and context and judicial interpretation.

**Assessment:** Students must rely on the Approved Assessment, which will be posted to the course homepage on the ANU Law website, prior to the commencement of the course.

This course will be run with the undergraduate class however assessment will reflect the Working Rules for the Postgraduate coursework program.

## Dispute Management

LAWS8116

Units:	6
Hours:	26 (intensive delivery)
Specialisation:	Government and Commercial Law; LLM (LegPrac)
Prerequisite:	None
Staff:	Adjunct Professor Jennifer David and Ms Allyson Boyle

**Objectives:** This core course aims to introduce students to:

- an overview and history of dispute management in Australia
- the processes and techniques used to prevent, manage and resolve disputes
- theories of conflict and its resolution
- basic skills and techniques, particularly in relation to negotiation and mediation

**Content:** The course will include:

- definition and introduction to the theory of dispute management and to the resolution processes
- the history of dispute management and the resolution processes in Australia and overseas
- Philosophy and approach within the processes
- comparison of the processes including the advantages and disadvantages of each process
- present use of the processes in Australia
- current issues
- basic skills in: conflict management and the influence of values, biases and learned behaviours; communication - especially listening; consensual and non-consensual process skills
- understanding people and their reactions to conflict and the processes - including cross-cultural and societal influences
- ethical issues in dispute management and resolution.

**Assessment:** Students must rely on the Approved Assessment, which will be posted to the course homepage on the ANU Law website, prior to the commencement of the course.

## European Union Law, The

LAWS8239

Units:	6
Hours:	26 (intensive delivery)
Specialisation:	Government and Commercial Law; International Law (Supplementary Elective)
Prerequisites:	Introduction to Legal Reasoning and Research (non-lawyers)
Staff:	Anne McNaughton

**Objectives:** This course provides an introduction and critical overview of the legal system of the European Union. It will examine selected topics in constitutional and substantive law from a range of political, economic and social perspectives. Where appropriate, comparisons with the Australian federal system and local approaches to substantive law will be made.

**Content:** Selected topics include: the institutional history and framework of the EU; fundamental rights and principles of EU law; the influence of human rights on EU law; case-studies in selected social and economic rights (eg gender discrimination, the "four freedoms" on which the internal market is based).

**Assessment:** Students must rely on the Approved Assessment, which will be posted to the course homepage on the ANU Law website, prior to the commencement of the course.

## Executive Power

LAWS8241

Units:	6
Hours:	26 (intensive delivery)
Specialisation:	Government and Commercial Law
Prerequisites:	Introduction to Legal Reasoning and Research (non-lawyers); Fundamentals of Government and Commercial Law (non-lawyers)
Staff:	Peter Bailey

**Objectives:** The course is designed to review the ever-changing scope and operation of the executive power inherent in the Australian Constitution. It is set against the background of the UK development of the concept (largely by the courts). But its primary focus is on s 61 of the Constitution and relevant decisions of the High Court. It draws also on available literature.

Because of the large expansion of executive power in recent years it then moves on to explore current issues. These are associated with powers relating to migration and 'terrorism', the trend towards republicanising the legal system

**Content:** The course content uses an historical, analytical and topical approach to enable the potential of the concept of executive power in Australia to be appreciated and in particular focuses on:

- the emergence of the concept of an Australian executive power and the consequential progressive reduction in reliance on prerogative power as a useful concept
- the conventions and law governing the exercise of executive power (by Governor-General, Ministers, Cabinet and administrators)
- the constitutional grounding of responsible government and its effectiveness in the 21st century
- the narrowing of the traditional immunities and privileges the common law extends to the Crown and the impact of the practice by the executive of privatising and contracting out
- federal issues relating to executive power, including the issues that arise if there is a conflict between the exercise of Commonwealth and State executive power
- the unique position of the executive in the ACT
- challenges to the protection, through the rule of law, of individuals, using as examples counter-terrorism law and migration law.

**Learning Outcomes:**

- Heightened awareness of the complexity of the law relating to executive power
- An understanding of the implications of the sometimes not altogether unanimous views of the judges
- Facilitation of the exercise of executive functions according to law, with an understanding of both its scope and its limitations

**Assessment:** Students must rely on the Approved Assessment, which will be posted to the course homepage on the ANU Law website, prior to the commencement of the course.

## Federal Litigation

LAWS8143

Units:	6
Hours:	26 (WebCT - online)
Specialisation:	LLM(LegPrac); Government and Commercial Law
Prerequisites:	LLB
Staff:	Dr Doug Hassall

**Objectives:** This course provides a specialised opportunity for graduates to undertake studies at an advanced level in the field of Federal Litigation. Particular areas of Federal Litigation dealt with include litigation in the High Court of Australia, Federal Court of Australia, and Federal Magistrates Court, other than Family Law cases. The course also touches on aspects of matters before Federal Tribunals. The main objective is the attainment of a specialised understanding of the law and procedure relating to types of matters as litigated most frequently within Australian federal jurisdiction. Federal jurisdiction and litigation within it, is a growing field of law in Australia, both in terms of its increasing prominence in current legal professional practice and scholarly legal research and publications on it.

**Content:** Topics will include the following:

- Introduction - Federal Jurisdiction
- High Court Litigation
- Federal Court Litigation

- Federal Magistrates Court Litigation
- Aspects of Federal Tribunals Matters
- Remedies, Curial Powers and Appeals

Sample Matters will be drawn from the following fields:

- Administrative Law
- Human Rights and Anti-discrimination Law
- Migration Law and Privacy Law
- Insolvency Law (Bankruptcy)
- Trade Practices Law

**Learning Outcomes:** At the conclusion of this course students should be able to:

- demonstrate an understanding of the principles and procedures governing litigation in federal jurisdiction
- apply those principles and procedures in matters of federal litigation, particularly in the preparation of originating process, claims and supporting affidavits
- engage in reflective practice in federal jurisdictions, providing advice to clients and appearing in Courts

**Assessment:** Usual assessment is a 7,500 word research paper on a topic in the field of Federal Litigation chosen by the student and approved by Convenor.

Students must rely on the Approved Assessment which will be posted to the course homepage on the ANU Law website, prior to the commencement of the course.

**Other Information:** This course is run on WebCT (<https://webct.anu.edu.au>). Once enrolled logon to WebCT at: <http://webct.anu.edu.au/login/> using your ISIS username and password. When available students will be able to gain access to the course materials and the first module.

## Freedom of Information & Privacy

LAWS8243

<b>Units:</b>	6
<b>Hours:</b>	26 (intensive delivery)
<b>Specialisation:</b>	Government and Commercial Law
<b>Prerequisites:</b>	Introduction to Legal Reasoning and Research (non-lawyers); Fundamentals of Government and Commercial Law (non-lawyers)
<b>Staff:</b>	Natalie Butler

**Course Description:** We are living in the Information Age! Governments and the private sector collect and hold vast amounts of information and we each disclose information about ourselves on an almost daily basis.

Do we, as individuals, have any control over information that relates to us? In the interests of openness and accountability, do we have access to government held information? On what grounds can information be withheld from us?

The aim of this course is to explore the way in which information is regulated in Australia by the Freedom of Information Act 1983 (Cth) and the Privacy Act 1988 (Cth).

The key themes of collection, access, amendment and disclosure of information will be explored from the perspective of:

- citizens exercising their access and amendment rights
- public and private sector organisations who have certain responsibilities in terms of the way they handle information; and
- those who make decisions and administer the FOI and Privacy Acts.

**Learning Outcomes:** At the conclusion of this course students should be able to:

- demonstrate a working knowledge of the FOI and Privacy Acts
- identify the rules applicable to the collection, use, management and disclosure of information by government and the private sector
- understand the procedure for making a FOI request and the decision making process that follows
- understand the procedure for amending personal information

- make arguments in support of granting, and refusing, access to information
- apply case law and legislation to factual scenarios
- comment critically on the future direction of FOI and privacy law in Australia

**Assessment:** There will be two pieces of assessment - one with a FOI theme and the other with a privacy theme.

Students must rely on the Approved Assessment which will be posted to the course homepage on the ANU Law website, prior to the commencement of the course.

## Fundamentals of Government and Commercial Law

LAWS8568

<b>Units:</b>	12
<b>Hours:</b>	52 (intensive delivery)
<b>Specialisation:</b>	Government and Commercial Law
<b>Prerequisite:</b>	Introduction to Legal Reasoning and Research (non-lawyers)
<b>Staff:</b>	Amelia Simpson (Convenor), Daniel Stewart and Prof. Jim Davis

### Objectives:

This course is designed for students enrolling in the postgraduate program who do not have an LLB. Lawyers are not permitted to take this course. The course will provide an introduction to the main features of the legal system that provide the structure for Australian government. Although the course is taught in three separate modules, the issues and themes in the course will be integrated, with an emphasis on the contemporary public law and commercial law setting for the discharge of governmental functions.

This is the foundation course for non-lawyers enrolling in the postgraduate program in government and commercial law. Students completing this course will have acquired sufficient knowledge and skills to enable to enrol them in the other more specialist courses in government and commercial law.

### Content:

#### Module 1: Constitutional Law

- structure and key features of the Australian Constitutional system
- Commonwealth legislative power - scope and key areas
- constitutional limitations upon power
- nature and scope of executive power and judicial power
- reform and amendment of the Constitution

#### Module 2: Commercial Law

- the forms of business entity - sole traders, partnerships and corporations
- the advantages and disadvantages of the choice of business entity
- an introduction to the law of contract
- formation of contract
- contractual terms
- termination and breach of contract
- interaction between the law of contract and statutory regulation - the Trade Practices Act.

#### Module 3: Administrative Law

- the history and development of the Australian administrative law system
- accountability in an administrative state
- the administrative law framework for review of government decision-making
- methods of administrative review - the different role played by courts, tribunals, Ombudsmen and investigatory agencies
- the criteria for lawful government decision-making - an introduction
- control of government information practices - freedom of information, privacy and reasoned decision-making.

**Learning Outcomes:** At the conclusion of this course students should be able to:

- demonstrate understanding of core legal principles in each of the three modules -- constitutional law, commercial law and administrative law
- extract legal rules from cases and legislation studied and use these to reason to legal conclusions on a given set of facts
- engage in critical discussion around key debates and controversies emerging from the material studied
- identify criteria for evaluating the legal principles studied and comment critically on those principles

**Assessment:** Each of the three modules will be assessed separately. In past years, this has involved a mixture of problem-style questions (i.e. applying legal principles to a set of facts) and essay questions (requiring critical analysis). Students must rely on the Approved Assessment, which will be posted to the course homepage on the ANU Law website, prior to the commencement of the course.

## Government Contracts LAWS8220

<b>Units:</b>	6
<b>Hours:</b>	26 (intensive delivery)
<b>Specialisation:</b>	Government and Commercial Law,
<b>Prerequisites:</b>	Introduction to Legal Reasoning and Research (non-lawyers); Fundamentals of Government and Commercial Law (non-lawyers)
<b>Staff:</b>	Dr Nick Seddon

**Objectives:** This course is designed to meet the needs of practising lawyers and of senior public and private sector managers who have had experience in the field of government contracting. The course will examine the use of contract for various public purposes and will analyse the legal issues that are peculiar to government contracting.

**Content:** The course covers policy issues relevant to the use of contract by government, the applicability of the ordinary law of contract, the power to make contract, the procedures and other issues relevant to contract formation, Crown immunity, the application of the trade practices and fair trading legislation to government commercial activity, tenders (including the impact of the Australia-United States Free Trade Agreement) and the use of public law remedies.

**Learning Outcomes:** On completion of this course, participants, whether legally-trained or not, will have a thorough understanding of the legal and practical issues that are peculiar to government purchasing and other commercial activities. With this knowledge contract advisers and managers will be better able to manage risk.

**Assessment:** Students must rely on the Approved Assessment, which will be posted to the course homepage on the ANU Law website, prior to the commencement of the course.

## Government Corporations LAWS8209

<b>Units:</b>	6
<b>Hours:</b>	26 (intensive delivery)
<b>Specialisation:</b>	Government and Commercial Law
<b>Prerequisites:</b>	Introduction to Legal Reasoning and Research (non-lawyers); Fundamentals of Government and Commercial Law (non-lawyers)
<b>Staff:</b>	Professor Stephen Bottomley

**Objectives:** A participant who has successfully completed this course should:

- be able to distinguish between the different legal forms of government corporations;
- be able to assess the legal advantages and disadvantages of each type of structure;
- be familiar with the regulatory environment within which these structures must operate;
- be familiar with the legal duties, liabilities and rights of person involved in these enterprises.

**Content:**

- Corporatisation, commercialisation, and privatisation
- Statutory corporations and government companies
- Government Business Enterprises
- Accountability and control
- Management and ownership structures
- Duties of Corporate Officers
- Non-Profit Objectives

**Assessment:** Students must rely on the Approved Assessment, which will be posted to the course homepage on the ANU Law website, prior to the commencement of the course.

**Graduate Research Unit (Government and Commercial Law) LAWS8306**

<b>Units:</b>	12
<b>Prerequisites:</b>	Enrolment in a Masters program; completion of at least 24 units at 70% average; approval from the Government and Commercial Law coordinator.
<b>Staff:</b>	Supervisor

**Content:** A research paper of 15,000 words in length on a topic within the Government and Commercial Law specialisation. The topic must be approved by the Government and Commercial Law coordinator and the appointed supervisor in consultation with the candidate. A more detailed guideline is available in the Law School Office.

**Health Law and Bioethics in a Global Context LAWS8237**

<b>Units:</b>	6
<b>Hours:</b>	26 (Intensive course)
<b>Specialisation:</b>	Government and Commercial Law
<b>Prerequisites:</b>	Intro to Legal Reasoning and Research
<b>Staff:</b>	Dr Thomas Faunce

**Objectives:** To provide an updated guide to the ethical, common law and statutory obligations of health care providers, particularly in the ACT and an understanding of the major contemporary areas of controversy involving bioethics, public health law and medicine in the context of pressures created by corporate globalisation.

**Content:** The main emphasis will be on a practical approach to issues such as: the constitutional basis of Australian health law, virtue and principle-based approaches to the doctor-patient relationship, the basic law of doctor and patient, consent, disclosure of material risk (including recent high court decisions), confidentiality and access to medical records, misconduct and complaint proceedings, negligence in diagnosis and treatment and the withdrawal, withholding and refusal of medical treatment.

The course will also discuss legal issues involved with euthanasia, wrongful birth and wrongful life actions, abortions, the new reproductive technologies, gene therapy, genetic screening, human reproductive cloning, DNA forensic data bases, managed care and human medical research and will provide selected references for any subsequent research in these areas.

One particular area of focus will be the impact of international trade agreements on access to medicines in Australia, including the influence of the Australia-United States Free Trade Agreement ('AUSFTA') on the cost-effectiveness mechanisms utilized under Australia's Pharmaceutical Benefits Scheme ('PBS')

**Learning Outcomes:** Detailed knowledge of ACT health Law; Detailed knowledge of Australian and international health law; Capacity to calibrate health law against norms of bioethics and international human rights.

**Assessment:** Students must rely on the Approved Assessment, which will be posted to the course homepage on the ANU Law website, prior to the commencement of the course.

## High Court of Australia LAWS8246

<b>Units:</b>	6
<b>Hours:</b>	26 (intensive delivery)
<b>Specialisation:</b>	Government and Commercial Law
<b>Prerequisites:</b>	Introduction to Legal Reasoning and Research (non-lawyers); Fundamentals of Government and Commercial Law (non-lawyers)
<b>Staff:</b>	James Stellios

**Objectives:** This course is designed to ensure that students understand the complex, subtle and still-evolving role of the High Court as a legal, political and social institution in the Australian constitutional system.

**Content:** The course will explore the following topics:

- the history of the High Court
- the jurisdiction of the High Court
- the court's role in the development of Australian law in selected areas of both public and private law
- the impact on the court's jurisprudence of the abolition of Privy Council appeals and the institution of the 1984 special leave provisions
- the style of the Court and of individual justices
- appointments to and removal from the Court and the appointment and removal processes
- the question of in what sense or senses the Court is a "political" institution
- the accessibility of the Court and its judgments to the general public
- the relationship between the Court and the other institutions of Australian government.

**Assessment:** Students must rely on the Approved Assessment, which will be posted to the course homepage on the ANU Law website, prior to the commencement of the course.

## Human Rights Litigation LAWS8155

<b>Units:</b>	6
<b>Hours:</b>	26 (WebCT - online)
<b>Specialisation:</b>	LLM(LegPrac); Government and Commercial Law
<b>Prerequisites:</b>	Introduction to Legal Reasoning and Research, and Fundamentals of Government and Commercial Law (non-lawyers)
<b>Staff:</b>	Dr Doug Hassall

**Objectives:** A participant who has successfully completed this course should:

- Have an overview of the shape of, and trends in, current human rights litigation, both federally and Human Rights Act 2004 (ACT)
- Understand the principles that inform and the procedures which govern and shape, litigation in human rights matters;
- Understand the operation of human rights legislation in litigation;
- Be able to analyse critically the issues of principle and procedure involved in human rights litigation and appreciate the intersection of human rights law and litigation with other areas of litigation.

**Content:** The course is designed to provide law graduates with an understanding of the application and vindication of fundamental rights and human rights law in litigation in Australian jurisdictions.

Topics to be covered include:

- Review of human rights legislation (Federal and ACT)
- Examination and analysis of Human Rights Remedies
- Human rights litigation procedures and claims
- Pleadings aspects in human rights matters

- Current developments in human rights litigation
- Prospects for further development in remedies.

**Learning Outcomes:** At the conclusion of this course students should be able to:

- demonstrate an understanding of the principles and procedures governing litigation in human rights cases
- apply those principles and procedures in matters of human rights litigation, particularly preparation of originating process, claims and supporting affidavits
- engage in reflective practice in human rights litigation, providing advice and advocacy to clients

**Assessment:** Usual assessment is a 7,500 word research paper on a topic in the field of Human Rights Litigation chosen by the student and approved by Convenor.

Students must rely on the Approved Assessment which will be posted to the course homepage on the ANU Law website, prior to the commencement of the course.

**Other Information:** This course is run on WebCT (<https://webct.anu.edu.au>). Once enrolled logon to WebCT at: <http://webct.anu.edu.au/login/> using your ISIS username and password. When available students will be able to gain access to the course materials and the first module.

## International Business Transactions

**LAWS8277**

<b>Units:</b>	6
<b>Hours:</b>	26 (intensive delivery)
<b>Specialisations:</b>	Government and Commercial Law; International Law (Supplementary Elective)
<b>Prerequisites:</b>	Introduction to Legal Reasoning and Research (non-lawyers); Fundamentals of Government and Commercial Law (non-lawyers)
<b>Staff:</b>	Anne McNaughton

**Objectives:** This course is designed to meet the needs of practising lawyers, law graduates generally and private and public sector managers with experience in international trade. Participants in this course will gain an understanding of the law relating to international commercial transactions.

**Content:** The course covers international commercial transactions, exploring the various aspects of the typical transaction. Topics include:

- the legal arrangements for the movement of goods and services internationally
- the structuring and drafting of the contract of sale
- the terms of trade
- passing of title and risk
- insurance
- contracts for transport of goods and financing of international transactions

Trade documentation will be analysed including bills of lading and letters of credit, the UNIDROIT principles for international commercial contracts and the Convention on the International Sale of Goods (Vienna Convention). Associated international conventions and treaties are examined.

The course assesses dispute resolution in international contracts, including transnational commercial arbitration and litigation and the enforcement of foreign arbitral awards and judgments.

**Assessment:** Students must rely on the Approved Assessment, which will be posted to the course homepage on the ANU Law website, prior to the commencement of the course.

## International Law of World Trade

LAWS8229

<b>Units:</b>	6
<b>Hours:</b>	26 (intensive delivery)
<b>Specialisation:</b>	International Law; Government and Commercial Law
<b>Prerequisites:</b>	Introduction to Legal Reasoning and Research (non-lawyers); Principles of International Law
<b>Staff:</b>	Mr Wayne Morgan

**Description:** The course introduces students to the fundamental principles of international trade law. The primary goal of the course is to acquaint and familiarise students with the main pillars in this arena of international law and their effect on domestic law and policy. The course covers the key agreements and principles of international trade law and the jurisdiction, policies and processes of the WTO. It also encompasses major critical analyses of international trade law together with an in-depth review of relevant GATT/WTO panel and appellate body decisions.

Themes that will be addressed throughout the course will include the origins of international trade law, fundamental principles of the GATT/WTO regime, Services (GATS), the WTO Dumping and Subsidies regimes and the Sanitary and Phytosanitary Agreement. The effects of trade liberalisation in general on developing countries will also be the subject of review together with an analysis of the on-going conflict between the basic dictates of international trade agreements on the one hand and the need to enshrine and protect international environmental and labour standards on the other.

**Learning Outcomes:** At the conclusion of this course students should be able to:

understand the theoretical basis of trade law as free trade theory and the attacks that have been made on free trade theory

- understand the development in the last century of international institutions governing trade
- understand the laws and policies of the WTO
- develop problem solving skills in trade law
- understand the relationship between trade, development, the environment and human right

**Assessment:** Students must rely on the Approved Assessment which will be posted to the course homepage on the ANU Law website, prior to the commencement of the course.

## Introduction to Legal Reasoning and Research

LAWS8153

<b>Units:</b>	6 units
<b>Hours:</b>	26 (intensive delivery)
<b>Specialisation:</b>	Compulsory for non-lawyers enrolling in all programs other than Environmental Law
<b>Prerequisite:</b>	None
<b>Staff:</b>	Prof Peter Bailey and Prof Jim Davis

**Objectives:** This course is to provide students who do not have a law degree or similar qualification with an understanding of legal principles and legal methods, and to equip them with the legal skills needed for their study in law. Lawyers are not permitted to take this course.

The legal thinking component of the course will be focused mainly on:

- The common law system
- Legal thinking
- The nature and role of precedent
- Legislation
- Nature and ambit of legislation
- Interpretive rules
- The Australian Constitutional order
- International law (including relevance for domestic law)

The research and other skill-based component will cover:

- Introduction to the library (electronic resources, research techniques, borrowing arrangements, librarians, etc)
- Legal writing (including style, referencing etc)
- Legal problem solving, use of case discussion.

**Learning Outcomes:**

- An understanding and appreciation of law language
- A comprehension of the role of law and how it achieves that role
- An ability to use these outcomes in the courses you will undertake in the law program
- Sympathy with, even if not full acceptance of, the way the law works and an ability to apply that to the problems set

**Assessment:** The course will be assessed on a pass/fail basis (CRS (Course Requirements Satisfied) standard, or N fail). Where the CRS standard is not initially achieved, a degree of remedial assistance will be available to students who still wish to pursue their graduate legal studies. Students must rely on the Approved Assessment, which will be posted to the course homepage on the ANU Law website, prior to the commencement of the course. This course will be assessed on a pass/fail basis (CRS Course Requirements Satisfied or N fail).

## **Investigations, Inquiries and Inquisitorial Processes** **LAWS8174**

<b>Units:</b>	6
<b>Hours:</b>	26 (intensive delivery)
<b>Specialisation:</b>	Government and Commercial Law
<b>Prerequisites:</b>	Introduction to Legal Reasoning & Research (non-lawyers); Fundamentals of Government & Commercial Law (non-lawyers)
<b>Staff:</b>	Sue Tongue

**Objectives:** The aim of the course is to analyse the formal processes outside the court system that can be used to resolve disputes. The course combines research based and practice oriented teaching. The legal role, purpose and processes of investigations, inquiries and inquisitorial processes are considered. Skills are developed in managing and conducting investigations, inquiries and inquisitorial processes. The strengths and weaknesses of each approach are analysed and the factors influencing the choice of an approach are studied.

**Content:** It is expected that the following topics will be covered:

### 1. Introduction: Legal Context of Investigations, Inquiries and Inquisitorial Processes

The legal framework for conducting investigations, inquiries and inquisitorial processes. What terms of reference and powers should be used? In what circumstances? This section of the course includes an introduction to later sessions (collection of information, rights of witnesses and third parties, right to remain silent, evidence, privacy, confidentiality, reporting etc). Why do such processes exist? What are the characteristics of each process? What are the factors influencing choice of approach? There will be an introduction to the legal theory and the literature.

### 2. Fact finding for the purpose of investigations and inquiries

An evidence based approach to decision making is fundamental to legally sound investigations, inquiries and inquisitorial processes. What are the standards and burdens of proof? What is sufficient evidence for the purpose of administrative investigations and inquiries? What facts are needed for a decision? In what circumstances can an inference be drawn? Who is responsible for providing the evidence?

### 3. The steps in structuring and planning an inquiry: inquisitorial processes

When are inquisitorial or adversarial processes to be used in an administrative investigation or inquiry? What are inquisitorial processes in an Australian context? Is there a duty of inquiry? If so, in what circumstances? What are the legal and practical challenges in using inquisitorial processes and how best can

these be met? What practical procedures should be followed in conducting interviews, keeping records, writing interview reports and writing and distributing reports?

#### 4. Natural justice inquiry processes

What are the main principles of natural justice? How do these principles impact on investigations and inquiries? How do the principles impact on the inquisitorial process? How can an inquirer ensure that fair process is provided?

#### 5. Evidence of Witnesses

What kinds of evidence can be used for the purposes of an inquiry/investigation? What are common statutory forms of the power to interview witnesses? What if evidence is evenly balanced? How is expert evidence evaluated? How are witnesses protected? What are the techniques for interviewing witnesses? How to tell if someone is telling the truth?

#### 6. Fraud Investigations

Are there any special processes for investigations of fraud and serious misconduct? A guest presenter will discuss their experiences including the pitfalls, challenges and learnings they have experienced.

#### 7. Ombudsman investigations and inquiries

What powers does the Ombudsman have to conduct investigations? What are the legal consequences of the exercise of those powers? What responses are given? What is the effect of the special powers the Ombudsman possesses? What is the effect of the limitations on an investigator's/inquirer's powers of only making a recommendation at the conclusion of the inquiry?

#### 8. Regulatory responses

Are there special features of an inquiry or investigation which apply in a regulatory context? How are regulatory inquiries, including reviews on the papers, conducted? What are the pitfalls? If there is a review on the papers does this achieve the investigative goal?

#### 9. Report writing

What are the key findings in a report? What outcomes are to be achieved? How should the report be structured? Who is the audience? How to write the report when there is a conflict of evidence? How to write the report if the evidence is evenly balanced? When expert evidence is evaluated how is this best presented? How are findings of fact best explained? Do all facts have to be dealt with? What have the courts said of the minimum criteria for writing a legally effective reasons statement?

#### 10. Following the process and achieving optimal outcomes

What steps need to be followed at the conclusion of the investigation to finalise the process? How are optimal outcomes identified? How are strategies designed and implemented to achieve optimal outcomes? What particular legal principles impinge on this aspect of the process? For example, what is the application of the *Archives Act 1983* (Cth)?

**Learning Outcomes:** At the end of the course students can expect to have:

- Developed a deeper understanding of the legal framework and context for investigations, inquiries and inquisitorial processes.
- An enhanced ability to assess the appropriate administrative processes that can be applied to determine facts in certain circumstances.
- Enhanced skills in managing and conducting investigations and inquiries and using inquisitorial processes.
- An improved ability to identify potential legal challenges in administrative processes.
- A better understanding of the parameters for achieving optimum conditions for the effective conduct of legally sound investigations, inquiries and inquisitorial processes.

**Assessment:** Students must rely on the Approved Assessment, which will be posted to the course homepage on the ANU Law website, prior to the commencement of the course.

## Judicial Review of Government Action

LAWS8141

<b>Units:</b>	6
<b>Hours:</b>	26 (intensive delivery)
<b>Specialisation:</b>	Government and Commercial Law
<b>Prerequisites:</b>	students who have completed an LLB prior to enrolling in the Program must have completed an undergraduate course in Administrative Law. All other students must complete Introduction to Legal Reasoning and Research (non-lawyers); Fundamentals of Government and Commercial Law (non-lawyers)
<b>Staff:</b>	Leighton MacDonald

**Objectives:** This course provides a specialist study of one method of administrative law review – judicial review by courts. The course will approach this topic in three ways:

- by defining the major principles relating to judicial review of administrative action
- by examining recent cases and trends in judicial review
- by noting the functional impact of court review on government administrative decision-making

**Content:** The topics covered in this course will include:

- the nature and scope of judicial review
- justiciability of administrative action, at common law and under the Administrative Decisions (Judicial Review) Act 1977
- the major grounds for judicial review of administrative action – unauthorised decision-making; natural justice; relevant/irrelevant considerations; failure to exercise discretion; error of law; no evidence; breach of statutory duty
- privative clauses, and the restriction of judicial review
- judicial review remedies
- standing to seek judicial review

**Assessment:** Students must rely on the Approved Assessment, which will be posted to the course homepage on the ANU Law website, prior to the commencement of the course.

## Kyoto Seminar: Japanese Law in the Global Era

LAWS8171

<b>Units:</b>	6
<b>Hours:</b>	26 (intensive delivery in Japan)
<b>Specialisation:</b>	Government and Commercial Law; International Law (Supplementary Elective)
<b>Prerequisites:</b>	LLB
<b>Staff:</b>	Kent Anderson

Incompatible with any Introduction to Japanese Law course or previous law studies undertaken in Japan

**Course objectives:** The Kyoto Seminar is a one-week intensive course introducing the fundamentals of Japanese law at the graduate level. The Kyoto Seminar project is run by Ritsumeikan University as part of a Japanese Ministry of Education special purpose grant for development of graduate programs in Japan. For more information on the Kyoto Seminar, see [www.kyoto-seminar.jp](http://www.kyoto-seminar.jp). The course will begin with a 2-3 hour orientation session in Canberra to introduce the basic legal environment in Japan while the majority of the course will be held in Kyoto February 2008, and similar dates in future.

The objective of the course is to give students sufficient knowledge and perspective to understand current developments in Japanese law and society. The course incorporates seven three-hour lecture sessions taught jointly by Japanese legal experts (predominately from Ritsumeikan University Law School, one of the top private universities in Japan) and foreign comparative law experts (the ANJeL co-directors). The course covers the basic history and structure of Japanese law; the role of law in Japanese society (eg, criminal justice, civil justice, and gender and the law); and a number of select issues in substantive Japanese law (eg, finance law, business law, and constitutional law)

Beyond the classroom, the course also includes field trips to the Kyoto District Court, the local bar association, and one outside legal institution (eg, 2005 included an excursion to Toyota's legal department). Furthermore, a large amount of the educational experience occurs in the exchange among the diverse students taking the course. Students in 2005 came from Ritsumeikan University (Kyoto), Asia Pacific University (Oita, Japan), and University of Sydney, and originated from over 15 countries. For 2007, UNSW has approved the Kyoto Seminar as an LLM course adding to the diversity.

Topics will include:

1. Foundations of Japanese Law
  - a. Japanese Legal History
  - b. Structure of Japanese Legal System
  - c. Legal Education and Profession in Japan
2. Japanese Legal Society
  - a. Civil Justice
  - b. Criminal Justice
  - c. Gender in Japanese Law
3. Select Topics in Contemporary Japanese Law
  - a. Business in Japanese Law
  - b. Finance In Japanese Law
  - c. Constitutional Issues in Japanese Law

**Proposed Assessment:** Assessment will be based on (1) student attendance and participation (10%), (2) a short-question examination covering the material from entire course (20%), (3) student participation on a WebCT discussion board (10%), and (4) a research paper (60%). The word limits and other duration requirements will be set consistent with University policy. The research paper will be due four weeks from the final day of the Kyoto Seminar program.

## Law and Economics

**LAWS8228**

<b>Units:</b>	6
<b>Hours:</b>	26 (intensive delivery)
<b>Specialisation:</b>	Government and Commercial Law
<b>Prerequisite:</b>	Introduction to Legal Reasoning and Research (non-lawyers)
<b>Staff:</b>	Dr George Barker

**Objectives:** A participant who has successfully completed this course should:

- have a sound understanding of basic economic methodology and the meaning of concepts such as efficiency, justice, rights, legal rules and institutions and the relationships between them;
- be able to appreciate the economic consequences and role of law and legal institutions;
- be able to analyse specific legal policy issues of interest to them from a law and economics perspective.

**Content:** The first part of the course introduces students to the economic approach covering important basic economic concepts and theories (including efficiency, notions of social benefit and cost, the Coase Theorem, Median Voter Theory, and Agency Theory). The second part of the course applies these theories to the analysis of rules and legal institutions. Topics in the second half could include:

- Property, Contract and Tort Law and Economics (applying the Coase Theorem and extensions)
- Economic Analysis of Disputes, Litigation, Court and Tribunal Decision Making (including the economic analysis of the efficiency of the common law)
- Economic Analysis of Government - Constitutional and Administrative Law and economics (including public choice theory of Parliamentary Government and agency theory of Executive Government)
- The economics of Corporations law ( including transactions costs analysis of the role of Corporate Personality, Limited Liability, and Directors Duties)
- The Economics of Competition Law ( and its relationship to Intellectual Property)
- Economics and the Criminal Justice System,

- The use of economic evidence in court, and Government decision making the role of theory, econometrics, statistical and financial analysis.

**Assessment:** Students must rely on the Approved Assessment, which will be posted to the course homepage on the ANU Law website, prior to the commencement of the course.

## Law of Corporate Governance, The LAWS8125

<b>Units:</b>	6
<b>Hours:</b>	26 (intensive delivery)
<b>Specialisation:</b>	Government and Commercial Law
<b>Prerequisite:</b>	Introduction to Legal Reasoning and Research (non-lawyers); Fundamentals of Government and Commercial Law (non-lawyers)
<b>Staff:</b>	Kathleen Hall

**Objectives:** A participant who has successfully completed this course should:

- have an overall understanding of the functions of the board of directors in modern corporations;
- have obtained a thorough knowledge of the fiduciary duties and responsibilities owed by the modern corporate director or company officer;
- be aware of the problems that confront the modern board of directors and the legal mechanisms that have been adopted to address these problems;
- be conversant with the major reform initiatives in the area of corporate governance and their advantages and disadvantages.

**Content:**

- The importance of corporate governance;
- The division of corporate power and the role and structure of the board;
- Good faith and related duties
- The director's duty of care
- The standard of liability (including the business judgment rule)
- Related party transactions
- Protections against liability: insurance and ratification.

**Learning Outcomes:** At the end of this course students should be able to:

- demonstrate an understanding of the core principles and issues with corporate governance
- conduct detailed research into a contemporary issue in corporate governance
- make arguments about the way in which relevant corporate law issues are likely to be resolved, noting contrary arguments and their strengths
- structure an answer to a research question in an analytical and effective way
- engage in discussion on the range of issues covered in the course.

**Assessment:** Students must rely on the Approved Assessment, which will be posted to the course homepage on the ANU Law website, prior to the commencement of the course.

## Legal Framework of Regulation LAWS8570

<b>Units:</b>	6
<b>Hours:</b>	Intensive 26 teaching hours (Plus 7 hours for the introductory workshop if applicable)
<b>Specialisation:</b>	Government and Commercial Law
<b>Prerequisites:</b>	Introduction to Legal Reasoning and Research (non-lawyers); Fundamentals of Government and Commercial Law (non-lawyers) (or the introductory workshop for students not enrolled in a Law program)
<b>Staff:</b>	Daniel Stewart/George Barker

**Objectives:** This course focuses on the legal framework of economic regulation, or how governments or other actors exercise coercive influence over four principal elements –entry, price, quality and conditions of service,

and access obligations or obligations to serve all on reasonable conditions. These elements are seen not only in establishing regulatory bodies in connection with the privatisation of utilities but increasingly can be seen to characterise the government response in areas where market competition is not considered sufficient to achieve the desired regulatory outcomes. The control of genetically modified crops or allocation of water, delivery of welfare services, even allocation of domain names or credit ratings may be seen as examples of economic regulation.

This course was developed to introduce those involved or interested in economic regulation to the constitutional and administrative law checks and balances on the exercise of regulatory power, the private law alternatives to regulatory intervention, and the likely effects of regulatory intervention given the underlying legal framework. Through a focus on the utility regulation the course provides an understanding of the crucial role played by the underlying legal framework in establishing the forms of regulation found in the Australian economy and how the economic justifications for such regulation in turn has helped to shape that legal framework.

The course will include a one day workshop for those without a law degree and who are not enrolled in the Graduate Law Program at the ANU to introduce the core legal concepts that will be examined in the course. The main component of the course will feature 26 hours taught intensively over 4 days. A mix of lectures, discussion-based seminars, student-prepared presentations, case studies and visiting speakers may be used. The latter have been chosen to give a range of views and approaches across the spectrum of industries.

**Proposed Assessment:** Students must rely on the approved means of assessment which will be posted to the course homepage on the ANU Law website, prior to the commencement of the course.

## Legislation and Legislative Drafting LAWS8104

<b>Units:</b>	6
<b>Hours:</b>	26 (intensive delivery)
<b>Specialisation:</b>	Government and Commercial Law; LLM(LegPrac)
<b>Prerequisite:</b>	Introduction to Legal Reasoning and Research (non-lawyers); Fundamentals of Government and Commercial Law (non-lawyers)
<b>Staff:</b>	Nick Horn, Julie Field and Jeffrey Barnes

**Objectives:** This course provides students with:

- knowledge of the nature of legislative drafting and the role of the legislative drafter in the legislative process
- basic skills for drafting legislation
- an understanding of how the interpretation of legislation affects, and is affected by, legislative drafting techniques

**Content:** Principal topics:

- what is legislation?
- the role of the legislative drafter
- legislative drafting techniques
- the role of parliamentary scrutiny committees
- legislative interpretation in the context of legislative drafting

**Learning Outcomes:** Students will:

- increase their knowledge of legislation and the legislative drafting process
- acquire some foundation skills in legislative drafting
- enhance their capacity to analyse and interpret legislation.

**Assessment:** The proposed assessment will be 2 short "homework" exercises; an interpretation problem and a major assignment involving drafting a small bill.

Students must rely on the Approved Assessment, which will be posted to the course homepage on the ANU Law website, prior to the commencement of the course.

<b>Units:</b>	6
<b>Hours:</b>	26 (intensive delivery)
<b>Specialisation:</b>	Government and Commercial Law
<b>Prerequisites:</b>	Introduction to Legal Reasoning and Research (non-lawyers); Fundamentals of Government and Commercial Law (non-lawyers)
<b>Staff:</b>	Dr Matthew Rimmer

**Description:** This course will consider legal and policy developments in media and communications law. Principal topics include:

Media Regulation

- Australian Communications and Media Authority
- The Broadcasting Services Act 1992 (Cth)
- Cross-Media Ownership
- Foreign Ownership
- The Australian Press Council
- The Australian Journalists' Association

Defamation Law

- Freedom of Speech
- Choice of Law and Jurisdiction
- Imputations
- Defences
- Remedies

Contempt

- Reporting of Court Proceedings
- Reporting of Parliamentary Proceedings

Classification and Censorship

- Blasphemy and Religious Vilification
- Obscenity
- Hate Speech
- Sedition and Terrorism

Confidentiality and Privacy

- Confidential Information
- Privacy Law
- The Do Not Call Register
- Anti-Spam Legislation

**Learning Outcome:** This course considers the legal regulation of media ownership and communications content. It is expected that students will on the completion of the course have:

- An awareness of the regulation of the media industry;
- An understanding of the major areas of law regulating media content;
- An ability to solve legal problems involving media and communications law;
- An awareness of problems which are developing in relation to particular fields of the media industry, and emerging technologies; and
- A critical approach to evaluating new developments in respect of media and communications law; and
- An appreciation of theoretical concerns about freedom of speech, the operation of democratic institutions, censorship, and privacy.

**Assessment:** It is expected the course would have two pieces of assessment: an oral presentation with an accompanying written summary (approx 1,500 words); and a research assignment (4,000 - 6,000 words)

Students must rely on the Approved Assessment, which will be posted to the course homepage on the ANU Law website, prior to the commencement of the course.

**Other Information:** Students are expected to read the prescribed texts, prior to the teaching period. Students are expected to prepare an oral presentation to deliver during the intensive teaching period. Students will need to devote time to the preparation and execution of the research assignment, after the intensive teaching period.

### **Principles of Intellectual Property Law** **LAWS8126**

**Units:** 6  
**Hours:** 26 (intensive delivery)  
**Specialisation:** Intellectual Property; Government and Commercial Law  
**Prerequisite:** Introduction to Legal Reasoning and Research (non-lawyers)  
**Staff:** Dr Matthew Rimmer

**Objectives:** A participant who has successfully completed this course should:

- Have an understanding of the fundamental legal principles relating to confidential information, copyright, patents, designs, trademarks, and passing off.
- Be able to identify, apply and assess issues relating to each of these areas of intellectual property
- Understand the legal and practical requirements to ensure that intellectual property rights remain valid and enforceable
- Be able to demonstrate a capacity to identify, apply and assess ownership rights and marketing protection under intellectual property law as applicable to information, ideas, new products and product marketing
- Understand the issues relating to the intellectual property protection of: indigenous knowledge or culture, computer software and material distributed on the internet, biotechnology and international trade.
- Understand the various mechanisms used in managing and exploiting intellectual property rights, including licensing, valuation and assignment.

**Content:** The course will examine the fundamental principles relating to Confidential Information, Copyright, Patents, Designs, Trade marks, and Passing off and s.52 Trade Practices Act. It will consider the ways in which each of these areas of intellectual property interact, and briefly consider the issues they generate in protecting indigenous knowledge and culture, computer software and the internet, biotechnology and international trade.

**Assessment:** Students must rely on the Approved Assessment, which will be posted to the course homepage on the ANU Law website, prior to the commencement of the course.

### **Special Topics in Government and Commercial Law:** **LAWS8147**

**Units:** 6  
**Hours:** 26 (intensive delivery)  
**Specialisation:** Government and Commercial Law  
**Prerequisites:** Introduction to Legal Reasoning and Research (non-lawyers);  
Fundamentals of Government and Commercial Law (non-lawyers)  
**Staff:** TBA

**Objectives:** This course is a 'hollow log' and the content may vary from year to year. It is designed to accommodate visiting lecturers or to trial a course before introducing it into the full curriculum.

### **Themes in Administrative Law** **LAWS8149**

**Units:** 6  
**Hours:** 26 (intensive delivery)  
**Specialisation:** Government and Commercial Law  
**Prerequisites:** Introduction to Legal Reasoning and Research (non-lawyers);  
Fundamentals of Government and Commercial Law (non-lawyers)  
**Staff:** Robin Creyke

**Objectives:** This course builds on the knowledge and skills acquired in Fundamentals of Government and Commercial Law. It covers material, particularly of current or topical nature, primarily in the Administrative law area. The aim is to give students an opportunity to explore in more depth topics which are of particular interest to them or which are clearly of contemporary relevance. It also covers material of an immediate practical relevance for practitioners, such as information access principles.

**Content:** There are four thematic areas around which the course will be fashioned and from within these areas topics will be drawn as follows:

- Commercial law as it impacts on government
  - Impact on Administrative law of commercialisation, privatisation and outsourcing
  - Administrative law in a regulatory context
- Information access and other framework issues
  - Protection of privacy in public/private sectors
  - Investigative bodies including Ombudsman and misconduct commissioners
  - Whistleblower & Protection of Public Sector Disclosure legislation
  - Freedom of Information/Archives legislation
- Theoretical elements of Administrative law in a commercial context
  - Theories which can be applied to Administrative law in a commercial context
  - Accountability trends
  - Regulatory theory as it impacts on Administrative law
- Practical application of principles of Administrative law
  - Executive power and Administrative law (eg *Tampa*)
  - Damages as an Administrative law remedy
  - Alternatives to external review (eg internal review, codes of conduct service charters)
  - Interaction of Administrative law and human rights, and anti-discrimination principles
  - Rule-making and government and commercial law

**Assessment:** Students must rely on the Approved Assessment, which will be posted to the course homepage on the ANU Law website, prior to the commencement of the course.

## Tort Liability and Public Authorities

LAWS8142

<b>Units:</b>	6
<b>Hours:</b>	26 (intensive delivery)
<b>Specialisation:</b>	Government and Commercial Law
<b>Prerequisites:</b>	Introduction to Legal Reasoning and Research (non-lawyers); Fundamentals of Government and Commercial Law (non-lawyers)
<b>Staff:</b>	Professor Jim Davis

**Content:** While the course has a public sector orientation, it is designed to provide non-lawyers with an overview of tort law and to provide law graduates with an up-to-date review of basic principle and critical analysis of recent developments. There is some flexibility in the content. Topics to be covered include:

- the field of tort law;
- modern principles of negligence;
- negligent liability of public authorities, with particular attention to failure to exercise a statutory power, and economic loss;
- breach of statutory duty;
- nuisance;
- misfeasance in public office;
- the impact of tort liability on employment

**Learning Outcomes:** A participant who has successfully completed this course should:

- have an overview of the shape of, and trends in, modern tort law;
- understand the principles of negligence, and their particular application to governments and public authorities;

- understand the operation of the separate torts of nuisance, breach of statutory duty and misfeasance in public office;
- be able to analyse critically the policy issues involved, and appreciate the intersection of tort law with other principles and bodies of law.

**Assessment:** Assessment is likely to comprise an 8,000 word assignment on a topic of the student's choice (subject to the lecturer's approval). Students must rely on the Approved Assessment, which will be posted to the course homepage on the ANU Law website, prior to the commencement of the course.

## **Tribunals and Government**

**LAWS8236**

<b>Units:</b>	6
<b>Hours:</b>	26 (intensive delivery)
<b>Specialisation:</b>	Government and Commercial Law
<b>Prerequisites:</b>	Introduction to Legal Reasoning and Research (non-lawyers); Fundamentals of Government and Commercial Law (non-lawyers)
<b>Staff:</b>	Robin Creyke

**Objectives:** Candidates who have successfully completed this course should:

- be able to define what are the distinct features of a tribunal as compared with a court
- understand the important place of tribunals in the structure of administrative review agencies and, in particular, whether tribunals are part of a fourth, integrity arm of government
- understand the law which has developed relating to tribunals specifically or administrative law bodies, including tribunals, generally
- appreciate the limitations on the remedies, which can be offered by tribunals.

**Content:** The study of tribunals will examine:

- the nature of tribunals and their role and jurisdiction
- issues in designing a tribunal system, including the choice between generalist and specialist tribunals, first and second tier review, inclusion or exclusion of lawyers, and the relationship of tribunals to the court system
- evaluating the performance and effectiveness of tribunal
- key aspects of procedure, evidence and reasons in administrative tribunal
- a comparative perspective on tribunals
- constitutional limitations and judicial concern about tribunals

**Assessment:** Students must rely on the Approved Assessment, which will be posted to the course homepage on the ANU Law website, prior to the commencement of the course.