



The University of Southern Queensland

## Course specification

<b>Description: Dispute Resolution</b>						
Subject	Cat-nbr	Class	Term	Mode	Units	Campus
LAW	8120	54176	2, 2006	EXT	1.00	Toowoomba

<b>Academic group:</b>	FOBUS
<b>Academic org:</b>	FOB010
<b>Student contribution band:</b>	3
<b>ASCED code:</b>	090901

### STAFFING

Examiner: Pauline Collins

Moderator: Caroline Hart

### OTHER-REQUISITES

Pre-requisite: Enrolment in a postgraduate program

### RATIONALE

This course is designed to introduce students to both traditional and non-traditional means of resolving disputes in a legal context. It provides a framework of relevant Australian legal principles and processes and relates these to the role of a professional adviser. Obligations of professionals in the realm of dispute resolution are considered, whether before the courts in civil proceedings as a litigant or a witness, or involved in mediation and alternative dispute resolution processes. The role of administrative law and its impact on decision making is investigated with particular regard to the legal principles and processes concerning an adviser appearing before the Administrative Appeals Tribunal. Outcomes in the form of available legal remedies and costs are considered. Developments in alternative dispute resolution methods and their application and impact on professional advisors is investigated.

### SYNOPSIS

Within the litigation sphere, the course covers matters such as jurisdiction, procedure, evidentiary rules and remedies in relation to courts and tribunals. (It also examines administrative law when dealing with tribunals). In the non-traditional area, students are introduced to developments in alternative dispute resolution, including negotiation, mediation and arbitration.

### OBJECTIVES

The course objectives define the student learning outcomes for a course. The assessment item(s) that may be used to assess student achievement of an objective are shown in parentheses after each objective. On successful completion of this course, students should be able to:

1. describe, interpret, illustrate and explain: (a) the Australian Legal system, the role and application of precedent, court hierarchy and jurisdictions; (b) civil procedure, both at

- trial and in interlocutory proceedings (for example discovery, subpoenas, privilege, and investigatory powers of government agencies); (c) rules of evidence, for example, onus of proof, admissibility, hearsay and the role of expert witnesses; (d) important tribunals, their jurisdiction and relevant rules of procedure and evidence; (e) principles of administrative law applicable to tribunal activities (particularly the Administrative Appeals Tribunal as it deals with taxation matters); (f) remedies available in given causes of action and proceedings and the principles underlying the awarding of costs; (g) developments in alternative dispute resolution and evaluate and critique their usefulness in given scenarios (Assignment 1, Assignment 2, Examination)
2. demonstrate through appropriate illustrations the principles of law dealt with in this course and an ability to apply those principles in factual scenarios (Assignment 1, Assignment 2, Examination)
  3. demonstrate an ability to communicate in a legal context (Assignment 1, Assignment 2).

## TOPICS

Description	Weighting (%)
1. Courts - jurisdiction and civil procedure (both at trial and interlocutory proceedings)	20.00
2. Courts - evidence including role of expert witness	10.00
3. Administrative law, particularly grounds for appeal	20.00
4. Tribunals - structure and procedures (eg tax appeals)	10.00
5. Remedies and Costs	10.00
6. Alternative Dispute Resolution, including negotiation mediation, arbitration and case presentation	30.00

## TEXT and MATERIALS required to be PURCHASED or ACCESSED

ALL textbooks and materials are available for purchase from USQ BOOKSHOP (unless otherwise stated). Orders may be placed via secure internet, free fax 1800642453, phone 07 46312742 (within Australia), or mail. Overseas students should fax +61 7 46311743, or phone +61 7 46312742. For costs, further details, and internet ordering, use the 'Textbook Search' facility at <http://bookshop.usq.edu.au> click 'Semester', then enter your 'Course Code' (no spaces).

Latest editions of texts are required.

Astor, H & Chinkin, CM 2002, *Dispute resolution in Australia*, 2nd edn, LexisNexis Butterworths, Sydney.

Streets, S 2000, *Butterworths casebook companions - administrative law*, 2nd edn, Butterworths, Sydney.

## REFERENCE MATERIALS

Reference materials are materials that, if accessed by students, may improve their knowledge and understanding of the material in the course and enrich their learning experience.

USQ Library Call numbers are included where relevant.

See also the Optional Further Reading list at the end of every module in the study book

Latest editions of the texts are recommended

Aronson, M & Franklin, N 1987, *Review of administrative action*, The Law Book Company Limited, Sydney.

(342.94066 ARO)

Bayne, PJ 1984, *Freedom of information*, Law Book Company, Sydney.

(342.940853 BAY)

Burns, NR 1988, *Injunctions: a practical handbook*, Law Book Company, Sydney.

(347.077 BUR)

Cairns, BC 2002, *Australian civil procedure*, 5th edn, LBC Information Services, Holmes Beach, Florida.

(349.9405 CAI)

Cook, C, Creyke, R, Geddes, R & Holloway, I 2001, *Laying down the law*, 5th edn, Butterworths, Sydney.

(340.07209 LAY)

Covell, W & Lupton, K 2005, *Principles of remedies*, 3rd edn, LexisNexis Butterworths, Sydney.

(347.94077 COV)

Forbes, JRS 2002, *Evidence law in Queensland*, 4th edn, LBC Information Services, North Ryde, New South Wales.

(347.943 FOR)

Heydon, JD 2000, *Cross on evidence*, 6th edn, Butterworths, Sydney.

(Australian edition 347.9506)

Hotop, SD 1985, *Principles of Australian administrative law*, 6th edn, Law Book Company, North Ryde, New South Wales.

(342.94066 HOT)

Lane, WB & Young, S 2001, *Administrative law in Queensland*, Law Book Co, Pyrmont, New South Wales.

Latimer, P 2003, *Australian business law 2003*, 22th edn, CCH Australia Ltd, North Ryde, New South Wales.

(346.9407 LAT)

Sykes, EI, Lanham, DJ, Tracey, RRJ & Esser, KW 1997, *General principles of administrative law*, 4th edn, Butterworths, Sydney.

(342.9406 GEN)

Tilbury, M, Kercher, B & Noone, M 2000, *Remedies: commentary and materials*, 3rd edn, LBC Information Services, Sydney.

(347.077 TIL)

Tilbury, MJ 90-9, *Civil Remedies*, Butterworths, Sydney, Vol 1.

(347.94077 TIL)

Tilbury, MJ 1993, *Civil Remedies*, Butterworths, Sydney, Vol 2.

Tomasic, R & Fleming, D 1989, *Australian administrative law*, Law Book Company, North Ryde, New South Wales.

(342.9406 AUS)

Waight, PK & Williams, CR 2005, *Evidence: commentary and materials*, 7th edn, Law Book Co, North Ryde, New South Wales.

(347.9406 WAI)

## STUDENT WORKLOAD REQUIREMENTS

ACTIVITY	HOURS
Assessment	17.00
Directed Study	84.00
Private Study	64.00

## ASSESSMENT DETAILS

Description	Marks out of	Wtg(%)	Due date
ASSIGNMENT 1	20.00	20.00	15 Sep 2006
ASSIGNMENT 2	30.00	30.00	20 Oct 2006
2 HOUR EXAMINATION	50.00	50.00	END S2 (see note 1)

### NOTES

1. The examination is scheduled to be held in the end-of-semester examination period. Students will be advised of the official examination date after the timetable has been finalised.

## IMPORTANT ASSESSMENT INFORMATION

- 1 Attendance requirements:  
If you are an international student in Australia, you are advised to attend all classes at your campus. For all other students, there are no attendance requirements for this course. However, it is the students' responsibility to study all material provided to them or required to be accessed by them to maximise their chance of meeting the objectives of the course and to be informed of course-related activities and administration.
- 2 Requirements for students to complete each assessment item satisfactorily:  
To satisfactorily complete an individual assessment item a student must achieve at least 50% of the marks. (Depending upon the requirements in Statement 4 below, students may not have to satisfactorily complete each assessment item to receive a passing grade in this course.)
- 3 Penalties for late submission of required work:  
If students submit assignments after the due date without prior approval then a penalty of 20% of the total marks gained by the student for the assignment will apply for each working day late.
- 4 Requirements for student to be awarded a passing grade in the course:  
To be assured of receiving a passing grade a student must make a reasonable attempt in all of the weighted assessment items, achieve at least 50% in the examination and at least 50% of the total weighted marks available for the course.
- 5 Method used to combine assessment results to attain final grade:

The final grades for students will be assigned on the basis of the aggregate of the weighted marks obtained for each of the summative assessment items in the course.

- 6 Examination information:  
This is a closed examination. Students are allowed to bring only writing and drawing instruments into the examination.
- 7 Examination period when Deferred/Supplementary examinations will be held:  
Any Deferred or Supplementary examinations for this course will be held during the next examination period.
- 8 University Regulations:  
Students should read USQ Regulations 5.1 Definitions, 5.6. Assessment, and 5.10 Academic Misconduct for further information and to avoid actions which might contravene University Regulations. These regulations can be found at the URL <http://www.usq.edu.au/corporateservices/calendar/part5.htm>. Students should also read the Faculty of Business Guide to Policies and Procedures of the Faculty which can be found at the URL <http://www.usq.edu.au/handbook/current/buspolproc.html>.

## **ASSESSMENT NOTES**

- 1 Assignments: (i) The due date for an assignment is the date by which a student must despatch the assignment to the USQ. The onus is on the student to provide proof of the despatch date, if requested by the Examiner. (ii) Students must retain a copy of each assignment submitted for assessment. This must be produced within 24 hours if required by the Examiner. (iii) The Examiner may grant an extension of the due date of an assignment in extenuating circumstances. If students submit assignments after the due date and wish to claim extenuating circumstances then they shall provide validated documentary evidence with the assignment, explaining the circumstances. The Examiner shall consider the statement accompanying a late assignment and decide on the outcome. (iv) Assignments are to be submitted in the appropriate assignment folders. (v) The Examiner will normally only accept assessments that have been written, typed or printed on paper-based media. (vi) The Examiner will not accept submission of assignments by facsimile. (vii) Students who do not have regular access to postal services or who are otherwise disadvantaged by these regulations may be given special consideration. They should contact the Examiner to negotiate such special arrangements. (viii) In the event that a due date for an assignment falls on a local public holiday in their area, such as a Show holiday, the due date for the assignment will be the next day. Students are to note on the assignment cover the date of the public holiday for the Examiner's convenience.
- 2 Course weightings: Course weightings of topics should not be interpreted as applying to the number of marks allocated to questions testing those topics in an examination paper. The examination may test material already tested in assignments.
- 3 Deferred work: Students who, for medical, family/personal, or employment-related reasons, are unable to complete an assignment or to sit for an examination at the scheduled time may apply to defer an assessment in a course. Such a request must be accompanied by appropriate supporting documentation. One of the following temporary grades may be awarded: IDS (Incomplete - Deferred Examination); IDM (Incomplete Deferred Make-up); IDB (Incomplete - Both Deferred Examination and Deferred Make-up).
- 4 Dishonest actions: (i) Any student who is alleged to have performed a dishonest action relating to any assessment in the course will have a course of action taken against him/her as outlined in the Academic Regulations. (ii) Pieces of assessment should be the work of individual students. Joint pieces of assessment are not permitted unless

written approval has been obtained from the Examiner. (iii) Dishonest action in relation to assessment includes: copying or attempting to copy the work of others; use of or attempting to use information prohibited from use in that form of assessment; submitting the work of another as your own; consciously committing acts of plagiarism, that is, taking and using another's thoughts or writings as one's own with intent to deceive, which occurs when paragraphs, sentences, a single sentence or significant parts of a sentence which are copied directly, are not enclosed in quotation marks and appropriately footnoted or referenced in the text; direct quotations are not used, but text is paraphrased or summarised, and the source of the material is not acknowledged by footnoting or other reference in the text.

## **OTHER REQUIREMENTS**

- 1 Learning resources: Prescribed texts and materials (see above); prescribed reference materials (see above); printed Introductory Book, Study Book/s, Answer Book, Book/s of Selected Readings; audio CD; and course Website accessible via USQConnect.
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