Description: Dispute Resolution

<table>
<thead>
<tr>
<th>Subject</th>
<th>Cat-Nbr</th>
<th>Class</th>
<th>Term</th>
<th>Mode</th>
<th>Units</th>
<th>Campus</th>
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<tr>
<td>LAW</td>
<td>8120</td>
<td>14247</td>
<td>2, 2002</td>
<td>EXT</td>
<td>1.00</td>
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Academic Group: FOBUS
Academic Org: FOB010
HECS Band: 3
ASCED Code: 090901

STAFFING
Examiner: Diana Campbell
Moderator: Mark Tranter

RATIONALE
This course is designed to introduce students to both traditional and non-traditional means of resolving disputes. It is intended to provide a framework of relevant legal principles and processes and relate these to the role of a professional adviser coming before the courts in civil proceedings whether as a litigant or as a witness. The relevant legal principles and processes concerning an adviser appearing before the Administrative Appeals Tribunal, are also considered. The course then examines recent developments in alternative dispute resolution.

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 recent developments in alternative dispute resolution, including arbitration and mediation.

OBJECTIVES
On successful completion of this course students will be able to:

- describe court hierarchy and jurisdictions;
- give an overview of civil procedure both at trial and in interlocutory proceedings (for example discovery, subpoenas, privilege, investigatory powers of government agencies);
- state important rules of evidence and relate these to the role of an expert witness;
- list important tribunals and briefly describe their jurisdiction, relevant rules of procedure and evidence;
• apply principles of administrative law to tribunal activities (particularly the Administrative Appeals Tribunal as it deals with taxation matters);
• assess remedies available in given causes of action and proceedings and understand principles underlying the awarding of costs;
• outline developments in alternative dispute resolution and evaluate their usefulness in given commercial scenarios.

**TOPICS**

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

**TEXT and MATERIALS required to be PURCHASED or ACCESSED:**

Books can be ordered by fax or telephone. For costs and further details use the ‘Book Search’ facility at [http://bookshop.usq.edu.au](http://bookshop.usq.edu.au) by entering the author or title of the text.

Latest editions of texts are required.


**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


Tilbury, M.J. *Civil Remedies (Vols I & II)*, Butterworths, Sydney. 347.94077 TIL. (Year 1990-1993)


**STUDENT WORKLOAD REQUIREMENTS**

<table>
<thead>
<tr>
<th>ACTIVITY</th>
<th>HOURS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assessment</td>
<td>17</td>
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<tr>
<td>Directed Study</td>
<td>84</td>
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<tr>
<td>Private Study</td>
<td>64</td>
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**ASSESSMENT DETAILS**

<table>
<thead>
<tr>
<th>Description</th>
<th>Marks Out of</th>
<th>Wtg(%)</th>
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<th>Due Date</th>
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<tr>
<td>ASSIGNMENT 1</td>
<td>20.00</td>
<td>20.00</td>
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<td>ASSIGNMENT 2</td>
<td>30.00</td>
<td>30.00</td>
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<tr>
<td>EXAMINATION (2 HOURS)</td>
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<td>50.00</td>
<td>Y</td>
<td>END S2</td>
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</table>

(see note 3)
NOTES:

3. Students will be advised of the official examination date after the timetable has been finalised.

OTHER REQUIREMENTS

1. To be assured of a passing grade in this course, students must attempt all of the assessments, achieve at least 50% in the examination and at least 50% of the available marks for the course. Final grades for the course will be determined by the addition of the marks obtained in each assessment item, weighted as in the Assessment Details.

2. Students must retain a copy of all pieces of assessment which must be produced if/when required by the lecturer.

3. LATE ASSIGNMENTS (i) All assessments submitted after the due date (and not approved for extension) in accordance with university policy will be penalised 20% per working day. (ii) 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. (iii) The course examiner shall consider the statement accompanying a late assignment and decide on the outcome.

4. Assignments not submitted in the appropriate assignment folders will be deemed as not being received.

5. DISHONEST ACTIONS (i) Any student who is alleged to having 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 course leader. (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, ie 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.

6. DEFERRED EXAMINATIONS (i) Deferred examinations will be granted at the Dean's discretion based on non-attendance for medical, compassionate or employment-related reasons having regard to item 1. If a deferred examination is granted, students shall sit the deferred examination in the next semester examination period. If, for whatever reason, this deferred examination is not taken then the student will be graded 'F'. (ii) To be eligible for consideration for a deferred examination, students must have submitted a genuine attempt at all mandatory assessment items. (iii) Deferral of an examination CANNOT be granted on an existing deferral in that course. (iv) Requests must be in writing to the Faculty Operations Manager clearly stating student name, student number, current address,
Requests MUST BE supported by original or suitably authenticated documentation. Requests and documentation must be submitted to the Faculty Operations Manager within ten (10) calendar days of the missed examination date. Requests based on medical reasons must be supported by medical evidence on the appropriate University of Southern Queensland medical certificate or doctor's certificate. A medical certificate must be dated with the same date as the period of illness for which the absence from examination is being sought and clearly indicate the student's name and, if possible, student number (retrospective medical certificates will not be accepted for either assignment work or examinations). Only original or authenticated medical certificates will be accepted. A student's medical condition must be stated clearly (IN ENGLISH). (Certificates stating a student has a 'medical condition' may not be sufficient grounds for deferment of examination). Medical evidence must cover the student for the day(s) of the missed examination(s).

Requests based on family/personal reasons must be supported by a clear statement (IN ENGLISH) from a medical practitioner, counsellor or independent member of the community. Requests based on employment-related reasons must be supported by a clear statement (IN ENGLISH) from the student's employer.

Students who have a medical condition or genuine compassionate or employment-related problems on the day of the examination are advised to obtain the relevant documentary evidence and NOT attempt the examination. If a student makes an attempt at the examination, the assessment item will be marked and a grade awarded. In these cases, a student cannot, after receiving a 'fail' grade, request a deferred examination or special consideration. Students who have been granted deferred examinations will not be granted a waiver of prerequisites, without the permission of the Heads of Department, in subsequent semesters (if they do not have a passing grade).

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.

Mechanised erasers are not permitted in exam venues.

The examination will be CLOSED.