



# The Faculty of Law

## Contents

---

<u>The Law degrees</u>	495
<u>General</u>	498
<u>Compulsory Units and Units Required for Admission to Practice</u>	499
<u>Elective Units</u>	503

# The Faculty of Law

Dean: Professor M Coper

## The Law degrees

The Faculty of Law offers undergraduate courses for the pass degree of Bachelor of Laws and for the degree of Bachelor of Laws with honours. Graduate courses in the areas of dispute management, commercial law, environmental law, international law and public law are also offered.

The Faculty offers supervision of candidates for the degrees (by research) of Master of Philosophy and Doctor of Philosophy.

The Legal Workshop, which is part of the Faculty of Law, offers a Graduate Diploma in Legal Practice course to students who have been admitted to, or who have successfully completed the course of study for, the degree of Bachelor of Laws or an equivalent degree at an Australian university or other approved tertiary institution.

## Application for enrolment

Applicants for enrolment in the Faculty of Law must first meet the University's admission requirements. There is a quota, determined from year to year, for new undergraduate enrolments in the Faculty. Admission to the University does not guarantee admission to the Faculty of Law.

Applicants will be advised towards the end of January 2001 whether they have been accepted for entry. Those selected will then be given a time limit in which to notify the University whether or not they wish to take up the offer of a place.

There are no prerequisite school subjects for law studies. The most important skill of the intending law student is an ability to write clear, concise and correct English.

A student admitted to a combined course will be required to complete that study on a full time basis. Part-time enrolment can only be undertaken in exceptional circumstances with the permission of the Sub-Dean. A student admitted to the LLB or the LLB(G) may elect to undertake either full or part-time study.

## Normal Duration (in years)

	<i>Full Time</i>	<i>Part Time</i>
LLB(G)	3	6
LLB	4	8
Combined	5	n/a

## Changes to course structures and credit point values

You will note that undergraduate degrees are now being expressed in terms of credit points. For a full explanation of the changes to course structures, credit point values and course legislation, please see the General Information section of this Handbook.

## LLB Handbook

More details on undergraduate units, faculty policies and procedures are contained in the *LLB Handbook*.

## The degree of Bachelor of Laws

(Course code 4300)

The curriculum consists of compulsory and elective units, each worth 6 credit points (with the exception of Research Unit, worth 12 credit points) and one semester in length, with 48 credit points per year being the standard adopted by the University. The normal load in each semester is 24 credit points. The compulsory units are designed to ensure that every student gains a sufficient grounding in the fundamental branches of the law, and the elective units provide an opportunity to develop particular interests and to deepen understandings.

Students enrolled in a Bachelor of Laws course prior to 1999 should see the LLB Handbook for information about transition arrangements and if necessary consult a course adviser.

In summary, the Bachelor of Laws course consists of the following:

- 12 compulsory units (named below), worth 72 credit points;
  - 18 law elective units, worth 108 credit points, which may include the 3 elective units for admission to practice, named in italics below, and
  - 2 non-law elective units, worth 12 credit points.
- 192 credit points in total.

Compulsory Units consist of:

- Administrative Law LAWS2201
- Australian Public Law LAWS1205
- Commonwealth Constitutional Law LAWS2202
- Contracts LAWS1204
- Criminal Law and Procedure LAWS1206
- Equity and Trusts LAWS2205
- Foundations of Australian Law LAWS1201
- International Law LAWS1207
- Lawyers, Justice and Ethics LAWS1202
- Legal Theory LAWS1208
- Property LAWS2204
- Torts LAWS1203

Elective units required for admission to practise law:

- Corporations Law LAWS2203*
- Evidence LAWS2207*
- Litigation and Dispute Management LAWS2244*

Not all elective units are offered each year and the list is subject to change from time to time. Law electives are not studied in the first year and there is no requirement for newly-enrolling first-year students to specify the elective units they intend to study in later years. By the time choice of electives is required students are usually well informed of the factors which should guide their

choices; in any case the Sub-Dean or Assistant Faculty Executive Officer are happy to assist those who need help in choosing electives.

**A full-time student may complete the course in four years. A suggested pattern for Bachelor of Law students is as follows:**

<i>Year 1</i>	<i>Credit Points</i>	<i>First Semester</i>	<i>Second Semester</i>
	12	LAWS1201 Foundations of Australian Law	LAWS1202 Lawyers, Justice and Ethics
	12	LAWS1203 Torts	LAWS1207 International Law
	12	LAWS1204 Contracts	LAWS1205 Australian Public Law
	12	1 non-law elective unit	1 non-law elective unit
<i>Total</i>	48		
<i>Year 2</i>			
	12	LAWS2201 Administrative Law	LAWS2202 Commonwealth Constitutional Law
	12	LAWS2203 Corporations Law	LAWS1208 Legal Theory
	12	LAWS1206 Criminal Law and Procedure	2 Law elective units
	12	1 Law elective unit	
<i>Total</i>	48		
<i>Year 3</i>			
	12	LAWS2204 Property	LAWS2205 Equity and Trusts
	36	3 Law elective units	3 Law elective units
<i>Total</i>	48		
<i>Year 4</i>			
	12	LAWS2244 Litigation and Dispute Management	LAWS2207 Evidence
	36	3 Law elective units	3 Law elective units
<i>Total</i>	48		
<i>Course Total</i>	192		

It is suggested that LLB students could undertake this degree in a modified pattern if they wished, beginning with 6 units in first year. This would ensure that they remained full-time (at 3 units per semester) in the first year, and carried a heavier load, and therefore incurred a heavier HECS cost, in the later years.

### **The degree of Bachelor of Laws for graduates of other disciplines** (Course code 4303)

Graduates of non-law disciplines may apply to undertake a shortened course referred to as the LLB(G) course. In summary:

- 12 compulsory units, worth 72 credit points;
- 12 law elective units, worth 72 credit points, which may include the 3 elective units for admission to practice.
- 144 credit points in total.

The LLB(G) course is intended to be completed in three years full-time.

The Faculty is conscious that students taking the law course for graduates of other disciplines have a more concentrated course of study than other law students. Part-time students in this course particularly face greater difficulties than other students. They have to undertake a work load of up to eight lecture hours a week. There are regular tutorials in most units. Students also need to devote a considerable amount of time to reading, private study and written exercises. Intending stu-

dents are therefore urged to consider all their commitments very carefully before applying and, more especially, before accepting the offer of a place in the law course for graduates of other disciplines.

### **Previous law studies**

A student who enrolls in an ANU LLB degree after completing law studies at another university may only be granted status for less than half of the units prescribed for the ANU degree. A student may not repeat in the LLB course a unit the syllabus of which is substantially similar to that of a subject passed for the award of another degree or diploma.

With respect to combined degree courses, a newly-enrolling graduate whose previous degree studies included law units (eg a degree of Bachelor of Jurisprudence or a degree in Arts, Economics, Commerce or Science undertaken as part of a combined degree course with law) will not normally be enrolled in the three-year LLB(G) course. Instead, enrolment will usually be in the four-year LLB course, with status for ANU law units which the Faculty deems to be equivalent to law units previously passed and, if necessary, with additional status for

unspecified elective units such that the graduate may, without an unduly heavy work load, complete the requirements of the LLB degree in the equivalent of a further two years of full-time study. The intention of this

provision is to treat the graduate who has undertaken sufficient law studies in the previous degree in a manner similar to a student enrolled ab initio in an ANU five-year combined degree course.

**The standard pattern of subjects for full-time students taking the LLB(G) course is:**

<i>Year 1</i>	<i>Credit Points</i>	<i>First Semester</i>	<i>Second Semester</i>
	12	LAWS1201 Foundations of Australian Law	LAWS1202 Lawyers, Justice and Ethics
	12	LAWS1203 Torts	LAWS1205 Australian Public Law
	12	LAWS1204 Contracts	LAWS1207 International Law
	12	LAWS1206 Criminal Law and Procedure	LAWS1208 Legal Theory
<i>Total</i>	48		
<i>Year 2</i>			
	12	LAWS2201 Administrative Law	LAWS2202 Commonwealth Constitutional Law
	12	LAWS2203 Corporations Law	1 Law elective unit
	24	2 Law elective units	2 Law elective units
<i>Total</i>	48		
<i>Year 3</i>			
	12	LAWS2204 Property	LAWS2205 Equity and Trusts
	12	LAWS2244 Litigation and Dispute Management	LAWS2207 Evidence
	24	2 Law elective units	2 Law elective units
<i>Total</i>	48		
<i>Course Total</i>	144		

It is suggested that LLB(G) students could undertake this degree in a modified pattern if they wished, beginning with 6 units in first year. This would ensure that they remained full-time (at 3 units per semester) in the first year, and carried a heavier load, and therefore incurred a heavier HECS cost, in the later years.

**The degree of Bachelor of Laws with honours**

The length of the course of study for the degrees of Bachelor of Laws and Bachelor of Laws with honours is the same. The degree may be awarded at first class; second class, division A; or second class, division B level.

The degree with honours is currently under review but the following sets out honours as it applied in 2000: the final honours examination comprises two parts, Part A and Part B. 70% is allotted to Part A and 30% to Part B. The mark for the final honours examination is a mark on a 10 point scale.

The honours result of a candidate has been classified in the following manner:

**Honours (first class):** if the candidate obtains a mark of 4 or more in each of Parts A and B, and a mark of 7 or more in the final honours examination;

**Honours (second class, division A):** if the candidate obtains a mark of 4 or more in each of Parts A and B, and a mark of 5.5 or more (but less than 7) in the final honours examination;

**Honours (second class, division B):** if the candidate obtains a mark of 4 or more (but less than 5.5) in each of Parts A and Parts B, provided that the Faculty may make an award of honours where the student has a mark of 4 or more in the final honours examination and there

is a marginal shortfall in Part A which may be seen to be compensated for by the result in Part B.

More information is contained in the *LLB Handbook*.

Part A consists of the weighted average mark of all law units (with the exception of the Research Unit) taken by the student as part of the pass degree course, except that in determining the weighted average mark, the mark obtained in the lowest 18 credit points will be discarded.

Part B is a research paper undertaken in fulfilment of the requirements of the Research Unit. The Research Unit paper is of not less than 9,000 nor more than 11,000 words on an approved topic and is supervised by a member of the Faculty. The object is to enable the honours candidate to undertake sustained, intensive work on a specific piece of legal research. (See Details of units for unit description.)

Any student wishing to graduate with an honours degree must enrol in and complete the Research Unit in one semester of the final full-time year of the Bachelor of Laws degree. To be eligible to enrol in the Research Unit, students require an overall law unit average mark of 4 or above. In addition, a prerequisite unit Research Unit Methodology must be completed. It is offered each semester.

### **Combined courses**

The University offers combined courses in the Faculties of Arts and Law, Asian Studies and Law, Economics & Commerce and Law, and Science and Law. A student may gain two degrees, either Bachelor of Arts and Bachelor of Laws; Bachelor of Asian Studies and Bachelor of Laws; Bachelor of Commerce and Bachelor of Laws; Bachelor of Acturial Studies and Bachelor of Laws; Bachelor of Economics and Bachelor of Laws; Bachelor of Science and Bachelor of Laws; or Bachelor of Psychology and Bachelor of Laws; in a period of five years full-time study and Bachelor of Asian Studies (Specialist) and Bachelor of Laws in a period of six years full-time study. The Faculty of Law encourages students other than graduates to take one of these combined courses. One of the reasons is to widen the student's education and understanding by studying society from a viewpoint outside that of legal scholarship. Please refer to the Combined Courses section of this Handbook.

### **Internship Program**

The Faculty has approved a program that enables students in their ultimate or penultimate years of the law course to obtain an internship with a senior law professional. Students are placed in a professional workplace (for example a law firm, a court, a government agency or a non-government organisation) to complete a 6000 word research paper on an agreed topic under the supervision of a workplace lawyer. Successful completion results in the credit of an elective unit towards a law degree.

Students from universities other than the ANU, in Australia or overseas, are welcome to enrol, either as part of a broader course or for the internship alone. Enquiries should be directed to the Faculty Office.

### **General**

#### **Work loads**

The Faculty suggests the number and order of units, compulsory or elective, which a student may take in any year. Generally a full-time student will have a contact work load of 16 hours a week and a part-time student 8 hours.

Lectures are timetabled to start at 8 am and end at 6 pm. Part-time students should, therefore, ascertain before they register their enrolment or apply to re-enrol whether they will be able to obtain leave of absence from their employment to attend lectures.

Students should be aware that varying their enrolment may have implications for their Austudy/Youth Allowance eligibility. It is the students responsibility to ensure that their course load is full time in each semester.

#### **Summer and Graduate Employment**

An interview scheme for summer and graduate employment is conducted during the year for students in their penultimate and final years of study. The participating employers include the major Sydney corporate law

firms, a diverse range of middle-sized and smaller firms in Sydney, Canberra and other areas, and public authorities of the Commonwealth, New South Wales and the Australian Capital Territory. The Sydney part of the scheme involves cooperation with law schools in NSW.

The scheme provides a standard application form and period for interviews for which the Careers and Employment Centre in liaison with the Faculty acts as coordinator and conduit and encourages participating employers to provide information to students by way of written profiles and Careers Day presentations.

Information about participating employers, dates for employer presentations, and deadlines for student applications is available from the Careers and Employment Centre.

#### **The ANU Law Students' Society**

The ANU Law Students' Society is a student organisation to which all law students are eligible to belong. Its program is directed by a committee of 15 elected by student vote in the third term of each year.

Throughout the year the Society sponsors a number of extra-curricular academic activities, such as talks by leading members of the profession, debates and career forums, and an extensive social program.

Perhaps the Society's most important function is its contribution to staff/student relations. Members of the Society sit on Faculty committees which meet regularly to discuss matters of mutual concern and to consider suggestions from the students.

The Law Society has an office on the Ground floor. Messages may be left in the letterbox.

#### **Faculty Education Committee**

The Faculty Education Committee consists of equal numbers of staff and students and is chaired by the Dean or Sub-Dean. It considers and reports to the Faculty of Law on educational matters relating to law courses, including the means of assessment in each unit.

#### **Faculty Officers**

At the head of the Faculty is the Dean, assisted by Associate Deans (one of whom is designated the Sub-Dean), the Faculty Executive Officer and the Assistant Faculty Executive Officer. Students should speak to the Assistant Faculty Executive Officer in the Faculty Office in the first instance on matters concerning degree rules, regulations, courses and general administration. Members of the teaching staff are always willing to advise students on problems arising from the courses in general or from particular subjects.

#### **Academic performance**

Minimum academic performance criteria apply across all Faculties. The policy is outlined in the General Information section of this Handbook.

### **Admission of ANU graduates to legal practice**

The Bachelor of Laws degree of the University is recognised for admission in the ACT and NSW so long as students cover all the units required under the Uniform Admission Rules. As well as the compulsory units in the Bachelor of Laws degree, these Rules require Evidence, Litigation and Dispute Management, and Corporations Law for admission followed by a practical legal training program such as the Legal Workshop (see below). When graduates apply for admission to practice they will need to give evidence of having completed the units prescribed by the Uniform Admission Rules. This evidence is usually in the form of a certificate by the Dean of Law. Inquiries concerning direct admission to practice in other jurisdictions should be directed to the Sub-Dean.

Once admitted to practice in any state or territory of Australia, graduates are entitled to be admitted in all other states and territories of Australia. They may also have their names entered on the High Court register, which entitles them to practise in all Federal jurisdictions.

For admission to some courts, but not others, it is necessary to be an Australian citizen or a British subject. Students with any doubts on their eligibility for admission should consult the Secretary of the appropriate Admission Board as early as possible.

### **Legal Practice Course**

The Legal Workshop offers the Graduate Diploma in Legal Practice (GDLP). Students can choose from several formats for the GDLP:

- full-time attendance over five months
- a part-time option involving one, two or three week attendances over up to three years
- a flexible option involving a two-week attendances with a series of distance modules, usually over the period of one year.

Students who have graduated or qualified to graduate as Bachelor of Laws from an Australian university or diplomates of the Solicitors Admission Board of New South Wales are eligible to enrol.

Details of the courses are in a separate brochure obtainable from <http://law.anu.edu.au/legalworkshop> or the Legal Workshop, Faculty of Law.

The course provides common training for all practitioners, whether they ultimately propose to practise as barristers or solicitors or both. It consists mainly of instruction in common legal office procedures and skills training followed by a work program of exercises and simulated legal transactions, for students to practise procedures and skills. The GDLP includes trust accounts and legal ethics units which the Uniform Admission Rules require for admission.

### **Law Library**

The Law Library, as part of the ANU Library system, provides access to a wide range of legal material in both

print and electronic form. The library houses a significant collection of cases, legislation, books and journals that is both supportive of academic research and relevant to the course curriculum offered by the Faculty of Law. In addition to the traditional print collection, legal resources are also available to ANU staff and students via the internet and through legal databases such as LEXIS.

Law library staff are pleased to provide assistance in using all aspects of the law collection and offer a variety of training sessions on accessing legal databases.

## **Compulsory Units and Units Required for Admission to Practice**

### **Administrative Law**

**LAWS2201  
(6cp)**

Prerequisites: Australian Public Law

Syllabus: This unit examines the legal framework for controlling decision-making by Commonwealth, State and local government agencies in Australia. The focus of the unit is upon the legal restraints upon government, and the way in which the principle of government accountability is maintained. Particular attention is paid to the role played by courts, tribunals, Ombudsman and other agencies in reviewing government decision-making, and to the opportunities available to the public to question government activity. Control of government information practices is another distinct theme. The unit covers the core administrative law material required for admission purposes and for work in the area of law and government. The following topics will be covered:

- theories of administrative justice;
- accountability in an administrative state;
- the administrative law framework for review of government decision-making;
- concepts of administrative and judicial review;
- judicial review principles;
- administrative review principles;
- standing;
- remedies;
- other administrative law avenues including information access rights; ombudsman; human rights and anti-discrimination bodies; investigative bodies and royal commissions.

### **Australian Public Law**

**LAWS1205  
(6cp)**

Syllabus: This unit examines the structure and themes of Australian public law, and in that way provides a bridge to all other public law study in the curriculum. In essence, the unit examines a prominent feature of the Australian legal system, namely how power is structured, distributed, and controlled in Australia. The distinctive roles played by the legislature, the executive and the judiciary receive special attention. Subsidiary

themes in the unit are protection of individual rights in the Australian legal system, and constitutional change and evolution in Australia. The following topics will be covered:

- the constitutional and legislative framework for Australian public law;
- major concepts and themes in Australian public law, including federalism, separation of powers, representative democracy, rule of law, liberalism, and citizenship;
- the Legislature, including the structure of Australian legislatures, parliamentary supremacy, and express and implied constitutional limitations on legislative power;
- the Executive, including the structure of Executive government, executive power, and liability of the Crown;
- the Judiciary, including the constitutional separation of judicial power, and the administrative law implications of judicial separation;
- protection of individual rights in Australian public law;
- constitutional change and evolution, including constitutional amendment.

### **Commonwealth Constitutional Law**

**LAWS2202  
(6cp)**

Prerequisite: Australian Public Law

Syllabus: Building on previous public law studies, particularly Australian Public Law, this unit aims to deepen student understanding of key aspects of the Commonwealth Constitution and its judicial interpretation by the High Court. Particular attention will be paid to the historical, social and institutional forces which have helped shape the Constitution and the High Court's reading of it. The unit includes:

- the historical, social and institutional context of Australian constitutional law;
- the scope of Commonwealth legislative power, including a detailed examination of the trade and commerce power (s.51(i)), the corporations power (s.51(xx)) and the external affairs power (s.51(xxix)); the process of characterisation and the principle in the Communist Party Case;
- inconsistency between Commonwealth and State laws (s.109);
- federal financial powers and economic union;
- general principles and theories of interpretation; the Engineers Case and implied intergovernmental immunities;
- an introduction to implied constitutional 'rights';
- the nature of judicial review and the role of the High Court.

### **Contracts**

**LAWS1204  
(6cp)**

Syllabus: The contracts unit is one of the foundation subjects in the law course and examines a central aspect of the law of obligations. The evolution of contract, its central role in a market economy and the criteria for making legally enforceable promissory obligations are explored before embarking on the requirements for the formation of contract. The content of agreements and the associated rules and doctrines for ascertaining the meaning and scope of the obligations expressly or impliedly undertaken by the parties are discussed. The invasion of contract by new rules, in particular estoppel and the prohibition on misleading or deceptive conduct, makes it clear that the commercial relationship is multi-faceted and that the study of contract law ranges more widely than the traditional rules. Equitable doctrines, such as duress, undue influence and unconscionability as excuse areas for escaping contractual commitment, are examined. The unit finishes with breach and its consequences, including a discussion of the common law and equitable remedies.

### **Corporations Law**

**LAWS2203  
(6cp)**

Syllabus: This unit imparts an understanding of Australian corporate law. The unit is structured to meet the admission requirements for practice as a legal practitioner in the Australian States and Territories. The following topics will be covered:

- incorporation and the concept of separate legal personality;
- the corporate constitution;
- membership of the corporation and share capital;
- corporate contracting;
- duties and liabilities of directors and officers;
- basic features of the management of companies;
- shareholders' remedies;
- company credit and security arrangements;
- winding up.

### **Criminal Law and Procedure**

**LAWS1206  
(6cp)**

Syllabus: A student who successfully completes the unit should have:

- a sound knowledge and critical understanding of the relevant legislation and case law;
- an ability to apply this knowledge and understanding in such a way as to identify the legal issues presented by a factual problem;
- a familiarity with the important debates about the purpose of the criminal law and the fundamental concepts it embodies.

Topics will include: the nature and purposes of criminal law, theories of criminal culpability; elements of criminal offences; offences against the person (including homicide, assaults, sexual offences); offences against

property; attempts, conspiracy and complicity; and the law of criminal procedure.

### **English in a Legal Context      LAWS1209 (zero credit points)**

Prerequisite: none. This unit is only available to first-year students whose first language is not English

Syllabus: The aim of this course is to assist first year law students who have English as a second language to address and overcome any issues or problems they are experiencing with their legal studies as a result of their lack of English language background. The course takes material from subject areas to which students are exposed in their first year of law studies (Foundations of Australian Law, Torts, Lawyers Justice and Ethics and Contracts) and creates activities designed both to help students to develop a cultural context for their legal studies and to acquire the practical legal skills they will need for their future study and practice.

The following is an example of the kinds of issues that are addressed and skills that are practised:

- how to read cases;
- how to write case notes;
- techniques to simplify legal writing;
- how to speed up reading of cases and other material;
- preparing for tutorial problems; and
- participating effectively in discussion groups.

### **Equity and Trusts      LAWS2205 (6cp)**

Prerequisite: Property

Syllabus: The objective of the unit is to provide students with an overall understanding of the law of equity with special emphasis on undue influence, unconscionable dealings, equitable estoppel, trusts, fiduciary obligations and equitable remedies. The unit will examine:

- the history of equity, basic principles which dominate its jurisprudence and the relevance of equity today;
- undue influence, unconscionable transactions and equitable estoppel;
- the nature and changing function of trusts, the creation of express trusts, the variation and termination of trusts, illegality, the duties, powers, rights and liabilities of trustees, the rights of beneficiaries;
- the nature of fiduciary obligations, recognised categories of fiduciaries and the extension of these categories in recent times, breach of fiduciary obligations, defences and remedies for the breach of fiduciary obligations; and
- equitable proprietary and personal remedies including the rule in *Barnes v Addy*, resulting trusts, constructive trusts, tracing, specific performance, injunctions, declarations and damages under Lord Cairns' Act;
- equitable assignments.

### **Evidence**

### **LAWS2207 (6cp)**

Prerequisites: Torts and Criminal Law and Procedure

Syllabus: Participants should gain a good understanding of the basics of the law of evidence as it is stated in the Evidence Act 1995 (Cth). The unit is structured to meet the admission requirements for practice as a legal practitioner in the Australian States and Territories.

The unit will begin with a consideration of the process of fact-finding, the concept of relevance (including tendency and co-incidence evidence), and the judicial discretions to exclude evidence. It will then turn to documentary evidence, opinion evidence and the hearsay rule and its exceptions. Topics relating to the course of the trial will be a major focus. Other topics will include the onus and standard of proof, the position of a defendant in a criminal trial, the question of illegally obtained evidence and the admissibility of admissions in criminal matters.

### **Foundations of Australian Law      LAWS1201 (6cp)**

Syllabus: This unit is a foundational unit and must be completed at the beginning of the degree. It is designed:

- to acquaint students with the various elements of the Australian legal system, including constitutions, case law, legislation and customary law;
- to consider the historical, social, economic and political context in which the Australian legal system has developed;
- to introduce students to various techniques and methods of legal analysis and legal research;
- to teach students to evaluate critically legal and contextual material;
- to introduce students to the art of legal writing in its various forms.

The broad aim of this unit is to provide students with an introduction to Australia's rich legal tradition, and to help them acquire the skills needed to succeed in the study of law. Stated another way, Foundations of Australian Law is intended to lay the groundwork for the remainder of one's legal studies. Topics to be covered include: legal history and the common law tradition; the modern-day elements of the legal system and their interplay; the concepts of responsible government and the rule of law; the role and powers of the legislature; federalism; case law and legislation; legal reasoning and problem solving; the position of the Aboriginal Peoples within the legal system. This unit is informally "twinned" with LAWS1203 Torts in semester one and LAWS1204 Contracts in semester two. It is strongly recommended that students enrolled in Foundations of Australian Law simultaneously undertake the relevant companion unit.

## **International Law**

**LAWS1207  
(6cp)**

**Syllabus:** Open a newspaper, listen to the radio or watch television and you will see or hear about issues of relevance to international law. Almost no major area of Australian law remains unaffected by international law, so an understanding of international law is essential for any legal practitioner in the twenty-first century. Given this vast scope, this unit does not seek to cover all aspects of international law. Instead it aims to offer an introduction to the main principles and substantive elements of the international legal system, both for those students who will go on to study some of the interesting international law electives available in the Faculty and for those who intend to study and practise in other fields. The unit seeks to achieve these objectives by clarifying the institutional framework, theoretical bases and processes of the international legal system and then applying them, in a practical way, both to Australian law and to some specific fields of international law. Thus each topic seeks to integrate method, substance, concepts and domestic application of the international legal system.

Accordingly, the unit is designed to enable students to:

- identify, locate and evaluate the principles of international law;
- appreciate how the international legal system operates in practice and its effect on the Australian legal system;
- understand the language and methodology of international law;
- analyse international legal issues;
- become familiar with the different theoretical bases of international law.

## **Lawyers, Justice and Ethics**

**LAWS1202  
(6cp)**

**Syllabus:** Whereas law is commonly studied as a body of doctrine or rules, Lawyers, Justice and Ethics makes a critical and contextual examination of the legal process (both judicial and legislative), legal practice, and the legal profession.

The unit is designed:

- to impart an awareness of the social, political and economic contexts of legal practice, litigation and statutory law-making;
- to generate insight into the realities and diversity of legal practice;
- to examine the nature of legal processes and procedures and the limitations on access to the legal system;
- to investigate the structure and workings of the legal profession from a political and sociological, as well as functional, perspective;
- to explore the ethical dimension of legal practice and the various forms of regulation of professional conduct;

- to introduce students through simulations and role playing to skills required for working in a legal setting, particularly in relation to clients, including interviewing, legal writing, negotiation and advocacy.

## **Legal Theory**

**LAWS1208  
(6cp)**

**Syllabus**

- to familiarise students with the main types of justificatory and critical argumentation about law and legal systems.
- to teach students to read cases thoughtfully, critically and with an awareness of current interpretive practice and theory.

This unit examines the nature and function of law through a number of philosophical studies and practical examples. The implications of different theoretical perspectives on law (eg natural law, positivism) are explored through a series of case studies. The areas of law considered include war crimes trials, judicial review/implicit rights and anti-discrimination legislation. The unit is also about how we read cases and about how judges interpret legal materials. This part of the unit considers how judges should decide cases and what judges do in deciding cases. Here, we evaluate judicial reasoning in the light of theories of democracy and competing assumptions about the rule of law.

## **Litigation and Dispute Management**

**LAWS2244  
(6cp)**

**Prerequisites:** Torts and Contracts.

**Syllabus:** This unit replaces Civil Litigation. It is an introduction to the principles of dispute resolution including civil litigation. The unit will introduce the processes known as 'dispute resolution', focusing upon negotiation and mediation. The history and use of these processes will be covered as well as current issues. Students will be given practical exercises through an intensive workshop to encourage them to develop skills in these processes.

The coverage of litigation will reveal the principles underlying civil procedure in superior courts. There will be a consideration of the interlocutory steps in civil litigation as well as appropriate tactics and ethical considerations. The unit is structured to meet the admission requirements for practice as a legal practitioner in the Australian States and Territories. Topics to be covered include:

- dispute resolution processes including negotiation, facilitation, mediation, early neutral evaluation, conciliation, arbitration and litigation;
- dispute resolution within the legal system;
- complex dispute resolution processes and case suitability for processes;
- confidentiality in dispute resolution;

- when and how to commence proceedings in court;
- urgent applications.;
- class actions and public interest litigation.

## **Property**

**LAWS2204  
(6cp)**

Prerequisite: Contracts

### **Syllabus**

- to examine basic concepts and principles of property law relating to personal and real property, with greater attention to interests in land;
- to develop an understanding of the role of property law in providing tools for the myriad of property dealings for commercial and private purposes, including transfers, securing of loans, leasing land, sharing of ownership and regulating land use;
- to examine the values and policy considerations in the legal regulation of such property transactions, including efficiency, security, certainty, equity and social justice;
- to acquire skills in problem solving in relation to property disputes.

This unit provides an overview of the law governing personal and real property, emphasising the concepts of possession and title, the fragmentation of proprietary interests, and the various ways in which common law and legislation resolve disputes between competing interests. The greater part of the unit is devoted to the nature, creation, acquisition, exercise, and remedies for the protection, of interests in real property (land). The unit covers legal and equitable interests in land, the acquisition and transfer of such interests by purchase, gift and adverse possession, priority rules, leases, mortgages, easements, and concurrent ownership. Particular attention is paid to the Torrens system of registration of title.

## **Torts**

**LAWS1203  
(6cp)**

### **Syllabus**

- to provide knowledge and understanding of the tort of negligence and other related areas of the law of torts.
- to gain an insight, from the perspective of a particular branch of the law, into the way in which the law develops, and the advantages and disadvantages of judicial development of the law.

The tort of negligence is the principal means by which the law provides compensation for a loss caused by another's carelessness, whether that loss be physical injury, damage to property, or financial harm. This course focuses on personal injuries and examines the task of negligence and trespass in this context. A study is made of the essential features of the tort of negligence, the way in which the tort is applied in particular situations, and the principles by which damages are assessed for one who has suffered personal injury by another's negli-

gence. A further subject of study is the torts relating to trespass to the person — battery, assault and false imprisonment.

## **Elective Units**

### **Banking and Finance**

**LAWS2208  
(6cp)**

Prerequisite: Contracts

**Syllabus:** The unit deals with the legal aspects of banking and finance transactions in a dynamic way which balances theoretical perspectives, business context and the principles contained in statutes, cases and commercial custom.

The unit begins by discussing the role that banks play in the economy and the legal regulation of banking activity. It focuses on financing and payment facilities in a commercial setting. It covers conventional financing methods, such as bank term loans and bond issues, as well as modern methods such as loan syndication and participation. The specific topics covered include bill facilities, promissory note issues, commercial and standby letters of credit, and bank guarantees. The payment facilities covered include cheques and large-value electronic payments. Finally the unit deals with selected topics on the banker-customer relationship which complement the study of financing and payment services.

### **Bankruptcy and Insolvency**

**LAWS2209  
(6cp)**

Not offered in 2001

Prerequisite: Corporations Law

**Syllabus:** This unit deals with the law relating to personal and corporate insolvency. This will include examination of the Bankruptcy Act 1966 (Cth) and Chapter 5 of the Corporations Law.

With regard to personal insolvency (ie bankruptcy), the topics to be covered include the initiation and termination of the bankruptcy process; the functions and powers of the trustee in bankruptcy; the ascertainment of the bankrupt's debts; the determination of the assets available for distribution to creditors, and alternatives to formal bankruptcy.

The topics to be covered in relation to corporate insolvency include the appointment, powers, and duties of receivers; schemes of arrangement and reconstruction; voluntary administration; the initiation of the winding-up process; the effects of winding-up; the proof and ranking of creditors' claims; and the appointment, powers, and duties of liquidators.

### **Commercial Law**

**LAWS2210  
(6cp)**

Prerequisite: Contracts

**Syllabus:** The unit deals with two related aspects of commercial law: sales and secured transactions. The study of sales focuses on aspects of the contract of sale of goods which are not covered in the Contracts unit. The study of secured transactions relates to the legal aspects of credit and security. Specific topics will include:

*Sales*

- the contract of sale: its nature and function;
- the passing of property;
- the allocation of the risk of loss;
- the passing of title: *nemo dat quod non habet*;
- standards of fitness and quality.

*Secured Transactions*

- functions of credit and security;
- attachment and perfection of possessory securities;
- attachment and perfection of non-possessory securities (including charges, reverse securities, mortgages);
- financing against stock and receivables;
- priority contests among secured parties, and between secured parties and purchasers, and between secured and unsecured parties.

**Comparative Legal History** **LAWS2211**  
**(6cp)**

Not offered in 2001

Prerequisite: none

**Syllabus:** This unit has four objectives: to introduce students to the use of history as a tool for legal analysis; to introduce students to the comparative legal method; to increase students' depth of understanding of the legal system; and to increase students' proficiency at writing and research.

The unit takes as its focus the experience of Australia and Canada, the two most similar of the settler colonies established by Great Britain in the latter half of the eighteenth century. After an introduction to historical comparative method, topics will include: patterns of reception of English law in the colonies; the development of colonial legal institutions; constitutional evolution and growth to nationhood; crime, punishment and policing; anti-discrimination law; gender, family and the law; Indigenous peoples and the law; and trade unionism and industrial relations.

*Note*

This unit is jointly taught with the University of British Columbia and the University of Victoria (Canada).

**Conflict of Laws** **LAWS2212**  
**(6cp)**

Prerequisites: Torts and Contracts

**Syllabus:** This unit is concerned with the way in which the law deals with cases in which not all of the facts are referable to one State or Territory of the Commonwealth. Topics include:

- jurisdiction of Australian courts over defendants either outside Australia or elsewhere within the country;
- the jurisdiction of the High Court and the Federal Court;
- recognition and enforcement in Australia of judgments delivered overseas;
- the grounds on which foreign laws and institutions will not be recognised in Australia;
- the law applicable to actions in contract, with particular emphasis on international business transactions;
- the law applicable to actions on torts committed outside the State or Territory in which the proceedings are heard;

- the effect given in one State or Territory to rights of action created by the state law of another State or Territory;

### **Contemporary Issues in Constitutional Law**

**LAWS2213  
(6cp)**

Not offered in 2001

Prerequisite: Commonwealth Constitutional Law

Syllabus: The unit will focus on human rights under the Australian Constitution and will include discussion of the concept of rights, constitutional protection of rights in the context of international law and other legal systems, and theories of constitutional interpretation as they pertain to rights issues.

### **Criminal Justice**

**LAWS2214  
(6cp)**

Prerequisite: Criminal Law and Procedure

Syllabus: This unit examines the process, institutions and contexts of criminal justice. It is designed to develop a critical understanding of the theoretical, legal and policy issues relating to crime, punishment and the criminal process, and to introduce students to interdisciplinary perspectives through an examination of contemporary topics in criminal justice

The first part of the unit will examine the role and place of punishment in the criminal justice system. Theoretical perspectives on criminology and criminal justice, both explanatory and normative, will be evaluated. The second part of the unit will explore theoretical, legal and policy issues through an examination of a range of substantive topics, such as policing, the 'new investigators' (eg NCA, ICAC), diversionary conferences, criminal investigation, electronic surveillance, the fair trial, entrapment, mode of trial, prosecution, the impact of the criminal justice systems on indigenous peoples, miscarriages of justice, domestic violence, multiculturalism, sentencing and prisons.

### **Environmental Law**

**LAWS2215  
(6cp)**

Prerequisite: none

Syllabus: This unit is concerned with the institutional arrangements and legal principles that underpin the practice of environment and planning law.

The unit examines environmental law from theoretical and practical perspectives, taking a broad national and thematic approach. The unit commences with an introduction to concepts relating to defining the 'environment', including philosophical/ethical bases for environmental protection and the notion of 'ecologically sustainable development'. It then considers environmental protection in a federal system. This is followed by consideration of the role of local and state/territory

governments in the implementation of environmental protection objectives through statutory land-use planning and other measures (including consideration of techniques for development control such as environmental impact assessment). The final component of the unit covers regulatory strategies and techniques for pollution control and the enforcement of environmental protection measures (including the topics of standing and access to justice).

### **Environmental Law Elective**

**LAWS2216  
(6cp)**

Not offered in 2001

Syllabus: This will vary from year to year. In any given semester the elective will provide intensive coverage of a topic or topics in a substantive area of law relating to the environment.

### **Ethics and Lawyers**

**LAWS2243  
(Zero credit point value)**

Prerequisite: This unit is designed as a short bridging course to meet the requirements for direct admission to legal practice in New South Wales. From 1 January 2000 all applicants for direct admission in NSW must have completed an academic course in "Professional Conduct" as part of or in addition to their LLB degree, as well as a course of legal ethics in a practical legal training program. Students who have completed the units Lawyers, Justice and Ethics, Equity and Trusts and Litigation and Dispute Management meet the requirement. Students intending to seek direct admission in the ACT (which qualifies them for reciprocal admission in other jurisdictions) do not need to take the course. Normally the unit would be taken at the end of the LLB course.

Syllabus: This unit examines key ethical issues which arise in relation to the law and lawyers. It focuses on fundamental ethical issues regarding the formation, structure and operation of the legal system in the Australian community, and offers opportunities for the careful consideration and examination of some of the most important of these issues. The unit deals with some samples of ethical dilemmas arising for Lawyers, including as Advocates, Solicitors and Educators, as well as Legislators, Public Trust and Officeholders and also for Judicial Officers at all levels, in the course of their respective activities in, and relating to, the contemporary legal order.

The unit is taught in intensive mode. The grade available for satisfactory completion of this unit is Course Requirement Satisfied (CRS).

### **Family Law**

**LAWS2217  
(6cp)**

Prerequisite: none

**Syllabus:** The unit is designed to consider a selection of law as it relates to 'the family' in Australia, to place the law in its political, economic, constitutional and other contexts, and to encourage evaluation of the law and proposals for its reform.

The unit explores the nature of 'family' relationships and what happens when there is a separation of the adults within such relationships, both in terms of financial/property outcomes and decisions about parenting. The unit commences with a discussion of 'the family', including the difficulties of defining 'family' and what the law's role in this is and should be. It then moves to place family law in various contexts, by examining theoretical perspectives, constitutional and jurisdictional issues and the Family Court and dispute resolution. The following topics are then covered:

- violence by men against women in the home;
- de facto/domestic relationships;
- nullity and dissolution of marriage;
- economic aspects of marriage breakdown (including child support, spousal maintenance and property distribution);
- parenting orders/agreements.

### **Feminist and Critical Legal Theory**

**LAWS2218**  
**(6cp)**

**Prerequisite:** none

**Syllabus:** This unit introduces students to critical and transformative theories about law and legality. Students draw on these theories to analyse current legal problems. The unit has three major themes. The first is the study of a variety of feminist challenges to the dominant legal orthodoxies. The different and intersecting approaches to theorising the law and the state taken by liberal feminists, radical feminists and postmodern feminist theory are addressed. The critique of feminist theories by critical race feminists is considered. Second, the work of post-marxists is discussed — is their vision of a radical or redistributive legal order attractive? Third, the unit draws on scholarship both inside and outside the discipline of law in order to study legal practices and images of law and legality. This includes law and literature, cultural studies, critical race theory and postcolonial theory.

These theoretical approaches are used to interpret current legal debates in areas such as free speech, native title, sexual harassment, euthanasia, legal education, republicanism, representations of law, privatisation and intellectual property.

### **Health Law and Ethics**

**LAWS2219**  
**(6cp)**

**Prerequisites:** Torts and Criminal Law and Procedure

**Syllabus:** The unit examines the system for the regulation of health care in Australia, involves analysis and de-

velopment of moral argument about the development of health law in Australia, and addresses the principal legal issues which arise in the practice of health care law.

The unit begins with an overview of the health system, its regulatory framework and the policy issues involved, with emphasis on the concepts of health ethics, patients rights and efficiency and equality in health care. The particular topics which are covered include: confidentiality, consent, negligence, accountability, health records, expert evidence, research and experimentation, organ donation, emergency treatment, intensive care, abortion, reproductive medicine, and death and dying. Some consideration is also given to the law relating to mental health and public health.

### **Human Rights Law in Australia LAWS2220** **(6cp)**

**Prerequisite:** Commonwealth Constitutional Law.

**Syllabus:** This unit is concerned with the recognition and establishment in Australia of legal norms protective of human rights as founded in constitutional, statutory and common law. It aims to provide students with an in-depth understanding of Australian human rights law and practice. A contextual approach to the teaching of the subject is adopted, drawing on human rights theory, constitutional theory and the perspectives of comparative and international law. As far as possible, the unit will deal with current issues. The practical means and skills to protect human rights will also be developed.

**Topics to be covered include:**

- theories of rights
- historical background to constitutional protection of human rights in Australia; the doctrine of parliamentary sovereignty
- express constitutional rights
- implied constitutional rights
- institutional mechanisms for the protection of rights, particularly the Human Rights and Equal Opportunity Commission
- discrimination law
- common law and statutory protections of rights
- the comparative merits of constitutional, statutory and common law human rights protection; a Bill of Rights for Australia?

### **Income Tax**

**LAWS2221**  
**(6cp)**

**Prerequisite:** none

**Syllabus:** This unit introduces students to the main principles of Australia's income tax system. In order to understand the critical function of taxation in the Australian community, the taxation system is studied in its legal, economic, social and political context. Given the speed with which changes are made to the technical details of tax law, this unit seeks to provide students with an understanding of the principles of the income tax

system rather than knowledge of a particular but limited set of technical rules.

Topics to be considered include:

- the concept of income;
- personal service income;
- business income;
- the deductions that are available to taxpayers;
- the statutory extensions to the income tax base;
- residency, source and double tax agreements;
- the taxation of trusts, partnerships and companies;
- the legislative measures to counter avoidance;
- tax administration.

This course has been accredited by both the Institute of Chartered Accountants in Australia and the Australian Society of Certified Practising Accountants.

### **Indigenous Australians and the Law**

**LAWS2238  
(6cp)**

Prerequisites: Australian Public Law, Criminal Law and Procedure, and Property

Syllabus: This unit aims to arm students with an understanding of, and a critical approach to, the law as it applies to Aboriginal people and Torres Strait Islanders. It presents that law in its historical and cultural context, highlighting problems which stem from that context for the definition of 'Aboriginality' itself and for the relationship between indigenous Australians and the state..

### **Information Technology Law**

**LAWS2245  
(6cp)**

Prerequisites: none.

Syllabus: The unit focuses on the cultivation of IT awareness, which is important for understanding the issues presented in the course:

- confidence with computers and IT in general;
- familiarity with a number of different software packages including Microsoft Word, Netscape Navigator and Eudora;
- the capacity for students to produce their own web pages;
- sufficient knowledge for students to be able to critically evaluate proposals for regulation of the web
- In the context of a reasonable level of computer literacy, the following legal issues will be examined:
  - proposals and models for regulation of "cyber-space", the current Internet and the "information superhighway";
  - computers and information technology as they impact on intellectual property rights;
  - electronic commerce;
  - computer crime and related issues.

### **Intellectual Property**

**LAWS2222  
(6cp)**

Prerequisite: none

Syllabus: The unit provides an overview of the different areas of law that relate to the protection and exploitation of ideas, information and knowledge. It briefly covers the main aspects of copyright, design, confidential information, patents, trademarks and passing off.

For example, an idea may be kept secret and protected as confidential. It may be expressed in a tangible way and protected by copyright. If the idea is used to change the visual appearance of an article then that appearance may be registered as a design. If the idea is new and inventive, practical uses of it may be exclusively exploited under a patent. And if the idea behind some particular goods and services leads to a reputation being built up, then this may be protected through trademarks, or passing off.

Topics that will also be covered in the unit include the use of intellectual property to protect indigenous art and knowledge, the impact of digital technology and the internet, issues of patenting biotechnology and life forms, and the international and competition aspects of intellectual property.

### **International Dispute Resolution**

**LAWS2223  
(6cp)**

Not offered in 2001

Prerequisite: International Law

Syllabus: The unit examines the role of international law and, in particular, international organisations in restoring and maintaining peace and providing mechanisms for the peaceful settlement of disputes (eg arbitration, good offices).

Topics include: the development of legal doctrines, notably state responsibility for international harm and the regulation of the use of force in international law (self-defence, humanitarian intervention, war crimes); the evolution of the United Nations system and its work in the realm of collective security (Somalia, Haiti, Yugoslavia), with particular attention to the United Nations Security Council, the proposed International Criminal Court, and the International Court of Justice.

This unit is an exercise in applied international law and politics. The objective of the unit is to train students to use international legal materials in analysing inter-state disputes and the role of international organisations in resolving or exacerbating them.

### **International Law Elective**

**LAWS2224  
(6cp)**

Syllabus: This will vary from year to year. In any given semester the elective will provide intensive coverage of a topic or topics in a substantive area of international law.

**International Law Elective: International Environmental Law** **LAWS2224**  
**(6cp)**

Prerequisite: none

Syllabus: The unit takes a thematic approach by using selected regimes to highlight current trends in the development of international environmental law. This thematic approach also facilitates an exploration of the political and economic factors which influence the development of legal instruments designed to tackle pressing global environmental problems.

The unit will cover fundamentals such as the history and sources of international environmental law, and the tension between international environmental regulation and state sovereignty. It also examines specific regimes and institutions to illustrate the complex and dynamic nature of the discipline. Issues to be covered will include climate change, biological diversity, trade and the environment, trade in hazardous wastes and nuclear pollution. Key institutions such as the United Nations Environment Programme and the World Bank will also be examined.

**International Law of Human Rights** **LAWS2225**  
**(6cp)**

Prerequisite: none

Syllabus: This unit is concerned with the efforts at the international level to establish legal norms to protect human rights, as human rights are a vital aspect in the relationship between a State and persons within its jurisdiction. It aims to provide students with an in depth understanding of international human rights law and practice and to develop some of the relevant legal skills. As far as possible, the unit deals with contemporary issues and there will be significant student involvement during class. A contextual approach to the area is taken, which involves an examination of theories of rights, relevant legal and structural frameworks and the political, social, economic and cultural environment in which human rights arise.

Topics to be covered include:

- historical development of international human rights law
- theories of rights
- application of international human rights law in Australia
- structural limitations on international human rights law
- supervisory mechanisms
- refugee law and practice
- a selection of civil, political, economic, social, cultural and group rights.

**International Trade Law** **LAWS2226**  
**(6cp)**

Prerequisites: none

Syllabus: The unit 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 unit covers the key agreements and principles of international trade law and the jurisdiction, policies and processes of the WTO, NAFTA, MERCOSUR, ASEAN and APEC. 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 unit will include the origins of international trade law, fundamental principles of the GATT/WTO regime, Intellectual Property (TRIPS), Services (GATS), the new WTO Dispute Settlement Understanding, the WTO Dumping and Subsidies regimes and the Sanitary and Phytosanitary Agreement.

The effects of trade and financial 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.

**Japanese Law** **LAWS2227**  
**(6cp)**

Not offered in 2001

Prerequisite: none

Syllabus: This unit explores the broad themes which explain how law operates in Japanese society. An understanding of Japanese law and its institutions is important because of Japan's position as a world power. The primary objective of the course is to apply comparative law technique to a wide range of Japanese law topics with a view to:

- learning about how Japanese law deals with a variety of issues;
- deepening understanding of Japanese society, including its political framework, business practices and cultural makeup;
- developing skills in critical evaluation of foreign legal systems and the implications for Australian law and practice;
- exploring generally what law is and how it functions in a society.

The first part focuses on placing Japanese law in context. Topics include: Introduction to Comparative Law Technique; An Interdisciplinary Approach to Japanese

Law; Japanese Legal History; and Overview of Administration of Justice in Japan.

The second part examines public and social law, including the Constitution; Administrative Law; Conflict in Society and Dispute Resolution; Equal Opportunity and Sexual Harassment; Family Law; Torts; and Criminal Justice.

The third part concentrates on business and commercial law such as Contract; Corporations Law; Competition Law and Policy; Banking and Finance; and Intellectual Property.

### **Jessup Moot**

**LAWS3010  
(6cp)**

**Prerequisite:** Only students selected by the examiners for the unit, on the basis of criteria adopted by Faculty, to represent ANU in the Jessup Moot Competition will be eligible to enrol in the unit. Familiarity with International Law and / or mooting and research experience are desirable, as well as a willingness to devote most of the summer period to the undertaking.

**Syllabus:** Participation in the Australian Round of the Philip C. Jessup International Law Moot Court Competition, consisting of

- (a) the joint preparation of written memorials in support of the claims of each of the two parties in the dispute;
- (b) the presentation by some or all of the team members of oral argument in a competition with teams representing other Australian Law Schools.

### **Labour Law**

**LAWS2228  
(6cp)**

**Prerequisite:** Contracts

**Syllabus:** The unit introduces students to the foundational principles of Australian labour law, focussing on the nature and attributes of work relationships, and the diverse and changing sources of rights and obligations in the workplace.

The principal topics are:

- the shaping of Australian labour law, including the contractual basis of employment, the role of conciliation and arbitration, the evolution of the award system and the nature of modern awards, the contemporary shift towards decentralised and individualised bargaining;
- the constitutional framework and its impact on the federal industrial relations system;
- the nature and content of the employment relationship, as distinct from other work relationships, in particular independent contracting;
- termination of employment;
- regulation of industrial conflict.

### **Law and Society in Southeast Asia**

**LAWS2229  
(6cp)**

**Prerequisite:** none

**Syllabus:** This unit introduces students to the legal cultures of Southeast Asia, an area of immediate importance to Australia. Legally speaking, the area is one of the most complex in the world. It comprises: Burmese, Thai, Khmer and Java-Bali laws (the so-called 'Indian group'), the Malay and cognate laws (the 'Islamic group'), the Vietnamese laws (the 'Chinese group'), and, on the European side, Spanish, Portuguese, French, Dutch and English laws. These laws exist today in varying combinations, occasionally in harmony and, not infrequently, in conflict.

Part 1 of the unit provides an historical outline of these systems. In Part 2 topics are selected from among a number of contemporary issues which include: constitutional law, family law, women and religious law (Islam), laws applicable to the overseas Chinese, customary law of land, current law reforms in selected states, Islamic law in Southeast Asia, colonial law, and legal pluralism.

### **Law Internship**

**LAWS2230  
(6cp)**

**Prerequisite:** A student must be in the final year, or the year before final year, of the law degree and have an academic record which illustrates the ability to research and report upon a complex project.

**Syllabus:** The student serves as an intern with a professional in a work setting which requires and develops both legal knowledge and a lawyer's approach to problem identification, analysis and recommendations.

The internship work setting may be in the public or private sector. The project, which is settled by written agreement among the student, professional, and internship director, may be multidisciplinary but must have a strong law element.

The time to be spent at the work site is variable; it reflects factors such as availability of data, library resources, interviewing needs, and degree of professional supervision.

The unit requires a final paper of approximately 6,000 words.

### **Law, Regulation and the Workplace**

**LAWS2231  
(6cp)**

Not offered in 2001

**Prerequisite:** none.

**Syllabus:** The workplace is the site for extensive legal regulation over and above the regulation of the contrac-

tual relationship between employer and employee — in areas such as occupational health and safety, equal employment opportunity, and relations between trade unions and their members. The unit is designed to examine regulation in the workplace critically, with particular attention to the rationale and efficacy of the laws and policy options for reform.

The content of the unit may vary in emphasis from time to time, in response to changing issues and trends in workplace regulation. Topics include:

- occupational health and safety law;
- the regulation of the internal affairs of trade unions;
- the operation of anti-discrimination law and equal opportunity law in the workplace, and its interaction with the law of arbitration and bargaining in addressing issues of equity.

### **Parliament and the Executive      LAWS2232 (6cp)**

Not offered in 2001

Prerequisites: Foundations of Australian Law, Australian Public Law and Administrative Law.

Syllabus: This unit builds on the prerequisite units to examine in depth the institutions of Parliament and the Executive, with particular emphasis on accountability.

Topics covered include:

#### *Parliament*

- different perspectives on the role of Parliament;
- the relationship of the legislature to the executive, the judiciary, and the public;
- legislative autonomy and cooperative federalism;
- legislative procedure;
- parliamentary privilege;
- reform of the institution of Parliament.

#### *The Executive*

- the concept of accountability in a Westminster system;
- theories of accountability (including the impact of the public/private distinction);
- financial and parliamentary institutions to guard executive accountability;
- accountability in relation to information held by government;
- administrative law as an accountability tool.

### **Research Unit      LAWS3202 (12cp)**

Prerequisite: Research Unit Methodology.

Enrolment in the Research Unit is restricted to students with the required grade point average. See section on degree of Bachelor of Laws with honours in the Undergraduate Handbook.

Syllabus: The unit serves as Part B of the final Honours Examination for students wishing to graduate with an honours degree. The unit objectives are:

- to test the ability of a student to undertake a limited but systematic study of an issue in the law of the student's own choosing, and to present the results of that study in a written form which is accessible to an interested, but not necessarily informed, legal reader;
- to facilitate the development of legal research writing skills; and
- to assist the student to educate himself or herself further in the law, its methods and limits.

The research paper (9,000–11,000 words) is supervised by a member of the Faculty and assessed by two examiners.

### **Research Unit Methodology      LAWS3201 (Zero credit point value)**

Prerequisite: none. The unit may be taken only in the second-last or third-last semester of law studies.

Syllabus: This unit is designed for students intending to enrol in the Research Unit. It will include consideration of the diversity of legal scholarship including not only doctrinal analysis but also empirical, interdisciplinary, historical, jurisprudential and theoretical research perspectives.

Students have the opportunity to prepare a proposal for a major research topic of their own choice, to refresh or enhance their legal research skills, and to receive training in a range of social science research methods and techniques as relevant to their proposed research. The unit will also include consideration of the fundamentals of scholarly writing, organisational skills, and communication with research supervisors.

The grade available for satisfactory completion of this unit is Course Requirements Satisfied (CRS).

### **Rousseau Moot      LAWS2242 (6cp)**

Prerequisite: Only students selected by the examiners for the unit, on the basis of criteria adopted by Faculty, to represent ANU in the Concours Charles Rousseau will be eligible to enrol in the unit. Familiarity with International Law and/or mooting, adequate French language skills and research experience are desirable, as well as a willingness to devote most of the summer period to the undertaking.

Syllabus: Participation in the Concours Charles Rousseau, consisting of:

- (a) the joint preparation of written memorials in French in support of the claims of the two parties in the dispute;

(b) the presentation, in French, by some or all of the team members of oral arguments in the competition's finals in Europe.

**Selected Topics in Australian-American Comparative Law**      **LAWS2248**  
**(6cp)**

Prerequisite: none (though a prerequisite may on occasion be introduced in respect of the specific subject area of the unit in a particular year).

Syllabus: While the specific subject area of the unit will vary from year to year, depending on the particular field of interest of the ANU/UA visitors, it will involve a comparative study of Australian and US approaches to the particular subject matter. Assessment details, teaching methods and type of course materials will vary from year to year depending on the subject matter and personnel involved in each offering of the unit, but will be specified prior to student enrolment in the unit.

**Selected Topics in Torts**      **LAWS2233**  
**(6cp)**

Not offered in 2001

Prerequisite: Torts

Syllabus: The unit examines some contemporary issues in the law of torts, in order to evaluate the law's response to social change and to provide students with a sound preparation for legal practice.

Topics may vary from year to year, but will generally include a detailed treatment of defamation and privacy, and the torts relating to the intentional infliction of purely economic loss. Other topics may deal with contemporary issues in the law of negligence (eg, liability in negligence for purely economic loss; actions for 'wrongful birth' and 'wrongful life') and new applications of the law of trespass, with implications for civil liberties and privacy, for regulating non-consensual medical procedures, and for intervening in abusive domestic relationships.

**Special Law Elective 1: Issues in Contemporary Asian Law**      **LAWS2234**  
**(6 cp)**

Prerequisites: none

Syllabus: This unit introduces students to contemporary issues in the law for East and Southeast Asia. The states in this region — China, Japan, Korea, Malaysia, Singapore, Brunei, Indonesia, Philippines, Thailand, Cambodia, Laos and Vietnam—present complex issues for Australia in a number of fields. This unit is designed both for law students and also for those studying Asian histories, cultures and language. It does not require prior knowledge of the area. The unit is structured in four parts: Asian law, the view from Australia; the state, law and religion; law and ideology; and selected themes (in-

cluding minorities, human rights and the environment).

**Special Law Elective 2: Administrative Law Topics**      **LAWS2235**  
**(6cp)**

Prerequisites: Administrative Law

Syllabus: The object is to study a number of topics not covered in depth in the unit Administrative Law. The topics have been chosen with a view to their practical significance. There are five major areas of study:

- delegated legislation—to examine the various kinds of such laws, the process of their making, the influence of parliamentary committees of review, and key concepts of judicial review;
- freedom of information and privacy—to examine the key concepts in the Commonwealth Freedom of Information Act 1983 and Privacy Act 1988;
- tribunals for review of administrative action—to examine key concepts of jurisdiction, power, and procedure;
- judicial review—privative clauses and questions of law; and
- reasons statements and public interest immunity.

**Special Law Elective 3: Restitution**      **LAWS2239**  
**(6cp)**

Prerequisite: none

Syllabus: The unit covers a variety of aspects of the law of restitution as it has developed in Australia, England and (to a lesser extent) Canada. The course is divided into four unequal parts. The first section of the course considers:

- the history of restitution
- theories of restitution and the concept of unjust enrichment

The second part of the course examines various situations where restitutionary relief may be sought including:

- mistake
- compulsion
- ineffective contracts
- restitution by the revenue
- wrongs

The third part highlights various defences including:

- estoppel
- change of position
- passing on

The fourth part of the course examines remedies for unjust enrichment such as:

- common law following
- equitable tracing
- subrogation
- resulting trusts
- constructive trusts

**Special Law Elective 4: LAWS2240  
(6cp)**

Not offered in 2001

**Special Law Elective 5: International  
Organizations (Geneva) LAWS2241  
(6cp)**

Prerequisites: International Law (or Principles of International Law). In addition, priority will be given to later year students who have completed at least one additional international law elective. Subject to this priority, students will be selected on a first-come first-serve basis, as enrolment will be strictly limited (10 students in 2001).

Syllabus: Students will spend three weeks in Geneva. They will attend 20 hours of formal academic instruction provided in part by the accompanying ANU staff member and in part by staff drawn from academic institutions in Geneva (Graduate Institute of Advanced Studies [HEI] and Université de Genève). The classes will address legal aspects of the work of various international organisations and agencies, both governmental and non-governmental, with a specific focus on those located in Geneva. In addition the students will take part in at least 20 hours of coordinated visits to a range of organisations in Geneva, each including presentations by legal specialists addressing the organisation's operations.

Please note that knowledge of French is not required as the entire unit will be conducted in English.

**Special Law Elective 6:  
Expert Legal Systems LAWS2246  
(6cp)**

Prerequisite: Information Technology Law

Enrolment: This unit is restricted to 20 students.

Syllabus: A significant proportion of the course will involve working in teams on the creation of a legal expert system in a domain of the students' choice. This exercise will give a very rich appreciation of the electronic commerce and intellectual property content covered elsewhere in the course.

**Succession LAWS2236  
(6cp)**

Prerequisite: none

Syllabus: The unit examines the law governing succession to property after the death of the owner. Major topics include:

- the historical, social and economic context of succession law;
- the concept of an estate — what is the governing law, and what is included;

- wills, including the nature of wills, capacity, fraud, undue influence, formalities of making a will, revocation, revival, and construction;
- intestacy rules;
- family provision;
- personal representatives;
- administration of estates.

**Survey of US Law LAWS2247  
(6cp)**

Prerequisite: none.

Syllabus: The unit will consist of a series of introductory lectures by various University of Alabama Law School staff members on various aspects of American Law, supplemented by field trips to, e.g., the Civil Rights Museum in Birmingham, the Alabama Supreme Court in Montgomery, the Southern Poverty Law Center, and a large American law firm (forming an integral part of the unit's class work and included in the contact hours). It will concentrate on non-common law subjects (e.g., Constitutional Law, Administrative Law, Labor Law, Limited Liability Corporations, Bankruptcy, Consumer Protection, Environmental Law, Federalism, etc.).

**Takeovers and Securities  
Industry Law LAWS2237  
(6cp)**

Prerequisite: Corporations Law

Syllabus: This unit examines important facets of the regulation of corporations. It investigates the law and policy issues relating to the acquisition of control of corporations, particularly by takeover and the regulation of the stock market generally.

The following topics will be covered:

- issues prompting, and theories shaping, the regulation of takeovers and the securities industry generally;
- directors' responsibilities in a takeover situation;
- controls upon the acquisition of shares under Part 6 of the Corporations Law;
- compulsory acquisition powers;
- controls of merger activity;
- the conduct of securities transactions;
- the powers of the Australian Securities and Investment Commission and the Australian Stock Exchange over listed companies and other participants in the industry;
- the obligations of listed companies, brokers and dealers;
- controls upon market manipulation and insider trading;
- the legal requirements for prospectuses.