



The University of Sydney
FACULTY OF LAW

unit of study descriptions

2009

This information is correct at the time of publication, but is subject to change without notice. Please consult the Faculty website www.law.usyd.edu.au for the latest information. For further information on individual units, please contact the lecturer (or coordinator) concerned.

Revised: 7 September 2009

LAWS6011 Administrative Law

6 Credit Points

Prof Margaret Allars

Offered: S1 Late IntC **Classes:** block/intensive
Assessment: 1x7500wd essay (100%) or 2x3750wd essays (50% each)

The aim of the unit is to develop a critical perspective upon the accountability of government decision-makers. The unit examines theoretical frameworks for analysis of a range of issues concerning accountability, with reference to relevant principles of administrative law. Part 1 of the unit examines the concept of administrative discretion, alternative theories of the rule of law, human rights, ethics and managerialism. Part 2 of the unit is concerned with the accountability of the executive branch of government. It includes analysis of separation of powers and the doctrine of ministerial responsibility, merits review tribunals, investigative tribunals and tribunal procedure. Part 3 of the unit examines theories of participatory democracy, with reference to relevant legal principles drawn from procedural fairness, rules of standing and consultation requirements in rule making. Part 4 examines theories of open government, with reference to statutory duties to give reasons for decisions and freedom of information legislation. Part 5 examines the proper scope of administrative law by discussion of the issue of its extension to government business enterprises which are corporatised, privatised or contracted out.

NB: compulsory for MALP candidates

LAWS6013 Advanced Employment Law

6 Credit Points

Prof Joellen Riley (Coordinator), Ms Elizabeth Raper, Mr David Chin

Corequisite: LAWS6252 and LAWS6071 (MLLR candidates) **Offered:** S1 Late IntC **Classes:** block/intensive **Assessment:** class participation (20%) and 1x6000wd research essay (80%) or 2x3000wd problem assignments (40% each)

This unit of study is designed especially for candidates in the MLLR program. The unit examines the regulation of the individual employment relationship. The unit builds on the introduction to this topic in the foundation LAWS6071 Labour Law unit, by examining in closer detail the formation, construction and interpretation of employment contracts; duties of employers and employees in contract; termination of employment contracts (including as a consequence of the employer's insolvency); and rights and remedies on termination, including procedural requirements under federal unfair and unlawful dismissal laws. Candidates will examine decisions of courts and tribunals in detail.

LAWS6014 Advanced Financing Techniques

6 Credit Points

Prof Jennifer Hill

Assumed knowledge: LAWS6810 and LAWS6038 or LAWS6046 or background in Australian corporate law **Offered:** Semester 2

Classes: (1x2hr lec)/wk **Assessment:** 2x class presentations (20% each) and 1x exam (60%)
This unit deals with commonly used commercial structures and techniques for large financings. The unit also examines the use of these structures and techniques in a range of commercial settings, such as takeovers and public/private infrastructures, and in the international context. It is an advanced unit, which assumes a good general knowledge of Australian corporate law and corporate finance. The unit is taught by a team of legal experts with extensive experience in financing techniques. Lecturers include John Currie (Henry Davis York); Patrick Lowden and Adam Stapledon (Freehills); Noel Hutley SC (St James Chambers); Phillip Cornwell and Leighton O'Brien (Allens Arthur Robinson); Angela Flannery (Clayton Utz); Tom Lennox (Allco Finance Group Ltd); Nuncio D'Angelo (Mallesons Stephen Jaques). There may be changes to lecturers in this unit.

Particular topics covered include: loan syndication; domestic and off-shore capital markets; lending to a trust; takeover finance; derivatives; public/private infrastructure finance; project finance; listed property trusts; documentation in advanced financing transactions.

LAWS6922 Advanced International Environmental Law

6 Credit Points

Em Prof Ben Boer

Prerequisite: LAWS6061 **Offered:** S2 Late IntB **Classes:** block/intensive **Assessment:**

1x2000wd problem based assignment (20%) and 1x6000wd research essay (80%)
This unit of study assumes knowledge of the fundamentals of international environmental law. Building on such knowledge, the unit engages in an advanced and targeted analysis of key areas of international environmental law. It provides an in-depth examination of norms, processes, and actors in international environmental law. It focuses on key areas such as biodiversity and protected areas, climate change, forests, and water resources. These areas are considered in light of their cross-cutting implications with other fields of international law such as development, trade, foreign investment, and human rights. This unit enables candidates to engage in an in-depth consideration of significant cases in international environmental law. It also critically analyses topics in global environmental politics and international relations theory, environmental ethics public participation and environmental rights. There will be a particular focus on compliance with and enforcement of multi-lateral environmental agreements and international environmental dispute resolution.

Textbooks

Hunter, Salzman and Zaelke, International Environmental Law and Policy 2007. UNEP Training Manual on International Environmental Law, UNEP 2006

LAWS6141 Asia Pacific Environmental Law

6 Credit Points

Ms Nicola Franklin, Assoc Prof Heng

Offered: S2 Late IntB **Classes:** block/intensive
Assessment: 1x7000wd essay (80%) and class participation (20%)

In this unit, the environmental legal systems and environmental management regimes of selected countries and groups of countries in the Asia Pacific will be studied against the background of relevant international and regional environmental law and administration. Unit topics will be divided into four sub-regions: Pacific Island Developing Countries; South East Asia Region (ASEAN and Mekong countries); North Asian Region (Japan, People's Republic of China); West Asian Region (South Asian Association of Regional Cooperation [SAARC] Countries). In relation to each region, the implications of the international and regional environmental law framework will be explored, followed by case studies involving issues such as biodiversity, natural resources and environmental planning; industrial pollution; environmental impact assessment; climate change; legal and institutional arrangements for environmental management.

LAWS6905 Aspects of European Union Commercial Law

6 Credit Points

Ms Anne McNaughton

Offered: S2 Late IntB **Classes:** block/intensive
Assessment: 1x2500wd assignment (30%), 1x6000wd research essay (70%)

This unit will look at the way in which European commercial law has been shaped by European Union law. It sets out the history and development of the European Union and introduces its institutional structure. The unit then focuses on aspects of commercial law in the European Union and the relationship of EU law and national law. Topics covered include the Common Commercial Policy, a European Contract Law, the development of the Single Market and aspects of the European Union's external commercial relations. This unit will be run in a seminar style, examining primary and secondary EU law and aspects of national law in some Member States.

LAWS6837 Aspects of Law and Justice

6 Credit Points

Adj Prof Christopher Birch

Prohibition: JURS6022, JURS6023 **Offered:** Semester 2 **Classes:** (1x2hr lec)/wk
Assessment: 1x7500wd essay (100%) or 1x class presentation (30%) and 1x5000wd essay (70%)

The philosophical analysis of substantive legal doctrine has become a central area of study in contemporary analytical jurisprudence. Recent work in this area will be examined with a particular focus on whether the reasoning behind current developments in the law is best understood as the application of principles of justice, particularly formal justice and corrective

justice, or rather, as guided by concepts of economic efficiency. The analysis will consider several areas of the civil law including tort, contract and property.

Textbooks

Wolff, Jonathon An Introduction to Political Philosophy, Oxford UP, Oxford, 1996

LAWS6247 Australian Financial Services Regulation

6 Credit Points

Adj Assoc Prof Ashley Black

Assumed knowledge: LAWS6810 or background in Australian corporate law **Offered:** S1 Late IntA **Classes:** block/intensive mode

Assessment: 1x7000wd research essay (100%) This intensive unit examines the structure and regulation of markets for financial products, with particular emphasis on corporate securities, following the introduction of the Financial Services Reform Act. The study is primarily a legal analysis, but also explores some financial theory relevant to legal response to market operation. Particular topics covered include: structures, institutions and participants in Australian financial products markets and current developments in such markets; co-regulation of financial products markets, including the role and powers of the Australian Securities and Investments Commission and Australian Stock Exchange; the licensing of financial services professionals; the conduct of securities business, including the legal structure of stock exchange transactions and the incidents of the broker-client relationship; abusive trading on financial products markets, including market manipulation and insider trading.

LAWS6870 Australian Import/Export Laws

6 Credit Points

Adj Prof Alan Bennett

Offered: Semester 2 **Classes:** (1x2hr lec)/wk
Assessment: class work (40%) and 1xfinal assignment (60%)

The unit studies Australian customs law and regulation. The introductory sessions examine the Kyoto convention (which sets out the basic requirements of a modern customs law) and some of the Annexes to the WTO Agreement (which provide the platform for many of Australia's Customs laws for example, valuation and dumping). The unit then examines the principal Australian laws and cases regulating imports and exports including: tariff classification; customs valuation; prohibited imports and exports; seizure and forfeiture provisions; customs powers generally and administrative remedies; anti-dumping; and, the various laws which govern what markings must be on imported goods. Australia's free trade agreements with the US, Thailand, Singapore and New Zealand are also examined with particular emphasis on the rules of origin qualifying goods for eligibility for the concessional duty rates under these FTA's.

NB: This unit replaced Advanced Customs Law

LAWS6209 Australian International Taxation

6 Credit Points

Prof Lee Burns

Assumed knowledge: It is recommended that candidates who are not working in the tax area and have not taken an undergraduate tax unit in Australia in the past five years undertake LAWS6128 or LAWS6825 before enrolling in this unit. If in doubt, please consult the Taxation Program Coordinator. **Offered:** S1 Late IntC

Classes: block/intensive **Assessment:** 1x3000wd assignment (30%) and 1x2hr exam (70%)

Australian International Taxation is a detailed study of the fundamental principles of Australia's international taxation regime as it applies to cross-border business and investment transactions. The unit focuses on corporate residence, source, non-resident withholding tax, relief from international double taxation, CFCs, FIFs, transferor trusts, transfer pricing and thin capitalisation. The unit will examine both the issues of international tax rule design and policy, and the relevant provisions in the legislation, cases and rulings. The unit deals only with international tax rules in Australia's domestic law with double tax treaties covered in the companion course Tax Treaties. Candidates should gain an understanding of the policies underlying Australia's rules for taxing international transactions, as well as a detailed knowledge of the foundation principles of law applicable to the taxation of inbound and outbound transactions.

LAWS6165 Biodiversity Law

6 Credit Points

Adj Prof Brian Preston, Ms Susan Shearing

Offered: S2 Late IntB **Classes:** block/intensive **Assessment:** 1x8000wd research paper (100%)

The unit takes an interdisciplinary approach to the conservation of biodiversity. Key concepts in ecology are explained to provide a foundation for the legal framework. This framework is examined at international, national, and state levels, in terms of conventions and legislation, as well as policy and organisations. The legal framework is explored both by analysing the proper purpose, scope and effect of the laws, as well as how they work in practice. The latter is achieved by lectures and field exercises assisted by officers of government agencies, including State Forests, the National Parks and Wildlife Service and the Department of Infrastructure, Planning and Natural Resources. An integral component of the unit is a field trip to areas of relevance to biodiversity conservation, focusing on northern New South Wales. Areas to be studied include habitats of threatened species and ecological communities and World Heritage areas listed under the relevant Commonwealth and State legislation. Field studies provide a unique opportunity to understand how principles of international and domestic law are implemented locally. The field trip component will be arranged in conjunction with the field trip for LAWS6055 Heritage Law (if offered).

Candidates are encouraged to take both units of study; they are designed to complement each other closely.

Practical: field trip

Textbooks

a book of reading materials and a field trip manual will be prepared and distributed

LAWS6809 Breach of Contract

6 Credit Points

Prof John Carter, Prof Elisabeth Peden

Offered: Semester 1 **Classes:** (1x2hr lec)/wk

Assessment: 1x compulsory essay (25%) and 1x exam or 1x long essay (75%)

Every breach of contract gives rise to a right to claim damages, but not every breach confers a right of termination. The first part of this unit analyses the concept of breach of contract - the concept of standard of duty and the law's requirements for proof of breach. The balance of the unit is concerned with the circumstances in which breach of contract does confer a right of termination. From a remedial perspective this means that the unit is primarily about self-help - enforcement of a right (termination) rather than a remedy (damages). The unit includes a detailed consideration of express provisions for termination ("termination clauses"), their drafting, exercise and consequences.

LAWS6936 Carbon Trading, Derivatives and Taxation

6 Credit Points

Assoc Prof Rosemary Lyster (Coordinator), Ms Celeste Black, Dr Tim Stephens, Ms Petrea Bradford and Mr Scott Farrell

Offered: S2 Late IntB **Classes:** block/intensive **Assessment:** 1x take home exam (100%)

This unit of study is designed to appeal to candidates across a broad range of postgraduate programs and expands upon existing offerings in the area of Climate Law. The unit will cover four discrete topics on each day of the four day intensive: International Climate Law (United Nations Framework Convention on Climate Change, Kyoto Protocol, post-2012 negotiations) and domestic Climate Law (the Carbon Pollution Reduction Scheme and complementary measures); understanding how to trade carbon on a variety of carbon markets; understanding the carbon derivatives market; understanding the taxation implications of carbon trading. The unit assumes a basic undertaking of emissions trading, the derivatives market and taxation law. The unit brings together experts within the Sydney Law School, including environmental lawyers and taxation lawyers, and experts in carbon trading and derivatives markets in private practice.

LAWS6001 Chinese Laws and Chinese Legal Systems

12 Credit Points

Ms Vivienne Bath (Coordinator)

Corequisite: LAWS6252 or law degree from a common law jurisdiction **Prohibition:**

LAWS6857, LAWS3014 and candidates who have completed a law degree in the People's Republic of China **Offered:** S2 Late Ib **Classes:** block/intensive - the Winter School will be held in Shanghai, China **Assessment:** 1xtake home exam to be completed in Shanghai (30%), 1x8000wd essay (70%) due on Thursday 25 February 2010

This unit will provide candidates with an overall picture of the modern Chinese legal system. It will develop a perception of its unique character by tracing its role through major social epochs and the role of law in a socialist market economy. It will examine the concept of law as a political function and the implementation of law, not so much through courts, as through administrative fiats and authority, making law essentially a function of politics and administration.

The unit will illustrate these perceptions through the study of various legal regimes. Lecture topics may include: Chinese legal history; Chinese legal system; criminal law and procedure; constitutional law; civil law and procedure; legal profession; environmental law; contract law; property law; company law; intellectual property law; foreign joint ventures; arbitration and mediation; foreign trade law and taxation law. The coursework component of the unit is residential and is conducted on the campus of the East China University of Politics & Law in Shanghai, People's Republic of China. Lectures will be given in English in Shanghai by professors from the East China University of Politics & Law. There will also be a visit to a Chinese law firm.

NB: Candidates must register their attendance before enrolling. Registration website www.law.usyd.edu.au/cstudent/shanghai Registration enquiries law.winterschools@usyd.edu.au Enrolment enquiries Law.Postgrad@usyd.edu.au

LAWS6869 Class Actions and Complex Litigation

6 Credit Points

Prof Peter Cashman

Offered: Semester 2 **Classes:** block/intensive and (1x2hr lec)/wk **Assessment:** in depth study of a current or recently completed class action (50%) and 1xresearch assignment (50%) This unit examines the substantive law, legal theories and procedural devices for the litigation and resolution of larger scale, complex civil litigation. This encompasses representative actions, class actions and the use of other mechanisms for the aggregation and resolution of mass claims, including under bankruptcy law. There is particular focus on Part IVA of the Federal Court Act (Cth) and representative action procedures available in Australia under rules of court and statutory provisions in various areas (including human rights, insurance law,

privacy, corporations law and shareholders rights).

The unit also covers comparative material on group litigation procedures and class actions under the laws of other countries, including England and Wales, Canada, the United States and Indonesia. The substantive law focus is on the use of class actions in the following areas: (1) product liability, with particular reference to pharmaceuticals and therapeutic devices; (2) shareholder litigation; (3) environmental law and mass torts; (4) anti-competitive conduct and price-fixing and (5) human rights. The unit also examines problems of proof of causation in complex civil litigation and the use of statistical and epidemiological evidence.

LAWS6849 Commercial Maritime Law

6 Credit Points

Adj Prof James Allsop

Prohibition: LAWS6137 **Offered:** Semester 2 **Classes:** (1x2hr lec)/wk **Assessment:** 1x2.5hr exam (60%) and 1x3500wd essay (40%)

The unit is designed as a detailed study of maritime law from what might be said to be a commercial law, as opposed to a public law, perspective. The nature of the business of shipping and related activities are examined by reference to fundamental commercial arrangements and relationships - the business of shipping, ownership and deployment of ships, chartering and use of ships, carriage of goods by sea and limitation of liability. The unit will provide a detailed introduction to these areas as a foundation for practice in Australia and overseas and as a basis for further academic research. The core topics of the unit will be the law of charterparties and the carriage of goods by sea. A constant theme of the unit will be the international character of the commercial relationships involved and the importance of private and international law considerations at all times. Whenever possible relevant comparative law analysis will be discussed.

Textbooks

Tetley W, International Maritime and Admiralty Law (International Shipping Publications, Editious Yvon Blais - Thomson)

LAWS6921 Comparative Climate Law

6 Credit Points

Assoc Prof Rosemary Lyster, Prof Kurt Deketelaere

Offered: Semester 2a **Classes:** See Sydney Law School in Europe www.law.usyd.edu.au/ **Assessment:** class participation (20%), 1x8000wd essay (80%)

This unit will analyse the different ways in which three jurisdictions, the European Union, the United States and Australia, have responded to the phenomenon of global climate change. Their responses will be situated within the international legal framework for climate change, the United Nations Framework Convention on Climate Change, the Kyoto Protocol and the post-2012 international negotiations. The latest climate change science and economic modelling

on climate change will be discussed to provide a context for understanding the legal responses. Consideration will be given to topics such as emissions trading, renewable energy, carbon capture and storage and energy efficiency. This unit will be co-taught by Assoc Prof Rosemary Lyster and Prof Kurt Deketelaere. Prof Deketelaere is the Director of the Institute for Environmental and Energy Law at the Leuven University and is the European Union's leading energy and climate lawyer.

LAWS6845 Comparative Constitutional Law

6 Credit Points

Prof Helen Irving

Assumed knowledge: Australian Constitutional Law or that of another country **Offered:**

Semester 2 **Classes:** (1x2hr lec)/wk

Assessment: class participation (20%) and choice of take-home exam or research essay due at the end of semester (80%)

Australia, the United States, and Canada are three common law countries, with federal constitutions and shared historical roots. Many provisions in the Australian Constitution were borrowed from the British North America Act of 1867 (the first Canadian Constitution), and even more from the United States Constitution. While aspects of constitutional doctrine are shared across these countries, each is nevertheless strikingly different in its organising principles and ways of "doing" constitutional law. This unit will explore the differences and similarities in constitutional law, with a focus on the legal and cultural history of these countries, differences in legal institutions, and the extent to which current values shape constitutional doctrines. Its topics will include some or all of the following: federalism, the separation of powers, rights and freedoms, the constitutional regulation of property, judicial protection of minorities, and the role and powers of the constitutional court. This is an innovative unit - a "first" for Sydney Law School. It will be taught on campus in a video-conference classroom, simultaneously, and in real time, by Associate Professor Helen Irving at Sydney, and by Professor Stephen Ross at The Pennsylvania State University Law School in the United States, and at the University of British Columbia in Canada. It is an exciting opportunity to learn comparative constitutional law and engage in trans-national discussion, drawing on expertise in the relevant country in situ.

LAWS6222 Comparative Corporate Governance

6 Credit Points

Prof Jennifer Hill, Prof Niamh Monloney

Offered: S1 Late Int **Classes:** See Sydney Law School in Europe www.law.usyd.edu.au/

Assessment: class participation (10%), short assignment and specialized class participation (20%), 1xresearch essay or exam (70%)

This unit focuses on comparative corporate governance, which has become a hot topic in recent times. At the turn of the decade, a major

issue in comparative corporate governance was the so-called "convergence-divergence debate". This debate concerned whether national governance systems could be expected to converge into a unified governance system, or whether underlying legal and cultural differences between jurisdictions would ultimately prevent such convergence. The corporate scandals epitomized by Enron, and subsequent developments in capital markets and their regulation, have complicated this debate. The unit will examine recent trends in comparative corporate governance and discuss fundamental differences in structure and governance techniques in a variety of jurisdictions, including the US, UK, Germany, Japan, China and Australia. The unit assumes a good basic knowledge of corporate law.

Particular topics covered include: does law matter?; key themes in the corporate governance debate; the impact of global corporate scandals on comparative corporate governance; regulatory responses to the scandals; economies in transition; the shareholder empowerment debate; takeovers; institutional investors; executive compensation. Professor Niamh Moloney, Professor of Capital Markets Law, University of Nottingham School of Law, will participate in Comparative Corporate Governance, giving a presentation on contemporary issues in EU corporate governance.

LAWS6153 Comparative Corporate Taxation

6 Credit Points

Dr Peter Harris

Assumed knowledge: It is recommended that candidates who are not working in the tax area and have not taken an undergraduate tax unit in Australia in the past five years undertake LAWS6128 or LAWS6825 before enrolling in this unit. If in doubt, please consult the Taxation Program Coordinator. **Offered:** S1 Late IntB **Classes:** block/intensive **Assessment:** 1x exam or essay (70%) and classwork (30%)

The goal of the unit is to provide a comparison of the corporate tax systems of a number of countries of economic and cultural significance to Australia. The goal has both practical and policy aspects. The unit will provide a basic introduction to the corporate tax systems of Australia's major trading partners which will assist candidates in assessing the likely outcomes of proposed corporate dealings both within the countries selected for comparison and between them. A comparative framework provides an opportunity for identifying the available options for taxing corporate income and assessing the appropriateness of those options or a combination thereof. This enables an assessment of the options selected by various countries, including incompatibility of options, and may identify areas of corporate taxation which may be the subject of appropriate reform. The unit will examine: theoretical framework and defining entities subject to corporation tax; taxation of corporate income where derived;

taxation of corporate income where distributed; treatment of gains/losses on the disposal of shares; corporate formation, reorganisation and liquidation; and international taxation of corporate income.

LAWS6812 Comparative Family in Law and Society

6 Credit Points

Assoc Prof Alex Ziegert

Offered: Semester 1 **Classes:** (1x2hr lec)/wk
Assessment: 1x8000wd research paper (100%)

This unit combines approaches in legal theory, comparative law, sociology of law and family studies and is particularly suited for students who are interested in comparative research of the operation of legal systems and the effectiveness of law. The lectures focus on the family as a crucial but changing institution in all societies and particularly in Asian societies with their familial traditions and their dependence on family structures and relations. Conversely, change in all societies is related to legal change and change of family structures from family orientation to individual rights and a differentiated legal system. The comparison of legal and family systems and their relationship in respective societies will allow for a comprehensive analysis of the actual status of social, legal and economic structures in respective societies and an assessment of trends and tendencies of further development. Topics presented in the lectures include: the organisation of social systems and human development; the differentiation of the legal system and the operation of law; the organisation of family systems; families that cope and families that do not cope; families and their law; the evolution of law in relation to families and the individual.

LAWS6170 Comparative Income Taxation

6 Credit Points

Prof Brian Arnold

Assumed knowledge: It is recommended that candidates who are not working in the tax area and have not taken an undergraduate tax unit in Australia in the past five years undertake LAWS6128 or LAWS6825 before enrolling in this unit. If in doubt, please consult the Taxation Program Coordinator. **Offered:** S2 Late Int

Classes: block/intensive **Assessment:**

1x8000wd research essay (100%)

Comparative Income Tax examines the key structural features of the income tax (tax unit, income, capital gains, fringe benefits, deductions, tax rates, tax accounting, tax expenditures and presumptive taxes). The unit will consider both the policy options in the design of the income tax and the legal implementation of those options. The unit will be primarily issues based, drawing on both developed and developing country examples. The comparative framework for analysis provides an opportunity for identifying the available options for taxing income and assessing the appropriateness of those options or a combination of them. As part

of this more general analysis, the unit will identify cultural, constitutional and administrative issues that shape the design of income tax laws. The unit will not consider corporate tax as this is the subject of Comparative Corporate Taxation nor international tax as this is the subject of Comparative International Taxation. Candidates should gain an understanding of the key design features of the income tax and differences taken by countries in income tax law design.

Textbooks

Available for purchase at the Law School:
Thuronyi (ed), Tax Law Design and Drafting Vols 1 & 2 ; Ault and Arnold, Comparative Income Tax

LAWS6128 Comparative International Taxation

6 Credit Points

Prof Lee Burns

Offered: S1 Intensive **Classes:** block/intensive
Assessment: 1x4000wd assignment (40%) and 1x2hr exam or research paper (60%)

Comparative International Taxation is a detailed study of the basic principles of international taxation (residence, source, relief from international double taxation, anti-deferral rules, withholding tax, transfer pricing, thin capitalisation, and tax treaties). The unit is taught from a global perspective with the emphasis being on comparative analysis (focusing particularly on Anglo, US and continental European approaches, and also developed and developing country approaches). The unit examines the core issues in developing international tax rules and identifies different approaches countries have taken in dealing with these issues. As part of this study, recent trends in international tax rule development will be identified (particularly in the context of globalisation) and critiqued. Candidates should gain an understanding of the different approaches that countries have taken in the development of their international tax rules.

Textbooks

Available for purchase at the Law School: Arnold & McIntyre, International Tax Primer; Ault & Arnold, Comparative Income Tax
NB: compulsory for MIntTax candidates

LAWS6907 Comparative Law of Evidence

6 Credit Points

Prof Ian Dennis

Assumed knowledge: common law legal method **Offered:** S2 Late Int **Classes:** block/intensive **Assessment:** 1x8000wd essay (100%)

The unit will be a thematic and comparative study of central principles of the law of evidence. The main focus will be on evidence in criminal cases, and the comparators will be Australia, England and the USA. The unit will focus on the aims of evidence law, followed by the role of constitutional protections and human rights in relation to evidential issues. There will then be seminars on particular evidential topics, such as

exclusionary discretion, self-incrimination, illegality and unfairness, self-incrimination, burden of proof and so on. These seminars will take the relevant legislation and one or two leading cases from each of the three jurisdictions as a focus for detailed inquiry into the issues raised by the topic and the comparative solutions. It will not be necessary for candidates to have studied Evidence before, although it will be an advantage. The unit objectives are that candidates should acquire an accurate understanding of the relevant principles of the law of evidence and their underlying theory, a critical appreciation of constitutional and human rights jurisprudence relating to evidential issues and an ability to engage in comparative analysis and critique of the law of evidence.

LAWS6906 Comparative Tax of Financial Transaction

6 Credit Points

Prof Tim Edgar

Offered: S2 Late Int **Classes:** block/intensive
Assessment: 1x8000wd research paper (100%)

This unit of study examines the income tax treatment of financial instruments from a policy and comparative perspective. The emphasis is not so much on detailed technical rules but rather the underlying principles and issues in the income taxation of financial arrangements. Country legislation and practices are drawn on selectively to illustrate possible policy responses to particular issues. The approaches used in Australia, New Zealand, the United Kingdom and the United States will be used extensively. The format of the course will be a combination of lectures and case studies. Principal topics will include: The general tax policy principles and financial market theories relevant to the income tax treatment of financial arrangements; Debt-financing techniques, particularly the treatment of interest surrogates and hybrid debt instruments; Equity-financing techniques and, in particular, the classification of instruments as debt or equity; The income tax treatment of hedging transactions and synthetic instruments; and Income tax issues raised by the cross-border use of financial arrangements.

LAWS6814 Comparative Value Added Tax

6 Credit Points

Assoc Prof Rebecca Millar

Offered: S2 Late Int **Classes:** block/intensive
Assessment: 1xexam or research essay (70%) and class work (30%)

The object of this unit is to examine the design principles, operation, compliance and administration of consumption type value-added taxes (known commonly as either VAT or GST). The unit will consider the major foundational principles of VAT and their operation in practice. In assessing the basic features of VAT, and will consider the different ways in which these have been given effect in different jurisdictions, focusing in particular on the European Union, New Zealand, Australia, and Canada, but also considering a range of other jurisdictions and the

model VATs drafted by the IMF. For candidates interested in Australian goods and services tax (GST), this unit will provide an in depth understanding of the policies underlying VAT/GST and of the options for VAT treatment that have been adopted in other jurisdictions, enabling you to compare the Australian treatment and identify areas of potential conflict. For international candidates, the principles discussed will be of a generic and comparative nature, and will be readily transferable to the operation of VAT in your country of residence. Topics examined include: Different options and methods for taxing consumption; The history, spread and prevalence of credit-invoice systems of VAT; Different forms of VAT/GST and the relationship between VAT and other tax bases; Rate differentiation - use of multiple rates, including zero; Administration of VAT, including registration, invoices, assessment and collection. The taxable person and concepts of enterprise/business/taxable activity; The treatment of Government entities and charities; The taxable transaction - the concept of supply and distinctions between supplies of goods and services; Taxable supplies, exemption with credit (zero-rating/GST-free), and exemption without credit (input taxation); The taxable amount - consideration, valuation, and calculation of output tax; Input tax - the entitlement to deduction/credit or input tax; International issues, including the place of supply, the treatment of imports and exports, and the use of reverse charge mechanisms; Special rules for supplies of financial services and insurance and the options for taxing, exempting, or zero-rating such supplies; Specialised regimes for small traders, e-commerce, gambling, tour operators etc. The treatment of capital and second hand goods; The treatment of real property; and Anti-avoidance provisions.

LAWS6838 Competition Law

6 Credit Points

Adj Prof Christopher Hodgekiss

Offered: Semester 2 **Classes:** (1x2hr lec)/wk
Assessment: 1x open book exam (100%) or 1x open book exam (80%) and 1x assignment (20%)

The content of this unit of study will be the following topics: introduction; Economic Theory of Competition Law; the concepts of competition and market definition; Section 45 Contract Arrangements and Understandings; Section 46 Misuse of Market Power; Section 47 Exclusive Dealing; Section 48 Resale Price Maintenance; Section 50 Mergers; Authorisations and Notifications; Penalties, Remedies and Enforcement; Access to Services. The intended outcomes for candidates who successfully complete this unit are that they will have a firm grasp of the operation of the competition law provisions of the Trade Practices Act.

Textbooks

Prescribed text: Miller's Annotated Trade Practices Act (latest edition), and Corones, Competition Law in Australia (Law Book

Company) Latest Edition

LAWS6264 Compliance: Financial Services Industry

6 Credit Points
Dr Kevin Lewis

Assumed knowledge: A good general grasp of legal and equitable principles, including the common law, and a basic knowledge of undergraduate law units. The unit is open not only to candidates in the LLM program, but also to lawyers, regulatory staff or compliance professionals. It is not necessary that the latter hold a law degree in order to participate in the unit, but they should understand that the unit is being taught as part of a law program at postgraduate level. They may find it preferable therefore to audit the unit on a non-assessed basis, rather than participate on an assessed basis. **Offered:** Semester 2 **Classes:** (1x2hr lec)/wk **Assessment:** 1x assignment (40%) and 1x exam (60%)

The unit will examine in detail the legal and regulatory requirements relevant to the financial services industry, and how the risk of breaching those requirements can be managed via compliance systems. In doing so, it will focus not only on legal theory but also on the practical day to day business issues connected with compliance.

The unit is divided into two parts: (a) Core compliance issues: Licensing of financial service providers; Compliance systems; Insider trading and Chinese walls; Market conduct rules; Shareholding restrictions; Trade practices; Money laundering, bribery and corruption; Retail customer obligations; Marketing financial products; Privacy; Miscellaneous compliance issues (trust account rules, fiduciary duties, conflicts of interest, confidentiality and phone taping) and Investigating compliance breaches (including reporting obligations and HR issues); and (b) Specialist compliance issues relevant to: Managed investments; Deposit products and non cash payment facilities; Stockbroking; Derivatives and warrants; Foreign exchange; Futures broking; Financial planning; Insurance and insurance broking; Superannuation and Retirement savings accounts

LAWS6851 Construction Law

6 Credit Points
Adj Prof Michael P Furmston

Offered: S1 Late IntC **Classes:** block/intensive **Assessment:** 1x10,000wd essay (100%)

Construction law may be defined as the application of basic principles of Contract and Tort to the processes of building and civil engineering. Particular features include: widespread use of long and complex standard forms; multiparty transactions; and difficult allocations of risk. The unit considers the interaction between standard form and general principle, with particular reference to difficulties such as: liquidated damages, termination; and privity of contract. The unit has a comparative element.

LAWS6227 Consumer Contracts and Product Defects

6 Credit Points
Assoc Prof Luke Nottage (Coordinator), Adj Prof Jocelyn Kellam

Prohibition: LAWS6024, LAWS6025 **Offered:** S2 Intensive **Classes:** block/intensive **Assessment:** 1x4000wd essay (40%) and 1xtake-home exam (60%)

This unit examines some recent developments granting special legal protection to consumers. The unit is concerned with aspects of the liability of suppliers of goods and services to consumers, sometimes called 'post-sale' consumer protection. An assessment will be made of the effectiveness of recent legislation in this field, and there will be considerable comparative analysis referring especially to relevant European Community directives, related developments in the Asia-Pacific (eg Japan), and some trends in the US. The topics to be covered are:

Introduction (the 'consumer' concept and some policy factors leading to consumer protection developments); Outline of terms implied in contracts for the supply of goods and services to consumers; Judicial and legislative control of exclusion clauses; Unconscionable and unfair contracts (control under the general law and by statute); The liability of manufacturers for defective products under: the general law; statutory liability of manufacturers to consumers (particularly under Trade Practices Act 1974 (Cth), Part V Division 2A); strict products liability (Trade Practices Act Part VA, with special reference to the similar EC directives on products liability); Product safety regulation (especially Trade Practices Act, Part V Division 1A and recent reform debates, with reference to the EC directives on general product safety); Consumer access to redress, especially class actions.

Textbooks

Recommended texts (a) Jocelyn Kellam and Luke Nottage, Australian Sales and Fair Trading Reporter (Sydney, CCH, looseleaf significantly updated in 2007), (b) Jocelyn Kellam (ed) Product Liability in the Asia-Pacific (3rd ed, Federation Press). Cases and materials will be issued.

NB: This unit replaced LAWS6227 Consumer Protection Law: Liability of Suppliers to Consumers

LAWS6012 Contemporary Challenges for Criminal Law

6 Credit Points
Dr Arlie Loughnan

Assumed knowledge: LAWS6034 or undergraduate unit in Criminal Law **Offered:** Semester 1 **Classes:** (1x2hr lec)/wk **Assessment:** 1xclass presentation, 1xresearch essay and 1xtake-home exam

This unit critically examines crime, criminal law and its structures and institutions of control. It looks at criminal law within specific and comparative, modern social contexts. It builds

on a basic understanding of the principles around which criminal laws are constructed and said to operate, as well as a preliminary knowledge of the processes employed for establishing criminal liability, and the factors which effect such determinations. From this the candidate is invited to contextualise their appreciation of the position, practise and potential of the criminal law within changing economic, political and cultural contexts, including globalisation. The unit is intended as more than a detailed or detached examination of criminal laws. Rather, the manner in which the topics for discussion are presented and dealt with will allow participants to challenge some commonly assumed notions about the criminal law, as well as appreciate the interests and influences behind recent developments in the criminal law and process.

NB: This unit replaced Advanced Criminal Law.

LAWS6872 Contract Negotiation

6 Credit Points

Adj Prof David Yates

Offered: S1 Late IntB **Classes:** block/intensive **Assessment:** simulated negotiation in teams (in class) (30%) and 1x2hr exam (70%)

This unit will examine the legal principles that provide the overarching framework within which contract negotiations take place. It will concentrate particularly on requirements of certainty and good faith and the issues that can arise in re-negotiating terms in long-term contractual relationships. It will also address some of the techniques of negotiations. Topics covered will include: standard form contracts and negotiated contracts; "agreements to agree" and the requirements of certainty; "long-term" contractual relationships and the use of hardship and intervener clauses; "good faith" negotiations and negotiation techniques. The unit will also involve a simulated contractual negotiation in which the class will be split into teams of 3 to 5 (depending upon class size) for a "team against team" negotiation.

Textbooks

Recommended - J W Carter, E Peden & G J Tolhurst: Contract Law in Australia, Lexis Nexis, 5th ed. 2007; G H Treitel, The Law of Contract, 11th ed., Sweet & Maxwell/Thompson, 2003; Leigh Thompson: The Mind & Heart of the Negotiator, Prentice Hall, 1998; R Fisher & W Ury & B Patton: Getting to Yes, 2nd ed. Houghton Mifflin Books, 1994

NB: Candidates are required to sit the exam at the Sydney Law School.

LAWS6874 Contractual Damages

6 Credit Points

Prof Elisabeth Peden

Assumed knowledge: undergraduate law degree **Offered:** S2 Late IntA **Classes:** block/intensive **Assessment:** 1xin-class test (40%), 1xtake home exam (60%)

This unit will look at the primary remedy for actions for breach of contract, namely damages. This remedy will be distinguished from contract

debts, restitution, specific performance and injunctions. The compensation principle and the various elements of a damages claim will be examined. Classes will look at the different bases for assessment of contract damages, and the requirement of mitigation.

The unit also provides an insight into the ways of bridging the gap between remoteness theory and evaluating potential claims for damages.

The role of consequential loss, and the relationship between damages and contractual indemnities are also considered.

The unit will be run in a seminar style, examining leading doctrinal cases for each principle.

LAWS6250 Controlling Liability by Contract

6 Credit Points

Prof John Carter, Prof Elisabeth Peden

Assumed knowledge: undergraduate law degree **Offered:** Semester 2 **Classes:** (1x2hr lec)/wk **Assessment:** 1x compulsory essay (25%) and 1x exam or 1x long essay (75%)

This unit brings together the doctrinal, theoretical and practical issues raised by contract risk management, especially the control of liability for breach of contract and negligence. The unit will consider: categories of risk; drafting options; protection of third parties; statutory control of risk management devices, including the Trade Practices Act 1974 (Cth); contract drafting and management issues. The drafting options which are considered include the use of exclusion clauses, indemnity provisions and force majeure clauses. The operation of these types of clauses, and the relevant common law and statutory rules, will be considered in the context of various types of contracts, but with particular emphasis on contracts for the provision of services and sale of goods. One particular feature of the course is a consideration of the operation of the privity rule in the context of risk management. Thus, issues such as the protection of related bodies corporate and the liability of agents and sub-contractors are dealt with in some detail.

LAWS6899 Corporate Environmental Responsibility

6 Credit Points

Ms Susan Shearing, Adj Prof Gerry Bates

Prohibition: LAWS6082 **Offered:** S2 Late IntB **Classes:** block/intensive **Assessment:** 1x4000wd problem-based assignment (50%) and 1x4000wd essay (50%)

This unit examines the environmental regulation of corporations and how regulation has evolved from 'command and control' to incorporate a diverse range of instruments designed to inculcate corporate environmental responsibility. Traditional regulation is studied along with market-based strategies (price-based and rights-based), information strategies (such as emissions inventories and corporate reporting), environmental auditing and environment management systems (including ISO14001). The unit explores regulatory flexibility, co-regulation

and voluntary agreements, and the participation of non-government entities, such as financial institutions, in corporate environmental regulation. Regulation of small, medium and large enterprises is explored with a view to designing appropriate regulatory strategies. An important theme is the role of corporate social responsibility (CSR) in driving changes in corporate attitudes towards the environment and articulating the corporate benefits of going beyond compliance with the letter of environmental laws. The unit also explores the role of criminal law in bringing about changes in corporate management and behaviour and in equipping environmental regulators with the range of tools needed to develop effective strategies.

LAWS6923 Corporate Finance and Law

6 Credit Points

Prof Eric Talley

Assumed knowledge: Law candidates with some familiarity with foundational principles in corporate and securities law, and to be comfortable working with numbers (including basic algebra) and Excel. Some experience in an undergraduate or graduate statistics class is also helpful but not required. **Offered:** S2 Late IntB **Classes:** block/intensive **Assessment:** class participation (10%), problem sets (40%) and exam (50%)

This unit explores the intersection of the fields of corporate finance and corporate law, particularly in domains where the two fields tend to lean heavily upon one another: mergers and acquisitions, securities litigation, corporate governance, and state shareholder actions. Emphasis will be on developing an understanding for the greater focus and expertise that financial economists have developed over the last half century to answer "real world" problems of legal significance. In addition, we will consider how (and why) both courts and regulators now place significant emphasis on financial methodologies pertaining to valuation, transactional fairness, market dynamics, and the ability to quantify/spread risks. The unit is appropriate for law candidates with an interest in business and corporate law, and does not require prerequisites.

LAWS6100 Corporate Fundraising

6 Credit Points

The Hon Justice R P Austin (Coordinator)

Assumed knowledge: LAWS6810 or background in Australian corporate law **Offered:** Semester 2 **Classes:** (1x2hr lec)/wk **Assessment:** 2xclass assignments and 1x2hr open book exam

The unit will involve a detailed study of the disclosure provisions and other requirements of chapter 6D of the Corporations Act, with particular focus on their application to the offer of company shares for issue or sale. However, some attention will also be given to listed managed investment schemes regulated under the Financial Services Reform Act. Attention will

be paid to additional relevant legal requirements, including the ASX Listing Rules, for initial public offerings and other fundraisings. The unit is taught by lawyers with extensive experience in the field of corporate fundraising.

LAWS6030 Corporate Taxation

6 Credit Points

Prof Richard Vann (S65 - Law School), Prof Graeme Cooper (S1, S8 - Taxation Training Program)

Assumed knowledge: It is recommended that candidates who are not working in the tax area and have not taken an undergraduate tax unit in Australia in the past five years undertake LAWS6825 before enrolling in this unit. If in doubt, please consult the Taxation Program Coordinator. **Offered:** Semester 1, Semester 1b & S1 Late IntC **Classes:** block/intensive (Law School) and (1x2hr lec)/wk (Taxation Training Program) **Assessment:** 1x exam or research essay (70%) and class work (30%)

The unit consists of a detailed examination of the tax rules applied to companies and shareholders in a domestic setting in Australia. The goals of the unit are to develop an understanding of the policies, detailed rules and current practical problems involved in the taxation of companies and shareholders and to explore why different solutions are used for these entities when compared to partnerships and trusts. Upon successful completion of this unit, a candidate should have an advanced understanding of the policies underlying Australia's corporate tax system, as well as a detailed knowledge of the technical detail involved in the rules for the taxation of companies and their shareholders in Australia. Particular attention will be given to tax reform arising from the Report of the Review of Business Taxation. Topics to be covered are: the policy and problems of taxing companies and shareholders; incorporation, reorganisation, continuation and growing companies; taxation of company distributions and dealings with interests in companies, including liquidations and share repurchases; imputation, including dividends passing through partnerships and trusts; intercorporate dividends and debt equity classification, dividend stripping, redeemable preference shares, asset revaluation dividends, scrip lending, equity swaps and convertible notes; and value shifting.

LAWS6032 Crime Research and Policy

6 Credit Points

Prof Julie Stubbs

Offered: Semester 1 **Classes:** (1x2hr lec)/wk **Assessment:** 1x3000wd research proposal (40%), 1x tutorial paper (20%) and 1x exam (40%)

This unit provides an examination of research methods in the context of criminology. The relationship between theory and methodology is explored. The production of knowledge about crime is critically assessed. Sources and forms of crime data are discussed and their significance is assessed. Research design, research applications

and elementary statistics are also studied.
NB: compulsory for MCrim and GradDipCrim candidates and co-requisite for other criminology units. The unit replaced LAWS6032 Crime Research and Policy 1.

LAWS6193 Criminal Justice: Prevention and Control

6 Credit Points
Prof Julie Stubbs

Offered: Semester 2 **Classes:** (1x2hr lec)/wk
Assessment: 1x seminar paper (40%) and 1x research essay (60%)

This unit examines responses to crime and crime prevention with reference to shifting notions of crime and responsibility for crime. It encourages a critical appreciation of the limitations of criminal justice system responses to crime and the necessity to develop a broader approach to crime prevention policy which responds to economic, social and cultural issues. The unit examines different ways of thinking about criminal justice, such as a means of order maintenance, dispute resolution, or risk management, and the shifting focus towards the prevention of future harms. Specific topics may include: restorative justice; specialist courts, bail and remand, privatisation and contractualism, indigenous justice, and approaches to crime prevention.

LAWS6034 Criminal Liability

6 Credit Points
Mr Graeme Coss

Prohibition: This unit is an introduction to aspects of criminal law for non-lawyers and is therefore not available to candidates who have completed a law degree or completed criminal law at a tertiary level **Offered:** Semester 1
Classes: (1x2hr lec)/wk **Assessment:** 1x3000wd research paper (40%) and 1xopen book exam (60%)

This unit canvasses the ways in which criminal liability is established, and the central factors governing liability. General principles of criminal law, constituent elements of particular offences and the definition of a range of defences are analysed from theoretical and practical perspectives. At most stages of the unit, the focus will be on male violence.

NB: compulsory for MCrim candidates

LAWS6035 Criminal Procedures

6 Credit Points
Mr Bron McKillop

Offered: S1 Late IntC **Classes:** block/intensive
Assessment: 1xtake home exam (60%) and 1x3000wd essay (40%)

This unit aims to examine the processes of the criminal justice system through a consideration of its successive and main stages and of the roles of the principal participants in the system, particularly the police, suspects, accused persons, prosecutors, defence counsel, judges and experts. The focus of the unit will be the processes of criminal justice in New South Wales as well as the rest of Australia, but comparisons

will be made from the beginning with continental European criminal justice systems, particularly the French.

LAWS6233 Criminology Research Project A
6 Credit Points

Supervised by an appointed academic staff member

Corequisite: LAWS6234 **Offered:** Semester 1 & Semester 2 **Assessment:** approx 20,000wd research project

Candidates must submit a detailed proposal and seek approval from the Program Coordinator prior to enrolment.

NB: Candidates must complete both LAWS6233 and LAWS6234 within one or two semesters

LAWS6234 Criminology Research Project B
6 Credit Points

Supervised by an appointed academic staff member

Corequisite: LAWS6233 **Offered:** Semester 1 & Semester 2 **Assessment:** approx 20,000wd research project

Candidates must submit a detailed proposal and seek approval from the Program Coordinator prior to enrolment.

NB: Candidates must complete both LAWS6233 and LAWS6234 within one or two semesters

LAWS6839 Critical Issues in Public Health Law
6 Credit Points

6 Credit Points
Prof Roger Magnusson

Offered: S2 Intensive **Classes:** block/intensive
Assessment: compulsory classwork (20%) and 1x3500wd essay (40%) or 1xassignment (40%) and 1x take-home exam (40%) or 1x3500wd essay (40%) and 1x assignment (40%)

How does law contribute to public health? This unit explores the role of law as a tool for protecting the public's health, responding to public health risks and implementing strategies designed to promote public health. It provides a foundation for further study in public health law, by clarifying the sources of public health law, the strategies that law can adopt, and debates about the proper role of law in protecting public health. The unit also provides a review of law's role within a number of critical areas, including: acute public health threats (focus on SARS, and bioterrorism); sexual health and STIs; and tobacco control. The unit also provides illustrations of the legal environment of public health practice and policy-making (through a case study on iatrogenic transmission of blood-borne viruses, and look-backs). Throughout the unit, candidates will be trained to identify legal issues, to apply the law to policy tasks and public health issues, and to critically evaluate the success of the strategies law adopts to protect and promote public health. Candidates will also explore the tension between the public interest in protecting health, and competing public and private interests. Candidates wishing to extend their knowledge of public health law may enrol in the companion unit, New Directions in Public

Health Law and Policy. These units comprise a core program in public health law.

Textbooks

Useful references: Christopher Reynolds, *Public Health Law and Regulation*, Federation Press, 2004 [Australia focus] and Lawrence O. Gostin, *Public Health Law: Power, Duty, Restraint*, University of California Press, 2000 [US focus]. Issued materials will be ready for collection 4 weeks before the introductory class.

NB: Compulsory for GradDipPubHL candidates. MHL candidates may select this unit as one of the three compulsory units required in addition to LAWS6252 or LAWS6881.

LAWS6925 Dealing in Art and Cultural Heritage

6 Credit Points

Assoc Prof Barbara McDonald (Coordinator), Prof Deborah DeMott

Assumed knowledge: LAWS6252 or law degree from a common law jurisdiction **Offered:** S2 Late IntB **Classes:** block/intensive

Assessment: 1x8000wd research essay (100%)

This unit covers a number of intersections between the law and the people and institutions who constitute the world of the visual arts and art markets, including artists, museums, individual collectors, art dealers, and auction houses. The unit examines the implications of several bodies of legal doctrine applicable to transactions in fine-art and other objects of cultural significance and the relationships associated with such transactions, including common-law agency. The unit also explores the significance of non-legal material geared to shaping the practices of art-market participants, such as codes and guidelines adopted by art-museum associations, as well as selected literature from other academic disciplines.

LAWS6889 Death Law

6 Credit Points

Dr Kristin Savell

Offered: S1 Late IntB **Classes:** block/intensive

Assessment: 1x class presentation (10%), 1x2000wd presentation paper (30%) and 1x5000wd research essay or take home exam (60%)

Western attitudes toward death have undergone a remarkable transformation in the last century. For many, death now takes place in the hospital or the hospice following the decision of a doctor to cease providing treatment. As the management of death has passed from the family to health care professionals, it now makes sense to regard the moment and circumstances of death as largely medical phenomena. Moreover, as 'autonomy' has taken a dominant place amongst ethical values, it also makes sense to describe and measure death in terms of its 'acceptability' both to the dying person and his or her survivors. In tandem with these changes, technological innovations have transformed the dead or dying body into a potential source of valuable (and recyclable) biological material. These developments have

thrown up new and urgent challenges for legal understandings about the timing of, and criminal responsibility for causing, death both within and outside medical settings. These developments have also disturbed conventional understandings of the corpse as sacred. Topics to be covered may include: death in contemporary Australia, the legal definition of life and death, medical futility and the concept of 'lives not worth living', euthanasia (with and without request), physician-assisted suicide, refusing and withholding life-prolonging treatment in adults and children, the Shipman/Patel scandals, ownership of the corpse and body parts, dead donor organ transplantation, organ sale and theft, posthumous reproduction, 'mercy' killing outside medical settings and the jurisdiction of the Coroner. The unit will interrogate these and other contemporary challenges for the law relating to death and dying both within Australia and, where appropriate, other selected comparator jurisdictions (US, UK and Canada). These will be mapped against socio-historical understandings of the changing meaning of death, dying and serious disability in Western societies, and candidates will be encouraged to reflect on the broader legal implications of these developments.

LAWS6038 Debt Financing

6 Credit Points

Mr Dennis Scott

Assumed knowledge: LAWS6810 or background in Australian corporate law **Offered:** Semester 1 **Classes:** (1x2hr lec)/wk

Assessment: 2xclass presentations (20% each) and 1x exam (60%)

This unit focuses on legal aspects of debt financing in an increasingly global market environment. Much of the unit deals with enforcement issues in the insolvency context, which can highlight the types of protection for which creditors should have bargained to safeguard their positions. The unit assumes a good general knowledge of Australian corporate law. The unit is taught by expert practitioners in the field of debt financing. Lecturers include Tony Berriman (Minter Ellison); Ray Mainsbridge, James Marshall, David Mason, Tony Ryan and Dennis Scott (Blake Dawson); David East (DLA Phillips Fox); David Friedlander and David Eliakim (Mallesons Stephen Jaques); Diccon Loxton (Allens Arthur Robinson); Mitchell Mathas (Deacons) and Roger Dobson (Henry Davis York). There may be changes to lecturers in this unit.

Particular topics covered include: the nature and priority of charges; the lender/trustee/manager relationship; financial covenants; negative pledges; hybrids; guarantees and third party securities; issues involving secured creditors; set-off; aspects of enforcement by creditors; voluntary administration; subordinated debt; receivership.

LAWS6931 Dispute Resolution in Asia

6 Credit Points

A/Prof Luke Nottage (Coordinator), Dr Simon Butt, Mr Edwin Bikundo

Assumed knowledge: LAWS6252 or law degree from a common law jurisdiction **Offered:** S2 Late IntB **Classes:** block/intensive

Assessment: 1x2500wd take home exam (25%), 1x7000wd essay (75%)

This unit introduces the law and practice of dispute resolution in Asia, focusing on three major economies: Japan, Indonesia and India. It examines the extent and mechanisms of harmonisation within our region, particularly by examining how a company typically would avoid or resolve disputes with other companies, its consumers, or with government officials. The unit therefore aims to combine a broader comparative and theoretical perspective with more practical applications in managing disputes in Asia.

LAWS6130 **Dispute Resolution in Australia**

6 Credit Points

Prof Hilary Astor

Offered: Semester 2 **Classes:** (1x2hr lec)/wk **Assessment:** 1x3000wd research essay (50%) and 1xtake home exam (50%)

Dispute Resolution in Australia is designed to give candidates a broad understanding of the theory, policy and practice of ADR. It will enable candidates to understand various alternative dispute resolution processes, their advantages and limitations; understand the application of ADR in particular areas of practice: understand key theoretical debates about mediation; be able to advise others about ADR processes; be better participants in ADR processes; be better able to evaluate the possible applications of various dispute resolution methods. The use of ADR in employment and health care disputes will be considered.

NB: This is not a skills unit and candidates will not be trained as negotiators or mediators

LAWS6924 **Dispute Settlement in the WTO**

6 Credit Points

Adj Prof Brian John Tamberlin

Offered: S2 Late IntB **Classes:** block/intensive **Assessment:** class participation (10%), 1xexam (90%)

The purpose of this unit is to introduce candidates to the procedures and development of the most effective dispute settlement procedures and jurisprudence in the area of international law, namely, the World Trade Organization Dispute Settlement Body. The unit will briefly survey the history of the World Trade Organization and the origins of the Dispute Settlement Body. The unit will examine, through an analysis of several leading disputes, the range of procedures used by the DSB for reaching decisions both at first instance and then in relation to appeals. Following this, the unit will address the way in which decisions can be enforced. The unit will also consider the problems arising from the present procedure and the possible developments which could take place having regard to proposed amendments by

various nation states. There will also be a comparison of the dispute settlement procedures used by the World Trade Organization with procedures used in Courts and Tribunals in Australia.

LAWS6852 **Doing Business in China**

6 Credit Points

Ms Vivienne Bath

Assumed knowledge: LAWS6252 or law degree from a common law jurisdiction **Offered:** S2 Intensive **Classes:** block/intensive

Assessment: 1x2000wd assignment (30%) and 1xtake home exam (70%)

This unit aims to provide an introduction to the legal and practical aspects of doing business in China. The unit will commence with an overview of the Chinese legal, political and economic system and will then move on to an examination of the system of commercial regulation in China, including contracts, land use, regulation of private and state-owned businesses and Chinese companies and securities laws. The unit will focus on Chinese contract law and the foreign investment regime and the related structuring and regulatory issues related to foreign participation in the Chinese market. Areas covered will discuss the principal issues relating to the establishment of a corporate or other presence in China and the related negotiation process, including taxation and foreign exchange controls. The unit will conclude with an examination of methods of resolution of disputes arising under contracts entered into in China. More specialized topics which may be covered include intellectual property, labour law and regulation of financial institutions.

LAWS6163 **Energy and Climate Law**

6 Credit Points

Assoc Prof Rosemary Lyster

Prohibition: LAWS6863 **Offered:** S1 Late IntC **Classes:** block/intensive **Assessment:** class participation (20%) and 1x7000wd essay (80%)

This unit adopts an inter-disciplinary and integrative approach to understanding the dynamics of one of the most pressing global environmental concerns ecologically sustainable energy use. Working loosely within the framework of the Climate Change Convention, the unit relies on the perspectives of scientists, lawyers and economists to develop an integrated approach to sustainable energy use. The unit identifies current patterns of energy use in Australia and examines Australia's response to the Climate Change Convention. It also analyses the strengths and weaknesses of various political, legal and economic mechanisms for influencing the choice of energy use. The initiatives of the Commonwealth and New South Wales governments, as well as local councils, to promote sustainable energy use and to combat global warming are scrutinised.

NB: This unit replaced LAWS6163 Energy Law

LAWS6893 **Environmental Criminology**

6 Credit Points

Dr Murray Lee

Offered: Semester 2 **Classes:** (1x2hr lec)/wk
Assessment: class projects (10%), 1x4500wd research paper (50%) and 1xtake home exam (40%)

The unit examines traditions of criminological theorising, research and public intervention that focus on the socio-spatial context(s) and determinants of crime and its governance. It explores the principal sources of data collection, the methodologies and theoretical underpinnings concerned with the spatial and social ecological dispersion of crime and deviance and its techniques of management and control. It also explores the relationship of public safety and crime prevention to public policy/interventions in areas such as urban and regional planning, housing, local government and community services.

LAWS6043 Environmental Impact Assessment Law

6 Credit Points

Mr Bernard Dunne

Offered: S2 Late IntB **Classes:** block/intensive
Assessment: 1x4000wd essay (50%) and 1xtake home exam (50%)

This unit has three fundamental aims. The first is to provide a sound analysis of Environmental Impact Assessment (EIA) procedures in NSW and at the Commonwealth level. The second aim is to develop a critical understanding of EIA as a distinctive regulatory device by examining its historical, ethical and political dimensions as well as relevant aspects of legal theory. The third and ultimate aim is to combine these doctrinal and theoretical forms of knowledge so we can suggest possible improvements to the current practice of EIA in Australia.

LAWS6044 Environmental Law and Policy

6 Credit Points

Adj Prof Gerry Bates

Corequisite: LAWS6252 or law degree from a common law jurisdiction **Offered:** S1 Intensive & S2 Intensive **Classes:** block/intensive mode
Assessment: 2x4000wd essays (50% each)

The aim of the unit is to introduce candidates to overarching themes in environmental law and policy as a foundation to their more detailed studies for the Environmental Law Program. This is an overview unit addressing a number of environmental issues at various levels of analysis; such as policy making, implementation of policy and dispute resolution. The unit covers the law and policy relating to environmental planning, environmental impact assessment, pollution and heritage. The concept of ecologically sustainable development and its implications for environmental law and policy is a continuing theme. The unit is designed to develop multi-dimensional thinking about environmental issues and the strategies needed to address them. The unit provides a broad background of the political and economic issues in so far as they are related to the legal issues involved.

NB: compulsory for all environmental law candidates.

LAWS6045 Environmental Planning Law

6 Credit Points

Ms Nicola Franklin, Dr Andrew Edgar

Offered: S1 Late IntC **Classes:** block/intensive
Assessment: 1x4000wd essay (50%) and 1x4000wd problem-based assignment (50%)

This unit examines the legal and institutional structures in New South Wales for land-use regulation and the resolution of land-use conflicts. The focus is on environmental planning, development control and environmental impact assessment under the Environmental Planning and Assessment Act 1979 (NSW) and cognate legislation. The unit provides an opportunity to explore contemporary urban issues, such as urban consolidation and infrastructure funding. Federal interest in the cities is also examined. While an important aim of the unit is to provide candidates with an understanding of the New South Wales environmental planning system, the unit also aims to develop the capacity to evaluate environmental policies and programs through exploring theoretical perspectives on the function of environmental planning. The unit will critically evaluate the function and design of environmental planning systems and the legal ambit of planning discretion. Significant influences, such as escalating environmental and social concerns about our cities, will be discussed, together with an evaluation of processes and forums for public involvement in land-use policy and decision making. A good grounding in this area will be of assistance to candidates undertaking other units in the Environmental Law Program.

LAWS6046 Equity Financing

6 Credit Points

Prof Jennifer Hill

Assumed knowledge: LAWS6810 or background in Australian corporate law **Offered:** Semester 2 **Classes:** (1x2hr lec)/wk
Assessment: 2xclass presentations (20% each) and 1exam (60%)

This unit focuses on the corporate law aspects of equity fundraising. At a theoretical level, this unit is underpinned by the privileged position of equity within corporate law. However, the unit also has a strongly commercial approach, and is taught by a range of experts in the area.

Lecturers include The Hon Justice Kevin Lindgren (Federal Court of Australia); Michael Ahrens (Transparency International); Adj Prof Ashley Black (Mallesons Stephen Jaques); Tony Damian, John Natal and Lachlan Roots (Freehills); John Kløver (CAMAC); Bill Koeck (Blake Dawson); Andrew Lumsden (Corrs Chambers Westgarth); Tom Story (Allens Arthur Robinson). There may be changes to lecturers in this unit.

Particular topics covered include: accounting standards, profits and auditors' duties; dividends; incorporated joint ventures and

strategic alliances; unincorporated joint ventures and strategic alliances; profits and dividends; capital restructuring - a comparative analysis of transactions affecting share capital; regulated financial transactions under chapter 2E of the Corporations Act; corporate reconstructions and schemes of arrangement; underwriting and the role of regulators; issues in comparative equity finance; private equity and venture capital. Note that application of the disclosure provisions to corporate fundraising is covered in the unit LAWS6100 Corporate Fundraising.

LAWS6833 **European Environmental Law**

6 Credit Points

Adj Prof Gerry Bates

Offered: S1 Late IntC **Classes:** block/intensive
Assessment: 1x8000wd research essay (100%)

This unit examines fundamental concepts that govern environmental law in the European Union and how environmental policy is developed and translated into the domestic laws of countries that form the EU. The influences at work behind the formulation of environmental policy, and therefore of environmental law, is explored. The unit also examines environmental democracy in the EU and implementation and enforcement of EU environmental laws. Areas of environmental law that are covered include environmental assessment, biodiversity, integrated pollution prevention and control, the European Climate Change Programme, and waste management. The unit encourages comparative analysis between the formation and implementation of environmental law in the EU and the Australian federal environmental law system.

LAWS6917 **European Human Rights Law**

6 Credit Points

Prof Conor Gearty

Offered: S1 Late IntB **Classes:** block/intensive
Assessment: 1x2500wd assignment (30%) and 1x5000wd essay (70%)

Europe enjoys the world's most advanced regional legal system for protecting human rights. The 1950 European Convention on Human Rights was the world's first major human rights treaty, adopted by the Council of Europe after massive rights violations in the Second World War. The Convention creates binding complaints procedures and judicial remedies. This unit examines the origins of the Convention; which rights it protects; the system's institutional architecture (including post-1998 reforms of the European Commission and the European Court of Human Rights); and key jurisprudence of the European Court. The unit also covers the Convention's implementation in national legal systems (such as the Human Rights Act 1998 (UK) and the equivalent Irish Act passed in 2003); the relationship of the European system to international human rights law; and the interaction of the Convention system with the human rights functions of the European Union (especially the Charter of Fundamental Rights in the draft EU Constitution).

Textbooks

Prescribed text books: Clare Ovey and Robin White, Jacobs and White, The European Convention on Human Rights 4th edn (Oxford University Press, Oxford, 2006: ISBN 0-19-928810-0) and C A Gearty, Principles of Human Rights Adjudication (Oxford University Press, Oxford, 2004 paperback, 2005). Recommended text: C A Gearty (ed), European Civil Liberties and the European Convention on Human Rights: A Comparative Study (Martinus Nijhoff publishers, The Hague, 1997: ISBN 90-411-0253-1)

LAWS6818 **Executive Employment**

6 Credit Points

Prof Joellen Riley

Corequisite: LAWS6252 and LAWS6071 (MLLR candidates) **Offered:** S1 Late IntB **Classes:** block/intensive **Assessment:** class participation (20%) and 1x6000wd research essay (80%) or 2x3000wd problem assignments (40% each) This unit of study examines the role of corporate executives from a number of angles. First, we consider the role of the executive in the large public corporation, and we consider contemporary debates on executive remuneration, and executives' responsibilities in corporate governance. This includes an examination of directors' duties under the Corporations Act 2001 (Cth) and under general law. We then consider issues arising in the drafting of executive service contracts. Finally, we consider issues arising on the termination of executive contracts, including rights and remedies on termination, Trades Practices Act claims; and the enforcement of restrictive covenants and confidentiality clauses.

LAWS6230 **Expert Evidence**

6 Credit Points

Prof Peter Cashman

Offered: S1 Late IntC **Classes:** block/intensive **Assessment:** 1x3500wd take home exam (50%) and 1x3500wd assignment (50%) This unit will address the role of expert witnesses, their reports and their testimony in criminal and civil cases. It will examine the attitudes of the courts and tribunals to experts and the way in which the law utilises the fruits of other disciplines. The focus of the unit will be on the accountability of expert opinions and upon the effectiveness by which experts are examined and cross-examined. It will scrutinise the common law and legislative rules of expert evidence and the rules of procedure that relate to the admissibility of expert evidence. Also addressed will be issues of property in witnesses, confidentiality, privilege, ethics, payment and selection of forensic experts. In addition, the unit will explore the role and impact of expert evidence in a range of different forms of litigation. It will assess the difficulties attaching to medical evidence in personal injury, product liability and coronial litigation, and to epidemiology evidence and scientific evidence in criminal litigation, in particular, DNA profiling,

fingerprinting and handwriting analysis. A significant portion of the unit will also be devoted to controversies attaching to the role of psychiatric and psychological evidence, in cases involving evaluation of fitness to stand trial, assessment of criminal intent, diminished responsibility and insanity. Issues relating to prediction of dangerousness, post-traumatic stress disorder as psychiatric injury, and the main forensic syndromes, battered woman syndrome, rape trauma syndrome, cult indoctrination syndrome, repressed memory syndrome, child sexual abuse accommodation syndrome and parental alienation syndrome, will be canvassed in the context of criminal, civil and family law cases.

LAWS6048 **Explaining Crime**

6 Credit Points

Dr Murray Lee

Offered: Semester 1 **Classes:** (1x2hr lec)/wk

Assessment: 1xtake-home exam, 1x4500wd essay and class work

This unit examines the relevance of theory to the process of explaining crime as a social phenomenon. It will selectively analyse the history of criminological thought. Special attention will be given to the cross-disciplinary nature of efforts to understand crime, criminality and their causes. A significant section of the unit will deal with contemporary approaches to criminological explanation including the influence of feminism and postmodernism. Contemporary theorists such as Foucault, Garland and Braithwaite will also be considered. The unit will endeavour to make explicit the links between criminological theory and the development of public policy.

NB: compulsory for MCrim and GradDipCrim candidates and co-requisite for other criminology units

LAWS6194 **Explaining Punishment**

6 Credit Points

Assoc Prof Gail Mason

Offered: S1 Late IntB **Classes:** (1x2hr lec)/wk

Assessment: 1x4500wd essay, 1xtake home exam and classwork

The objective of this unit is to explore punishment, sentencing and penalty in modern society, particularly through an understanding of the relationship between punishment and social structure and the significance of punishment within the social and political order.

The unit will adopt an interdisciplinary approach which draws on history, law, literature, sociology and criminology. Topics which will be covered include new sentencing regimes (such as mandatory sentencing), women in prison, juvenile imprisonment, inequality and punishment, privatisation, and the impact of law and order politics on punishment.

LAWS6920 **Global Health Law**

6 Credit Points

Prof Lawrence Gostin

Offered: S2 Late IntB **Classes:** block/intensive

Assessment: 1x6000-7000wd research paper (80%) and compulsory question (20%) or 1x3500-4000wd research paper (50%), assignment (30%) and compulsory question (20%)

Today, domestic health and global health are recognized as intertwined and inseparable. The determinants of health (e.g. pathogens, air, water, goods, and lifestyle choices) are increasingly international in origin, expanding the need for health governance structures that transcend traditional and increasingly inadequate national approaches.

In this intensive unit, candidates will gain an in-depth understanding of global health law through careful examination of the major contemporary problems in global health, the principal international legal instruments governing global health, the principal international organizations, and innovative solutions for global health governance in the 21st Century. Class sessions will consist of a combination of lecture, interactive discussion, and case simulation and/or role-play.

The class will cover naturally occurring infectious diseases (e.g. extensively drug resistant tuberculosis, malaria, and HIV/AIDS), past (e.g., SARS) and future (e.g., Influenza (A) H5N1) epidemics, bioterrorism events (e.g., anthrax or smallpox), and/or major chronic diseases caused by modern lifestyles (e.g., obesity or tobacco use).

Textbooks

Primary: A Collection of readings from primary and secondary sources Supplemental: Lawrence O. Gostin, *Public Health Law: Power, Duty, Restraint* (University of California Press, 2nd ed. 2008) (candidates will be advised when it is available from the bookstore) (U.S. based but intended to provide a population based perspective and the role of law in safeguarding the public's health).

LAWS6214 **Goods and Services Tax Principles**

6 Credit Points

Assoc Prof Rebecca Millar

Assumed knowledge: It is recommended that candidates who are not working in the tax area and have not taken an undergraduate tax unit in Australia in the past five years undertake LAWS6814 before enrolling in this unit. If in doubt, please consult the Taxation Program Coordinator. **Offered:** S1 Late IntC **Classes:** block/intensive **Assessment:** 1xexam or research essay (70%) and class work (30%)

The object of this unit is to introduce the basic design, operation, compliance, administration, and working principles of the Australian goods and services tax (GST). The unit will commence with a brief examination of the design features common to value-added type consumption taxes, of which Australia's GST is an example. The unit will proceed to examine the main foundational principles of Australia's GST and its operation in practice. In assessing the Australian legislation, comparisons will be drawn with case

law and statute from other jurisdictions to assist in understanding how Australia's GST might be interpreted. On successful completion of this unit you should have an understanding of the policies underlying GST, a detailed knowledge of the technical workings of the basic Australian GST rules and procedures, and an awareness of current practical problems involved in GST. Topics examined will cover the key concepts required to understand the operation of GST, including: introduction to GST - basic design features and underlying policies of GST; status of the taxable person, concepts of enterprise, and the obligation to register for GST; liability for tax on supplies - types of supply & limits on the concept of supply; consideration, including non-monetary consideration, nexus, & value; entitlement to input tax credits; liability for tax on importations; tax invoices, attribution to tax periods, adjustment events & adjustments for change of use; basic principles of GST-free and input taxed supplies; introduction to international issues in GST, including the treatment of cross-border transactions and importations; introduction to real property transactions; introduction to the treatment of financial supplies; compliance & administration, including anti-avoidance.

NB: It is not possible to cover all aspects of GST in one unit. Candidates seeking a complete picture of Australia's GST should also undertake LAWS6828 Advanced Goods & Services Tax

LAWS6891 GST - International Issues

6 Credit Points

Assoc Prof Rebecca Millar

Prerequisite: LAWS6214 or LAWS6814

Assumed knowledge: This unit complements and further develops the understanding of international issues relating to GST, developed in either LAWS6214 or LAWS6814 **Offered:** S2 Late IntB **Classes:** block/intensive

Assessment: 1x exam (60%), class work (essay/problem question/case note/class presentation) (30%) and class participation (10%)

The object of the unit is to broaden your existing knowledge of the international coverage of Australian Goods and Services Tax (GST) and to develop an understanding of the policies, detailed rules, and current practical problems involved in applying GST to cross-border transactions.

The unit will focus on the jurisdictional coverage of Australian GST, analysing in detail the complex issues that can arise in determining how GST applies to cross-border transactions. The unit will commence with an outline of the principles governing jurisdictional coverage: the destination principle and origin principles, and the use of proxies for determining the place of taxation. The unit will include a strong comparative element, situating the Australian rules within the framework of value added taxes around the world, and will explain where the Australian model differs from both the European and New Zealand models for determining the

place of taxation.

Topics covered will include: the 'connected with Australia' rules, considered separately for goods, real property, and 'things other than goods or real property'; the importation of goods and the interaction between the importation rules and the connected with Australia rules; the GST-free treatment of exports of goods and exports of 'things other than goods or real property'; the treatment of international travel, 'arranging for' services in relation to various GST-free supplies, and international mail; telecommunications supplies (both incoming and outgoing), including issues relating to phone cards, mobile roaming, inter-carrier charges, and the problems raised by the increasing use of VOIP; and the operation of the reverse charge provisions.

Within each topic, the added complexities raised by multi-party transactions will be discussed, and the relevance of place of consumption will be considered. Other issues that may be covered include cross-border financial supplies, gambling, and insurance, and e-commerce.

LAWS6054 Health Care and Professional Liability

6 Credit Points

Dr Kristin Savell

Offered: S2 Late IntB **Classes:** block/intensive **Assessment:** 1xclass presentation (10%), 1x2000wd class paper (30%) and 1x5000wd take home exam (60%)

This unit will provide a foundation for further study in health law by examining laws that govern the liability of health professionals across a range of fields (eg criminal law, torts, contract, discrimination law) and mechanisms for the oversight and disciplining of health professionals. The unit will explore the role of law as a means to regulate/set limits on the conduct of health professionals and examine debates about the proper role of law in regulating the provision of health care. It will also critically evaluate law reform initiatives with respect to legal liability, complaints mechanisms and disciplinary action against health professionals where relevant. Topics to be covered may include: Legal and non-legal methods of regulating the practices of health professionals; the limits imposed on health professionals by the criminal law; the principles of negligence and their application to the liability of health professionals; contractual and fiduciary duties of health professionals; liability of hospitals; discrimination in health care; procedures for complaints against health professionals; disciplinary proceedings and the statutory reporting obligations of health professionals.

NB: Compulsory for GradDipPubHL candidates. MHL candidates may select this unit as one of the three compulsory units required in addition to LAWS6252 or LAWS6881.

LAWS6846 Human Rights and the Global Economy

6 Credit Points

Prof David Kinley

Offered: S2 Late IntB **Classes:** block/intensive
Assessment: 1x8000wd essay (100%)

The questions of whether and how the global economy and human rights interrelate and interact have excited much recent controversy on the streets, in the courts and legislatures, in corporate board rooms and in the corridors of the UN and the international trade and financial organizations. It is a controversy that will almost certainly intensify over the next few years. The debate is controversial because it is important, and it is important because it involves two great globalizing forces namely, the promotion of free market ideology through trade liberalization and the protection of human rights through the universalization of the norms that underpin human dignity. On the face of it the two projects do sit easily together. Are they, in fact, implacably opposed to each other? Where or how do they overlap and what are the consequences or opportunities presented thereby? What role can the law play in regulating their interaction whether it be domestic or international law, 'hard' or 'soft' law. And what or who are the real actors behind the economic and human rights power blocs on the global stage? This unit seeks both to frame these questions and to address them by reference to the most recent discussion, thinking and action in the area.

LAWS6195 Immigration and Labour Law
6 Credit Points

Prof Mary Crock, Prof Ron McCallum

Corequisite: LAWS6252 and LAWS6071 (MLLR candidates) **Offered:** S2 Late IntB **Classes:** block/intensive **Assessment:** class presentation/participation (25%), 1x1500wd critique of at least one but no more than two of the set articles (15%) and 1x5000wd research paper (MLLR candidates) or 1x6000wd research paper (LLM candidates) (60%)

Immigration and Labour Law is a specialist unit designed to provide candidates with an opportunity to explore in depth a particular facet of immigration law: that concerning the admission and treatment of non-citizens on grounds of employment or special skills. The unit is designed to be interdisciplinary in its focus, offering insights for both candidates with particular interests in migration law and those with expertise or interests in employment law. It examines the economic basis of the skilled component of Australia's immigration program, exploring the different theories and practical strategies adopted over the years in the selection of skilled migrants. It also looks in some detail at the various components of the skilled migration, business skills and temporary skills transfer sub-programs. The unit involves the study of the laws and policies relevant to both the employment of foreign workers in Australia and the employment of Australian workers overseas. The unit covers substantive aspects of migration and labour law in Australia, as well as law and policies relevant to the

settlement and on-going employment of foreign workers. Included for special study in this regard are the matters of the recognition of overseas qualifications and the taxation, superannuation and investment laws applicable to foreign workers.

The unit of study is designed to foster the following skills: Skills of statutory interpretation and problem-solving, through the study and use in practical situations of the Migration Act 1958 and its associated Regulations; Skills of legal analysis and evaluation, gained through the examination and synthesis of relevant legislation; of court decisions and of rulings by the Migration Review Tribunal; and Oral and writing skills, through class participation, simulation exercises and the preparation of a major research paper.

LAWS6223 Immigration and Nationality Law
6 Credit Points

Assoc Prof Arthur Glass

Offered: Semester 2 **Classes:** (1x2hr lec)/wk
Assessment: class participation (10%), 1x3000wd research essay (50%) and take home exam (40%)

This is a survey unit designed to introduce candidates to one of the most fast moving and engaging areas of public law. Immigration law is all about government regulation of the entry of persons into Australia. As such, it is a branch of applied administrative law that concerns the very make-up of our society, affecting both who we live with and how we live our lives. Statistics show that nearly one in four Australians were either born overseas or had an overseas-born parent. In spite of this, controversy persists over whether Australia should have an immigration program and the extent to which the government is doing enough to control both unlawful entry and the quality of the (lawful) migrants. With Sydney receiving the lion's share of the migrants who come to Australia each year, migration law has become a growth area for both lawyers and migration agents. By placing the current mechanisms for controlling migration in their legal, social, historical and economic contexts, this unit provides an opportunity to explore the 'big' issues raised by immigration and to look at why the subject has assumed such a central role in the development of Australia's identity as a nation. The unit of study is designed to foster the following skills: skills of statutory interpretation and problem-solving, through the study and use in practical situations of the Migration Act 1958 and its associated Regulations; skills of legal analysis and evaluation, gained through the examination and synthesis of relevant legislation; of court decisions and of rulings by the Migration Review Tribunal; the Refugee Review Tribunal; and the Administrative Appeals Tribunal in its migration division; and oral and written skills, through class participation, simulation exercises and the preparation of a major research paper. The survey unit does not consider the area of refugee law, which is the subject of a separate

postgraduate offering. It is designed as a foundational unit for candidates who have no background in migration law and who wish to move into the area. The unit complements the more specialised units of Refugee Law and Immigration and Labour Law.

LAWS6825 Impact of Tax on Business Structure & Ops

6 Credit Points

Ms Chloe Burnett (S1) and Ms Chloe Burnett, Mr Tim Kyle (S2)

Offered: Semester 1, Semester 2, Semester 1a & Semester 1b **Classes:** (1x2hr lec)/wk (S1, S2), Taxation Training Program (S7, S8)

Assessment: 1x3000wd seminar paper (30%) and 1xexam (70%)

This unit examines the basic elements of Australia's income tax (including fringe benefits tax and capital gains tax) and analyses their impact on the operations and structuring of businesses. The main audience for this unit is participants without a recent and thorough undergraduate course in Australian income tax. So, the majority of participants are from two groups: foreign graduate candidates who have studied their domestic tax system, and who now wish to acquire a detailed knowledge of the operation of the Australian tax system; and Australian graduate candidates from law, commerce, accounting and other disciplines who have not studied income tax and who want to come to grips with the principal impacts of the Australian tax system on their clients.

This unit is both (a) an entry course, designed to serve as the precursor to enrolling in the more specialised units offered in the Tax Program, and (b) a course for practitioners and others who do not seek to be tax specialists but want to improve their general understanding of the tax ramifications of commercial operations.

Upon successful completion of the unit, participants will have: a sound basic understanding of the operation of the Australian income tax law for business, whether conducted directly or via a partnership, trust or company; the ability to apply Australian tax law to a broad range of common commercial transactions, and an awareness of the commercial consequences of the Australian income tax rules on a range of common domestic commercial transactions; the ability to recognise common income tax issues which would arise in domestic and international commercial transactions; an awareness of the commercial consequences of the Australian income tax rules on a range of common international transactions; an awareness of the impact of tax law and tax outcomes on decision-making by businesses operating in, into or from Australia.

The unit covers the following topics: The main elements of the tax system (1 hour); Assessability of business revenue (6 hours); Treatment of business costs (8 hours); Timing rules for revenue and expense recognition (2 hours); Trading forms, capital raising and cost of servicing invested capital (3 hours) and Cross-

border issues (4 hours)

Textbooks

Current income tax legislation

LAWS6866 IDR: Practice and Procedure

6 Credit Points

Ms Kate Miles, Ms Irene Baghoomians (Coordinators), Assoc Prof Luke Nottage, Dr Brett Williams

Assumed Knowledge: LAWS6243 or strong background in public international law

Prohibition: LAWS6202 **Offered:** S2 Late IntB

Classes: block/intensive **Assessment:** 1x3000wd essay (40%) and 1x4500wd research paper (60%)

This unit is designed as an advanced unit on international dispute resolution and builds on the foundations provided in the listed pre-requisites. The unit will focus on an assessment of the practice and procedure involved in the resolution of four types of international disputes: disputes concerning general international law; disputes concerning human rights; disputes concerning international trade law; disputes concerning international commercial transactions (through international commercial arbitration, including investor-state arbitrations). Each day of the four-day intensive will concentrate on one of these areas with particular attention being given to the practice and procedure of the International Court of Justice, UN Human Rights Committee, European Court of Human Rights, WTO Appellate Body, and international commercial arbitration bodies. Candidates will gain an appreciation of the practice and procedures of these institutions, how they compare and contrast with each other, and their impact on the resolution of public and private international law disputes.

LAWS6865 IDR: Principles

6 Credit Points

Assoc Prof Chester Brown

Prohibition: LAWS6202 **Offered:** Semester 1 **Classes:** block/intensive **Assessment:** 1xtake home exam (30%), 1x6000wd research essay (70%)

This unit of study aims to provide an in-depth analysis of international dispute resolution as a technique for resolving public international law disputes. The United Nations Charter provisions for the peaceful settlement of international disputes will be taken as creating the basic framework for the review of dispute resolution techniques. These include negotiation, good offices, mediation, conciliation, arbitration, and adjudication. Particular attention will be given to in-depth analysis of certain disputes and the legal and political techniques used in their resolution. These disputes may include the Iranian Hostages case, the Rainbow Warrior case, French Nuclear Testing, East Timor, and the 1991 and 2003 Iraq Wars.

NB: This unit replaced LAWS6865 International Dispute Resolution: Theory and Practice

LAWS6147 Independent Research Project
6 Credit Points

Supervised by an appointed academic staff member

Offered: Semester 1 & Semester 2

Assessment: 10,000wd research paper

The goal of this unit of study is to provide candidates with an opportunity to pursue advanced research in an area of their choosing, under the limited supervision of a Faculty member. The unit is only available in special circumstances, and with the approval of the relevant Program Coordinator. The unit is available as a one semester unit of study worth 6 credit points. The 6 credit point unit requires a substantial research paper of 10,000 words. Given the nature of the unit, there are no set topics. This will be determined on a case-by-case basis. The project must involve a fresh piece of research and writing. Material that has been previously submitted for assessment in any other unit of study may not form part of the project.

Supervisory assistance should not extend beyond considering the project's methodology, the literature review, and thus assessing the candidate's familiarity with the subject. It is expected of candidates undertaking advanced research that their work be "independent". Beyond that elementary supervision, the member of Faculty's role will only be to assess the project upon completion.

No more than 12 credit points of the Independent Research Project may be credited towards the requirements for a master's or SJD program in respect of any candidate. The Independent Research Project is not available to graduate diploma candidates or candidates for the Master of Criminology, Master of International Law and Master of Jurisprudence. The project must be submitted for assessment by the last day of classes in the semester in which the candidate is enrolled in this unit of study. The project will normally be assessed by the Faculty member acting as supervisor. However, the Program Coordinator may designate an independent assessor, who may or may not be a member of the Faculty.

Enrolment in this unit is contingent upon: The candidate having completed at least four units of study towards their master's candidature and achieving an average mark in these units of 70% or higher [effective Semester 1, 2009]; The candidate formulating, in advance of enrolment, a well-defined research project, including a statement of methodology to be used and availability of necessary research materials; The candidate providing a written statement outlining the special circumstances justifying enrolment in this unit; Approval in writing from a member of Faculty who agrees to serve as supervisor and assessor of the project; and approval in writing from the relevant Program Coordinator. Approval will only be given where the Program Coordinator is satisfied that: the above conditions are met; and no other unit of study is being offered in the year of enrolment which

would permit the candidate to undertake study in the proposed area.

LAWS6182 Independent Research Project A
6 Credit Points

Supervised by an appointed academic staff member

Corequisite: LAWS6183 **Offered:** Semester 1 & Semester 2 **Assessment:** 20,000wd research paper

The goal of this unit of study is to provide candidates with an opportunity to pursue advanced research in an area of their choosing, under the limited supervision of a Faculty member. The unit is only available in special circumstances, and with the approval of the relevant Program Coordinator. The unit is available as a one semester unit of study worth 12 credit points, or as a full year unit of study worth 12 credit points. The 12 credit point unit requires a substantial research paper of 20,000 words.

Given the nature of the unit, there are no set topics. This will be determined on a case-by-case basis. The project must involve a fresh piece of research and writing. Material that has been previously submitted for assessment in any other unit of study may not form part of the project.

Supervisory assistance should not extend beyond considering the project's methodology, the literature review, and thus assessing the candidate's familiarity with the subject. It is expected of candidates undertaking advanced research that their work be "independent". Beyond that elementary supervision, the member of Faculty's role will only be to assess the project upon completion.

No more than 12 credit points of the Independent Research Project may be credited towards the requirements for a master's or SJD program in respect of any candidate. The Independent Research Project is not available to graduate diploma candidates or candidates for the Master of Criminology, Master of International Law and Master of Jurisprudence. In the case of candidates enrolled over a single semester, the project must be submitted for assessment by the last day of classes in the semester in which the candidate is enrolled in this unit of study. In the case of candidates enrolled over a full year, the project must be submitted for assessment by the last day of classes in the second semester in which the candidate is enrolled in this unit of study. The project will normally be assessed by the Faculty member acting as supervisor. However, the Program Coordinator may designate an independent assessor, who may or may not be a member of the Faculty.

Enrolment in this unit is contingent upon: The candidate having completed at least four units of study towards their master's candidature and achieving an average mark in these units of 70% or higher [effective Semester 1, 2009]; The candidate formulating, in advance of enrolment, a well-defined research project, including a

statement of methodology to be used and availability of necessary research materials; The candidate providing a written statement outlining the special circumstances justifying enrolment in this unit; Approval in writing from a member of Faculty who agrees to serve as supervisor and assessor of the project; and approval in writing from the relevant Program Coordinator. Approval will only be given where the Program Coordinator is satisfied that: the above conditions are met; and no other unit of study is being offered in the year of enrolment which would permit the candidate to undertake study in the proposed area.

NB: Candidates must complete both LAWS6182 and LAWS6183 within one or two semesters

LAWS6183 Independent Research Project B
6 Credit Points

Supervised by an appointed academic staff member

Corequisite: LAWS6182 **Offered:** Semester 1 & Semester 2 **Assessment:** 20,000wd research paper

See LAWS6182 Independent Research Project A for unit description.

LAWS6058 Information Rights in Health Care
6 Credit Points

Prof Belinda Bennett

Offered: S1 Intensive **Classes:** block/intensive mode **Assessment:** 1xclass presentation and 1500wd paper (20%) and 1xtake home exam (80%)

This unit deals with the rights to information in the modern health care system. The unit will focus on consent to treatment and will include discussion of: capacity, the duty of health professionals to disclose the risks of treatment, refusal of treatment and emergency health care. The unit will also examine duties of confidentiality in health care, ownership of and access to medical records, and information rights in medical research.

NB: Compulsory for GradDipPubHL candidates. MHL candidates may select this unit as one of the three compulsory units required in addition to LAWS6252 or LAWS6881.

LAWS6159 Insolvency Law

6 Credit Points

Assoc Prof Lee Aitken

Assumed knowledge: Background in Australian corporate law or LAWS6810 Introductory Corporate Law **Offered:** S2 Intensive **Classes:** block/intensive

Assessment: 1xtake home exam (100%)

This unit will examine the law, policy and practice of both personal and corporate insolvency, under the Bankruptcy Act 1966 and the Corporations Act 2001. Some insolvency issues arising under the Income Tax Assessment Act 1936 will also be covered. Topics which will be covered include: The purposes of insolvency law, including debtor protection, access of creditors to the debtor's assets and assets disposed of, the need for investigation of

financial failure, and financial reconstruction and survival; The principles of insolvency law including the pari passu principle of equal sharing, and exceptions to that principle, collectivism, compulsion and maintenance of creditors' pre insolvency rights; The processes used by a creditor to commence insolvency proceedings, to a sequestration order in bankruptcy under the Bankruptcy Act and to a winding up order in corporate insolvency under the Corporations Act; Other Bankruptcy Act insolvency regimes - Part X arrangements, Part IX debt agreements, Part XI deceased estates; The nature of property that is available to creditors in bankruptcy and liquidation; Voidable transactions in bankruptcy and under the equivalent corporate regime; The involvement of unsecured creditors through meetings of creditors, funding of litigation, and committees of inspection, and the responsibilities of the liquidator and trustee to those creditors; The liability of directors and company controllers in company insolvency, in particular their liability for insolvent trading and their personal liability for taxes; The general duties and powers of the liquidator and the trustee, and their regulation by ASIC and ITSA; Receiverships and the interaction of insolvency and the rights of creditors with quasi-security and security; The voluntary administration regime under Part 5.3A of the Corporations Act, and its interaction with liquidation and receivership; Insolvency and matrimonial property, and superannuation entitlements; Current reform and policy considerations - CAMAC reports, Senate committee Report 2004, ALRC reports; and Cross-border insolvency.

LAWS6156 International Banking Law

6 Credit Points

Prof Geoffrey P Miller

Offered: S1 Late IntA **Classes:** block/intensive **Assessment:** class participation (10%), 1xtake home exam (90%)

This unit is an intensive introduction to the law and economics of international banking. Topics will include: the nature of the banking firm, the role of banks in monetary policy, optimal regulatory structures, protection of depositors and the problem of moral hazard, bank runs and panics, control of bank-specific risk, capital adequacy standards, control of systematic risk, and the regulation of cross border banking transactions.

LAWS6059 International Business Law

6 Credit Points

Ms Vivienne Bath (S64), Assoc Prof Y S (Steve)

Lee (S53, S2) **Corequisite:** LAWS6252 or law degree from a common law jurisdiction **Offered:** Semester 2, S1 Late IntB & S2 Late IntA

Classes: block/intensive mode (S64, S53) and (1x2hr lec)/wk (S2) **Assessment:** Session 61: 1x3500wd assignment (50%) and 1x2hr20min exam (50%), Session 53: class participation (10%) and 1xtake home exam (90%), Session 2: class attendance/ presentation (30%) and

1xexam (70%)

The objective of this unit is to provide candidates with an introduction to a number of areas of international business law and to provide an opportunity to study some of those areas in more detail. The unit begins with an overview of the scope of the law relating to international transactions. The core topics are international sale of goods, carriage of goods, international payments and financing of international sales and methods of doing business in foreign markets, including through agents and distributors and international licensing transactions. Other topics may vary from year to year and may include an introduction to international tax, elementary customs law and international dispute settlement.

Textbooks

Robin Burnett, Law of International Business Transactions (The Federation Press, 2004, 3rd ed)

NB: Compulsory for MIntBus&L candidates.

LAWS6060 International Commercial Arbitration

6 Credit Points

Assoc Prof Chester Brown, Adj Prof Max Bonnell

Offered: Semester 2 **Classes:** block/intensive

Assessment: 1xtake home exam (40%), 1x5000wd research essay (60%)

This unit introduces candidates to the preferred method of resolving international commercial disputes. It has two primary aims, to: outline key principles in the law of international commercial arbitration (ICA), and discuss a range of cutting-edge legal issues; and nurture a sophisticated understanding of the historical development, and likely future path, of ICA systems in relation to other forms of dispute resolution in trans-border contexts. Related, secondary aims are to develop: ability to discuss or argue arbitration law issues with colleagues; and familiarity with key reference materials, expertise in conducting independent research, and skills in effective legal writing in this field. Introductory classes consider how ICA relates to litigation and ADR, survey some of the most important transnational and Australian "legislative" instruments, and introduce major trends. Part 2 of the unit examines these trends in more detail, including ICA's forays into new fields, and developments in the Asia-Pacific region. Part 3 revisits some key legal principles and other topics currently being scrutinised by the UN. Part 4 addresses the arbitration of disputes under bilateral and multilateral investment treaties.

LAWS6884 International Commercial Litigation

6 credit points

Mr Justin Hogan-Doran

Assumed knowledge: basic understanding of private international law from any legal system

Prohibition: LAWS6824 **Assessment:** class participation (10%), 1xtake home exam (90%)

Offered: Semester 2b **Classes:** See Sydney Law School in Europe www.law.usyd.edu.au/

The unit examines, from a comparative perspective, questions of domestic court jurisdiction, commercial choice of law issues and recognition and enforcement of judgments against assets, across the main world legal systems. This will include European continental states, the UK and Commonwealth (Australia, Canada etc) and the USA. Particular attention will also be given to internet jurisdiction, worldwide freezing orders, and international commercial arbitration. Candidates will develop a sound understanding of the core principles of private international law in these systems, tactical and strategic concerns in international litigation, and the ability to advise clients on exposure risks for businesses with assets in multiple jurisdictions. The unit is thus aimed equally at those practicing or intending to practice in domestic and international litigation, advisers to multi-national corporations, and candidates interested in comparative law and private international law.

LAWS6896 Internatl & Comparative Criminal Justice

6 Credit Points

Prof Mark Findlay

Prohibition: LAWS6269 **Offered:** S2 Late IntB **Classes:** block/intensive **Assessment:** 1xclass presentation (20%), 1xessay (40%) and 1xtake home exam (40%)

This unit explores the growing internationalisation of criminal justice through an examination of forms of transnational crime and international conflicts and the infrastructure that is being developed to regulate global insecurities and criminal harms. It will explore the development of various institutions in response to international crimes and their relation to international human rights and access to justice. It will consider the different paradigms of justice that inform diverse international developments, notably contrasts between retributive and restorative justice. The unit will explore tensions and conflicts between nation-state based criminal justice and international norms, processes and procedures for regulating crime. It will assess the extent to which a distinct international criminal justice order is being established, the nature of its jurisprudence and values and its implications.

LAWS6219 International Criminal Law

6 Credit Points

Mr Grant Niemann

Offered: S2 Late IntB **Classes:** block/intensive

Assessment: (1) 2xclass exercises (40%) - 4 videos will be shown on major segments of the unit. During the course candidates will be required to complete exercises on the subject matter of the videos and (2) 1xresearch paper (60%)

This unit of study will focus on the development of international criminal law through both convention and customary international law.

Attention will be given to the bases of jurisdiction, the definition of international crimes, the jurisprudence of international criminal law and the exercise of jurisdiction by both national and international criminal courts. War crimes, crimes against humanity and genocide will be discussed with particular reference to the work of the ad hoc International Criminal Tribunals, the 'hybrid' tribunals and the International Criminal Court.

LAWS6911 International Derivatives Law & Practice

6 Credit Points

Mr Jan Job de Vries Robbé

Assumed knowledge: Corporate law or comparable experience in practice. LAWS6252 or law degree from a common law jurisdiction

Offered: S1 Intensive **Classes:** block/intensive mode **Assessment:** class participation (10%) and 1x8000wd essay (90%)

Derivatives are an indispensable building block of today's financial markets. They are sold on exchanges, over-the-counter, and embedded in other types of financial products such as loans and bonds.

The types of risk transferred using derivatives continues to expand from currency, equity and credit risk to innovative products such as property derivatives and carbon credits. The unit considers a variety of legal issues associated with derivatives transactions, ranging from aspects of contract law, the potential liabilities for financial institutions for mis-selling derivatives products, and the (close-out) netting of derivative transactions. In addition, the unit has a practical angle. Candidates will be familiarised with the traps and particularities of documenting derivative products in, for instance, structured finance transactions. The unit covers both Australian and international derivatives practice (especially European, but also emerging markets).

LAWS6061 International Environmental Law

6 Credit Points

Em Prof Ben Boer

Offered: S1 Late IntB **Classes:** block/intensive mode **Assessment:** 1x2500wd problem-based assignment (30%) and 1x5500wd essay (70%)

This unit aims to provide candidates with an overview of the development of international environmental law throughout the twentieth century. Attention will primarily be devoted to the international law and policy responses to global and regional environmental and resource management issues. Basic principles will be discussed prior to taking a sectoral approach in looking at the application of international environmental law in specific issue areas. The unit includes material on implementation of international environmental law in the Asia Pacific region. Relevant Australian laws and initiatives will be referred to from time to time. The focus is on law and policy that has been applied to deal with environmental problems in an international and transboundary context.

LAWS6161 International Human Rights

6 Credit Points

Prof David Kinley

Offered: S1 Late IntC **Classes:** block/intensive **Assessment:** 1x2500wd assignment (30%) and 1x5000wd essay (70%)

This unit introduces candidates to the principles and practice of international human rights law - a field of public international law and policy of ever-expanding dimensions. It will introduce candidates to some key concepts, debates, documents and institutions in this field, while encouraging critical examination of these from a variety of angles. In summary, this unit considers the question: what happens when we regard a situation or predicament as one involving a breach of international human rights law - what possibilities and problems does this entail? Addressing this question, candidates in this unit will examine: (a) forums where international human rights law is being produced (international tribunals, domestic courts, multilateral bodies - including United Nations organs - regional agencies, non-governmental organisations, academic institutions, and the media); (b) settings where international human rights law is being deployed (in Australia and elsewhere); and (c) particular identities/subjects that international human rights law aspires to shape, regulate or secure. By the end of this unit, candidates should be able to formulate written and oral arguments by reference to key international human rights law instruments and principles; give strategic advice as to available avenues of recourse in international human rights law; and advance an informed critique of particular dimensions of international human rights law scholarship and practice, by reference to contemporary literature in this field.

LAWS6894 International Human Rights Advocacy

6 Credit Points

Ms Irene Baghoomians

Offered: S2 Late IntB **Classes:** block/intensive **Assessment:** 1x3500wd essay (50%) and advocacy exercise (50%)

The unit aimed at candidates who would like to pursue academic and/or other careers as human right advocates both in the domestic private and government sectors as well as in the international arena.

This postgraduate unit builds on the candidates' knowledge of public international law and in particular international human rights law by focusing on and analysing the multifaceted and diverse jurisprudence developed by a range of organisations including the United Nation's Treaty Bodies, International Tribunals and Non-Governmental Organisations. Theoretically, international human rights are indivisible, inalienable and universal. However, human rights of some individuals and groups are routinely abused, downgraded, or watered down by States, corporations or other individuals. This unit of study primarily considers how human

rights lawyers, advocates and scholars, in response to such abuses, formulate and present arguments before international and domestic for a and analysis the ever-expanding human rights law jurisprudence developed as a result of such advocacy and/or litigation. To this end, candidates will deepen their theoretical knowledge of the fundamental norms of international human rights law and its requisite machinery. As an ancillary learning objective, candidates also endeavour to integrate the above knowledge with the practicalities of human rights advocacy and its relationship to: democracy and the political arena; the exercise and dynamics of power; rights and citizenship; and citizen education and action. Candidates should gain detailed insights into: identification of issues and their prioritisation; contextual analysis; setting of goals, various advocacy strategies, publicity avenues as well as program evaluation/feedback and fundraising. The unit will focus on and critique a number of legal advocacy strategies and techniques in domestic and international fora. This unit of study will include scholarly readings, case studies, guest speakers, simulations and on-line discussion forums. Candidates will be expected to complete a paper in an area covered in the unit.

LAWS6218 International Humanitarian Law
6 Credit Points
Dr Yuval Shany

Offered: S1 Late IntB **Classes:** block/intensive
Assessment: 1x5000wd research essay (60%) and 1xtake home exam (40%)

How to limit and regulate violence in times of war is one of the most pressing challenges for international law. This unit explores the origins and purposes of humanitarian law; its scope of application (spatial, temporal and personal); the different types and thresholds of armed conflict (including international and non-international conflicts); the permissible means and methods of warfare (including the principles of distinction and proportionality, and specific weapons such as chemical, biological and nuclear weapons, cluster munitions, and landmines); the status and treatment of combatants and non-combatants and other categories (such as spies, mercenaries, "unlawful combatants" and "terrorists"); the protection of cultural property and the environment; the relationship between human rights law and humanitarian law; and the implementation, supervision and enforcement of humanitarian law (including the prosecution of war crimes, the role of Protecting Powers and the International Committee of the Red Cross, and national military law).

LAWS6037 International Import/Export Laws

6 Credit Points
Adj Prof Alan Bennett

Offered: Semester 1 **Classes:** (1x2hr lec)/wk
Assessment: **Assessment:** class work (40%) and 1xfinal assignment (60%)

The unit is a comparative study of international

customs law and administrations and is based on examining some of the practical difficulties associated with the implementation of new customs laws in various jurisdictions. The Kyoto convention, which sets out the minimum requirements of any new customs law, is examined in some detail focusing in particular on: customs control; customs declarations; administrative penalties; customs securities; transparency and customs rulings; risk management initiatives etc. The unit also examines the international customs harmonised tariff illustrating the structure, notes and in particular, the rules for interpretation of the tariff. The WTO customs valuation methodologies are also studied (from Article VII of the GATT) with particular emphasis given to the transaction value method of customs valuation. The treatment of management fees, royalties, commissions, production assist costs, research and development expenditure and other difficult areas are also reviewed. Article VI of the GATT, which makes provision for anti-dumping law, is also considered providing practical examples of how this law operates in various jurisdictions.

NB: This unit replaced LAWS6037 Customs Law.

LAWS6916 International Investment Law
6 Credit Points

Ms Kate Miles, Assoc Prof Luke Nottage

Offered: S2 Late IntB **Classes:** block/intensive
Assessment: 1x5000wd essay and 1xtake home assignment

This unit introduces students to the international regulation of foreign investment. It examines core principles of international investment law, regional and bilateral investment treaties, the settlement of investment disputes, and the international economic and political context in which the law has developed. The course considers the origins and evolution of international investment law through to the recent formation of the current international legal framework for foreign investment through bilateral and regional investment treaties. It examines the substantive principles contained within investment treaties and recent arbitral awards, and considers controversial issues surrounding investor-state arbitration. It examines the procedural framework for investment arbitration under the auspices of the International Center for the Settlement of Investment Disputes (ICSID) and the UNCITRAL Rules. This unit also considers the increased focus on investor responsibility in relation to environmental protection, human rights, development issues, and labour standards. As such, it examines the collapse of the negotiations for the Multilateral Agreement on Investment, corporate social and environmental responsibility, calls for an international regulatory framework to govern the conduct of multinational corporations, and new proposals for an International Agreement on Investment for Sustainable Development.

LAWS6167 International Law and Aust

Institutions

6 Credit Points

Ms Katherine Fallah

Offered: Semester 1 & S2 Late IntA **Classes:** (1x2hr lec)/wk (S1), block/intensive mode (S53)

Assessment: 1x research essay (60%), 1x case note (30%) and class participation (10%)

This unit assesses the impact of international law upon Australian institutions. It provides a critical review of that impact across all levels of Australian society. Specific consideration is given to: the Executive; the Legislature: Commonwealth, State and Territories; the Judiciary: High Court, Federal Court, Family Court, State Supreme Courts and other state and territorial courts; the Bureaucracy: Federal, State and Territorial Government Departments; Government Institutions: HREOC, IRC, ALRC. The unit commences with an historical overview of how international law was received in Australia, and then assesses its impact upon a range of Australian institutions. The principal focus throughout the unit will be on the effects produced through domestic law.

NB: compulsory for MIL and GradDipIntLaw candidates

LAWS6184 International Law Research Project A

6 Credit Points

Supervised by an appointed academic staff member

Corequisite: LAWS6185 **Offered:** Semester 1 & Semester 2 **Assessment:** approx 15,000wd research project

Candidates must submit a detailed proposal and seek approval from the Program Coordinator prior to enrolment.

NB: Candidates must complete both LAWS6184 and LAWS6185 within one or two semesters

LAWS6185 International Law Research Project B

6 Credit Points

Supervised by an appointed academic staff member

Corequisite: LAWS6184 **Offered:** Semester 1 & Semester 2 **Assessment:** approx 15,000wd research project

Candidates must submit a detailed proposal and seek approval from the Program Coordinator prior to enrolment.

NB: Candidates must complete both LAWS6184 and LAWS6185 within one or two semesters

LAWS6062 International Law-the Use of Armed Force

6 Credit Points

Ms Nicole Abadee, Ms Alison Pert

Offered: S2 Late IntB **Classes:** block/intensive **Assessment:** 1x8000wd research essay (100%)

In this unit we consider the history of the prohibition on the unilateral use of armed force, and the exceptions to that prohibition: self-defence and collective action authorised by the Security Council. We consider the application of the law of self-defence to the fight against

terrorism, as well as the lawfulness of the "Bush doctrine" of pre-emptive self-defence. We then look at collective security including peacekeeping, humanitarian intervention, and the emerging concept of the responsibility to protect.

LAWS6933 International Petroleum Transactions

6 Credit Points

Visiting Prof Owen Anderson, Prof Lee Burns, Visiting Prof John Lowe, Prof Gillian Triggs

Offered: S1 Late IntC **Classes:** block/intensive **Assessment:** 1xtake home exam (100%)

International Petroleum Transactions is a review of the world's minerals-development regimes and the contracts that international investors use to implement them. The unit begins by reviewing the fiscal arrangements that nations use to obtain exploration and development, including licenses, production sharing contracts, joint ventures, and service contracts. It then focuses on the contracts that international investors use to share risks and rewards, including confidentiality agreements, study and bidding agreements, operating agreements, farm out agreements, lifting agreements and gas sales contracts. Other issues that may be covered include joint development agreements, taxation issues, corruption and indemnification.

LAWS6261 Int Protection of Intellectual Property

6 Credit Points

Ms Lucinda Longcroft

Offered: S1 Late IntB **Classes:** block/intensive **Assessment:** 1x exam or research essay (70%) and classwork (30%)

The international intellectual property system will be examined at a time of rapid technological change, intense political scrutiny, and unprecedented value in intellectual capital. Intellectual property is increasingly a business issue, implicated in dispute resolution, advocacy, negotiations and secured financing. This unit will survey the foundations of the international legal system and the treaties that govern intellectual property - copyright and neighbouring rights, patents and trademarks - and critically assess their relevance for global economic and social development. Traditional and alternative dispute resolution machinery will be discussed. It will then examine key developments in intellectual property law and policy in the information society; including the impact of the Internet and creative industries' response, emerging structures for creativity and innovation, and the 'development agenda'. The unit will also explore efforts at the global level to find sustainable solutions to critical challenges in fields such as public health and access to medicines, biodiversity and access to genetic resources, protection of traditional knowledge, limitations and exceptions to copyright works, and the role of intellectual property protection in the digital environment.

LAWS6930 International Sports Arbitration

6 Credit Points

Adj Prof Malcolm Holmes

Offered: Semester 2a **Classes:** See Sydney Law School in Europe www.law.usyd.edu.au/

Assessment: class participation (20%), 1xtake home exam (80%)

This unit will provide a detailed insight into the principles and practice of the rapidly expanding field of international sports arbitration and in particular the arbitration of disputes arising in Olympic sports. Topics include an overview of the organisation of the Olympic Games and of the Court of Arbitration for Sport (CAS); arbitration agreements; legal problems in selection disputes and other multi-party disputes; the practice in the Ad Hoc Division of the CAS at the Olympic Games; procedural issues and the rights of participants; the applicable law(s); the emergence of CAS arbitral awards as precedents; the World Anti-Doping Code; appellate arbitration processes; and the enforcement of arbitration agreements and awards. This intensive unit will be taught over 4 days, at one of the oldest colleges in the heart of Cambridge, by Malcolm Holmes QC, an experienced international arbitrator and a member of the Ad Hoc Division of CAS at the Athens and Turin Olympic Games with guest lectures by other leading practitioners in the area.

LAWS6820 International Trade and Environment

6 Credit Points

Ms Katherine Miles

Prohibition: LAWS6173 **Offered:** S2 Late IntB

Classes: block/intensive **Assessment:**

1x6000wd assignment (60%) and 1xproblem assignment (40%)

This unit of study examines the sources of tension between the law and policy aspects of the international trade liberalisation regime, environmental protection and ecologically sustainable development. It examines the obligations imposed by the World Trade Organisation (WTO) framework and the scope and operation of environmental exceptions that have been considered in recent trade environment disputes. It explores these developments from the perspective of parallel initiatives in international law aimed at promoting Ecologically Sustainable Development domestically and globally. The Agreements on Food Safety Standards and Technical Barriers to Trade are also covered to the extent that they impose limitations on nations' ability to specify the manner in which the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) and the rights and duties created by the Convention on Biodiversity are also discussed. The unit contrasts the WTO regime with that implemented by regional trade groups such as the European Union, the North American Free Trade Agreement (NAFTA) and the Asia Pacific Economic Cooperation Forum (APEC) and attempts some evaluation of their relative

strengths in promoting ESD. It also reflects on the attempts to negotiate an agreement on investment liberalisation and the issues that raises for environmental protection initiatives. By the end of the unit participants should be able to critically assess the prospects for future harmonisation of global free trade regimes and ESD principles in the context of the Australian debate on these issues.

LAWS6857 Introduction to Chinese Law

6 Credit Points

Ms Vivienne Bath

Prohibition: LAWS6001 and candidates who have completed a law degree in the People's Republic of China **Offered:** S1 Late IntC

Classes: block/intensive **Assessment:**

1x2000wd assignment (30%) and 1x take-home exam (70%)

This unit covers the legal system of the People's Republic of China. It will address Chinese legal history and tradition and the development of modern Chinese law, and will look at the Chinese court system and dispute resolution, constitutional and administrative law, the civil and criminal systems and other specific areas such as land law, labour law and intellectual property. The unit will also look at the influence of international law on the Chinese domestic legal system and China's developing role in international law. Practical aspects of the implementation of a legal system in China and attitudes towards the rule of law will also be considered. The research paper will address Chinese law or a comparative analysis of Chinese law and the legal systems of one or more other countries.

LAWS6881 Introduction to Law for Health Professionals

6 Credit Points

Assoc Prof Cameron Stewart

Prohibition: LAWS6252 **Offered:** S1 Intensive

Classes: block/intensive mode **Assessment:**

1x2000wd assignment (40%), 1x3000wd take-home exam (50%), compulsory attendance at workshops (10%)

This unit is designed for postgraduate candidates who do not have a legal background and who are enrolling in the Health Law Program. The unit will provide students with an introduction to law and legal skills with an emphasis on issues of particular relevance to the field of health law. The unit commences with an overview of the development of the common law and provides an examination of the development of case law and its relationship with legislation. The unit will also examine the rules and principles for interpreting statutes and consider the structure of courts and tribunals in Australia. In addition to addressing these foundational elements of the legal system, the unit will consider specific fields of law that have special relevance health law. These may include constitutional law, tort law, criminal law and administrative law. A major component of the unit comprises workshops that deal with the analysis of cases, the interpretation

of legislation, essay writing skills and approaches to legal problem solving. The unit is taught once a year and is a substitute for LAWS6252.

Textbooks

Cook, Creyke, Geddes and Hollway *Laying Down the Law* (2005)

NB: candidates may enrol in this unit or LAWS6252, but not both. Candidates are encouraged to enrol in this unit where possible.

LAWS6810 Introductory Corporate Law

6 Credit Points

Mr Saul Fridman

Prohibition: LAWS2003, CLAW2001 or equivalent undergraduate or postgraduate corporate law unit **Offered:** S1 Intensive

Classes: block/intensive mode **Assessment:** 1xtake-home exam (100%)

This unit is designed for those wishing to pursue postgraduate study involving aspects of corporate law, but who lack the required previous exposure to the subject. As our postgraduate units in corporate law (other than this one) are all specialised and taught at an advanced level, those wishing to enrol in such units but who have not studied corporate law in a Law School environment should undertake this unit. This unit will focus on the fundamental principles of law applying to public and proprietary companies. The unit will start with a brief history of the development of the corporate form and the evolution of Australian corporate law, before moving on to examine the nature of corporate personality, the incorporation process, corporate constitution, governance rules, duties of directors and remedies for shareholders.

Textbooks

Hanrahan, Stapledon & Ramsay, *Commercial Applications of Company Law*

LAWS6102 Japanese International Taxation

6 Credit Points

Prof Yoshihiro Masui

Offered: S1 Late IntB **Classes:** block/intensive **Assessment:** 1xtake home exam (100%)

The object of this unit is to provide an overview of the income tax system of Japan and a detailed analysis of the most important legislative and treaty rules of Japan in the area of international income tax, especially in dealings with Australia. Upon successful completion of the unit, candidates will have an advanced understanding of the policies underlying the Japanese rules for taxing international transactions as well as a detailed knowledge of the principles of income tax law applicable to inbound and outbound transactions. This unit includes a study of: overview of the Japanese income tax system; taxation of inbound investment into Japan; taxation of outbound investment from Japan; transfer pricing, Japan's tax treaties, and current tax controversies.

LAWS6879 Japanese Law

6 Credit Points

Assoc Prof Luke Nottage (Coordinator)

Offered: Semester 1a **Classes:** block/intensive

classes held in Japan **Assessment:** 2x1000wd reflective notes (10% each) and 1x7000wd research essay (80%)

This unit provides an introduction to Japanese law in global context, focusing on its interaction with civil justice, criminal justice, business, politics, gender, and the legal professions. It is taught intensively in Kyoto at Ritsumeikan University Law School (Kyoto Seminar: www.kyoto-seminar.jp), leading into the more specialist "Tokyo Seminar" in Japanese Law and the Economy taught (LAWS6901, recommended but not a co-requisite for this unit). Lecturers include academics from Ritsumeikan and other leading Japanese universities, as well as from Australia (especially from The University of Sydney, UNSW and ANU), with guest lectures by prominent practitioners and a field study to a local bar association and the courts [tbc]. Candidates will also interact with students from Japanese, Australian and other universities or institutions taking this unit, supported by the Australian Network for Japanese Law (www.law.usyd.edu.au/anjel).

NB: further information is available at www.kyoto-seminar.jp or contact Assoc Prof Luke Nottage by e-mail at l.nottage@usyd.edu.au or telephone 9351 0210

LAWS6901 Japanese Law and the Economy

6 Credit Points

Assoc Prof Luke Nottage (Coordinator)

Assumed knowledge: undergraduate degree in law, business or Japanese Studies **Offered:** Semester 1a **Classes:** block/intensive classes held in Japan **Assessment:** 2x1000wd reflective notes (10% each) and 1x7000wd research essay (80%)

This unit examines Japanese business law in global context, focusing for example on Japan's trade and investment environment, insolvency and corporate governance, consumer regulation, ADR, and lawyering (especially in Tokyo). It is taught in Japan at Ritsumeikan University Law School's Tokyo campus, following the more wide-ranging Japanese Law unit taught at their Kyoto campus (LAWS6879, recommended but not a prerequisite for this unit). Lecturers include academics from Ritsumeikan and other leading Japanese universities, as well as from Australia (especially from The University of Sydney, UNSW and ANU), with guest lectures by prominent practitioners and a field study to the Legal Department of a major Japanese corporation. Candidates will also interact with students from Japanese, Australian and other universities or institutions taking this unit, supported by the Australian Network for Japanese Law (www.law.usyd.edu.au/anjel).

NB: further information is available at www.kyoto-seminar.jp or contact Assoc Prof Luke Nottage by e-mail at l.nottage@usyd.edu.au or telephone 9351 0210

LAWS6934 Judging

6 Credit Points

Adj Prof Ronald Sackville

Offered: S1 Late IntC **Classes:** block/intensive
Assessment: 2x5000wd essays (50% each)

The unit focuses on the changing role of the judiciary in Australia, primarily (but not exclusively) by reference to the civil justice system. The aim is to examine the functions and responsibilities of judges, the institutional structures and constraints within which they operate and the impact on the judiciary, litigants and the legal profession of the advent of active case management as the norm for most courts. Consideration will be given to the fundamental attributes of the Australian judicial system: independence, impartiality, fair procedures and reasoned decisions. The unit will explore the extent to which these attributes are consistent with moves to increase 'access to justice' and whether they require all courts to be self-governing (as are federal courts). We shall also assess the significance for judges and litigators of the transformation of the trial judge's role from passive adjudicator to case manager. For example, what are the implications in relation to discovery, expert evidence and the conduct of the trial, especially long and complex matters? What is the judge's role in relation to 'querulous litigants' and recalcitrant parties (or representatives)?

Within this framework, the unit will examine how judges go about making decisions and preparing judgments, both at first instance and on appeal. It will consider the impact of the decline of 'orality' in litigation and of the increased reliance on written materials.

The unit will examine factors that bear on the 'quality' of the judiciary and of judicial decision-making, including the criteria and procedures (if any) governing judicial appointments, the scope and effectiveness of judicial education programs and the mechanisms available to deal with complaints about judicial performance or behaviour. This will also include an evaluation of the concept of 'open justice' and the fraught relationship between the judiciary and the media.

Finally there will be an opportunity to address the insights disciplines such as economics and psychology offer as to the motivation and characteristics of judges. What is the effect on the judiciary of increases in its size and changes in its composition?

JURS6034 Jurisprudence Research Project A
6 Credit Points

Supervised by an appointed academic staff member

Corequisite: JUR56035 **Offered:** Semester 1 & Semester 2 **Assessment:** approx 20,000wd research project

Candidates must submit a detailed proposal and seek approval from the Program Coordinator prior to enrolment.

NB: Candidates must complete both JUR56034 and JUR56035 within one or two semesters.

JURS6035 Jurisprudence Research Project B
6 Credit Points

Supervised by an appointed academic staff member

Corequisite: JUR56034 **Offered:** Semester 1 & Semester 2 **Assessment:** approx 20,000wd research project

Candidates must submit a detailed research project proposal and seek approval from the Program Coordinator prior to enrolment.

NB: Candidates must complete both JUR56034 and JUR56035 within one or two semesters

LAWS6071 Labour Law

6 Credit Points

Dr Shae McCrystal

Corequisite: LAWS6252 (MLLR candidates)

Prohibition: WORK6116 **Offered:** S1 Intensive **Classes:** block/intensive **Assessment:** class participation (10%), 1x1500 wd essay (25%), 1x take home exam (65%)

The purpose of this unit is to introduce candidates to the principles of labour law. It is designed specifically for MLLR candidates who do not have a law degree or for any candidates with a law degree who have not recently undertaken an undergraduate labour law course. The goal of the unit is to equip candidates with the fundamental principles of labour law that they will need to undertake more advanced labour law units within the MLLR and LLM Degrees. It provides an introduction to the contract of employment and the relevant principles governing the employment relationship, including termination of employment. It then introduces candidates to the workplace relations framework including collective bargaining and industrial conflict; the modern role of awards and statutory regulation of wages and conditions.

The unit is compulsory for candidates enrolled in the MLLR. However, the requirement to take this unit may be waived upon application to the Program Coordinator if the candidate can demonstrate proficiency in the course objectives gained through completing a recent undergraduate law course in labour law or work experience.

NB: compulsory for MLLR candidates

LAWS6816 Labour Law in the Global Economy

6 Credit Points

Prof Joellen Riley

Corequisite: LAWS6252 and LAWS6071 (MLLR candidates) **Offered:** S2 Late IntB **Classes:** block/intensive **Assessment:** class participation (20%), 1x6000wd research essay (80%)

Globalisation and rapid developments in information technology have created particular challenges for labour law. This unit focuses on broad themes in labour law from an international perspective, and - for 2009 only - will take advantage of a major international labour law conference being held in Sydney to invite the participation of visiting Professors from the United Kingdom, Europe, Canada and the United States to provide comparative perspectives on themes such as: modes of worker engagement,

and 'precarious' work; outsourcing, off-shoring, and business networking and their impact on labour law; the challenges for effective worker representation at a time of declining union membership; and the challenges of new technology on working patterns and conditions of work.

LAWS6072 Law, Ageing and Disability

6 Credit Points

Prof Terry Carney

Offered: Semester 1 **Classes:** (1x2hr lec)/wk

Assessment: 1x research paper (65%), 1x take-home exam (25%) and class participation (10%)

This unit deals with the law which is of special concern to aged and disabled people (such as younger people who are victims of brain trauma, intellectual disadvantage or premature ageing). Aged and disabled people represent a rising proportion of the population and will soon comprise one in four Australians. They have special but distinctive needs: for income, health care, substitute decision-making and investment /retirement planning or assistance to participate fully in society. The law in these areas has close connections with other disciplines (social work, disability services and gerontology, investment advice, etc). Society is making increasing demands on lawyers to provide advice on the range of legal issues confronting aged and disabled people. This unit caters to that need. Topics to be covered will include: context for the law, including: demography and trends; socio-medical; characteristics of ageing/impairment; ethical context of ageing and disadvantage; the pattern of laws and services; income security, including: age pensions; the basic framework; assets testing; investment income; private planning of property/income, including: powers of attorney, enduring powers, warranty provisions; wills /succession; superannuation treatment/ retirement incomes policies; private planning of services, including: special accommodation houses; retirement villages; hostels and nursing homes; disability services (State); disability services (Commonwealth); public accountability, including: community visitors/advocacy; statutory watch-dog agencies (eg. Office of Public Advocate); guardianship and administration boards; securing legal rights to services (eg. disability review tribunals in California and Victoria).

LAWS6928 Law and Economic Development

6 Credit Points

Assoc Prof Y S (Steve) Lee

Offered: Semester 1 **Classes:** (1x2hr lec)/wk

Assessment: class participation (10%), 1x4000wd essay (40%), 1xopen book exam (50%)

The proposed unit offers instruction on international trade law and economic development. This unit, based on the instructor's own books, "Reclaiming Development in the World Trading System" (Cambridge University Press, 2006) and "Economic Development

through World Trade: A Developing World Perspective" (Kluwer Law International, 2007) provides a broad discussion of the implication of the current legal and economic framework for international trade on the economic development of developing countries. The unit also examines the need for changes with the current international trade law to better facilitate economic development. The latter half of the unit is devoted to the examination of regional development cases.

LAWS6932 Law and Investment in Asia

6 Credit Points

Dr Simon Butt

Offered: S1 Intensive **Classes:** block/intensive

Assessment: class participation (10%), 1x2000-2500wd take home exam (30%), 1x5000wd essay (60%)

The aim of this unit is to provide students with a broad overview of the key legal issues commonly faced when investing and doing business in Asia. This unit covers areas of commercial law in three of the following jurisdictions: China, Japan, Indonesia, Malaysia and India. The unit focuses on the issues related to direct foreign investment by Australian or other foreign businesses in the jurisdictions dealt with in the course. Issues covered will include laws related to foreign investment, and also related laws of contract, labour law, corporate governance, intellectual property, Islamic finance law (where relevant) and WTO compliance. The unit will also cover key issues in modern comparative law which may assist students in their study of 'foreign' legal systems.

LAWS6112 Law of Tax Administration

6 Credit Points

Adj Assoc Prof Cynthia Coleman

Assumed knowledge: It is recommended that candidates who are not working in the tax area and have not taken an undergraduate tax unit in Australia in the past five years undertake LAWS6128 or LAWS6825 before enrolling in this unit. If in doubt, please consult the Taxation Program Coordinator. **Offered:** S2 Late IntB **Classes:** block/intensive **Assessment:** 1x3000wd assignment (30%) and 1x2hr exam (70%)

Tax Administration is a study of the theoretical and practical issues that arise in the administration of the Australian tax system, concentrating primarily on the income tax. The unit of study is structured around the key design features of any system of tax administration, namely ascertainment of liability (particularly self assessment), dispute resolution, and collection and recovery of tax. Particular emphasis will be given to the reforms implemented as a result of the Government's Review of Self Assessment. Wherever relevant, the interaction of administration issues with the substantive provisions of the tax law will be considered. Candidates should gain an understanding of the foundational rules underlying the administration of the income tax

laws and a detailed knowledge of the application of those laws to a variety of common dealings between taxpayers and the tax administration.
NB: This unit replaced LAWS6112 Tax Administration

LAWS6047 Law of the Sea

6 Credit Points

Dr Tim Stephens

Offered: Semester 1 **Classes:** (1x2hr lec)/wk

Assessment: 1x essay (60%) and 1x take-home exam (40%)

This unit reviews the major areas of the law of the sea in the 1982 UN Convention on the Law of the Sea, additional international conventions and agreements and current state practice. Each of the major maritime zones is assessed in addition to a specific review of sectorial issues such as navigation rights and the marine environment. Appropriate reference will be made to Australian law and practice.

LAWS6252 Legal Reasoning & the Common Law System

6 Credit Points

Prof Terry Carney (S1 Intensive - Group A), Dr Thalia Anthony (S1 Late Int - Group B), Mr Michael Skinner (S2 Intensive - Group C)

Prohibition: LAWS6881 **Offered:** S1 Intensive, S1 Late IntB & S2 Late IntA **Classes:**

block/intensive **Assessment:** compulsory attendance/completion of workshops, 2x2500wd assignments (50% each)

This is a compulsory unit for all postgraduate candidates who do not hold a degree in law entering the: Master of Administrative Law and Policy; Master of Environmental Law; Master of Environmental Science and Law; Master of Health Law; Master of International Business and Law; Master of Labour Law and Relations as well as Graduate Diplomas offered in these programs.

The unit has been designed to equip candidates with the necessary legal skills and legal knowledge to competently apply themselves in their chosen area of law. Instruction will cover the legislative process; the judiciary and specialist tribunals; precedent; court hierarchies; legal reasoning; constitutional law; administrative law; contracts; and torts. Some elements of the unit will be tailored in accordance with the requirements of the particular specialist programs.

NB: International candidates must enrol in the Week 1 intensive session of their first semester of study.

LAWS6077 Legal Research 1

6 Credit Points

Prof Terry Carney

Prohibition: not available to coursework candidates **Offered:** Semester 1 **Classes:** (1x2hr lec)/wk **Assessment:** 1x4000-6000wd essay (60%), 1x critical analysis of another candidate's research strategy essay (30%) and class participation (10%)

The primary goal of this unit is to develop skills

in undertaking a significant piece of legal research at levels of sophistication suitable for examination (in case of thesis candidates), and/or publication. At the conclusion of the unit it is anticipated that members of the class will be able to conceptualise the issues to be researched; will be able to locate relevant legal and other materials (using both hard copy and electronic bibliographic aids); will be able to place and sustain an argument (a 'thesis'); and will be able to assess both the quality of that work and to judge the merits of other approaches to planning such research. It is expected that candidates will become familiar with using comparative materials (both within the federation and international), and will gain a working familiarity with relevant research techniques of other disciplines in the social sciences. The unit aims to encourage debate about the respective merits of different approaches, ethical issues, and the hallmarks of 'quality' research.

NB: compulsory for all research degree candidates. The unit must be undertaken within the first year of candidature.

LAWS7001 Legal Research 2

6 Credit Points

Prof Terry Carney

Prerequisite: LAWS6077 **Offered:** Semester 2

Classes: (1x2hr lec)/wk **Assessment:** preparation of an approved foundation chapter (70%) and class participation (30%)

The unit will cover the following topics: higher degree research - students, supervisors and the faculty; refining your thesis - lessons from the strategy; developing/locating your thesis - lessons from the strategy; comparative law techniques; using international law materials; using historical materials/methods; conceptualising and researching the law in action; narratives, interviews, case-studies and other 'selective' forms of analysis; quantitative research methods - common pitfalls; quantitative research methods - forms of presentation and analysis; current problems in research & presentation; current problems II; and overview and review.

NB: compulsory for PhD and SJD candidates

LAWS7002 Legal Research 3

6 Credit Points

Prof Hilary Astor

Prerequisite: LAWS6077 and LAWS7001

Offered: S2 Late IntA **Classes:** Candidates are required to attend an initial meeting as scheduled on the timetable. 2xother sessions (including 1xday presentation given by candidates) will be decided at this meeting

Assessment: Assessment will be on a pass/fail basis. The assessments are 1. Seminar presentation on an aspect of the candidate's thesis; 2. A written outline of goals for the unit and written reflection on achievements during the course and 3. Reading, commenting on and providing written feedback on a chapter of the thesis of another class member.

This unit provides candidates who are nearing the end of the process of writing their thesis with the support and resources to assist them to complete in a timely manner. It provides opportunities for participants to refine and improve their writing by exposing central ideas from their theses to constructive criticism by colleagues; to develop the skills of presentation of scholarly work in an academic setting; to provide access to a group of people who are all engaged in completing theses and who can provide informed support. The unit can be tailored to the needs of individual candidates.
NB: compulsory for PhD and SJD candidates

LAWS6929 Legal Systems of the Pacific

6 Credit Points

Justice G D Woods

Offered: Semester 1 **Classes:** (1x2hr lec)/wk

Assessment: class participation (10%), 1x4000wd essay (40%), 1xexam (50%)

This unit is a conspectus of contemporary law and legal problems in selected countries of the Pacific, including Fiji, the Solomon Islands, Samoa, Tonga and Vanuatu. These legal systems will be dealt with in the light of the history, demography, economy, political structures and cultures of the various jurisdictions. The unit will include some input from a number of Australian lawyers who have practised in these countries and who can illuminate written descriptions of the law by insights gained from their own direct experiences.

LAWS6935 Mediation of Commercial Disputes

6 Credit Points

Adj Prof Alan L Limbury, Ms Mary Walker, Mr Robert Angyal

Offered: S1 Late IntC **Classes:** block/intensive

Prohibition: LAWS6821 **Assessment:** class participation (20%), 1xreflective journal (10%), 1xgroup project (20%), 1x5000wd essay on practical issues in commercial mediation (50%)

The objectives of the unit are: Identify where mediation sits amongst available dispute resolution processes, its distinguishing characteristics and advantages and the legal environment in which it is used in resolving commercial disputes;

Learn to apply mediation principles and techniques in the resolution of commercial disputes; and Explore topical issues in commercial mediation.

The content of the unit will cover the following topics: Elements of principled negotiation techniques in commercial mediation, the seven elements of a good outcome, hard and soft positional bargaining, their advantages and disadvantages, the superiority of principled negotiation, rules of thumb for more effective negotiation, the currently perceived choice tool; Phases of and techniques used in mediation – preparation, introduction, understanding, negotiation, agreement, completion; Mediator accreditation and recognition, ethical obligations, conflicts, confidentiality, without prejudice

privilege and its exceptions, notifiable events, statutory schemes, complaints about mediators, liability of mediators, liability of lawyers, compellability to testify, mandatory mediation, whether serving judges should mediate, dangers to facilitative mediation, med-arb and how to make it attractive, online mediation; Mediation in particular types of commercial dispute e.g. debt, franchising, intellectual property, IT, defamation, professional negligence, health care, farm debt, retail tenancy, where there are insurers, class actions, civil penalty cases e.g. trade practices and securities regulation, where government is a party, where the real decision-maker cannot attend; and Cases and materials.

NB: Available to law graduates only

LAWS6821 Mediation - Skills and Theory

6 Credit Points

Prof Hilary Astor

Offered: S2 Intensive **Classes:** block/intensive

Prohibition: LAWS6935 **Assessment:** class participation (25%), reflective journal (formative assessment), 1xessay dealing with mediation practice issues (25%) and 1x3500wd essay on mediation theory (50%)

This unit will teach you the fundamental skills and theory of mediation. The skills component of the unit will be extensive and is the reason for the limited enrolment. However, mediation is not simply a procedural template that can be learned and applied to every dispute with benefit. It raises interesting and complex issues of theory and ethics, which will be integrated with the skills components of the unit. Issues of culture, power, mediator neutrality and ethical dilemmas for the mediator will be considered.

Textbooks

Laurence Boulle *Mediation Skills and Techniques* Butterworths, Australia, 2001

NB: Candidates enrolling in this unit need to commit themselves to attending all classes. The skills learning takes place in class and skills are built incrementally from the beginning to the end of the unit. Candidates cannot catch up on elements they have missed by doing reading outside class - they must participate in all scheduled sessions. If candidates have a problem with attendance, they should postpone enrolling or transfer to another unit by the relevant census date.

LAWS6877 Mental Illness: Law and Policy

6 Credit Points

Prof Duncan Chappell

Offered: S2 Late IntB **Classes:** block/intensive

Assessment: 1x3000wd assignment (40%), 1x4500wd research paper (60%)

This unit deals with the law relating to mental health issues in Australia including human rights principles. Background material on the nature and incidence of mental illness, psychiatric and medical issues, as well criminological and public policy literature will be considered where relevant. The unit covers substantive issues from civil treatment, welfare law, and criminal law.

Topics covered will include: the social context of mental illness and the current and historical approaches to treatment of the mentally ill; contemporary State, Territorial and Federal involvement in mental health policy and legislation; the present framework of NSW mental health law and related welfare law including the Mental Health Act, Guardianship Act, Protected Estates Act and Mental Health (Criminal Procedure) Act; the process of scheduling persons with a mental illness; review mechanisms including the roles of the medical superintendent, magistrates, the mental health review tribunal and the Supreme Court; longer term detention of the mentally ill; community treatment and community counselling orders; protected estates and guardianship orders; electroconvulsive therapy; consent to surgery and special medical treatment; the defence of not guilty on the grounds of mental illness, the review of forensic patients and the exercise of the executive discretion; the issue of unfitness to be tried; the involuntary treatment of prisoners in the correctional system; and proposals and options for reform.

LAWS6848 New Directions in Public Health Law

6 Credit Points

Prof Roger Magnusson

Offered: S1 Intensive **Classes:** block/intensive mode **Assessment:** compulsory classwork (20%) and 1x6000wd research paper (80%) or take-home exam (80%)

Can the law improve public health? If so, how does it do this, and to what extent should we let it? This unit aims to deepen candidates' appreciation of the role and possibilities of law as an instrument of policy designed to protect and promote public health. In particular, this unit will examine the contribution law is making (and could make) through novel forms of regulation, in areas where law's presence is contested, and where the public health challenge that law responds to is novel, unique, or an emerging one. Key topics include: the limits of law's role in promoting human health; future prospects for tobacco control; the obesity epidemic; healthy environments; regulating alcohol; and the role of law and policy in responding to new epidemics (with a focus on Creutzfeldt Jakob Disease (CJD), and vCJD (the human form of "mad cow's disease"). If time permits, the unit will briefly consider future themes in public health law, including the intersection between genetics and public health, and future priorities for global health governance.

Throughout the unit, candidates will be encouraged to critically evaluate the success of the strategies law adopts to protect and promote public health, to explore new strategies that law might adopt, and to reflect on the tension between the public interest in protecting health, and competing interests.

Textbooks

Useful references include: 1) Christopher

Reynolds, *Public Health Law and Regulation*, Federation Press, 2004 [Australia focus] and 2) Lawrence O. Gostin, *Public Health Law: Power, Duty, Restraint*, University of California Press, 2000 [US focus]

NB: compulsory for GradDipPubHL candidates

LAWS6197 Policing Australian Society

6 Credit Points

Prof Mark Findlay

Offered: Semester 1 **Classes:** (1x2hr lec)/wk

Assessment: 1xclass presentation (20%), 1x in-class test (10%), 1xresearch paper (30%) and 1xexam (40%)

This unit traces the development of civil policing in Australia. Policy is viewed both within and beyond the state. Certain unique features of contemporary police practice are highlighted and critical consideration is given to the community framework within which the police now operate. Current issues in policy are discussed and debated in a context of justice and the inextricable connection with policing. The principle themes of the unit are: concepts of policing; the history and contemporary philosophy of policing and current issues in the institutions and processes of policing in Australia. The topics around which the seminars are constructed juxtapose crucial features of police work such as discretion, accountability, culture and authority against contemporary challenges such as malpractice, professionalism, community policing and police powers.

LAWS6836 Precedent, Interpretation & Probability

6 Credit Points

Adj Prof Christopher Birch

Prohibition: JURS6028 and JURS6029 **Offered:** Semester 1 **Classes:** (1x2hr lec)/wk

Assessment: 1x7500wd essay (100%) or 1xclass presentation (30%) and 1x5000wd essay (70%)

This unit will examine three important problems in contemporary legal philosophy with particular emphasis on the way they bear on legal reasoning in current Australian judicial decision-making. The first two problems concern the application of precedent, and the interpretation of statutes, constitutions and other texts. Current theories of legal reasoning will be examined to see whether they properly constrain judicial decision-making. The ideas of contemporary defenders of common law reasoning such as Ronald Dworkin and Cass Sunstein will be contrasted with sceptics such as Stanley Fish. Finally, the unit will examine the debate concerning the application of mathematical probability theory to reasoning about fact. Facility with the mathematical calculus is not a prerequisite and this aspect of the unit will focus on the philosophical debates regarding the nature of reasoning about issues of fact.

Textbooks

Harris, *JEW Legal Philosophies*, 2nd Edition, Butterworths, London 1997

LAWS6919 Problems in Contract Formation
6 Credit Points

Adj Prof Michael Furmston

Assumed knowledge: undergraduate law degree **Offered:** S1 Late IntC **Classes:** block/intensive **Assessment:** 1x10,000wd essay (100%)

Issues surrounding contract formation are the most litigated contract law matters. This unit, after some introductory classes on contract formation, will concentrate on some of the more problematic aspects of contract formation. Topics covered will include letters of intent, letters of comfort, conditional contract, tender, electronic contracts, good faith in contract negotiation, the battle of the forms and pre-contractual liability.

LAWS6243 Public International Law
6 Credit Points

Dr Fleur Johns, Ms Katherine Miles (S6) and Dr Jacqui Mowbray (S2)

Offered: Semester 2 & S1 Intensive **Classes:** block/intensive (S6), (1x2hr lec)/wk (S2) **Assessment:** 1x3000wd essay (40%) and 1x2.5hr exam (60%)

This unit of study is an introduction to the general problems of public international law designed for students with no prior background in this area. Particular attention will be given to the function and scope of international law, with particular reference to sources of international law, and their relationship with municipal (Australian) law. Consideration will also be given to principles of state responsibility, immunities, and dispute resolution while drawing on illustrations from human rights and the environment. This unit also provides a preliminary investigation of the effects of the globalisation of law and its impact on domestic legal systems.

NB: compulsory for MIL and GradDipIntLaw candidates who have not completed any previous study in international law and pre-requisite for other law units

LAWS6257 Public Policy

6 Credit Points

Prof Patricia Apps

Prohibition: LAWS6139, LAWS6042, LAWS6113

Offered: S2 Late IntB **Classes:** block/intensive **Assessment:** 1xresearch essay (90%), 1x problem based assignment and class presentation of a case study (10%)

The aim of the unit is to provide an understanding of the role of government policy within the analytical framework of welfare economics. Questions of central interest include: What are the conditions that justify government intervention? How can policies be designed to support basic principles of social justice? What kinds of reforms promote economic efficiency? Applications will range from taxation and social security to environmental regulation and protection, and will cover the following specific topics: The structure of the Australian tax-

benefit system; Uncertainty and social insurance; Unemployment, health and retirement income insurance; Externalities, environmental taxes and tradeable permits; Monopoly and environmental regulation; Utility pricing and access problems; Cost benefit analysis, intergenerational equity and growth. The unit will provide an overview of the main empirical methodologies used in evaluating policy reforms in these areas. Candidates may select to specialise in one or more of the policy areas.

NB: compulsory for MALP candidates

LAWS6198 Refugee Law

6 Credit Points

Prof Mary Crock

Offered: Semester 1 **Classes:** (1x2hr lec)/wk **Assessment:** class participation (20%), 1x8000wd research essay (80%)

Refugee Law provides candidates with a practical and theoretical understanding of the development and operation of international refugee law, and forced migration more broadly. Forced migration is not a new phenomenon. What has changed over the last century is the scale and frequency of the conflagrations causing the mass movement of peoples and the ease with which individuals have become able to move around the world in search of protection. Although Australia's experience of direct refugee flows has been limited, it has not escaped the phenomenon of mobile refugees. Non-citizens who come uninvited and thereafter seek protection as refugees are the source of inordinate public concern and debate. The controversy arises in part from a sense of loss of control of immigration, and also from the cost of the processes available to asylum seekers fighting to remain here. Having signed and ratified the key international treaties, Australia has assumed certain international legal obligations with respect to refugees. The most important is the obligation not to return or 'refouler' a refugee to a place where she or he faces persecution on one of five grounds. This unit is designed to give candidates a critical understanding of the international legal regime of refugee protection. It begins with an overview of the evolution of refugee law at the international level, considering the various conceptualizations of refugeehood that have characterized international agreements from the period of the League of Nations through to the present day. The unit then turns to issues such as the definition of the term 'refugee' under international (and regional) law, the express exclusion of certain persons from refugee status, the rights and obligations accorded to refugees, the broadening of international protection through principles of human rights and humanitarian law ('complementary protection'), and the impact of terrorism on asylum procedures and eligibility. It considers attempts by States to restrict access to asylum through mechanisms such as carrier sanctions, interdiction, transit processing centres,

detention, and 'safe third countries' to which asylum seekers may be removed. Contemporary protection concerns, such as mass influx situations and temporary protection, flight from generalized violence and civil war, internal displacement, burden-sharing, and the question of 'economic migrants' and 'environmental refugees', are also addressed. These considerations necessarily require an understanding of the role of international organizations such as UNHCR, the mechanisms in place for refugee status determination and appeals in Australia and abroad, and the jurisprudence that has developed internationally and in Australia relating to the qualification and rights of asylum seekers, refugees and other persons in need of protection.

LAWS6003 **Reproduction and the Law**

6 Credit Points

Prof Belinda Bennett

Offered: S2 Intensive **Classes:** block/intensive

Assessment: 1x class presentation and paper (20%) and 1x8000wd essay (80%)

This unit considers legal issues relating to reproduction. Topics to be covered in the unit include: wrongful birth, prenatal injury, wrongful life, abortion, the rights of the foetus, reproductive technology (including legal regulation, eligibility for treatment, access to information, research using embryos, surrogacy), sterilisation and intellectual disability. The unit will aim to situate the legal issues within their broader social context, with reading materials interdisciplinary and comparative in nature. Student participation in class discussion will be expected.

LAWS6808 **Sports Law**

6 Credit Points

Mr Saul Fridman

Prohibition: LAWS6248 Legal Issues in Sports Medicine **Offered:** S1 Late IntC **Classes:** block/intensive

Assessment: 1x10000wd paper (100%) or class presentation (100%) or moot court exercise (100%)

Sporting activity cuts across a number of disparate areas of law. Increasing professionalisation, the enormous growth in the Olympic Movement and the commercialisation of sport have all contributed to the development of Sport as a business, as well as a pastime. As a result there has been increasing intersection of the law with sporting activity. In this unit we will examine the following: the economics of sports leagues; the structure of sporting organisations; international and national governance of sport; the impact of administrative law on the working of disciplinary tribunals; industrial law and the treatment of the athlete as employee; labour market controls and the impact of competition law; player agents; the law and policy relating to doping of athletes; the impact of intellectual property laws on sponsorship and promotion of sporting events. While the unit will be international in its focus, particular attention will be paid to recent events that have taken place in

Australia including: the breach by the Canterbury Bulldogs of salary cap rules in the 2002 NRL season; the battle for control of Rugby League between the ARL/NSWRL and News Limited; recent challenges to positive drug tests by Australian athletes. The unit will be taught intensively and will involve instruction provided by leading members of the legal and sporting community.

Textbooks

Materials supplied by lecturer: Buti and Fridman, Sports, Drugs and the Law, 2001 Scribblers Press; Mudgeeraba Barnes, Sports and the Law in Canada (3rd edition), Butterworths, 1996

LAWS6124 **Stamp Duties**

6 Credit Points

Mr Mark Richmond, Mr Richard Giannone, Mr Peter Green

Assumed knowledge: It is recommended that candidates who are not working in the tax area and have not taken an undergraduate tax unit in Australia in the past five years undertake LAWS6825 before enrolling in this unit. If in doubt, please consult the Taxation Program Coordinator. **Offered:** Semester 2 **Classes:** (1x2hr lec)/wk **Assessment:** 1x exam (60%) and 1x class assignment (40%)

The object of this unit is to consider in detail the application of the stamp duties legislation to various commercial transactions. Particular attention will be paid to the ongoing attempts to enact uniform legislation in the Australian states. Upon successful completion of this unit a candidate should have an advanced understanding of the fundamental principles underlying the operation of the state stamp duties laws and detailed knowledge of the application of stamp duties to a variety of common commercial transactions. The unit will examine the stamp duties legislation and the application of the provisions of those acts to various property, contractual and trust situations commonly encountered in practice.

LAWS6008 **Takeovers and Reconstructions**

6 Credit Points

The Hon Justice R P Austin (Coordinator)

Assumed knowledge: LAWS6810 or background in Australian corporate law **Offered:** Semester 1 **Classes:** (1x2hr lec)/wk

Assessment: 2xclass assignments, 1x2hr open book exam

This unit will involve detailed study of the requirements of chapters 6A, 6B and 6C of the Corporations Act with respect to the acquisition of company shares and takeovers. It will also examine selected aspects of the law concerning corporate reconstruction where a change of control is involved (including schemes of arrangement, selective reductions of capital and other forms of compulsory acquisition of minority holdings). The unit is taught by lawyers with extensive experience in takeovers and reconstructions.

LAWS6200 **Tax Law in Asia and the Pacific**

6 Credit Points

Prof Lee Burns

Assumed knowledge: It is recommended that candidates who are not working in the tax area and have not taken an undergraduate tax unit in Australia in the past five years undertake LAWS6825 before enrolling in this unit. If in doubt, please consult the Taxation Program Coordinator. **Offered:** Semester 2 **Classes:** (1x2hr lec)/wk **Assessment:** 1xexam (70%) and classwork (30%)

The goal of this unit is to provide an overview of the tax systems of countries in the Asia Pacific region. The countries chosen for study will reveal the diversity of tax systems in the region, ranging from small island economies to transitional economies through to more developed economies. Countries examined will be selected from Singapore, Indonesia, PNG, Tonga, China including Hong Kong, and the Philippines. While the focus of the course is mainly on the income tax, the unit will provide an understanding of the role of other tax instruments (such as VAT, customs duty, excise and land taxes) used by countries in the region. As regards the income tax, the focus will be on international tax so that an assessment can be made of the likely tax consequences of investment in the country. Other issues to be covered include tax incentives, oil & gas taxation, and dealing with tax administrations.

LAWS6107 Tax Litigation

6 Credit Points

Mr Roger Hamilton

Assumed knowledge: It is recommended that candidates who are not working in the tax area and have not taken an undergraduate tax unit in Australia in the past five years undertake LAWS6825 before enrolling in this unit. If in doubt, please consult the Taxation Program Coordinator. **Offered:** Semester 2 **Classes:** (1x2hr lec)/wk **Assessment:** 3x2000wd assignments (100%)

The unit will examine the procedural and evidentiary aspects of the process of contesting assessments and collection procedures under Commonwealth taxation laws, as well as other proceedings involving the Commissioner of Taxation. Topics covered include information collection, challenging appeals, evidence, challenging Commissioner's discretions, and recovery of unpaid tax.

LAWS6840 Tax of Business and Investment Income A

6 Credit Points

Prof Lee Burns (S1 - Law School), Mr Nicholas Augustinos (S1, S2 - Taxation Training Program)

Prohibition: LAWS6190 **Offered:** S2 Late Ib & Semester 1 **Classes:** (1x2hr lec)/wk **Assessment:** 1x3000wd class essay (30%) and 1x2hr exam (70%) or 1x7500wd research paper (70%)

This unit, along with LAWS6841 Taxation of Business and Investment Income B, is designed

to provide an advanced study of the tax treatment of various important business transactions. It provides a detailed examination of the income tax and capital gains treatment of selected complex commercial transactions and their impact on the tax base.

The goal of the unit is to develop an understanding of the policies, detailed rules and current practical problems involved in this area of taxation, through the analysis of a number of specific problems discussed in each seminar. Because of continual change to the taxation system, recent legislative amendments and judicial decisions will be examined in detail where applicable. The unit will cover the following topics: Core income and expense rules and operational concepts underlying the income tax system; Treatment of realised business income and the differentiation of gains liable only to CGT; Treatment of business expenses and the differentiation of expenses recoverable under depreciation, CGT regimes or not at all; Issues in the treatment of trading stock; Issues in the tax treatment of the costs (and revenues) associated with business equipment.

This unit can be taken alone or in conjunction with LAWS6841 Taxation of Business and Investment Income B.

This unit is designed for candidates who already have a sound grasp of the Australian tax system and who wish to deepen their tax skills and expertise by further study. If you are not currently working in tax, or if you have not undertaken undergraduate tax study in Australia within the past five years, it is recommended that you undertake LAWS6825 The Impact of Tax on Business Structures and Operations before enrolling in this unit. If in doubt, consult a member of the academic staff in the tax program.

LAWS6841 Tax of Business and Investment Income B

6 Credit Points

Ms Celeste Black (Taxation Training Program - S7), Prof Graeme Cooper (Taxation Training Program - S2, Law School - S5)

Assumed knowledge: It is recommended that candidates who are not working in the tax area and have not taken an undergraduate tax unit in Australia in the past five years undertake LAWS6825 before enrolling in this unit. If in doubt, please consult the Taxation Program Coordinator. **Prohibition:** LAWS6150 **Offered:** Semester 2, Semester 1a & S2 Intensive **Classes:** block/intensive (S7, S5) and (1x2hr lec)/wk (S2) **Assessment:** 1x3000wd class essay (30%) and 1x2hr exam (70%) or 1x7500wd research paper (70%)

This unit, along with LAWS6840 Taxation of Business and Investment Income A, is designed to provide an advanced study of the tax treatment of important business transactions. It gives a detailed examination of the income tax and capital gains treatment of various complex commercial transactions and their impact on the tax base. The goal of the unit is to develop an

understanding of the policies, detailed rules and current practical problems involved in this area of taxation, through the analysis of a number of specific problems which will be discussed in each seminar. Because of continual change to the taxation system, recent legislative amendments and judicial decisions will be examined in detail where applicable. The unit will cover the following topics: Issues in business financing; The treatment of income and expenses relating to the use and development of land and buildings; Treatment of income and expenses relating to intangible business assets; Tax accounting rules for the recognition of income and expenses; Simplified tax system and other small business measures; and Specific and general anti- tax avoidance rules. The unit can be taken alone or in conjunction with LAWS6840 Taxation of Business and Investment Income A. This unit is designed for candidates who already have a sound grasp of the Australian tax system and who wish to deepen their tax skills and expertise by further study.

LAWS6129 Tax of CFCs, FIFs and Transferor Trusts

6 Credit Points
Prof Lee Burns

Assumed knowledge: It is recommended that candidates who are not working in the tax area and have not taken an undergraduate tax unit in Australia in the past five years undertake LAWS6128 or LAWS6825 before enrolling in this unit. If in doubt, please consult the Taxation Program Coordinator. **Offered:** S2 Late IntB **Classes:** block/intensive **Assessment:** 1x3000wd assignment (30%) and 1x2hr exam (70%)

Taxation of CFCs, FIFs and Transferor Trusts is a detailed study of Australia's anti-deferral rules. The unit examines the taxation of Australian residents with interests in foreign entities, such as foreign companies, trusts and partnerships, and the application of the CFC, FIF, transferor trust, and deemed present entitlement rules to those interests. The unit focuses particularly on the design differences between those rules, and their interactions and reconciliations. The unit will critically examine the policy underlying the rules and evaluate whether they effectively achieve their policy objectives, whether they are susceptible to tax planning and what their effects are on compliance, including compliance costs. There will be consideration of the ongoing reform of the rules. Candidates should gain a detailed understanding of the design and application of Australia's anti-deferral rules.

LAWS6177 Tax Treaties

6 Credit Points
Prof Richard Vann

Assumed knowledge: It is recommended that candidates who are not working in the tax area and have not taken an undergraduate tax unit in Australia in the past five years undertake LAWS6128 before enrolling in this unit. If in

doubt, please consult the Taxation Program Coordinator. **Offered:** Semester 1 **Classes:** (1x2hr lec)/wk **Assessment:** 1xexam or 1xresearch essay (70%) and class work (30%) This unit is designed to provide an advanced study of Australia's international tax treaties against the background of the OECD Model Tax Convention on Income and on Capital and to examine in-depth several current practical issues of international taxation arising from tax treaties especially the review of Australia's treaty policy following the Review of Business Taxation. Upon successful completion of this unit a candidate should have an advanced understanding of the policies underlying the Australian tax treaty position in relation to the taxation of various kinds of income, as well as a detailed knowledge of the law applicable to interpretation of Australia's treaties. The unit includes a study of: principles of double tax treaties; interpretation of tax treaties; the detailed articles of the OECD Model and Australian tax treaties; impact of tax treaties on investing overseas, including a study of the US international tax systems; entities and tax treaties.

LAWS6244 Taxation of Corporate Groups

6 Credit Points
Prof Richard Vann (S9, S2 - Taxation Training Program and S54 - Law School)

Assumed knowledge: It is recommended that candidates who are not working in the tax area and have not taken an undergraduate tax unit in Australia in the past five years undertake LAWS6030 before enrolling in this unit. If in doubt, please consult the Taxation Program Coordinator. **Offered:** Semester 2, Semester 2a & S2 Late IntB **Classes:** (1x2hr lec)/wk and block/intensive **Assessment:** 1xexam (70%) and classwork (30%)

The object of this unit is to examine the policy and practical issues that arise in the taxation of corporate groups in Australia. The focus is on the tax reforms arising out of the Review of Business Taxation: the consolidation regime and the rules that apply to related corporations, even if not consolidated. The unit covers: policy and history of grouping; entry into consolidation; effects of consolidation; exit from consolidation; losses in corporate groups; value shifting.

LAWS6125 Taxation of Financial Transactions

6 Credit Points
Prof Graeme Cooper, Adj Prof Paul O'Donnell

Assumed knowledge: It is recommended that candidates who are not working in the tax area and have not taken an undergraduate tax unit in Australia in the past five years undertake LAWS6825 before enrolling in this unit. If in doubt, please consult the Taxation Program Coordinator. **Offered:** Semester 1 **Classes:** (1x2hr lec)/wk **Assessment:** 1x exam (70%) and classwork (30%)

This unit will analyse the current law on taxation of financial transactions and institutions in Australia. Common forms of innovative financial

instruments will be examined including forward and futures contracts, derivatives instruments, various forms of corporate financing including preference share financing, convertible notes and leasing. Domestic and selected withholding tax issues will be examined. The unit will explore in detail the reform of the taxation of financial transactions. The taxation of banks and other financial institutions will also be examined. Upon successful completion of this unit a student should have an advanced understanding of the technical rules underlying the taxation of financial institutions and certain specified financial transactions. The unit covers: characterisation (capital/revenue); derivation and incurrence; general principles applicable to financial institutions; funding and debt-related derivatives; foreign exchange and forex derivatives; preference share financing; leasing; selected withholding tax issues; overseas comparisons.

It is likely in late 2007 and early 2008 that substantial modification to current law will occur through enactment of the final stages of the Taxation of Financial Arrangements regime. In that event, the unit of study will include the topics above but give substantial time to the new regime.

LAWS6892 Taxation of Mergers and Acquisitions

6 Credit Points

Prof Graeme Cooper

Corequisite: LAWS6030 **Offered:** S2 Late IntB

Classes: block/intensive **Assessment:**

1x3000wd assignment (30%) and 1x2hr exam (70%)

The unit will focus on the tax issues arising on the takeover or re-organisation of a corporation. Unique and complex tax issues arise for the corporation, its existing shareholders and, in the case of a takeover, its acquirer. These issues will influence the method of effecting the transaction, the method of financing it and indirectly the price paid.

For takeovers, the unit will examine the impact of a takeover on the various tax attributes located in the target company, the computation of its income in the year of change, the recovery of its losses and the limits on losses available to shareholders because of the anti-duplication rules. We also consider how the tax system might influence the method of financing the takeover.

The unit will also examine the impact for shareholders and the corporation of undertaking the merger of two or more corporations. The unit will also examine the impact for shareholders, intermediaries and the corporation of the de-merger of a corporation from a group of corporations.

For reconstructions, the unit will examine the impact for shareholders and the corporation of selected transactions: conversion into corporate form, change of corporate form and the re-capitalisation of a corporation.

LAWS6118 Taxation of Partnerships & Trusts

6 Credit Points

Prof Richard Vann, Ms Karen Rooke

Assumed knowledge: It is recommended that candidates who are not working in the tax area and have not taken an undergraduate tax unit in Australia in the past five years undertake LAWS6825 before enrolling in this unit. If in doubt, please consult the Taxation Program Coordinator. **Offered:** Semester 1 **Classes:** (1x2hr lec)/wk **Assessment:** 1x exam (70%) and classwork (30%)

The object of this unit is to examine the policy and practical issues that arise in Australia by virtue of the rules for the taxation of income derived through unincorporated entities. The focus is on partnerships, corporate limited partnerships, trusts, unit trusts, deceased estates, corporate unit trusts and public trading trusts. The goals of the unit are to develop a detailed understanding of the policies, technical rules and practical problems involved in the taxation of these arrangements. Upon successful completion of this unit a candidate should have an advanced understanding of the technical rules underlying the taxation of partnerships and trusts in a variety of forms and in a variety of commercial situations. The unit covers: problems of taxing entities; problems of taxing entities, partnerships and trusts contrasted with companies; classification of entities for tax purposes; taxation of partners; taxation of trusts other than unit trusts and their beneficiaries; taxation of unit trusts and their beneficiaries; taxation of limited partnerships.

LAWS6009 Taxation of Remuneration

6 Credit Points

Ms Celeste Black

Assumed knowledge: It is recommended that students who are not working in the tax area and have not taken an undergraduate tax unit in Australia in the past five years undertake LAWS6825 Impact of Tax on Business Structures and Operations before enrolling in this unit. If in doubt see an academic staff member in the tax program. **Offered:** Semester 2 **Classes:** (1x2hr lec)/wk **Assessment:** 1x3000wd class essay (30%) and 1x2hr exam (70%)

This unit provides advanced and specialised study of the taxation of employee remuneration and the remuneration of individuals in analogous independent contracting situations. Particular focus is on the practices in packaging salaries that result from the different timing and valuation rules and the differences of tax treatment applied to elements of a package under the income tax and fringe benefits tax. Consideration will also be given to the alienation of personal services income, employment contract variation, the taxation of employee share schemes and the treatment of inbound and outbound expatriate employees. Upon successful completion of this unit a student should have an advanced understanding of the technical rules underlying the taxation of remuneration derived in a variety of forms.

LAWS6127 Taxation of Superannuation and Insurance

6 Credit Points

Mr Shayne Carter, Mr Andrew Mills

Assumed knowledge: It is recommended that candidates who are not working in the tax area and have not taken an undergraduate tax unit in Australia in the past five years undertake LAWS6825 before enrolling in this unit. If in doubt, please consult the Taxation Program Coordinator. **Prohibition:** LAWS6213 **Offered:** Semester 2 **Classes:** (1x2hr lec)/wk

Assessment: classwork (30%) and 1x exam or 1x research paper (70%)

This unit consists of a detailed examination of the effects of income taxation on the superannuation and insurance industries with emphasis on recent reforms. The goal of the unit, in general terms, is to develop an understanding of the Australian taxation regime for taxing the capital and income of these industries, through the analysis of a number of specific problems which will be discussed in detail in each seminar. Topics covered include: the Superannuation Industry (Supervision) Act: introduction to the policy and regulatory framework; taxation of superannuation: overview of policy and legislative framework; superannuation contributions: SGC, award, employment, contracting, deductions; taxation of superannuation funds; benefit limits; taxation of eligible termination payments; taxation of pensions and annuities; taxation of life insurance as it relates to superannuation; taxation of life insurance companies on non-superannuation business; and taxation of general insurance business.

LAWS6926 The Business of Tax Administration

6 Credit Points

Mr Carson McNeill

Offered: S1 Late IntC **Classes:** block/intensive **Assessment:** 1xtake home exam (100%)

In response to Government demand for greater revenues and administrative effectiveness, tax administrators have adopted a business like approach to the way they manage and lead their administrations. Within an environment of increasing complexity, the need to improve the level of voluntary compliance and to detect and deter taxpayer non compliance whilst reducing administrative overhead and the cost to business when complying with the tax laws has required new thinking by tax administrators as to how to deliver the outcomes sought by their key stakeholders. This unit explores the changing nature of tax administration as it responds to these demands.

Topics covered include: the use of revenue authorities; strategies and models used to improve voluntary compliance; administrative policy and legislative developments; the application of the self assessment concept; the managing of risks to compliance; the measuring

of revenue assessment and collection performance; process re-engineering; and the developing of new capabilities and the managing of change.

LAWS6119 Theories of International Law

6 Credit Points

Dr Fleur Johns, Dr Jacqui Mowbray

Offered: S1 Late IntC **Classes:** block/intensive **Assessment:** 1x1000-2000wd critique of a selected reading (25%), 1x250wd research essay abstract and 1xpage reading list (10%) and 1x5000-6000wd research essay (65%)

What role does law play in international affairs? This unit explores this question, by introducing candidates to a range of theories and debates concerning the nature and function of international law. Candidates will read writings concerned with questions such as: How (if at all) are action and decision-making on the international plane governed by law? What is the role of violence in the contemporary international legal order? How does international law "work" or from where does it derive its normative force? What principal agents, characteristics or forces comprise the "international legal order" and what are the implications of thinking in terms of such an "order" or "system"? How does international law relate to politics, history, society, religion, race, gender, class, identity, ethics, etc.? How does international law change, how has it changed and how should it change? Should international law seek to promote justice? If so, what might that require? Candidates will be encouraged to examine the manner in which the various theoretical approaches studied inform current debates in international law and shed light on issues of contemporary concern. To this end, both an interest in international affairs and familiarity with the principles and institutions of public international law are desirable. Candidates who undertake this unit must be prepared to read before class.

LAWS7004 Thesis A

6 Credit Points

Supervised by an appointed faculty staff member

Corequisite: LAWS7005 **Offered:** Semester 1 & Semester 2

Candidates for the Doctor of Juridical Studies must enrol in LAWS7004 and LAWS7005 respectively whilst undertaking supervised research towards completion of a thesis.

LAWS7005 Thesis B

6 Credit Points

Supervised by an appointed faculty staff member

Corequisite: LAWS7004 **Offered:** Semester 1 & Semester 2

Candidates for the Doctor of Juridical Studies must enrol in LAWS7004 and LAWS7005 respectively whilst undertaking supervised research towards completion of a thesis.

LAWS6123 Transfer Pricing in International Tax

6 Credit Points

Ms Melissa Heath

Assumed knowledge: It is recommended that candidates who are not working in the tax area and have not taken an undergraduate tax unit in Australia in the past five years undertake LAWS6128 or LAWS6209 before enrolling in this unit. If in doubt, please consult the Taxation Program Coordinator. **Offered:** Semester 2

Classes: (1x2hr lec)/wk **Assessment:** 1x3000wd assignment (30%) and 1x2hr exam (70%)

Transfer Pricing in International Taxation examines transfer pricing law and practice in Australia in the area of international taxation. Transfer pricing continues to be rated by tax directors as the number one international tax issue they face. The release of the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations in 1995 and the ongoing updates, the rewrite of the US Regulations over the period 1988-1994, and the substantial transfer pricing rulings program of the Australian Taxation Office, have together significantly increased the international and Australian materials available on the law and practice in transfer pricing. Students will gain an understanding of the policy, and detailed application of transfer pricing rules within Australia and an understanding of the international framework.

LAWS6824 Transnational Commercial Litigation

6 Credit Points

Dr Andrew Bell

Assumed knowledge: undergraduate law degree **Prohibition:** LAWS6884 **Offered:** S1 Late Int **Classes:** block/intensive **Assessment:** class participation (20%) and 1x7000wd essay (80%) or 2x3500wd essays (40% each)

The unit will focus on commercial disputes with a transnational dimension. We will work through the steps which characterise transnational commercial litigation where the forum is itself a matter of dispute with a number of case studies in the field of insurance and reinsurance and international securities. Modules of the course will cover: the importance of venue, models for forum determination, techniques of forum control, pleadings and evidence gathering including letters of request, the law relating to anti-suit injunctions, the role of jurisdiction and arbitration agreements, international arbitration including a study of the relevant legislation, institutions and practice, and enforcement considerations. The unit will be taught principally by Dr Andrew Bell, a graduate of the University of Sydney and University of Oxford, now of the New South Wales Bar, and the author of the recommended text, "Forum Shopping and Venue in Transnational Litigation". There may also be contributions by other senior practitioners.

Textbooks

Recommended Text "Forum Shopping and Venue

in Transnational Litigation"

NB: This unit has a restricted class size

LAWS6109 UK International Taxation

6 Credit Points

Prof Malcolm Gammie

Assumed knowledge: It is recommended that candidates who are not working in the tax area and have not taken an undergraduate tax unit in Australia in the past five years undertake LAWS6128 or LAWS6825 before enrolling in this unit. If in doubt, please consult the Taxation Program Coordinator. **Offered:** S1 Late Int **Classes:** block/intensive **Assessment:** 1x take home exam or research essay (100%)

This unit covers the domestic provisions of UK income tax and CGT law dealing with international transactions, as well as UK treaties and the impact of EU law on the UK tax system. The UK remains one of Australia's major trading partners. UK taxation thus has significant effects for inbound and outbound investment between Australia and the UK. This unit will be of interest to tax professionals who have dealings with the UK. The objective of the unit is to provide an overview of the income tax system of the UK and a detailed analysis of the most important legislative and treaty rules of the UK in the international income tax area, especially in dealings with Australia. Upon successful completion of the unit, participants will have an advanced understanding of the policies of the UK rules for taxing international transactions as well as a detailed knowledge of the principles of income tax law applicable to inbound and outbound transactions in the UK. The unit includes a study of: 1. Overview of the UK income tax system; 2. Taxation of inbound investment in the UK; 3. Taxation of outbound investment in the UK; 4. Transfer pricing in the UK; 5. UK tax treaties; 6. Australia UK Tax Treaty.

LAWS6171 US International Taxation

6 Credit Points

Prof Stafford Smiley

Assumed knowledge: It is recommended that candidates who are not working in the tax area and have not taken an undergraduate tax unit in Australia in the past five years undertake LAWS6128 or LAWS6825 before enrolling in this unit. If in doubt, please consult the Taxation Program Coordinator. **Offered:** S2 Late IntA **Classes:** block/intensive **Assessment:** 1xtake home exam (100%)

The object of this unit is to provide an overview of the income tax system of the US and a detailed analysis of the most important legislative and treaty rules of the US in the international income tax area, especially in dealings with Australia. Upon successful completion of the unit candidates will have an advanced understanding of the policies of the US rules for taxing international transactions as well as a detailed knowledge of the principles of income tax law applicable to inbound and outbound transactions in the US. This seminar

unit includes a study of: overview of the US income tax system; taxation of inbound investment in the US; taxation of outbound investment in the US; transfer pricing in the US and US tax treaties.

LAWS6191 **Water Law**

6 Credit Points

Assoc Prof Rosemary Lyster

Offered: S1 Late IntB **Classes:** block/intensive **Assessment:** 1x7000wd essay (80%) and class participation (20%)

This unit examines the ecologically sustainable management of water resources incorporating legal, scientific and economic perspectives. The legal analysis incorporates the following: international principles of water law; Commonwealth and state responsibilities for water management; the Water Management Act 2000 (NSW); the legal and constitutional implications of the reallocation of rights to use water; the implications of allocation and use for Indigenous people; the regulation of water pollution; and the corporatisation and privatisation of water utilities. Case studies from a number of jurisdictions are used to explore these themes. Economic perspectives include the impact of National Competition Policy on water law while the principles of sustainable water management are discussed within a scientific paradigm.

LAWS6096 **Work Safety**

6 Credit Points

Prof Ron McCallum

Corequisite: LAWS6252 (GradDipPubHL, MLLR candidates), LAWS6071 (MLLR candidates only) **Offered:** S2 Late IntA **Classes:** block/intensive **Assessment:** class participation (20%) and 1x8000wd research paper (80%)

This unit of study is on occupational health and safety law. Its main focus is upon the Occupational Health and Safety Act 2000 (NSW), its federal and state counterparts and the relevant case law. An examination is also made of the history of safety regulation, the failure of the common law to reduce accidents, the Robens reforms, the employee and employer duties and safety management systems.

LAWS6122 **Workplace Bargaining**

6 Credit Points

Prof Ron McCallum

Corequisite: LAWS6252 and LAWS6071 (MLLR candidates) **Offered:** S1 Late IntB **Classes:** block/intensive **Assessment:** class participation and presentation (25%), 1x6000wd essay (75%) This advanced unit examines what may be best described as the collective aspects of labour law. The unit covers unregistered agreements, the use of the federal labour power, other heads of constitutional power including the corporations power, enterprise bargaining under federal and New South Wales law, Australian Workplace Agreements and the laws concerning industrial

disputes which include common law torts, industrial statutory provisions and Trade Practices Act remedies.

LAWS6063 **World Trade Organization Law I**

6 Credit Points

Dr Brett Williams

Assumed knowledge: limited knowledge of law of treaties **Offered:** Semester 2 & S1 Late IntB **Classes:** block/intensive (S64), (1x2hr lec)/wk (S2) **Assessment:** 1x exam (60%), 1x3000-3500wd essay on a set topic (40%)

This unit is an introduction to the law of the World Trade Organization (WTO) and to the context of economics and politics within which the law operates. Candidates may wish to continue on to take LAWS6249 World Trade Organization Law II which builds upon the knowledge gained in this unit and considers some additional topics of WTO law. The introductory unit considers economic and political arguments for and against protection based on some basic economics of trade and of public choice. The unit presents an overview of the history of the General Agreement on Tariffs and Trade (GATT) and the creation of the Agreement Establishing the WTO ending with a review of the institutions of the WTO and of the framework of rules applying under the GATT. There follows a more detailed study of the WTO dispute settlement system. The unit then studies the framework of rules under the General Agreement on Trade in Services (GATS) and presents a very brief outline of the Agreement on Trade-Related Aspects of Intellectual Property (TRIPS). The unit analyses in more detail some of the fundamental rules of the GATT: rules on tariff bindings & customs duties, national treatment, non-tariff barriers, the MFN rule on non-discrimination and an introduction to the rules on subsidies. Part of the assessment requires candidates to think critically about the object and function of the GATT and its dispute settlement system.

Textbooks

No textbook is required. Candidates should consult the Course Information and Outline on WebCT. Materials will be issued on CD Rom. Required Treaties: Candidates will need copies of some of the WTO treaties to bring to class. Candidates may wish to print them from free online sources. See the Course Information and Outline on WebCT to find out which treaties should be obtained. Alternatively, candidates may wish to purchase: WTO, The Legal Texts - The Results of the Uruguay Round of Multilateral Trade Negotiations (CUP, 1999)[ISBN# 0521785804 (for Paperback)].

NB: This unit replaced International Trade Regulation