



**The University of Sydney**  
**FACULTY OF LAW**

# **unit of study descriptions**

## *2010*

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*Revised: 19 November 2009*

### LAWS6011 **Administrative Law**

6 Credit Points

Prof Margaret Allars

**Offered:** S1 Late IntB **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*

### LAWS6918 **Advanced Constitutional Law**

6 Credit Points

Assoc Prof Peter Gerangelos

**Assumed knowledge:** This unit is only available to candidates who have completed an undergraduate law degree from a recognized Australian university, and having completed the undergraduate compulsory unit Federal Constitutional Law. **Offered:** Semester 2 **Classes:** (1x2hr lec)/wk **Assessment:** 1x7000 wd research essay (100%)

This unit builds on the fundamental understandings achieved in undergraduate courses in Federal Constitutional Law in order to provide a far broader and deeper understanding. It will examine in depth the fundamental aspects and tenets of "constitutionalism" in the Australia context, with some comparative analysis. A detailed analysis will first be attempted of the following major concepts, primarily from a theoretical perspective, in the more precise context of Westminster-based systems: the rule of law, parliamentary sovereignty, judicial review and constitutional rights, separation of powers, federalism, constitutional conventions, the status of common law principles as fundamental constitutional guarantees. Thus, for example, the unit will examine the evolving notion of parliamentary supremacy from Diceyan orthodoxy to the more recent debates involving leading constitutional scholars in the UK and Australia (TRS Allan, Goldsworthy, Hart, Hood Phillips, Jowell, Wade, Winterton). In relation to separation of powers, the different constitutional consequences which result when the doctrine is entrenched in a written constitution (as in the US and Australia) on the one

hand, and when it exists as a convention without being so entrenched, on the other, will be explored, again with reference to leading constitutional scholars in Australia, the UK and US. From this theoretical basis, the unit will proceed to examine in detail the three main branches of government from a constitutional

### LAWS6013 **Advanced Employment Law**

6 Credit Points

Prof Joellen Riley

**Assumed knowledge:** Completion of LAWS6252 Legal Reasoning and the Common Law System (candidates who do not hold a law degree from a common law jurisdiction)) and LAWS6071 Labour Law **Prohibition:** LAWS6937 **Offered:** S2 Late IntB **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 (Coordinator)

**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.

### LAWS6947 **Advanced Obligations and**

### **Remedies**

6 Credit Points

Assoc Prof Barbara McDonald, Prof Elisabeth Peden

**Assumed knowledge:** undergraduate law degree

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

See Sydney Law School in Europe

[www.law.usyd.edu.au/](http://www.law.usyd.edu.au/) **Assessment:** class

participation (30%), 1xtake home exam or

1x5000wd essay (70%)

This unit will explore a number of contentious issues arising in the law of civil obligations and remedies. It will revise and build on the fundamentals in the areas of torts, contracts and equity and place particular emphasis on the interaction of these three fields of the law.

Particular topics and problems will involve issues of: causation and scope of liability; controlling liability by contract; tort duties to third parties to contracts; assessing loss; duties of good faith; fiduciary duties and conflicts. The unit will also include a number of guest lectures, to be announced.

### **LAWS6856 Anti-Terrorism Law**

6 Credit Points

Assoc Prof Ben Saul

**Prohibition:** CISS6011 **Offered:** S2 Late IntB

**Classes:** block/intensive **Assessment:** 1x6000wd essay (70%), 1xtake home exam (30%)

This unit aims to introduce you to the diverse range of anti-terrorism laws and policies which have developed at the international, regional and domestic levels, and which proliferated after the terrorist attacks of 11 September 2001. Laws will be evaluated in the light of their profound and complex political, ideological and ethical implications for political order, legal systems, human rights, and international relations. In essence, the study of terrorism (and the law's response to it) is the study of the timeless philosophical question of when political violence is justified, against whom, and for what purposes - whether it is 'freedom fighters', or 'State terrorism', that is at issue.

*NB: This unit replaced LAWS6856 Terrorism & Counterterrorism Policy and Law*

### **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.

### **LAWS6187 Aspects of Law and Social Control**

6 Credit Points

Assoc Prof Alex Ziegert

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

**Assessment:** 1x7000wd research paper (100%)

This unit examines the largely diffuse concepts of social control and the functions of law and proposes a more specific approach to legal theory which incorporates the latest findings of socio-legal research on the social effects of law. As a result of this discussion, a more specific concept of social control and an explanatory assessment of the social effects of law, including its political use, are presented with their theoretical implications for legal and political systems and applied, as examples, to historically and societally varied situations.

### **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 **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 Michael Dirkis

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

### **LAWS6809 Breach of Contract**

6 Credit Points

Prof John Carter, Prof Elisabeth Peden

**Assumed knowledge:** undergraduate law degree  
**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.

### **LAWS6169 Capital Gains Tax**

6 Credit Points

Prof Michael Dirkis

**Offered:** Semester 2 **Classes:** (1x2hr lec)/wk  
**Assessment:** 1x3000wd assignment (30%), 1x2hr exam (70%)  
Most matters handled by legal and accounting professionals have Capital Gains Tax ("CGT") implications - ranging from a simple conveyance or will, to a real estate development or litigation settlement. CGT is a major issue for all taxpayers and their advisors because the pervasive reach of the CGT provisions means that even

straightforward commercial and domestic transactions often give rise to complex CGT issues. This unit examines the basic structure and core concepts of the CGT, and the specialist provisions that apply in a range of commercial and non-commercial contexts, such as the formation and sale of a business, conveyancing and property development, commercial and family litigation, and the settlement and administration of trusts.  
*NB: This unit replaced LAWS6169 Capital Gains Tax Problems in Practice*

### **LAWS6936 Carbon Trading, Derivatives and Taxation**

6 Credit Points

Assoc Prof Rosemary Lyster (Coordinator), Ms Celeste Black, Dr Tim Stephens

**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.

### **LAWS6960 Children and Family Law**

6 Credit Points

Prof Patrick Parkinson

**Assumed knowledge:** Available to candidates without a law degree. However, only candidates who are working in a family law-related area will be permitted to enrol in this unit.  
**Offered:** S1 Late IntC **Classes:** block/intensive  
**Assessment:** 1x4000wd essay (50%), 1x take home exam (50%)  
This unit of study will examine issues regarding parenting after separation and other aspects of children's wellbeing that arise in family law disputes. It will incorporate both legal and social science perspectives, drawing upon the latest research. Topics include shared parenting, parental relocation, child sexual abuse, family violence, interim parenting orders, children's participation in family law decision-making, parenting disputes in high-conflict families, and consent to medical treatment.

### **LAWS6091 Chinese International Taxation**

6 Credit Points

Prof Jinyan Li

**Offered:** S2 Intensive **Classes:** block/intensive  
**Assessment:** 1x take home exam (100%)  
The object of this unit is to provide an overview of the income tax system of China and a detailed analysis of the most important legislative and treaty rules of China 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 Chinese 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 Chinese income tax system; taxation of inbound investment into China; taxation of outbound investment from China; transfer pricing issues, and China's tax treaties.

### **LAWS6001 Chinese Laws and Chinese Legal Systems**

12 Credit Points

Assoc Prof Vivienne Bath (Coordinator)

**Assumed knowledge:** Completion of LAWS6252 or law degree from a common or civil law jurisdiction **Prohibition:** LAWS6857, LAWS3014 and candidates who have completed a law degree in the People's Republic of China **Offered:** S2 Late 1b **Classes:** block/intensive Winter School will be held in Shanghai, China **Assessment:** 1xtake home exam to be completed in Shanghai (30%), 1x8000wd essay (70%) due in February 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](http://www.law.usyd.edu.au/cstudent/shanghai) Registration enquiries [law.winterschools@usyd.edu.au](mailto:law.winterschools@usyd.edu.au) Enrolment enquiries [Law.Postgrad@usyd.edu.au](mailto:Law.Postgrad@usyd.edu.au)*

### **LAWS6900 Comparative Admiralty and Maritime Law**

6 Credit Points

Adj Prof Allsop, Mr Peter McQueen

**Assumed knowledge:** Undergraduate law degree is preferable but knowledge gained from work in shipping or related fields will be sufficient **Offered:** Semester 2 **Classes:** (1x2hr lec)/wk **Assessment:** 1x2.5hr exam (60%) and 1x3000wd essay (40%) The unit is designed to complement the separate (though non-requisite) unit, LAWS6849 Commercial Maritime Law, which is focused upon

the commercial use of the ship, carriage by sea and the shipping industry. This unit, LAWS6900 Comparative Admiralty and Maritime Law, is designed to provide a thorough foundation of comparative knowledge of Admiralty practice in the major trading jurisdictions, of marine insurance in all its forms and dispute resolution and conflict of laws in relation to maritime disputes. Though Commercial Maritime Law is not a pre-requisite, the two units (which will be taught in alternative years) together provide a comprehensive foundation in commercial maritime law and practice.

*Textbooks*

Davies, M and Dickey, A, Shipping Law (3rd Ed)

### **LAWS6958-54 Comparative Commercial Contracts**

6 credit points

Adj Prof Donald Robertson

**Assumed knowledge:** undergraduate law degree **Offered:** S2 Late IntB **Classes:** block/intensive **Assessment** class participation/presentation (30%), 1x7000 wd essay (70%)

This unit considers the nature and sources of commercial law in a transnational context. This is an exploration of the movement to unification by way of codification or restatement of commercial law in its international dimensions. This unit examines the transnational institutions responsible for promulgating restatements of commercial law and the resurgence of the concept of a *lex mercatoria* as it is used in international commerce. The private international law aspects of transnational commercial law are also discussed. This unit emphasises the use of international instruments to unify commercial law that regulates international commerce, taking as an example the UNIDROIT Principles of International Commercial Contracts as a basis for exploring general (transnational) principles of contract law. It adopts a comparative approach, contrasting different methods of dealing with contract principles under various national laws and other international instruments and restatements of law.

### **LAWS6222 Comparative Corporate Governance**

6 Credit Points

Prof Jennifer Hill

**Offered:** S2 Late IntA **Classes:** block/intensive **Assessment:** class participation (10%), short pre-class assignment and specialised class participation (20%), 1xresearch essay or exam (70%)

The unit objectives are: Examine recent trends and issues in comparative corporate governance; Explore some key debates in comparative corporate governance, such as the "law matters" hypothesis, which links capital market structure to legal protection for minority shareholders, and the "convergence-divergence" debate, concerning whether national governance systems will converge into a unified governance system; and Discuss fundamental differences in corporate governance structure and techniques, as they operate across a variety of jurisdictions including the US, UK, Germany, Japan, Russia, China, India and Australia.

Particular topics covered include: Key themes in the corporate governance debate; the impact of global corporate scandals on corporate governance; regulatory responses to the scandals;

regulation by rules versus principles; corporate governance in transition economies; the role of the board of directors and independent directors; shareholder power; takeovers; institutional investors; executive compensation.

#### **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.

#### **LAWS6170 Comparative Income Taxation**

6 Credit Points

Prof Tim Edgar

**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 Intensive **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 Brian Arnold

**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 IntB **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 Intensive **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:** Semester 1 **Classes:** (1x2hr lec)/wk **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, Dr Brett Williams

**Assumed Knowledge:** undergraduate law degree or have completed LAWS6252 Legal Reasoning and the Common Law System before enrolling in this unit

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

**Assessment:** 1xopen book exam (100%)

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

Adj Prof 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:** 1xassignment (40%), 1xexam

(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 by compliance systems. It will focus not only on legal theory but also on the practical day to day business issues involved 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; anti-money laundering, counter-terrorism financing and other measures to combat crime; retail customer obligations; marketing financial products; client money rules; privacy; fiduciary duties and conflicts of interest; confidentiality; phone taping; and investigating compliance breaches (including reporting obligations and HR issues); and (b) Specialist compliance issues relevant to: managed investments; deposit products, non cash payment facilities; credit facilities, stockbroking; derivatives; warrants; foreign exchange; futures broking; financial planning; margin lending; insurance and insurance broking; superannuation and retirement savings accounts.

#### JURS6018 Constitutional Theory

6 Credit Points

Professor Wojciech Sadurski

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

**Assessment:** oral presentation (20%), class participation (20%), 1x4500wd essay (60%)

This unit will address the role that constitutionalism is expected to play in a democratic state, and will explore various constitutional theories. The main focus will be on theoretical attempts at reconciling commitments to constitutionalism with emphasis on democratic participation: is it paradoxical that a state governed by majority rules withdraws certain areas from collective decision-making? Various theories of constitutionalism, of constitutional interpretation, and of constitutional judicial review will be explored. The unit will also discuss the question of constitutional charters of rights, different models of judicial review, separation of powers, direct democracy and the functions of constitutions in transitions to democratic systems. The unit will follow a seminar format with the emphasis on class discussion of course materials. Candidates will be expected to present a short description of the set of readings recommended by the lecturer.

#### 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

**Prohibition:** LAWS6024, LAWS6025 **Offered:** S2

Late IntB **Classes:** block/intensive **Assessment:**

1x4000wd essay (40%), 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*

#### LAWS6872 Contract Negotiation

6 Credit Points

Adj Prof David Yates

**Assumed knowledge:** completed contract law in an undergraduate law degree

**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 their exam at the Sydney Law School*

### **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.

### **LAWS6100 Corporate Fundraising**

6 Credit Points

**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.

### **LAWS6159 Corporate Insolvency Law**

6 Credit Points

Adj Prof Richard Fisher, Prof John Stumbles

**Assumed knowledge:** Background in Australian corporate law or LAWS6810 Introductory

Corporate Law **Offered:** S2 Late IntA **Classes:** block/intensive **Assessment:** 1xtake home exam (100%)

This unit will examine the law, policy and practice of corporate insolvency, under 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 winding up order in corporate insolvency under the Corporations Act; The nature of property that is available to creditors in liquidation; processes for identifying the property which may be available to creditors under a company liquidation; Voidable transactions in a company liquidation under the equivalent corporate regime; Other proceedings which may be available to augment the assets of the company which will be available to satisfy creditors' claims; The involvement of unsecured creditors through meetings of creditors, funding of litigation, and committees of inspection, and the responsibilities of the liquidator 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 their regulation by ASIC; 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; Voluntary Administration and Schemes of Arrangement under Part 5.1 of the Corporations Act as a mechanism for restructuring the affairs of an insolvent company; Issues affecting the informal restructuring the affairs of an insolvent company; Current reform and policy considerations - CAMAC reports, Senate committee Report 2004, ALRC reports; and Cross-border insolvency.

*NB: This unit replaced LAWS6159 Insolvency Law*

### **LAWS6030 Corporate Taxation**

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 LAWS6825 before enrolling in this unit. If in doubt, please consult the Taxation Program Coordinator.

**Offered:** S1 Intensive **Classes:** block/intensive **Assessment:** 1xexam or research essay (70%), 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%), 1xtutorial paper (20%) and 1xexam (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.*

#### 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 2 **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 Intensive **Classes:** block/intensive

**Assessment:** 1xtake home exam (60%), 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 should formulate a proposed topic for the research project and arrange with the Program Coordinator to meet and discuss that topic at least 2 months before commencement of a semester in which they enrol in the Criminology Research Project (12 credit points). Candidates may also identify a preferred supervisor at this time. For purposes of approval, candidates should prepare 1-2 pages outlining (a) the question(s) that they propose to address in their research; (b) how they propose to conduct their research (i.e., methodology); and (c) a proposed timetable for their research and writing. If possible at this stage, students should also prepare and append a brief, preliminary reading list for their research. Program Coordinator will contact an appropriate supervisor and confirm agreement to supervise. Formal approval must be obtained from the Program Coordinator prior to enrolment.

The Criminology Research Project is an independent research project that candidates are expected to undertake largely at their own initiative and without a high degree of supervision. Candidates should meet with their supervisor at an early stage - when formulating a plan and finalizing a timetable for their research project - and may otherwise arrange to meet with their supervisor periodically and/or if they encounter difficulties (by agreement between the candidate and supervisor).

*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

Please refer to LAWS6233 Criminology Research Project A

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

#### LAWS6038 Debt Financing

6 Credit Points

**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.

#### **LAWS6039 Discrimination in the Workplace**

6 Credit Points

Dr Belinda Smith (Coordinator), Ms Jo Shulman

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

**Assessment:** class participation (depending on enrolments) (20%), 1x problem assignment (30%) and 1x essay (50%)

In this unit we examine the nature of discrimination in the workplace and the legal response to it in Australia. We start by considering the theoretical perspectives on equality that underpin our legislation and ideas about effective regulation. We then examine how anti-discrimination law is applied in respect of a number of different grounds of discrimination - such as sex, race, disability, and family responsibilities - reviewing recent cases and current issues. We will also discuss enforcement mechanisms and processes under anti-discrimination legislation and what, if any, effect the legislation has had on workplace processes and culture.

*NB: MLLR candidates may enrol in this unit before completing LAWS6071*

#### **LAWS6130 Dispute Resolution in Australia**

6 Credit Points

Prof Hilary Astor

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

**Assessment:** 1x3000wd research essay (50%), 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*

#### **LAWS6852 Doing Business in China**

6 Credit Points

Assoc Prof Vivienne Bath

**Assumed knowledge:** LAWS6252 or law degree

from a common or civil law jurisdiction **Offered:**

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

**Assessment:** 1x3500wd essay (50%), 1xtake home exam (50%)

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.

#### **LAWS6040 Drugs, Drug Policy and the Law**

6 Credit Points

Prof Terry Carney

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

**Assessment:** 1xresearch paper (65%), 1xtake-home exam (25%) and class participation (10%)

This unit deals with the law relating to drug control policies in Australia, both at State and Federal levels (including international treaties).

Background material on the nature and incidence of drug use, pharmacological and medical issues, as well as philosophic, economic, criminological and public policy literature will be considered where relevant. The unit covers substantive topics from criminal law, civil treatment and welfare law. Topics to be covered will include: the context, including: history of drug policy; State/Federal division of responsibility; nature and incidence of use of substances; international and domestic policy constraints and debates; the law enforcement elements, including: detection of drug offences; special powers; investigation, prosecution; elements of drug offences possession/use, trading, cultivation, manufacture, importation; sentencing options/directives; sentencing characterisation of levels; confiscation of assets; civil treatment, including: the history of civil commitment; the civil commitment model; a public health (detoxification) model; non-legislative options; generic welfare measures, including: income support; accommodation; health services; overview/summary, including: options and directions for change.

#### **LAWS6937 Employment Law Advocacy**

6 Credit Points

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

**Assumed knowledge:** undergraduate law degree

**Prohibition:** LAWS6013 **Offered:** S1 Intensive

**Classes:** block/intensive **Assessment:** class participation (20%), short tests (20%), 2x2500wd problem assignments (60%)

This unit of study is designed especially for candidates in the Master of Laws (LLM) and Master of Labour Law and Relations (MLLR) degree programs who have completed an LLB degree. It examines key aspects of employment law principles and practice and their application in employment litigation. The unit builds on the fundamental principles of contract, trade practices and equity examined in the course of the LLB degree, and addresses the pleading of causes of action and the choice of appropriate forums. Further, it will consider the differing evidentiary burdens in employment litigation and contemporary law concerning dispute resolution, settlements and deeds of release.

#### 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*

#### LAWS6043 Environmental Impact Assessment Law

6 Credit Points

Mr Bernard Dunne

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

**Assessment:** 1x4000wd essay (50%), 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

**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: Environmental law candidates must complete LAWS6252 and this unit prior to enrolling in other law optional units*

#### LAWS6041 Environmental Litigation

6 Credit Points

Dr Andrew Edgar, Adj Prof Brian Preston

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

**Assessment:** 1x7500wd essay (100%)

This unit focuses on litigation as a tool for resolving environmental disputes. The unit examines different types of environmental litigation and issues that can arise in litigation processes. Candidates will develop an understanding of the characteristics of environmental litigation, the advantages and limitations of different types of proceedings, and the range of outcomes that are possible for environmental litigation. The topics include litigation strategies, procedure and evidence, defensive actions (ie SLAPP litigation), and the outcomes of litigation. Reference will be made to recent cases, such as in the field of climate change, to illustrate the topics.

*NB: This unit replaced LAWS6041 Environmental Dispute Resolution*

#### LAWS6045 Environmental Planning Law

6 Credit Points

Mrs Nicola Franklin, Dr Andrew Edgar

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

**Assessment:** 1x5000-6000wd essay (70%), 1x3000wd problem based assignment (30%)

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.

#### **LAWS6899 Environmentally Sustainable Business**

6 Credit Points

Ms Susan Shearing

**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.

*NB: This unit replaced LAWS6082 Pollution Law and LAWS6899 Corporate Environmental Responsibility*

#### **LAWS6046 Equity Financing**

6 Credit Points

Prof Jennifer Hill (Coordinator)

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

**Classes:** (1x2hr lec)/wk **Assessment:** 2xclass presentations (20% each) and 1xexam (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.

#### **LAWS6917 European Human Rights Law**

6 Credit Points

Dr Jacqueline Mowbray

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

**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); 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)

#### **LAWS6952 European Private International Law**

6 Credit Points

Visiting Prof Andrew Dickinson

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

**Assessment:** class participation (20%), 1x7000wd essay or 2x3500wd essays (80%)

The past decade has seen a rapid development in the common private international law rules of the Member States of the European Community. Indeed, that development can be seen as a "European revolution" in this area, and may be argued to have a wider global significance than the American conflicts revolution in the second half of the 20th Century. This unit of study looks at the

development of private international law in the EC and its relationship with other elements of EC law and private international law within and outside the Member States. Course participants will gain an overview of the relevant existing EC law instruments, their history and treaty basis, as well as an insight as to their possible future development. The main element of the course will consist of a detailed examination of the content and inter-action of the most important of these instruments relating to jurisdiction and the law applicable in civil and commercial matters (the so-called "Brussels I", "Rome I" and "Rome II" Regulations).

#### LAWS6230 Expert Evidence

6 Credit Points

Prof Peter Cashman

**Assumed knowledge:** Candidates without a law degree may enrol in this unit but should be aware that the unit focuses on legal and evidentiary issues **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 indoctrinee 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 Intensive **Classes:** block/intensive **Assessment:** 1x1500wd quiz (30%), 1x5000wd research essay (70%)

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.

#### LAWS6954 Financial Risk Allocation in Equity

6 Credit Points

Prof Sheelagh McCracken

**Assumed knowledge:** undergraduate law degree **Offered:** Semester 2 **Classes:** (1x2hr lec)/wk **Assessment:** 1x3000wd assignment (30%), 1x2hr open book exam (70%)

The objective of this unit is to analyse the role of equity in allocating risk in common business and financing transactions.

The unit explores the scope of the equitable doctrines of contribution, subrogation, marshalling and set-off, and examines the interplay of those doctrines with common law and statute. It assesses their impact in the modern commercial context on a range of persons, including creditors and sureties as well as financiers and insurers. The manner in which the doctrines may affect directors and trustees is also considered.

#### LAWS6943 Food Prod Law & Policy: Aust in Internat

6 Credit Points

Adj Prof E Joan Wright

**Assumed knowledge:** LAWS6252 or law degree from a common law jurisdiction **Offered:** S2 Intensive **Classes:** block/intensive **Assessment:** class participation (10%), 1x7500wd research paper (90%)

Regulating the sale of food is hugely difficult because of the different agendas of the stakeholders involved - the health, social, cultural, environmental, political and trade aspects of food all generate different often opposing perspectives on how its composition and marketing should be

regulated. This unit aims to provide candidates with an in-depth understanding of food product law and policy in Australia, its place within an international framework for regulating food product trade; and the interrelationship between the law and the issues it seeks to regulate, particularly in the context of health protection and promotion. Topics include Australian and international regulatory regimes, role of risk analysis/precautionary principle, legitimate trade restraints; relevant non regulatory measures; examination of options for regulating emerging issues e.g. in health, new technologies, trade; how the regulatory system can shape our food products; and how stakeholders can participate effectively in the regulatory process.

#### LAWS6895 **Gender, Race and Crime**

6 Credit Points

Prof Julie Stubbs

**Prohibition:** LAWS6051 **Offered:** Semester 2  
**Classes:** (1x2hr lec)/wk **Assessment:** 1xtake home exam (40%), 1x4500wd essay (50%) and class presentation (10%)

Gender, Race and Crime is an inter-disciplinary unit that critically examines crime and justice through the lens of gender and race/ethnicity. It is taught using a seminar format, and encourages candidates to undertake independent research on issues related to the unit. The objectives are: To provide a theoretical understanding of the concepts of gender, race/ethnicity and their intersection with other social categories including but not limited to class, and their relationship to the construction of crime, crime control and justice; To provide a critical understanding of the empirical data on the relationship between race/ethnicity, gender and the criminal justice system; To encourage candidates to develop a critical analysis of the criminal justice system and related forms of regulation by focusing on race/ethnicity, gender and their intersection; To encourage candidates to develop their skills in inter-disciplinary research. Themes covered in the unit will include: definitions and constructions of knowledge about race, ethnicity and gender and their effects; whiteness and white privilege; the impact of colonial relations on indigenous people and their relationship with the criminal law; criminalisation, victimisation and contemporary criminal justice; alternative forms of justice. Other topics will be selected to reflect contemporary debates and issues and may include: violence against Aboriginal women and children; media constructions of race, ethnicity and crime; and migration and crime (migration for marriage, refugees, trafficking).

*NB: This unit replaced Gender, Race and Legal Relations*

#### LAWS6933 **Global Oil and Gas Contracts and Issues**

6 Credit Points

Visiting Prof Owen Anderson, Visiting Prof John Lowe

**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.

*NB: This unit replaced LAWS6933 International Petroleum Transactions*

#### LAWS6864 **GMOs and Environmental Law**

6 Credit Points

Assoc Prof Rosemary Lyster, Prof Johannes Somsen

**Offered:** S1 Late Int **Classes:** block/intensive  
**Assessment:** class participation (20%), 1x8000wd essay (80%)

The potential risks presented by GM crops include: the impact on non-target organisms; gene transfer from the GM crop into related species; persistence or invasiveness of GM crops; presence of antibiotic resistance genes in the GM crop; and danger of GM crops to human health. This unit will investigate the appropriate regulation of GMOs from interdisciplinary perspectives including science, ethics, economics and environmental law. The unit will be co-taught by A/Prof Rosemary Lyster and a distinguished visiting professor, Johannes Somsen, from Amsterdam University. Prof Somsen is one of the European Union's leading environmental lawyers in the area of biotechnology.

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

#### **LAWS6052 Govt Regulation, Health Policy & Ethics**

6 Credit Points

Prof Margaret Allars, Assoc Prof Cameron Stewart

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

**Assessment:** 1x7500wd essay (100%) or 2x3750wd essays (100%)

This unit examines government regulation of health care, drugs, resource allocation, medical research and professional practice. With regard to each area of government decision-making, issues are analysed by reference to the interplay between social goals, human rights, legal rights and ethical considerations. Topics covered include the constitutional and statutory sources of government power with respect to health care: regulatory models and reform of public health legislation; therapeutic goods administration; health insurance; pharmaceutical benefits and the pharmacy industry; immunisation, notifiable diseases and public health emergencies; human tissue legislation; discipline of health professionals; health care complaints tribunals; a right to health care; ethical theories in law and medicine; the ethics of human experimentation; and ethics committees.

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

#### **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%), 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.*

#### **LAWS6055 Heritage Law**

6 Credit Points

Ms Susan Shearing

**Offered:** S1 Late IntC **Classes:** block/intensive **Assessment:** 1x4000wd research paper (50%), 1xproblem assignment (50%)

This unit focuses on the conservation of natural and cultural heritage, including intangible heritage, underwater heritage, movable heritage and Australian Aboriginal heritage. International, national, state and local regimes for heritage conservation are examined and considered in the context of broader environmental decision making. Through the use of case studies, the unit aims to bring together a range of interdisciplinary strands in archaeology, anthropology, cultural and natural history, art, architecture and urban planning, and to weave them into a framework for the legal protection of world, national, state and local heritage.

#### **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.

### **LAWS6866 IDR: Practice and Procedure**

6 Credit Points

Assoc Prof Chester Brown, Dr Tim Stephens

**Assumed knowledge:** LAWS6243 or strong background in public international law

**Prohibition:** LAWS6202 **Offered:** S1 Late IntC

**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:** S1 Late Int

**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 Tehran Hostages case, the Nuclear Tests case, the East Timor case, and dispute over the status of Kosovo.

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

### **LAWS6825 Impact of Tax on Business Struct & Ops**

6 Credit Points

Ms Chloe Burnett, Assoc Prof Rebecca Millar (S65) and Ms Chloe Burnett (S2)

**Offered:** Semester 2, Semester 1a, Semester 1b, Semester 2a, Semester 2b & S1 Late IntC

**Classes:** block/intensive (S65), (1x2hr lec)/wk (S2) **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

### **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; 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; 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.

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

#### **LAWS6058 Information Rights in Health Care** 6 Credit Points

Prof Belinda Bennett

**Offered:** S1 Intensive **Classes:** block/intensive **Assessment:** 1xclass presentation and 1x1500wd 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.*

### LAWS6898 **Integrated Natural Resource Management**

6 Credit Points

Adj Prof Gerry Bates

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

**Assessment:** 1x4000wd problem based assignment (50%), 1x4000wd essay (50%)

This unit examines how natural resources, including forestry, minerals, soil, water and fisheries, can be managed in an integrated manner in the context of mining, agriculture, tourism and Aboriginal land rights. The unit explores the concept and implications of Integrated Natural Resource Management - a planning and decision-making process that attempts to coordinate resource use to optimise its long-term sustainable benefits and to minimise conflicts among users of the resource. It attempts to balance economic, environmental, and social requirements, consistently with the principles of ecologically sustainable development. Legal and other strategies to achieve Integrated Natural Resource Management are discussed, as are the roles of the Commonwealth and New South Wales. The international context is also referred to.

*NB: This unit replaced LAWS6081 Natural Resources Law*

### LAWS6860 **Intellectual Property: Marketing Rights**

6 Credit Points

Assoc Prof Patricia Loughlan

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

**Assessment:** class participation (20%), 1x2hr open book exam (80%)

This unit will examine theoretical and practical issues in the law of registered trade marks and passing-off, with a particular reference to the role of unfair competition reasoning in the cases and issues such as the concept of 'sign' (including shapes) in contemporary trade mark law, the concept of 'property' in trade marks and other trade indicia, the optimal decision-making model for trade mark law, counterfeiting and compliance with the requirements of the TRIPS Agreement, character merchandising and the appropriation of the celebrity persona, the requirement of misrepresentation in passing off and the tension between trade mark dilution rules and freedom of communication.

### LAWS6873 **Intellectual Property: Principles/Context**

6 Credit Points

Assoc Prof Patricia Loughlan

**Prohibition:** Candidates who have previously completed an undergraduate or postgraduate unit in intellectual property **Offered:** S2 Intensive

**Classes:** block/intensive **Assessment:** class

participation or presentation (10%), 1x2hr exam (90%)

This unit is designed for candidates who have an undergraduate law degree, but who have not formally studied Intellectual Property. The unit will cover the fundamentals of law and theory in the main areas of contemporary Intellectual Property: copyright, patent, trade marks and the law of passing-off and unfair competition. There will be a particular emphasis on copyright and trade marks. *NB: This unit replaced LAWS6854 Introduction to Intellectual Property and LAWS6873 Principles of Intellectual Property*

### LAWS6817 **Interaction of Tort and Contracts**

6 Credit Points

Assoc Prof Barbara McDonald, Prof Jim Davis

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

**Assessment:** 1x10000wd essay (100%) or 2x5000wd essay (50% each)

This unit is designed to expose candidates to a discussion and, where relevant, a comparison of the approaches of the law of torts and the law of contracts to a variety of problems and situations, for example, vicarious liability, the liability of professionals such as doctors and lawyers, the protection of contract from interference, misfeasance by public officials. Candidates will be asked to examine and understand judicial decisions from Australia, Canada, England, New Zealand, and the extent to which, and reasons why, the law in these countries is the same or may differ.

*NB: This unit replaced LAWS6817 Practical Legal Effects of the Interaction of Tort and Contract*

### LAWS6059 **International Business Law**

6 Credit Points

Assoc Prof Vivienne Bath

**Assumed knowledge:** LAWS6252 or law degree from a common or civil law jurisdiction **Offered:** Semester 2 & S1 Late IntB **Classes:**

block/intensive mode (S64) and (1x2hr lec)/wk (S2) **Assessment:** 1x3500wd assignment (50%) and 1x2hr20min exam (50%)

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 Luke Nottage

**Offered:** S2 Late IntB **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.

**LAWS6061 International Environmental Law**  
6 Credit Points

Em Prof Ben Boer

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

**Assessment:** 1x2500wd problem based assignment (30%), 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

**Prohibition:** GOVT6117 **Assessment:** 1x2500wd assignment (30%), 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%), 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

Assoc Prof Ben Saul

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

**Assessment:** 1x6000wd essay (70%), 1xtake home exam (30%)

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:** class work (40%), 1xassignment (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*

### LAWS6939 **International Insolvency Law**

6 Credit Points

Dr Mowbray, Prof Christoph Paulus

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

**Assessment:** 1x8000wd essay

In contrast to traditional courses on international insolvency law, this unit will begin by discussing the issue of insolvency proceedings for states. The

establishment of procedures for dealing with the insolvency of states is a fairly recent development, which can be traced to moves initiated by the International Monetary Fund during the Argentina crisis in 2001. Since then, a number of methods have been proposed for dealing with the insolvency of states in a more regulated and calculable manner than that in which the Paris and London Club has dealt with these issues over the last 50 years or so. Against this background, this unit will describe the evolution, and discuss the concept, of insolvency proceedings for states.

The second part of the unit will deal with the principles of traditional international insolvency law, that is, the principles governing the situation where an insolvent company has assets in more than one jurisdiction. These principles will be exemplified by various cases from different regions of the world. This part of the unit will also consider recent developments aiming to establish regions in which particular transnational insolvency rules are applicable – the main example being the European Insolvency Regulation.

### LAWS6916 **International Investment Law**

6 Credit Points

Assoc Prof Chester Brown

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

**Assessment:** 1x5000wd essay (50%), 1xtake home assignment (50%)

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 unit 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

Assoc Prof Ben Saul (S1), Dr Tim Stephens (S5)

**Offered:** Semester 1 & S2 Intensive **Classes:** (1x2hr lec)/wk (S1), block/intensive (S5)

**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 GradDiplIntLaw 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 should formulate a proposed topic for the research project and arrange with the Program Coordinator to meet and discuss that topic at least 2 months before commencement of a semester in which they enrol in the International Law Research Project. Candidates may also identify a preferred supervisor at this time. For purposes of approval, candidates should prepare 1-2 pages outlining (a) the question(s) that they propose to address in their research; (b) how they propose to conduct their research (i.e., methodology); and (c) a proposed timetable for their research and writing. If possible at this stage, students should also prepare and append a brief, preliminary reading list for their research. Program Coordinator will contact an appropriate supervisor and confirm agreement to supervise. Formal approval must be obtained from the Program Coordinator prior to enrolment.

The International Law Research Project is an independent research project that candidates are expected to undertake largely at their own initiative and without a high degree of supervision. Candidates should meet with their supervisor at an early stage - when formulating a plan and finalizing a timetable for their research project - and may otherwise arrange to meet with their supervisor periodically and/or if they encounter difficulties (by agreement between the candidate and supervisor).

Candidates should make appropriate use of specialised international law research guides available to them. See, for example, the American Association of International Law's Guide to Electronic Resources for International Law available at <http://www.asil.org/resources/index.html>. See also the Law Library's pathfinder for International Law available at [http://www.library.usyd.edu.au/libraries/law/intlaw\\_p.htm](http://www.library.usyd.edu.au/libraries/law/intlaw_p.htm). Law Library staff may be consulted for further assistance.

Candidates should agree with their supervisor on the citation and style guide that they will be using for their Research Project. The Faculty has adopted

a uniform guide to citation and style of written work: Anita Stuhmcke, *Legal Referencing* (Sydney: Butterworths, 1998). However, candidates may obtain their supervisor's approval to use another, more specific guide (possibly with a view to publication), such as the Australian Guide to Legal Citation and the Supplement to the Australian Guide to Legal Citation published by the Melbourne Journal of International Law.

The Research Project is assessed by the supervisor nominated for the particular project.

*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

Please refer to LAWS6184 International Law Research Project A

*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 Int **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.

#### **LAWS6206 International Mergers and Acquisitions**

6 Credit Points

Prof Robert B Thompson

**Offered:** S2 Intensive **Classes:** Block Mode **Assessment:** class participation (25%), 1x7000wd essay (75%)

This intensive unit will address mergers and acquisitions as they occur in an international setting, with US materials used as a basis for a comparative study of acquisitions.

The unit will include a brief overview of financial theory that can explain mergers and a discussion of motives for acquisitions that may grow out of that theory. The remainder of the unit will address corporate and securities law regulation of acquisitions. The transactional settings will include both friendly and hostile acquisitions. A common thread will be examination of the relative roles of directors and shareholders in the different kinds of transactions.

#### **LAWS6896 Internatl & Comparative Criminal Justice**

6 Credit Points

Prof Mark Findlay

**Prohibition:** LAWS6269, LAWS6219 **Offered:** S2 Intensive **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.

#### LAWS6022 Internatl & Comparative Labour Law

6 Credit Points

Dr Shae McCrystal (Coordinator), Professor Keith Ewing

**Offered:** S2 Late IntA **Classes:** block/intensive **Assessment:** class participation (10%), 1x4000wd essay (40%), 1xtake home exam (50%)

This unit is aimed at enabling candidates to compare and contrast Australian labour law with the labour laws of other comparable countries. At the beginning of this unit, there is an examination of comparative law methodology, as well as an examination of international labour law, including the International Labour Organisation and other international labour law matters. The unit will focus on how other nations are handling labour law deregulation and whether any of the approaches are beneficial or burdensome.

#### LAWS6942 Internatl Structured Finance, Law & Prac

6 Credit Points

Mr Jan Job de Vries Robbé

**Assumed knowledge:** Affinity with the financial markets is advisable, relevant experience a plus. When in doubt, candidates are advised to contact the Unit Coordinator. **Offered:** Semester 2b **Classes:** block/intensive. See Sydney Law School in Europe [www.law.usyd.edu.au/](http://www.law.usyd.edu.au/) **Assessment:** class participation (10%), 1x8000wd essay (90%)  
This unit addresses international finance law and practice in the face of the credit crunch. It covers derivatives, various types of notes, securitisation and fund structures, both from a structuring and documentation perspective. Major developments in credit crunch litigation (putting these instruments to the test) are addressed. Actual transactions are discussed, with a focus on practice in developing markets. The aim of the unit is to provide candidates with hands-on tools to further their legal career.

#### LAWS6881 Intro to Law for Health Professionals

6 Credit Points

Assoc Prof Cameron Stewart

**Prohibition:** LAWS6252 **Offered:** S1 Intensive **Classes:** block/intensive **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. This unit replaced LAWS6881 Health Law for Health Professionals.*

#### 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 **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*

#### 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](http://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 participants 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](http://www.law.usyd.edu.au/anjel)).

*NB: For further information, please visit <http://www.kyoto-seminar.jp/> or <http://www.law.usyd.edu.au/anjel/>*

#### 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 participants 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](http://www.law.usyd.edu.au/anjel)).

*NB: For further information, please visit <http://www.kyoto-seminar.jp/> or <http://www.law.usyd.edu.au/anjel/>*

#### LAWS6934 Judging

6 Credit Points

Adj Prof Ronald Sackville

**Offered:** S1 Late IntC **Classes:** block/intensive **Assessment:** 1xclass presentation (20%) and 2x4000wd essay (40% each) or 1x8000wd essay (80%)

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; the implications in relation to discovery, expert evidence and the conduct of the trial, the impact of the decline of "orality" in litigation and of the increased reliance on written materials; judgment writing; 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; judicial ethics; and the concept of "open justice" and the fraught relationship between the judiciary and the media.

#### LAWS6068 Judicial Review-P'ciple, Pol & Procedure

6 Credit Points

Prof Margaret Allars

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

This unit provides a specialised and thematic account of judicial review as one means for making the executive branch of government accountable. It aims to develop an understanding of trends reflected in principles relating to justiciability, standing to seek review, excess of power and abuse of power, and procedural fairness. A critical evaluation of the policy choices which account for development of common law principles is encouraged. The procedures and remedial powers available under statutes which reform the procedure for gaining judicial review are examined, with judicial and administrative procedure compared. A consistent theme is the development of a critical appreciation of the proper relationship between the judicial and executive branches of government.

#### JURS6034 Jurisprudence Research Project A

6 Credit Points

Supervised by an appointed academic staff member

**Corequisite:** JUR6035 **Offered:** Semester 1 & Semester 2 **Assessment:** approx 20,000wd research project

Candidates should formulate a proposed topic for the research project and arrange with the Program Coordinator to meet and discuss that topic at least 2 months before commencement of a semester in which they enrol in the Jurisprudence Research Project. Candidates may also identify a preferred supervisor at this time. For purposes of approval, candidates should prepare 1-2 pages outlining (a) the question(s) that they propose to address in their research; (b) how they propose to conduct

their research (i.e., methodology); and (c) a proposed timetable for their research and writing. If possible at this stage, students should also prepare and append a brief, preliminary reading list for their research. Program Coordinator will contact an appropriate supervisor and confirm agreement to supervise. Formal approval must be obtained from the Program Coordinator prior to enrolment.

The Jurisprudence Research Project is an independent research project that candidates are expected to undertake largely at their own initiative and without a high degree of supervision. Candidates should meet with their supervisor at an early stage - when formulating a plan and finalizing a timetable for their research project - and may otherwise arrange to meet with their supervisor periodically and/or if they encounter difficulties (by agreement between the candidate and supervisor).

*NB: Candidates must complete both JUR6034 and JUR6035 within one or two semesters*

#### **JURS6035 Jurisprudence Research Project B**

6 Credit Points

Supervised by an appointed academic staff member

**Corequisite:** JUR6034 **Offered:** Semester 1 & Semester 2 **Assessment:** approx 20,000wd research project

Please refer to JUR6034 Jurisprudence Research Project A

*NB: Candidates must complete both JUR6034 and JUR6035 within one or two semesters*

#### **LAWS6955 Key Legal Concepts in Finance Law**

6 Credit Points

Prof Sheelagh McCracken and Prof John Stumbles (S1), Prof Sheelagh McCracken (S5)

**Offered:** Semester 1 & S2 Intensive **Classes:** (1x2hr lec)/wk and block/intensive **Assessment:** 1x3000wd assignment (30%), 1x2hr open book exam (70%)

This unit's objectives are to identify and analyse key legal concepts that impact on the operation of financial markets.

The content includes an introductory examination of how contractual and other relationships underlie financial transactions; how financial assets (including financial instruments) are created, traded and used as security; how corporate and trust structures are used by market participants as financing vehicles; and how financial transactions may be challenged in an insolvency.

#### **LAWS6071 Labour Law**

6 Credit Points

Prof Joellen Riley and Dr Shae McCrystal (S63), Prof Joellen Riley (S2)

**Corequisite:** LAWS6252 (MLLR candidates) **Prohibition:** WORK6116 **Offered:** Semester 2 & S1 Late IntA **Classes:** block/intensive (S63), (1x2hr lec)/wk (S2) **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: This unit is a compulsory unit for all MLLR candidates. MLLR candidates must either have completed or be concurrently enrolled in LAWS6252 Legal Reasoning and the Common Law System (compulsory) as well as this unit before undertaking the labour law optional units.*

#### **LAWS6928 Law and Economic Development**

6 Credit Points

Mr Suresh Nanwani

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

The objectives of this unit are: acquire an overview of the structure, functions and powers of international financial institutions (IFIs), and the role that they play in economic development; gain an awareness of the roles of various actors involved in IFI operations including governments, private sector entities, and civil society organizations; acquire an understanding of the law and policy reform activities carried out by IFIs as well as the legal agreements entered into the project lending operations; and examine the development of accountability mechanisms to address citizen grievances on development projects.

The focus is on the Asian Development Bank and the World Bank and the contribution these institutions make to economic development. Comparisons will be made with other regional development banks such as the European Bank for Reconstruction and Development. The unit will consider the charters of these institutions, their policies and legal agreements as well as their accountability mechanisms and case studies of claims filed with these mechanisms.

#### **LAWS6932 Law and Investment in Asia**

6 Credit Points

Dr Simon Butt, Assoc Prof Luke Nottage

**Offered:** S1 Late Int **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.

#### **LAWS6135 Law and Society in Indonesia**

6 Credit Points

Dr Simon Butt

**Offered:** S2 Late IntB **Classes:** block/intensive  
**Assessment:** 1x7000-8000wd essay (100%) or class presentation and 1xtake home exam (50%) and 3000wd essay (50%)

This unit aims to introduce candidates to a wide variety of areas of Indonesian law, with a focus on topical issues. These include Indonesia's place within the civil law tradition, the judiciary, human rights, constitutional reform, Indonesia's legal pluralism and some aspects of commercial law, including intellectual property. By the end of the unit, candidates should have an understanding of: Indonesia's legal system and some of the reasons for its dysfunction, with a focus on the judicial system; Indonesia's legal pluralism, including some aspects of Islamic law - particularly family law; recent constitutional and institutional reform in Indonesia; aspects of doing business in Indonesia.

#### *Textbooks*

Suggested background reading - Lindsey T (ed) Indonesia: Law and Society, 2nd edition, 2005. The Jakarta Post newspaper (available online at [www.thejakartapost.com](http://www.thejakartapost.com)). The prescribed text book is Lindsey, T, Indonesia: Law and Society, 2nd edition, 2005.

#### **LAWS6953 Law of Asset Protection**

6 Credit Points

Dr David Chaikin

**Offered:** S2 Intensive **Classes:** block/intensive  
**Assessment:** 1x8000wd research paper(100%)  
Asset protection is concerned with the preservation and transmission of property of individuals, families or corporations. It has the broad purpose of minimising legal, business and political risks, by safeguarding assets from seizure, loss and diminution in value. It is concerned with the protection of assets from potential creditors, government expropriation, excessive taxation and catastrophic loss. It is a vital component of tax advice, wealth management and financial planning. This unit examines the legal aspects of asset protection, from both Australian and international perspectives. It provides a sound understanding of the legal techniques and principles of asset protection. The complex interaction between company law, the law of trusts and property, tax and estate planning laws, bankruptcy and insolvency laws is analysed. The unit focuses on the laws of a select number of offshore jurisdictions, as well as international trust law. It examines the legal impediments and ethics of asset protection. Anti-money laundering rules and the civil and criminal liabilities of trustees and professional advisers are also covered.

#### **LAWS6164 Law of Derivatives Markets**

6 Credit Points

Adj Prof John Currie

**Offered:** Semester 2 **Classes:** (1x2hr lec)/wk  
**Assessment:** class participation (30%), 1x7000wd research essay (70%)

This unit studies the development and the current state of regulation of derivatives products and markets in Australia. It examines both exchange-traded markets and products and 'over the counter' (OTC) markets and products. A central theme to the unit is the extent to which derivatives products and markets require special legal and regulatory treatment, by comparison with securities markets and other financial markets. The unit aims to introduce candidates to the way in which the Australian markets have developed and how they are currently regulated and to place Australian developments in regulation within a regional and international context. The unit will commence with a description of the markets and a discussion of the history and themes of regulatory policy in this area, and then proceed with a detailed treatment of the regulation of futures contracts, OTC products and market delineation. Australian exchange-market regulation will then be examined, together with the regulation of OTC markets in Australia and the course of reform of regulation in this area, culminating in the reforms introduced through the Financial Services Reform (FSR) legislation, which now comprises Chapter 7 of the Corporations Act. Current regulation of the markets and participants under the FSR regime will then be examined.

The unit will give special attention to developing areas of regulation, including: changes to the legal concept of a 'market'; the way in which intermediaries, including brokers, advisers and market-makers, are regulated; intermediaries' duties; international and comparative law issues arising from the development of a global market and electronic trading.

Upon completion of the unit, the student should have an understanding of the development, nature and current regulation of derivatives, how the Australian markets operate, their relationship to regional and global markets and the likely direction of regulatory reform.

*NB: This unit replaced LAWS6164 Regulation of Derivatives Products and Markets*

#### **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%), 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:** S2 Late IntA **Classes:** block/intensive

**Assessment:** 1xessay (60%) and 1xtake 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 Reg Graycar, Mr Michael Skinner

**Prohibition:** LAWS6881 **Offered:** S1 Intensive, S1 Late IntB, S2 Late IntA & S2 Late IntB **Classes:** block/intensive **Assessment:** Prof Graycar

(compulsory class work, 1xtake home exam) and Mr Skinner (compulsory attendance/completion of workshops, 2x2500wd assignments - 50% each)

This is a compulsory unit for all postgraduate candidates who do not hold a law degree or equivalent from a common law jurisdiction entering the: Master of Administrative Law and Policy; Master of Business Law; Master of Environmental Law; Master of Environmental Science and Law; Master of Global 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 who are required to enrol in this unit must undertake classes during the first week of their 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 1 **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*

### **LAWS6827 Legal Responsibility & Philosoph of Mind**

6 Credit Points

Adj Prof Christopher Birch SC

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

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

Legal responsibility often depends upon ascribing fault or blame for conduct. This involves several important concepts. Firstly, the ascription of some mental element, whether it be mens rea in the case of crime, or the lesser notions of fault relied upon in civil liability. Secondly, that these intentional mental states caused the conduct for which defendants are blamed. These concepts are philosophically controversial, and current developments in the philosophy of mind assist in reflecting upon them. The unit will look at contemporary philosophical work on free will, consciousness, mind and causation and apply this work to present problems in regard to the concepts of legal responsibility.

*Textbooks*

Lowe: EJ, An Introduction to the Philosophy of Mind, Cambridge U.P., Cambridge 2000

### **LAWS6944 Manipulation & Abuse: Global Secur Mkts**

6 Credit Points

Dr Greg O'Mahoney

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

**Assessment:** class participation (20%), 1xpresentation (20%), 1x5000wd research essay (60%)

This unit aims to introduce candidates to key concepts at the heart of capital market regulation focusing on practices that threaten the integrity of global securities markets. The unit focuses on recent developments (including high profile prosecutions for market abuse) in Australia and the United States while selecting other jurisdictions (most notably China, India, South Africa, Brazil, Europe and Hong Kong) that are relevant to the different subjects considered. The topics addressed will include: market manipulation, insider trading, non-disclosure and fraud-on-the-market, penalties, regulation of hedge funds and developments in emerging markets.

### **LAWS6821 Mediation - Skills and Theory**

6 Credit Points

Prof Hilary Astor

**Prohibition:** LAWS6935 **Offered:** Semester 2b

**Classes:** block/intensive **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.*

### **LAWS6935 Mediation of Commercial Disputes**

6 Credit Points

Adj Prof Alan L Limbury, Mr Robert Angyal, Ms Joanna Kalowski

**Assumed knowledge:** Available to law graduates only

**Prohibition:** LAWS6821 **Offered:** S1 Late

**IntC Classes:** block/intensive **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.

### **LAWS6877 Mental Illness: Law and Policy**

6 Credit Points

Adj 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 as 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.

#### LAWS6151 Netherlands International Tax

6 Credit Points

Professor Kees van Raad

**Offered:** S1 Intensive **Classes:** block/intensive  
**Assessment:** class participation (20%), 1x take home exam (80%)

The Netherlands remains one of the world's major tax jurisdictions for routing investments. Netherlands taxation thus has significant effects for inbound and outbound investment between Australia and the world. This unit will be of interest to tax professionals who have dealings involving the Netherlands tax system and treaty network. The objective of the unit is to provide an overview of the income tax system of the Netherlands and a detailed analysis of the most important legislative and treaty rules of the Netherlands 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 Netherlands 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 Netherlands. The unit includes a study of: Overview of the Netherlands income tax system; Taxation of inbound investment in the Netherlands; Taxation of outbound investment in the Netherlands; Transfer pricing in the Netherlands; Netherlands tax treaties; Australia Netherlands Tax Treaty and Impact of EU law.

#### LAWS6848 New Directions in Public Health Law

6 Credit Points

Prof Roger Magnusson

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

#### LAWS6956 Personal Property Securities

6 Credit Points

Prof Sheelagh McCracken, Prof John Stumbles

**Offered:** S1 Late IntC & S2 Late IntB **Classes:** block/intensive  
**Assessment:** 1x3000wd assignment (30%), 1x2hr open book exam (70%)

This unit analyses the proposed Personal Property Securities legislation, drawing attention to how it will change the existing law regulating the rights of the secured creditors.

The unit focuses on the concepts of attachment, perfection and security. It examines the nature of security interests regulated by the legislation, together with the registration, priority and enforcement regimes. Consideration is also given to the conflict of law rules contained in the legislation. In discussing the Australian position, the unit will compare similar legislation in Canada and New Zealand.

#### LAWS6950 Plain English in Legal Writing

6 Credit Points

Em Profr Peter Butt

**Assumed knowledge:** undergraduate law degree, completed legal studies as part of a business or commerce degree or LAWS6252 **Offered:** S1 Late

**Int Classes:** block/intensive. See Sydney Law School in Europe [www.law.usyd.edu.au/](http://www.law.usyd.edu.au/)

**Assessment:** 1x4000 wd research assignment (40%), 1x4000 wd substantial drafting exercise (40%),

class participation, including drafting assignments (20%)

This unit looks at the role of plain English in legal writing, with particular emphasis on contract drafting, property documents, statutes, and advice-writing. It examines the reasons for the "traditional" style of legal writing, the research into the advantages and disadvantages of plain English, and the techniques for writing law in plain English. Topics include the assumptions behind using plain English in law, the problems with terms of art and judicially-defined words and phrases, the causes of ambiguities in legal documents, and aspects of document design.

#### **LAWS6197 Policing Australian Society**

6 Credit Points

Prof Mark Findlay

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

**Assessment:** 1xclass presentation (20%), 1xin-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.

#### **LAWS6245 Policing Bodies: Crime, Sex & Reproducti**

6 Credit Points

Dr Kristin Savell

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

**Assessment:** class presentation (10%), 1xtake home exam or 1x5000wd research essay (60%), 1x1500wd write-up of class presentation (30%)

This unit explores intersections between the criminal law, health law and medical practice in the regulation of the body. The unit will begin with a critical examination of legal constructions of the individual and branch out to consider specific situations in which the body is subjected to regulation or control in the fields of sexual desire, body modification and reproduction. The unit will consider sex reassignment, sado-masochistic sexual practices and HIV transmission, genital alterations, limb amputation and anorexia; abortion, sex selection and prenatal genetic diagnosis; drug use and consent to medical treatment during pregnancy; enforced sterilisation. Each case study will provide a concrete context in which to consider the connections between: characterisations of autonomy and bodily integrity;

understandings of risk and responsibility; and the legal regulation of certain bodies (eg gay/lesbian, transgendered, fetal, maternal, conjoined, disabled). The intersections between race, gender, disability and sexuality will be considered.

Throughout the unit, candidates will reflect on the extent to which 'medical' and 'criminal' responses are collaborative. This unit will equip students to think critically about the interplay between technologies of the body and the law, and to map possible future directions for criminal law, health law and public policy.

#### **LAWS6890 Principles of Defamation Law**

6 Credit Points

Dr David Rolph

**Assumed knowledge:** undergraduate law degree

**Prohibition:** Candidates who have completed an undergraduate or postgraduate unit in defamation law

**Offered:** S1 Late IntA **Classes:**

block/intensive **Assessment:** 1x2500wd assignment (30%), 1x2hr exam (70%)

Defamation law is a complex area of law that has a significant impact on everyday communications, especially the mass media. This unit of study is designed for candidates who hold an undergraduate law degree but have not studied defamation law before. It seeks to introduce candidates to the principles of liability for defamation. It will analyse issues of defamatory capacity and meaning; identification; publication; defences to defamation, including truth, absolute and qualified privilege and comment; and remedies for defamation, including damages and interlocutory injunctions.

#### **LAWS6951 Principles of US Taxation**

6 Credit Points

Mr Micah Burch

**Assumed knowledge:** Candidates who are not working in tax area and have not studied tax in the last 5 years should undertake LAWS6825 before or concurrently with this unit

**Offered:** Semester 2 **Classes:** (1x2hr lec)/wk **Assessment:** classwork (30%), 1x2hr open book exam (70%)

This unit will outline the basic principles of US income taxation. Topics may include: an overview of the US tax system; introduction to tax policy; defining the tax base (income and deductions); timing issues; tax accounting; calculating gain or loss and capital gains and losses; the taxpayer; taxation of individuals, corporations, partnerships, trusts, and other entities; tax controversies and procedure.

The unit does not cover US International Taxation, which is dealt with in a separate unit LAWS6171.

#### **LAWS6948 Private International Law**

6 Credit Points

Mr Ross Anderson

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

**Assessment:** 1xtake home exam (100%)

Private international law (or conflict of laws) is the part of local or municipal law which is concerned with legal questions which have a transborder or transnational dimension i.e. a relevant connection with a foreign legal system. This unit of study is a general course intended to provide a comprehensive survey of the problems, methods and techniques of private international law. Topics covered include the function and purpose of

private international law; personal jurisdiction and the enforcement of foreign judgments; choice of law, with particular reference to tort, contract, property and marriage; limits to the application of foreign law, with particular reference to the distinction between substance and procedure, proof of foreign law, public policy and other exclusionary doctrines; and the problem of renvoi (which may arise where a foreign legal system's private international law refers a legal question back to the law of the forum or, exceptionally, the law of a third country).

#### **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 (S6), Dr Jacqueline 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:** 1x problem based assignment and class presentation of a case study (10%), 1xresearch essay (90%)

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

Assoc Prof Ben Saul

**Offered:** Semester 2 **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.

#### LAWS6957 **Shareholders' Remedies**

6 Credit Points

Adj Prof Elizabeth Boros

**Assumed knowledge:** LAWS6810 or background in Australian corporate law **Offered:** S1 Late IntA **Classes:** block/intensive **Assessment:** class work (30%), 1x6000wd essay (70%)

The unit objectives are: Examine the common problems experienced by members of various types of company; Understand strategies for preventing or remedying those problems without recourse to litigation; Understand the litigious remedies available to combat those problems; and Explore likely trends for future development of the law.

The unit examines shareholders' remedies, exploring both litigious and non-litigious remedies. Litigious remedies include: class actions and recent developments in derivative litigation, as well as oppression, winding up, alteration of the constitution, dilution of equity stakes and compulsory acquisition of minority shareholdings. Non-litigious remedies include: the role of advance planning, drafting issues in relation to shareholders' agreements and constitutional provisions, and the scope for activism by institutional and retail shareholders in listed public companies.

#### LAWS6124 **Stamp Duties**

6 Credit Points

Mr Mark Richmond (Coordinator), Mr Peter Green, Mr Richard Giannone

**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.

#### LAWS6154 **Sustainable Development Law in China**

12 Credit Points

Ms Nicola Franklin, Em Prof Ben Boer

**Offered:** S1 Late Int **Classes:** block/intensive classes to be held at Jiaotong University, Shanghai, China **Assessment:** 1x15000wd research paper (100%)

This 12 credit point unit comprises an intensive series of lectures and field trips in Shanghai, People's Republic of China, followed by supervised research. The location for lectures is Shanghai Jiaotong University. The unit is designed to: introduce the legal and institutional framework of environmental law and policy in China; and encourage comparative and jurisprudential studies of Chinese environmental law and policy. The lectures and field trips are undertaken over a period of two weeks. The unit is taught principally by Chinese academics at Shanghai Jiaotong University. Candidates are given an introduction to Chinese law and the Chinese legal system before embarking on a study of Chinese environmental law. Field trips are included. It is likely that there will be a visit to the State Environment Protection Authority and to Huangshan, a World Heritage area.

*NB: For further travel information, please visit [www.law.usyd.edu.au/accel/index.shtml](http://www.law.usyd.edu.au/accel/index.shtml) or contact [Law.Accel@usyd.edu.au](mailto:Law.Accel@usyd.edu.au)*

#### LAWS6008 **Takeovers and Reconstructions**

6 Credit Points

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

#### LAWS6945 **Tax and Commercial Laws of the CIS**

6 Credit Points

Prof Paul Stephan

**Offered:** S1 Late IntC **Classes:** block/intensive **Assessment:** class participation (30%), 1xexam (70%)

This unit will acquaint the candidates with the basic elements of the tax systems that exist in most of the CIS countries. The objective is not to review the variations among these countries, but rather to focus on the fundamental structural aspects and the practice problems that they present to the foreign investor. The challenges of administering taxation in an emerging market, as illustrated by the famous Yukos case, will be highlighted.

#### LAWS6840 **Tax of Business and Investment Income A**

6 Credit Points

Ms Chloe Burnett, Prof Michael Dirkis (S1 - Law School), Prof Michael Dirkis (S2 - Taxation Training Program)

**Prohibition:** LAWS6190 **Offered:** Semester 1 & Semester 2 **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

Prof Graeme Cooper

**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:** S2 Late IntB **Classes:** block/intensive **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 Michael Dirkis

**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:** Semester 2 **Classes:** (1x2hr lec)/wk **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 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 before enrolling in this unit. If in doubt, please consult the Taxation Program Coordinator. **Offered:** S1 Late IntB **Classes:** block/intensive **Assessment:** 1xexam or 1xresearch essay (70%), 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.

#### LAWS6946 Tax Treaties Special Issues

6 Credit Points

Prof Richard Vann

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

**Assessment:** classwork (30%), 1xexam or 1xresearch essay (70%)

This unit of study considers the increasing number of specialised topics in the area of tax treaties, largely reflecting the work of the OECD on tax treaties currently and in the last decade. Topics covered include: OECD policy development processes, business restructures, international transport, high value services, education and government, expatriates, superannuation and pensions, entities (companies, partnerships, trusts and collective investment vehicles), triangular cases, conflicts of qualification, non-discrimination, tax competition, tax arbitrage, and the relationship between tax treaties and other areas of international law.

#### LAWS6125 Taxation of Corporate Finance

6 Credit Points

Prof Graeme Cooper

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

**Assessment:** 1x exam (70%), classwork (30%)

This unit will analyse the current law on taxation of financial transactions in Australia. The taxation of banks and other financial institutions will also be examined in passing.

The unit focuses on the tax consequences of issuing, holding and transacting with common financing instruments, including innovative financial instruments such as forwards futures and other derivative instruments. Transactions denominated in Australian and foreign currency are examined as well as forex derivatives. The unit also examines various forms of corporate equity-based financing including preference share financing, convertible notes and leasing. These transactions are examined applying the both the recently enacted taxation of financial arrangements rules, as well as under the default rules which apply apart from TOFA. Domestic and selected withholding tax issues will be examined.

Upon successful completion of this unit a candidate should have an advanced understanding of the technical rules underlying the taxation of financial

institutions and certain specified financial transactions.

*NB: This unit replaced LAWS6125 Taxation of Financial Transactions*

#### LAWS6244 Taxation of Corporate Groups

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 LAWS6030 before enrolling in this unit. If in doubt, please consult the Taxation Program Coordinator.

**Offered:** S2 Intensive **Classes:** 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.

#### 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%), 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 and Trusts

6 Credit Points

Prof Michael Dirkis, Adj Prof 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:** 1xexam (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.

#### 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 1xresearch 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 IntB **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.

#### LAWS6938 **The Currency of Justice**

6 Credit Points

Prof Pat O'Malley

**Assumed knowledge:** Knowledge of some socio-legal or criminological theory **Offered:** S2 Late IntB **Classes:** block/intensive **Assessment:** 1xtake home exam (50%), 1x5000wd essay (50%)

The unit examines money as the primary sanction both of civil and criminal law. Concerns include the historical emergence and development of fines and damages, and an understanding of how these relate to changes in the nature and governance primarily of common law countries. The use of fines in criminal justice and in regulation will be studied, together with their use in the private sector. It will examine fines' effectiveness in producing compliance and the impact of the money form of the fine on criminal and regulatory procedure. The unit raises issues of the 'justice' of money sanctions such as fining the poor, and the gendered nature of money's impact - as well as the techniques developed to deal with such matters and their roll-on effects. Money damages will be considered in similar fashion. Also the unit focuses on the implications of damages as a form of compensation as well as their changing use as a technique of punishing wrongdoers. A close examination will be made of the nexus between money sanctions and other moneyed institutions, such as between tort law and state and private insurance. Also to be studied is the host of 'fees', 'costs' and 'surcharges' levied in the justice system, and their nature and role as sanctions.

#### LAWS6887 **The Judicial Power of the Commonwealth**

6 Credit Points

Assoc Prof Peter Gerangelos (Coordinator), Mr Darrell Barnett, Mr Peter Kulevski

**Assumed knowledge:** It is assumed that candidates have a good working knowledge of the Australian judicial system and Australian federal constitutional law. Only candidates with a law degree from an Australian institution, or who have a law degree from a common law jurisdiction and have studied Australian federal constitutional law will be permitted into the unit. **Offered:** S1 Late

**IntB Classes:** block/intensive **Assessment:** 1x2000wd assignment (20%), 1x6000wd take home exam (80%)

As the High Court has continually emphasised, Australian legal practitioners are required to have a proper appreciation of the issues involved in the exercise of the judicial power of the Commonwealth by the federal and state courts in which they practice. Those issues can significantly affect the course and outcome of proceedings. This unit will provide practitioners and those interested in the area with a thorough understanding of the principles involved and the practical issues and difficulties which arise.

Particular topics covered will include the nature of judicial power, the doctrine of separation of powers and associated constitutional implications, the scope of the original jurisdiction of the High Court, the conferral of federal jurisdiction on federal courts, the investment of state courts with federal jurisdiction, particular issues associated with the operation of the Judiciary Act, rights to appeal to the High Court and the exercise by territory courts of federal jurisdiction. Students will also learn how to identify the appropriate body of procedural and substantive law that is applied in the Federal Court and other courts exercising federal jurisdiction.

*Textbooks*

Zines, Cowen and Zines' *Federal Jurisdiction in Australia*, (3rd ed, Federation Press, 2002)

*NB: The unit replaced LAWS6887 Federal Jurisdiction.*

#### LAWS6912 **The Law of Trusts**

6 Credit Points

Assoc Prof Patricia Loughlan

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

**Assessment:** 1x2hr open book exam (90%), class participation/presentation (10%)

This unit aims to provide a comprehensive review of the modern law of trusts, from fundamentals like the creation, constitution, validity and variation of both private and public trusts, the rights and duties of trustees, trustee and third person liability for breaches of trust, through to a range of specific issues involving commercial trusts, unit trusts, retention of title and Quistclose trusts and constructive trusts.

*NB: This unit replaced LAWS6912 Fundamentals of the Law of Trusts.*

#### LAWS6207 **The Legal System of the European Union**

6 Credit Points

Prof Panos Koutrakos

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

**Assessment:** 1x3000wd assignment (30%), 1x5000wd research paper (70%)

This unit offers graduates who are, for academic, business or professional reasons, interested in the European Union an opportunity to learn about its business, constitutional and administrative law. Students will examine the process of European integration that has taken place since the European communities' inception. Particular emphasis will be placed on the Single European Act, 1986, the Treaty on European Union of 1992 (more familiarly referred to as the Treaty of Maastricht), the Treaty of Amsterdam of 1997 and the more recent treaties of Nice and Lisbon. The European Convention will also be the subject of

discussion during the unit. The distinction between the European Union and the European Communities will be dealt with in the course of these considerations. Topics which will be covered in the course of this unit include the institutional framework of the European Union, policy development in the European Union, the Community legal system, general principles of Community law and administrative law of the Community.

#### LAWS6119 **The State and Global Governance**

6 Credit Points

Dr Fleur Johns, Dr Jacqueline 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%)

This unit explores ways in which international affairs are governed on a global scale, the significance of international law in that governance, and the roles and capacities of states within global governance. In doing so, the unit introduces candidates to a range of historical and contemporary approaches to understanding the role of law in international affairs. Candidates will have an opportunity to consider these issues in relation to current events of global import. For these purposes, both an interest in international affairs and familiarity with the principles and institutions of public international law are desirable. The sorts of questions with which the unit is concerned may include the following: Does global governance comprise a system and, if so, what are its critical features? What is the role of states in this system? In what sense is this system lawful? Is global governance democratic? What is the role of violence in the contemporary global order? How does/should international law seek to address pressing transnational issues, such as poverty, environmental degradation, global health threats and human rights abuses?

*NB: This unit replaced LAWS6119 Theories of International Law*

#### LAWS6904 **The State of the Capital Markets**

6 Credit Points

Mr Jan Job de Vries Robbé

**Assumed knowledge:** LAWS6810 or background in corporate law or comparable experience in practice

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

This unit addresses law and practice in the international capital markets in the face of the credit crunch. It discusses the workings of the capital markets generally, its participants, and key instruments such as in particular securitisation, but also other types of (structured) bonds. Major developments in credit crunch litigation are addressed, alongside the impact on documentation. Actual transactions are discussed. Experts from both different disciplines will guest lecture. The aim of the course is to provide candidates with hands-on tools to further their legal career.

*NB: This unit replaced LAWS6904 International Securitisation Law & Practice*

#### LAWS6940 **Theories of Law**

6 Credit Points  
Dr Kevin Walton

**Offered:** Semester 2 **Classes:** (1x2hr lec)/wk  
**Assessment:** class participation (20%),  
1x8000wd essay (80%)

This unit explores some prominent responses of both philosophers and sociologists to a single question: what is law? Among the notions to which their answers refer (and on which the unit might focus) are the following: power, norms, rules, principles, authority, morality, economics, politics, communication, rationality, adjudication, solidarity, patriarchy, class and pluralism.

#### 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:** S2 Late IntB **Classes:** block/intensive **Assessment:** 1x3000wd assignment (30%), 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  
Adj Prof Andrew Bell, Visiting Prof Andrew Dickinson

**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 IntC **Classes:** block/intensive **Assessment:** 1xtake 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 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:** S2 Late IntB **Classes:** block/intensive

**Assessment:** class participation (20%),

1x7000wd essay (80%)

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

**Assumed knowledge:** Completion of LAWS6252

(GradDipPubHL and MLLR candidates), LAWS6071

(MLLR candidates only) **Offered:** S1 Late IntB

**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

Dr Shae McCrystal (Coordinator), Justice Iain Ross

**Assumed knowledge:** Completion of LAWS6252

Legal Reasoning and the Common Law System

(candidates who do not hold a law degree from a

common law jurisdiction)) and LAWS6071 Labour

Law **Offered:** S1 Late IntC **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 (S1), Prof Gillian Triggs (S53)

**Assumed knowledge:** limited knowledge of law

of treaties **Offered:** Semester 1 & S2 Late IntA

**Classes:** (1x2hr lec)/wk (S1), block/intensive

(S53) **Assessment:** 1xexam (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*

#### LAWS6249 **World Trade Organization Law II**

6 Credit Points

Dr Brett Williams

**Prerequisite:** LAWS6063 **Offered:** Semester 2

**Classes:** (1x2hr lec)/wk **Assessment:** 1xexam

(40%), 1x5000wd essay (60%)

This unit follows on from LAWS6063 World Trade Organization Law I and builds on the understanding gained there of the law of the World Trade Organization and examining some further topics on the law of the WTO with some references to bilateral or regional trade treaties. The dominant part of the unit is an extension of the consideration of the General Agreement on Tariffs and Trade (GATT) by considering the exceptions for

restrictions for health, environmental, technical regulations and quarantine reasons and considering the escape clauses providing for Safeguards, Anti-dumping Duties and Countervailing Duties (including the way these escape clauses are implemented in domestic law, mostly using examples from US law). We extend the consideration of the MFN rule by considering the exception for free trade areas and customs unions (incorporating some limited consideration of particular Free Trade Agreements). Similarly we extend the introduction to the General Agreement on Trade in Services (GATS) by considering some specific service sectors, and extend the introduction to the Agreement on Trade-Related Aspects of Intellectual Property (TRIPS) by considering the scope of exceptions under the TRIPS. We extend the consideration of the nature of the WTO system by considering its interaction with law in other areas, time permitting considering interaction with environmental law, human rights law or competition law.

#### *Textbooks*

Please check the Course Outline on WebCT. Some supplementary materials will be issued. You will need to obtain copies of certain treaties 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 Advanced International Trade Regulation*

### **LAWS6192 Young People, Crime and the Law**

6 Credit Points

Ms Jenny Barga

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

**Assessment:** 1x4500wd essay, 1xtake home exam and class presentation

The unit aims to provide a broad overview of the functioning of the juvenile justice system and its relationship to juvenile offending. There is a specific emphasis on NSW in terms of understanding the operation of a particular system, however reference is frequently made to the wider Australian and international context. The unit analyses the historical development of a separate system of juvenile justice and the system of ideas about juvenile delinquency as distinct entities separable from broader notions of criminality and criminal justice. The unit also analyses the contemporary nature of juvenile crime and specific issues in relation to policing, community-based corrections and detention centres.

Social relations which mediate between the juvenile justice system and young people will be investigated through a focus on gender, race and class. The broader political determinants surrounding the operation of the juvenile justice system and moral panics in relation to juvenile offending will also be examined. The unit aims to develop a critical understanding of the link between theory and juvenile justice policy, and to develop an appreciation of the multi-disciplinary nature of criminological explanation.

*NB: This unit replaced LAWS6069 Juvenile Justice*