

SUBJECT DESCRIPTIONS

The descriptions below are adapted from those prepared by the teachers and examiners in each subject. For more information please refer to the individual subject guides and the Course Materials section on the Law Extension Committee Webcampus.

COMPULSORY SUBJECTS

01 Legal Institutions

The course introduces students to the origins, history and present operation of the institutions which make up the Australian legal system, to the sources of law, and to the Commonwealth and New South Wales constitutions. The matters which will be considered include the distribution of legislative powers between the Commonwealth and the States, the executive powers of the Commonwealth and New South Wales governments and the sources of those powers, the system of courts and tribunals operating at Commonwealth and New South Wales levels, the relationship between the various legal institutions, the theory and practice of precedent, the rules of statutory interpretation, the legal profession and arbitration and alternative dispute resolution.

02 Criminal Law and Procedure

This course provides the student with an understanding of the general principles of criminal law, together with a detailed knowledge of the application of these principles in respect of major crimes and defences. The student is also introduced to aspects of pre-trial criminal procedure, including police powers of arrest, search, seizure and interrogation.

03 Torts

A tort is a civil wrong which results in physical or psychiatric injury, property damage or financial loss to another or by which another's legal rights are infringed. A plaintiff who has suffered injury or loss due to a tort committed by the defendant will generally be seeking compensation by way of damages.

The course includes the study of a number of important torts such as trespass, which protects a person from unwanted physical contact or threats; negligence; and related issues such as defences, assessment of damages and concurrent liability. Some torts such as defamation are not included for study due to time limitations.

04 Contracts

The course aims to provide students with an understanding of the basic principles of contract law. In fulfilling this aim, the course focuses primarily on a study of relevant case law and statute law. The course also aims to help develop in students an ability to analyse fact situations and correctly identify the relevant principles of contract law that are applicable. The course covers the elements of formation of contracts, contractual capacity, terms of a contract, matters affecting consent to a contract, discharge of contracts, remedies, illegality and privity of contract.

05 Real Property

Real Property is concerned with the law relating to interests in land. Such interests are binding not only between those who have entered into a contractual relationship, they can also be binding between others. Examples include the mortgagor/mortgagee and landlord/tenant relationships and also the operation of easements and restrictive covenants between persons who own neighbouring blocks of land.

06 Australian Constitutional Law

Australian constitutional law is a branch of public law which focuses upon the primary source of that law in the Commonwealth of Australia Constitution Act 1900 (Imp). It is that document which created the Commonwealth of Australia and preserved the former colonies as technically autonomous entities called States. It is the Constitution which provides a definition of public power in Australia. It divides legislative power between the Commonwealth and the States by conferring on the Commonwealth Parliament power to legislate "with respect to" particular topics.

07 Equity

Equity, which includes the law of trusts, begins with a study of the historical origins and development of the equitable jurisdiction and then moves on to consider equitable doctrines concerning property, including the recognition of assignments of legal and equitable interests in property in equity; estoppel in equity; fiduciary obligations; the nature and creation of trusts, including trusts arising by operation of law as resulting or constructive trusts; charitable trusts; the duties, powers, rights and liabilities of trustees; the rights of beneficiaries, including the right to trace trust property; and, to conclude, equitable remedies including injunctions, specific performance, monetary remedies in

equity and the equitable jurisdiction to set aside transactions procured by undue influence and unconscionable conduct.

08 Commercial Transactions

This course is about buying and selling, personal property, and some aspects of securities over and payments for personal property. While largely concentrating on the tangible forms of personal property, recognition is given where practical to the forces at work making the information economy (rather than the physical economy) and a global marketplace (rather than a local one) the driving forces in world commerce today.

09 Administrative Law

Administrative law is a branch of public law which is concerned with the legal control of decisions and actions of governmental agencies and officials, and those of non-governmental bodies which affect the public.

In Australia today, governmental and non-governmental regulation - at federal, state and local government levels - impinges on most areas of life. Notable examples include social security, education, immigration, broadcasting and television, public sector employment, industry and commerce, exploration and mining, ownership and use of property, occupational licensing, town planning and the environment.

The emphasis of the course is on the principles and procedures of administrative law relating to the review of such governmental and non-governmental administrative action.

10 Law of Associations

Law of Associations is a description of some of the laws which regulate associations of individuals. People often choose to group together in a regimented structure in order to conduct their activities. The rationale behind the choice of the particular type of grouping will vary depending upon the needs at the time. Taxation advantages, the desire to limit liability, and the need to generate capital externally are just some of the reasons behind this choice.

11 Evidence

The Evidence course is devoted to an examination of the rules governing the presentation of evidence in common law trials, both civil and criminal. The central focus of the course is on the provisions of the Evidence Act 1995.

The matters considered include the manner and form in which evidence can be presented to the court, the matters which are susceptible of proof as defined by the inclusionary and exclusionary rules, and the tests to be applied in determining whether sufficient evidence has been introduced.

12 Taxation and Revenue Law

The Taxation and Revenue Law course is an overview of the Income Tax Assessment Act and related legislation. General principles concerning the accessibility and deductibility of different types of receipts and items of expenditure are considered, along with more recent developments in relation to the tax treatment of fringe benefits, capital gains and GST. The differing tax consequences in respect of various legal entities, such as partnerships, trusts and companies, are also considered. The last part of the course deals with the collection and recovery of tax, and the procedures to be followed by a taxpayer in disputing a tax assessment with the Commissioner of Taxation.

13 Succession

The law of succession is concerned with the law of wills and the administration of deceased estates. The applicable principles vary depending upon whether the deceased dies with or without a will and in either case are subject to permissible claims under the Family Provision Act 1982 (NSW).

14 Conveyancing

Conveyancing practice requires an understanding of Real Property and Planning Law. The course is designed to provide the theoretical and practical foundations of conveyancing practice. Particular emphasis is placed on the structure of the current edition of the Contract for Sale of Land.

Whilst the course is to some degree involved with practical issues of conveyancing, a good deal of relevant case law and legislation is discussed in order that students will be in a position to recognise problem areas in practice. The course also provides for a consideration of various issues of contract law and equity and alternate dispute resolution.

15 Practice and Procedure

The subject of Practice and Procedure deals with the day to day practicalities of civil litigation in the Supreme Court of New South Wales. The subject also includes an evaluation of various initiatives to reform the judicial system, including, in particular,

the development of case management practices and the use of other dispute resolution processes.

17 Legal Ethics

The objectives of the course are to give the student a sound background of the statute, common law and rules and regulations which govern professional practice as a barrister or solicitor; and to provide guidance as to what can go wrong, how to recognise a problem, and what help is available, and what may occur where there has been an ethical breach.

24 Jurisprudence

This course in jurisprudence will apply the concepts and techniques of philosophical analysis to an examination of the nature of law and issues surrounding legal reasoning, and the relationship between law, morals and theories of justice. The course will examine some of the most important theories of analytical jurisprudence, and trace their historical development. Issues in legal reasoning raised by the doctrine of precedent, the relationship between law and logic, and legal fact finding and probability theory will be examined. The course will consider the debate about the separation between law and morals, and arguments for and against natural law. The course seeks to introduce students to modern legal philosophy, and to demonstrate how that study gives insights into the nature and function of law important to the practice of law.

ELECTIVE SUBJECTS

16 Insolvency

The Insolvency course examines the legal impact of bankruptcy and insolvency law upon both individual citizens and modern business in Australia.

18 Conflict of Laws

Conflict of laws, or private international law, is the part of private law concerned with legal questions which contain a foreign element. A legal question will contain a foreign element where a relevant fact or party has a connection with a foreign country. For example, conflict of laws issues will arise if proceedings are contemplated in New South Wales in respect of a tort committed in Singapore or in respect of breach of a contract made in New York or against an overseas defendant. In essence, conflict of laws is concerned with questions of

private law which transcend legal systems.

This course is a general introduction to the sources and techniques of conflict of laws, with particular reference to legal questions connected with countries outside Australia. Although reference will be made in the course to issues of federal or intranational conflict of laws (conflict of laws issues arising between the States and Territories of Australia), detailed knowledge of this topic, such as the scope and operation of the Service and Execution of Process Act 1992 (Com), the concept of federal jurisdiction and the full faith and credit section of the Commonwealth Constitution, will not be required for examination purposes.

The course objective is to give you an opportunity to gain an appreciation and understanding of the transnational dimension of private law and the fact that many legal questions which arise in everyday life are not confined within one legal system.

19 Family Law

This course is designed to provide students with a general yet comprehensive introduction to family law in Australia. The course covers five main areas: the historical and current development of family law; special procedural rules, including less adversarial trials; children and parental responsibility; spousal maintenance, child support and injunctive relief; and property settlement.

20 Local Government and Planning

The Local Government and Planning course examines the bodies of law which regulate the establishment, status, powers, operation and accountability of local councils and the environmental and planning laws which regulate the use of land. Dramatic changes to the laws governing the constitution, structure and operation of local councils and the regulation of development, building and subdivision of land have been implemented since 1993.

The course addresses the operation and effects of the above changes, which are of vital importance to lawyers who specialise, or are developing specialisation, in the rapidly expanding field of local government, environmental and planning law. The course also covers discussion of the options for resolution of planning disputes, apart from Court determination.

The overall aim of the local government and planning course is to enable students through lectures, study and practical course exercises to explore and understand the wide variety of laws under which councils operate as regulators and

providers of vital services to their communities. This expertise will not only assist them in local government and planning legal practice but also will provide invaluable expertise in aspects of conveyancing practice.

21 Industrial Law

Industrial law, or the law of employment, is the body of law which regulates the relationship between employers and employees, employers and trade unions, and trade unions and employees.

The Industrial Law course is a general introduction to industrial law, having the primary objective of introducing students to the system of conciliation and arbitration which operates in Australia, and the common law duties imposed on both employers and employees.

22 Intellectual Property

The law of intellectual property encompasses the areas of copyright, design, circuit layouts, patent, plant variety rights, confidentiality information, business reputation and trade marks. The course provides a general introduction to intellectual property outlining for each category of protection how the rights arise, the nature of the rights, ownership and exploitation as well as infringement and remedies.

23 Public International Law

Public international law is the regime of legal rules which primarily seeks to regulate relations between sovereign states. For example, public international law defines the minimum standard of treatment which a sovereign state must accord the nationals of another state on its territory and the responsibility of one state to another for failure to observe the required standard of treatment. Individuals, to an increasing extent, also are a direct concern of public international law. Examples of this development include the international criminal responsibility of individuals for war crimes, crimes against humanity and genocide and the network of treaties which aspires to define and protect human rights.

This course is a general introduction to the sources and techniques of public international law with the objective of imparting to you an appreciation and understanding of the role of legal rules in regulating the conduct of states and individuals in international society.

25 Trade Practices

The Trade Practices Act (1974) has a significant impact on every aspect of commerce and



consumerism in Australia. The course complements the other commercial subjects by covering the restrictive trade practices (e.g. price fixing, misuse of market power, exclusive dealing, resale price maintenance etc), deceptive trade practices (unconscionable conduct, misleading and deceptive conduct), product liability, enforcement and remedies (damages and other orders etc.) provisions of the Act.

LANGUAGE SKILLS COURSE

A new course has been developed to assist you to improve your written language skills. The course is designed for students who would like to sharpen the way they write, to be more precise in their language and to learn the basis of good, formal grammar and punctuation. The course is for students who have not had a good grammatical grounding in the past and who would like to have a better understanding of how their language works. Such knowledge will help you with your written skills, not only for your course but will be of great assistance when you are drafting court documents or contracts, or writing to clients. Further information on the Language Skills course offered will be available on the LEC website.