



UNSW Course Outline

JURD7250 Federal Constitutional Law - 2024

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General Course Information

Course Code : JURD7250

Year : 2024

Term : Term 1

Teaching Period : T1

Is a multi-term course? : No

Faculty : Faculty of Law and Justice

Academic Unit : School of Global and Public Law

Delivery Mode : In Person

Delivery Format : Standard

Delivery Location : Kensington

Campus : Sydney

Study Level : Postgraduate

Units of Credit : 6

Useful Links

[Handbook Class Timetable](#)

Course Details & Outcomes

Course Description

This course continues students' exposure to the field of public law, to which they have been earlier introduced in Principles of Public Law. In JURD7250 students engage with the intellectual debates surrounding methods of constitutional interpretation, before embarking on a study of

the scope of specific Commonwealth legislative powers of importance in the contemporary operation of Australia's federal system. The course also examines the effect of express and implied constitutional limitations upon the powers of government – particularly those which protect civil and political rights. Understanding of the scope of valid legislative action is developed through application of propositions of constitutional law to actual and hypothetical legislative instruments.

Main Topics

- Fundamentals of Australian Constitutional Law
- The High Court and Constitutional Interpretation
- The High Court and Characterisation
- Inconsistency of Laws
- The External Affairs Power
- The Trade and Commerce Power
- The Corporations Power
- The Races Power
- The Defence Power
- The Taxation Power – What is a Tax?
- Fiscal Federalism and the Grants Power
- Trial by Jury and Freedom of Religion
- Freedom of Interstate Trade and Commerce
- Freedom of Political Communication
- Judicial Power & Detention
- The Federal Compact: the *Melbourne Corporation* Principle

Course Aims

The aims of the course are to ensure students are familiar with the central principles of law relating to the interpretation of the Commonwealth Constitution and some of the surrounding intellectual debates, understand the scope of specific Commonwealth legislative powers and the effect of express and implied constitutional limitations thereon, and become effective constitutional law problem-solvers.

Course Learning Outcomes

Course Learning Outcomes
CLO1 : Demonstrate awareness of the broader principles of public law underpinning federal constitutional law (PLOs 1, 2 & 3)
CLO2 : Formulate an accurate statement of applicable constitutional law on the ambit and limits of legislative power (PLOs 4 , 5 & 6)
CLO3 : Apply propositions of constitutional law to hypothetical problems testing the validity of legislative action (PLOs 4 , 5 & 6)
CLO4 : Engage in critical analysis of the role and methods of the High Court in interpreting the Constitution (PLOs 5 & 6)
CLO5 : Navigate and apply complex statutory enactments in the context of ascertaining constitutional validity (PLO 4)
CLO6 : Demonstrate effective oral communication skills by discussing and debating course concepts in a scholarly, reflective and respectful manner (PLOs 9 & 10)

Course Learning Outcomes	Assessment Item
CLO1 : Demonstrate awareness of the broader principles of public law underpinning federal constitutional law (PLOs 1, 2 & 3)	<ul style="list-style-type: none"> • Class Participation • In-term Take-home Examination • Final Invigilated Examination
CLO2 : Formulate an accurate statement of applicable constitutional law on the ambit and limits of legislative power (PLOs 4 , 5 & 6)	<ul style="list-style-type: none"> • Class Participation • In-term Take-home Examination • Final Invigilated Examination
CLO3 : Apply propositions of constitutional law to hypothetical problems testing the validity of legislative action (PLOs 4 , 5 & 6)	<ul style="list-style-type: none"> • Class Participation • In-term Take-home Examination • Final Invigilated Examination
CLO4 : Engage in critical analysis of the role and methods of the High Court in interpreting the Constitution (PLOs 5 & 6)	<ul style="list-style-type: none"> • Class Participation • Final Invigilated Examination
CLO5 : Navigate and apply complex statutory enactments in the context of ascertaining constitutional validity (PLO 4)	<ul style="list-style-type: none"> • In-term Take-home Examination • Class Participation • Final Invigilated Examination
CLO6 : Demonstrate effective oral communication skills by discussing and debating course concepts in a scholarly, reflective and respectful manner (PLOs 9 & 10)	<ul style="list-style-type: none"> • Class Participation

Learning and Teaching Technologies

Moodle - Learning Management System

Assessments

Assessment Structure

Assessment Item	Weight	Relevant Dates
Class Participation Assessment Format: Individual	20%	Start Date: Not Applicable Due Date: Not Applicable
In-term Take-home Examination Assessment Format: Individual	30%	Start Date: 04/10/2023 09:00 AM Due Date: 18/10/2023 04:00 PM
Final Invigilated Examination Assessment Format: Individual	50%	Start Date: Not Applicable Due Date: Not Applicable

Assessment Details

Class Participation

Assessment Overview

This assessment requires you to prepare for and actively engage in class-based and online activities.

Course Learning Outcomes

- CL01 : Demonstrate awareness of the broader principles of public law underpinning federal constitutional law (PLOs 1, 2 & 3)
- CL02 : Formulate an accurate statement of applicable constitutional law on the ambit and limits of legislative power (PLOs 4 , 5 & 6)
- CL03 : Apply propositions of constitutional law to hypothetical problems testing the validity of legislative action (PLOs 4 , 5 & 6)
- CL04 : Engage in critical analysis of the role and methods of the High Court in interpreting the Constitution (PLOs 5 & 6)
- CL05 : Navigate and apply complex statutory enactments in the context of ascertaining constitutional validity (PLO 4)
- CL06 : Demonstrate effective oral communication skills by discussing and debating course concepts in a scholarly, reflective and respectful manner (PLOs 9 & 10)

Detailed Assessment Description

Assessment for class participation is designed to encourage student preparation for classes, by reading, analysing, reflecting on and evaluating legal material prior to covering that content in class. It is also there to provide opportunities for students to express their understanding in class discussion, to share their learning, to develop skills in clear and critical thinking and to gain low-key but valuable experience in presenting oral arguments. Finally, it is also an important part of making the course more interesting, engaging and enjoyable.

The mark for class participation will be influenced by the general contribution students make

across the course to class discussion and group learning. The frequency of contribution is one consideration but quality is more important. The quality of contribution is not a measure of your pre-existing knowledge of the area, but rather of the way in which your contribution capitalises on your curiosity, pre-reading and knowledge to enhance the learning experience for everyone in the class. That may be demonstrated in several different ways: for example, by offering an observation based on the readings, by posing a pertinent question or by volunteering a thoughtful response to someone else's comment or question.

Completion of the online modules is also taken into account in your class participation mark.

Assessment Length

NA

Assignment submission Turnitin type

Not Applicable

Hurdle rules

Students **must attend a minimum of 80% of classes** to be eligible to undertake assessment in this course.

In-term Take-home Examination

Assessment Overview

This assessment requires you to complete a take-home written examination.

Course Learning Outcomes

- CL01 : Demonstrate awareness of the broader principles of public law underpinning federal constitutional law (PLOs 1, 2 & 3)
- CL02 : Formulate an accurate statement of applicable constitutional law on the ambit and limits of legislative power (PLOs 4 , 5 & 6)
- CL03 : Apply propositions of constitutional law to hypothetical problems testing the validity of legislative action (PLOs 4 , 5 & 6)
- CL05 : Navigate and apply complex statutory enactments in the context of ascertaining constitutional validity (PLO 4)

Detailed Assessment Description

The midsession take-home exercise tests constitutional reasoning skills, and rewards in-depth understanding of cases, clarity of expression, and ability to apply rather than merely restate the law.

The take-home may examine any of the topics covered in the course up to the end of Week 3.

Assessment Length

1200 words

Submission notes

Turnitin

Assignment submission Turnitin type

This assignment is submitted through Turnitin and students do not see Turnitin similarity reports.

Final Invigilated Examination

Assessment Overview

This assessment requires you to complete an invigilated written examination within the University examination period.

Course Learning Outcomes

- CL01 : Demonstrate awareness of the broader principles of public law underpinning federal constitutional law (PLOs 1, 2 & 3)
- CL02 : Formulate an accurate statement of applicable constitutional law on the ambit and limits of legislative power (PLOs 4 , 5 & 6)
- CL03 : Apply propositions of constitutional law to hypothetical problems testing the validity of legislative action (PLOs 4 , 5 & 6)
- CL04 : Engage in critical analysis of the role and methods of the High Court in interpreting the Constitution (PLOs 5 & 6)
- CL05 : Navigate and apply complex statutory enactments in the context of ascertaining constitutional validity (PLO 4)

Detailed Assessment Description

The final exam will be administered by central exams. It will be 2 hours.

The final exam will consist of a combination of problem and essay questions and is worth 50% of the final mark.

The exam will be based on material covered throughout the course. There will be an element of internal choice in selecting which essay question to answer.

The problem question in the exam tests the same skills as the mid-session problem question.

The essay tests students' understanding of the themes underlying the course.

Assessment Length

2 hours

General Assessment Information

Grading Basis

Standard

Course Schedule

Attendance Requirements

Please see information about attendance requirements in **Law & Justice Assessment Procedure and Student Information** located in the Other Useful Information tab in the Academic Information field.

Please be advised there will be no classes on public holidays. If your class falls on a public holiday, alternative arrangements will be made by the course convenor to make up the missed class.

Course Resources

Prescribed Resources

Prescribed Text

The only required text is George Williams et al, *Blackshield & Williams Australian Constitutional Law & Theory: Commentary and Materials* (8th ed, Federation Press, 2023) (hereafter 'Casebook').

Assessment tasks and class discussion are based on the prescribed readings from the 8th edition of the Casebook. However, we recognise some students who hold a copy of the 7th edition from the earlier, related course may face difficulties buying a fresh copy of the 8th edition. **Please be aware that you will need to consult the 8th edition** to ensure you are familiar with revised and new material that will form part of the assessable material this semester. **This is your responsibility not your teacher's.**

Students should ideally read as widely as possible, but the reading list posted on the Moodle site indicates the **minimum of reading** which students should complete **prior** to attending class.

Recommended Resources

Constitutional and public law blogs

A good way to keep up with accessible public law scholarship is to subscribe to the AUSBUBLAW blog: www.auspublaw.org. This blog is hosted by the Gilbert + Tobin Centre of Public Law at UNSW Law and has, since 2019, been co-facilitated by the Australian Association of Constitutional Law. It features posts on topical public law issues by academics, practitioners and others from around Australia.

The [Indigenous Constitutional Law Blog](#) was launched this year, and has great analysis of First Nations constitutional law issues, particularly around the Uluru Statement from the Heart and the constitutionally enshrined First Nations Voice to Parliament.

If you use Twitter, you can discover a lot of public law commentators and academics from Australia and overseas. Hashtags to be aware of include #auscon, #auspublaw and #auslaw.

Course Evaluation and Development

Student feedback on the course will be taken at the conclusion on the course through the myExperience surveys. Class time will be made available in the final week to complete this survey. This is in addition and separate to the teacher evaluations that you will also be asked to undertake.

These evaluations are an important tool that helps us review the course, responding to the learning experience of students. They are considered seriously, and have often resulted in course changes, including the structure of the revision weeks, and the inclusion of more tutorials to assist in answering problem-style questions.

Of course, informal feedback regarding the course is welcomed throughout the term, please direct any suggestions and concerns you have to the course convenor, Theunis Roux.

Staff Details

Position	Name	Email	Location	Phone	Availability	Equitable Learning Services Contact	Primary Contact
Convenor	Theunis Roux				Please email for availability	Yes	Yes

Other Useful Information

Academic Information

Upon your enrolment at UNSW, you share responsibility with us for maintaining a safe, harmonious and tolerant University environment.

You are required to:

- Comply with the University's conditions of enrolment.
- Act responsibly, ethically, safely and with integrity.
- Observe standards of equity and respect in dealing with every member of the UNSW community.
- Engage in lawful behaviour.
- Use and care for University resources in a responsible and appropriate manner.
- Maintain the University's reputation and good standing.

For more information, visit the [UNSW Student Code of Conduct Website](#).

UNSW Law & Justice Assessment Policy

It is essential that all students undertaking this course read and abide by the [UNSW Law & Justice Assessment Policy & Student Information](#). This document includes information on Class Attendance, Late Work, Word Limits, Marking, Special Consideration, Workload, and Academic Misconduct & Plagiarism. More information can also be found at [Assessment & Exam Information](#).

Information regarding Course Outlines are subject to change and students are advised to check updates. If there is a discrepancy between the information posted here and the handbook or the UNSW Law & Justice website, please contact [Student Services via The Nucleus Hub](#) for advice. UNSW Law & Justice reserves the right to discontinue or vary such courses or staff allocations at any time. If your course is not here, please visit [Handbook](#) for information.

Academic Honesty and Plagiarism

As a student at UNSW you are expected to display [academic integrity](#) in your work and interactions. Where a student breaches the [UNSW Student Code](#) with respect to academic integrity, the University may take disciplinary action under the Student Misconduct Procedure. To assure academic integrity, you may be required to demonstrate reasoning, research and the process of constructing work submitted for assessment.

To assist you in understanding what academic integrity means, and how to ensure that you do comply with the UNSW Student Code, it is strongly recommended that you complete the [Working with Academic Integrity](#) module before submitting your first assessment task. It is a free, online self-paced Moodle module that should take about one hour to complete.

Submission of Assessment Tasks

Before submitting assessment items all students must read and abide by the [UNSW Law & Justice Assessment Policy & Student Information](#).

Special consideration

Special consideration is primarily intended to provide you with an extra opportunity to demonstrate the level of performance of which you are capable. To apply, and for further information, see Special Consideration on the UNSW [Current Students](#) page.

Feedback

UNSW Law & Justice appreciates the need for students to have feedback on their progress prior to the last date for withdrawal without failure. All courses will therefore provide feedback to students prior to this date, as well as throughout the course. However, students should note that feedback does not take the form only of formal grades and written comments on written assessments. Rather, formative feedback, which helps students to self-assess, to identify misunderstandings, and to identify areas requiring further work, will occur during class and possibly online. For example, where a teacher asks the class a question, all students should think about how they might answer. Even though not all students will necessarily be able to respond orally, everyone can reflect on their tentative answer in light of the teacher's response and subsequent class discussion. If you are struggling to understand what is being asked in class, or if your tentative answers prove incorrect and subsequent discussion does not clear things up, then you should continue to ask questions (of yourself, your peers or your teacher). Similarly, you can get a sense of your ability in a course through peer feedback during group work, your teacher's responses to your in-class contributions, and your own response to in-class problems and examples (whether or not you are called on to relay your answer to the class) and also your online activities and responses by others to those activities. Students enrolled in this course may check their Moodle course page for details on the specific feedback used in this course.

Faculty-specific Information

Additional support for students

- Student support: <https://www.student.unsw.edu.au/support>
- Academic Skills and Support: <https://student.unsw.edu.au/academic-skills>
- Student Wellbeing, Health and Safety: <https://student.unsw.edu.au/wellbeing>
- Equitable Learning Services: <https://student.unsw.edu.au/els>
- UNSW IT Service Centre: <https://www.myit.unsw.edu.au>

Course improvement

Student feedback is very important to continual course improvement. This is demonstrated within the Faculty of Law & Justice by the implementation of the UNSW online student survey myExperience, which allows students to evaluate their learning experiences in an anonymous way. myExperience survey reports are produced from each survey. They are released to staff after all student assessment results are finalised and released to students. Course convenors will use the feedback to make ongoing improvements to the course. Students enrolled in this course may check their Moodle course page for details on the actions taken in response to evaluation feedback in Student Survey.

School Contact Information

Please contact [Nucleus Student Hub](#) for all enquiries. The Nucleus acts as a central communications hub for UNSW and will distribute your enquiry to the best person to respond.