

LEGL6004: Law for Workplace Health & Safety

Online

Semester 2 - 2023



THE UNIVERSITY OF
NEWCASTLE
AUSTRALIA

OVERVIEW

Course Description Gives students an understanding of the impact of the legal and regulatory system on health and safety in the workplace. Topics covered include: structure and functions of law and legal institutions in Australia as they relate to WH&S; an introduction to the employer/employee relationship; Tort liability: Negligence, Breach of Statutory Duty; the Work Health and Safety Act 2011 (NSW) and related legislation; an introduction to the principles of Workers' Compensation; and WH&S and anti-discrimination laws.

Assumed Knowledge The course assumes no prior knowledge of law.

Skills Focus This course will focus on assisting students to develop the following skills:

- Problem solving
- Research and writing
- Statutory interpretation

Contact Hours **Online**
Self-Directed Learning
4 hour(s) per Week for Full Term
Equivalent to 4 hours of face-to-face lectures per week: i.e. 56 hours over the full semester. Online discussion board is also available.

Unit Weighting 10

Workload Students are required to spend on average 120-140 hours of effort (contact and non-contact) including assessments per 10 unit course.

COURSE OUTLINE

www.newcastle.edu.au

CRICOS Provider 00109J

CONTACTS

Course Coordinator **Online**
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SYLLABUS

Course Content

- Structure and functions of law and legal institutions in Australia as they relate to WHS; basic legal research skills.
- An introduction to the law of contract and the employer/employee relationship.
- Tort Liability: Negligence; Breach of Statutory Duty.
- The Work Health and Safety Act 2011 (NSW).
- Related legislation - State and Commonwealth.
- An introduction to the principles of Workers' Compensation.
- WH&S and anti-discrimination laws

Course Learning Outcomes

On successful completion of this course, students will be able to:

1. Demonstrate an understanding of the Australian Legal System in the context of workplace health and safety laws, and the ability to access recent developments in the law;
2. Describe the common law requirements which relate to workplace health and safety, and their relationship to the contract of employment;
3. Demonstrate a critical understanding of the relevant statutory requirements with particular emphasis on the Work Health & Safety Act 2011 (NSW);
4. Discuss the concepts of negligence and liability in relation to workplace health and safety;
5. Discuss the remedies available for breaches of legal standards;
6. Demonstrate an understanding of the general principles of workers' compensation and of the scheme of legislation applying in NSW;
7. Appreciate some of the issues raised by other workplace laws such as those relating to discrimination as they relate to this area.

Course Materials

The prescribed text for this course is Neil Foster, *Workplace Health and Safety Law*, LexisNexis Butterworths, 2nd Edition, 2016. This textbook can be accessed online through the university library.

SCHEDULE

Learning in this online course will take place through student reading of the textbook, along with updates provided on the course website; some narrated PowerPoint lectures and materials; occasional live online sessions; interaction and discussion on the online Discussion Board; and through completion of the assessment items. The following table indicates an appropriate study program which students should follow to keep up with the assigned reading and work, organised around the University teaching weeks.

Week	Week Begins	Topic	Learning Activity	Assessment Due
1	17 July	Sources of law	Read Chapter 1	
2	24 July	Sources of law	Read Chapter 2	
3	31 July	Primary duties under WHS Act	Read Chapter 7	
4	7 August	Other health and safety duties under WHS Act	Read Chapter 8	
5	14 August	Other duties and enforcement of WHS Act	Read Chapter 9 and Chapter 13: [13.1]–[13.8]	
6	21 August	Regulations under WHS Act	Read Chapter 10	
7	28 August	Workplace health and safety and discrimination	Read Chapter 12	Sunday 3 September (11:59 PM)
8	4 September	Workers' compensation	Read Chapter 11	
9	11 September	Workers' compensation	Read Chapter 11	
10	18 September	Contract law and the contract of employment	Read Chapter 3	
Mid-Term Break (25 Sept- 6 Oct)				
11	9 October	Protection of workplace safety under tort law: duty of care	Read Chapter 4	Sunday 15 October (11:59 PM)
12	16 October	Protection of workplace safety under tort law: other matters	Read Chapter 5	
13	23 October	Protection of workplace safety under tort law: breach of statutory duty	Read Chapter 6	
Examination Period				Sunday 5 November (11:59 PM)

ASSESSMENTS

This course has 3 assessments. Each assessment is described in more detail in the sections below.

	Assessment Name	Due Date	Involvement	Weighting	Learning Outcomes
1	Problem-solving Assignment	3 September 2023 (11:59 PM)	Individual	40%	1, 3, 5
2	Essay	15 October 2023 (11:59 PM)	Individual	25%	1, 5, 6
3	Short Answer Questions	5 November 2023 (11:59 PM)	Individual	35%	2, 4, 5

To ensure that grades are fair both within and between courses and cohorts, Newcastle Law School has a rigorous policy of moderating and reviewing assessments. The School Assessment Board (SAB) reviews all final grades before they are released to students, and the SAB process may result in the overall marks of a class being moved up or down by a specific amount, thus impacting individual marks. This is consistent with grading practices in other Law Schools across the country and is important to ensure the integrity of assessments. This means that the final grade you are awarded may not be the sum of marks you have received in all assessments.

Late Submissions The mark for an assessment item submitted after the designated time on the due date, without an approved extension of time, will be reduced by 10% of the possible maximum mark for that assessment item for each day or part day that the assessment item is late. Note: this applies equally to week and weekend days.

Assessment 1 – Problem-Solving Assignment

Assessment Type	Written Assignment
Description	The assignment will consist of a problem question designed to test your knowledge and critical understanding of the body of legal rules which governs work health and safety as regulated by the <i>Work Health and Safety Act 2011</i> (NSW) and your ability to make judgments in the application of those rules to particular fact scenarios. The question will be posted in the Assessments section of the LEGL6004 Canvas site. Part I of this assignment relates to the <i>Work Health and Safety Act 2011</i> (NSW) and has a word limit of 2,200 words. Part II of this assignment relates to the <i>Work Health and Safety Regulation 2017</i> (NSW) and has a word limit of 300 words.
Weighting	40%
Due Date	3 September 2023 (11:59 PM)
Submission Method	Assignments must be submitted to Turnitin in Microsoft Word format or using similar word processing software (not as a PDF document). There is no need to submit a paper copy. Since you will not be submitting a paper copy of your assignment, in lieu of the usual assignment cover sheet you should ensure your paper has a title page which includes the title of your assignment, the word count, and the academic integrity declaration which will be set out in the assignment instructions. You should read the declaration carefully and ensure you understand what you are declaring before including it on the title page of your assignment.
Assessment Criteria	You can expect to do well in this assignment if you: (i) demonstrate you have developed detailed knowledge and critical understanding of the body of law that governs work health and safety in NSW, including contemporary developments in relation to this body of law; (ii) identify work health and safety law issues relevant to a particular fact scenario and construct logical and persuasive arguments about how the law relevant to those issues (including cases and legislation) might apply to the given facts; (iii) in the process of setting out these arguments, demonstrate skills in statutory interpretation and an ability to identify relevant facts and connect these with similarities and/or differences with the facts in applicable case-law to suggest how key legal issues might be determined; (iv) demonstrate an understanding of the factors that need to be weighed in determining whether or not to pursue legal action in relation to a given fact scenario; and (v) write clearly and concisely and structure the analysis in a logical way.
Return Method	Papers will be marked on Canvas and comments will be made available on Canvas.

Feedback Provided Yes (see above).

Assessment 2 – Essay

Assessment Type	Written Assignment
Description	The assignment will require you to write a short essay which demonstrates your knowledge of the body of legal rules relating to the workers' compensation regulatory scheme in NSW. Students will choose an essay question to answer from a list of options which will be posted in the Assessments section of the LEGL6004 Canvas site. The word limit for the essay is 1,000 words.
Weighting	25%
Due Date	15 October 2023 (11:59 PM)
Submission Method	Assignments must be submitted to Turnitin in Microsoft Word format or using similar word processing software (not as a PDF document). There is no need to submit a paper copy. Since you will not be submitting a paper copy of your assignment, in lieu of the usual assignment cover sheet you should ensure your paper has a title page which includes the title of your assignment, the word count and the academic integrity declaration which will be set out in the assignment instructions. You should read the declaration carefully and ensure you understand what you are declaring before including it on the title page of your assignment.
Assessment Criteria	You can expect to do well in the assignment if you: (i) demonstrate you have developed detailed knowledge and understanding of the body of law which governs workers' compensation in NSW, including contemporary developments in relation to this body of law; (ii) demonstrate your ability to locate and effectively use primary sources (cases and legislation) and secondary sources (journal articles, books, etc.) which relate to your chosen topics. High-quality essays will draw upon these sources in discussing how key legal issues might be determined; and (iii) demonstrate a high quality of written expression. Your essay should be concise, clearly written, structured in a logical way, and persuasive.
Return Method	Papers will be marked using Canvas and comments will be made available on Canvas.
Feedback Provided	Yes (see above).

Assessment 3 – Short Answer Questions

Assessment Type	Written Assignment
Description	The assignment will consist of a number of short answer questions designed to test your knowledge and critical understanding of the body of legal rules which governs common law actions for workplace injuries and your ability to make judgments in the application of those rules to particular fact scenarios. The questions will be posted in the Assessments section of the LEGL6004 Canvas site. The word limit for this assignment is 2,000 words.
Weighting	35%
Due Date	5 November 2023 (11:59 PM)
Submission Method	Assignments must be submitted to Turnitin in Microsoft Word format or using similar word processing software (not as a PDF document). There is no need to submit a paper copy. Since you will not be submitting a paper copy of your assignment, in lieu of the usual assignment cover sheet you should ensure your paper has a title page which includes the title of your assignment, the word count and the academic integrity declaration which will be set out in the assignment instructions. You should read the declaration carefully and ensure you understand what you are declaring before including it on the title page of your assignment.
Assessment Criteria	You can expect to do well in the assignment if you: (i) demonstrate you have developed detailed knowledge and critical understanding of the body of law which governs common law actions for workplace injuries, including contemporary developments in relation to this body of law; (ii) construct logical and persuasive arguments about how the law relevant to those issues (including cases and legislation) might apply to given fact scenarios; (iii) in the process of setting out these arguments, demonstrate skills in statutory interpretation and an ability to identify relevant facts and connect these with similarities and/or differences with the facts in applicable case-law to suggest how key legal issues might be determined; (iv) demonstrate an understanding of the factors a client would need to weigh in determining whether or not to pursue legal action in relation to given fact scenarios; and (v) write clearly and concisely and structure your answers in a logical way.
Return Method	Papers will be marked using Canvas and comments will be made available on Canvas.

Feedback Provided Yes (see above).

After you have submitted your final assessment, you may be required to take part in a Viva (also called an oral exam) for quality assurance purposes. A Viva will consist of an interview with one or perhaps two staff conducted via Zoom, and will last approximately 10 minutes. During this time, you will be asked questions about the answers you have provided in the assessment. For instance, you may be asked about the workings or rationale behind the way you structured an assessment response. This will help us verify your knowledge of a topic, demonstrate that it is your own work and provide informative feedback to staff to help them make enhancements to future examination/assessment papers.

ADDITIONAL INFORMATION

Grading Scheme

This course is graded as follows:

Range of Marks	Grade	Description
85-100	High Distinction (HD)	Outstanding standard indicating comprehensive knowledge and understanding of the relevant materials; demonstration of an outstanding level of academic achievement; mastery of skills*; and achievement of all assessment objectives.
75-84	Distinction (D)	Excellent standard indicating a very high level of knowledge and understanding of the relevant materials; demonstration of a very high level of academic ability; sound development of skills*; and achievement of all assessment objectives.
65-74	Credit (C)	Good standard indicating a high level of knowledge and understanding of the relevant materials; demonstration of a high level of academic achievement; reasonable development of skills*; and achievement of all learning outcomes.
50-64	Pass (P)	Satisfactory standard indicating an adequate knowledge and understanding of the relevant materials; demonstration of an adequate level of academic achievement; satisfactory development of skills*; and achievement of all learning outcomes.
0-49	Fail (FF)	Failure to satisfactorily achieve learning outcomes. If all compulsory course components are not completed the mark will be zero. A fail grade may also be awarded following disciplinary action.

*Skills are those identified for the purposes of assessment task(s).

Communication Methods

Communication methods used in this course include: Online PowerPoint lectures; Live online sessions; Canvas discussion board; and online communication via the course Canvas site.

Course Evaluation

Each year feedback is sought from students and other stakeholders about the courses offered in the University for the purposes of identifying areas of excellence and potential improvement.

Oral Interviews

As part of the evaluation process of any assessment item in this course, an oral examination may be conducted. The purpose of the oral examination is to verify the authorship of the material submitted in response to the assessment task. The oral examination will be conducted in accordance with the principles set out in the [Oral Examination Guidelines](#). In cases where the oral examination reveals the assessment item may not be the student's own work the case will be dealt with under the [Student Conduct Rule](#).

Academic Misconduct

All students are required to meet the academic integrity standards of the University. These standards reinforce the importance of integrity and honesty in an academic environment. Academic Integrity policies apply to all students of the University in all modes of study and in

all locations. For the Student Academic Integrity Policy, refer to <https://policies.newcastle.edu.au/document/view-current.php?id=35>.

Adverse Circumstances

The University acknowledges the right of students to seek consideration for the impact of allowable adverse circumstances that may affect their performance in assessment item(s). Applications for special consideration due to adverse circumstances will be made using the online Adverse Circumstances system where:

1. The assessment item is a major assessment item; or
2. The assessment item is a minor assessment item and the Course Co-ordinator has specified in the Course Outline that students may apply via the online Adverse Circumstances system;
3. You are requesting a change of placement; or
4. The course has a compulsory attendance requirement.

Before applying you must refer to the Adverse Circumstance Affecting Assessment Items Procedure available at: <https://policies.newcastle.edu.au/document/view-current.php?id=236>

Important Policy Information

The 'HELP for Students' tab in UoNline contains important information that all students should be familiar with, including various systems, policies and procedures.

Wellness Contacts

There are a variety of pressures on law students, and being able to perform well academically under pressure, without excessive stress will contribute to enhanced outcomes in wellbeing and academic results. Reach out to support services and learn ways to maintain your mental health, deal with stress and common issues like perfectionism, procrastination and anxiety.

To access UON support: <https://www.newcastle.edu.au/current-students/support/personal>

Ph: 4921 6622 or email: counselling@newcastle.edu.au

For support outside of office hours call the University Crisis Support Line on 1300 653 007 or for chat sms 0488 884 165.

For immediate support contact Lifeline 24/7 on 13 14 11 or <https://www.lifeline.org.au/>

This course outline was approved by the Head of School. No alteration of this course outline is permitted without Head of School approval. If a change is approved, students will be notified and an amended course outline will be provided in the same manner as the original.

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