

LAWS70460 Regulatory Policy and Practice

Credit Points:	12.50
Level:	7 (Graduate/Postgraduate)
Dates & Locations:	This subject is not offered in 2014.
Time Commitment:	Contact Hours: The total class time is between 24 and 26 hours. Total Time Commitment: Not available
Prerequisites:	Students who have undertaken the subject <i>Fundamentals of Regulation</i> cannot enrol in this subject.
Corequisites:	None
Recommended Background Knowledge:	Applicants without legal qualifications should note that subjects are offered in the discipline of law at an advanced graduate level. While every effort will be made to meet the needs of students trained in other fields, concessions will not be made in the general level of instruction or assessment. Most subjects assume the knowledge usually acquired in a degree in law (LLB, JD or equivalent). Applicants should note that admission to some subjects in the Melbourne Law Masters will be dependent upon the individual applicant's educational background and professional experience.
Non Allowed Subjects:	None
Core Participation Requirements:	The Melbourne Law Masters welcomes applications from students with disabilities. The inherent academic requirements for study in the Melbourne Law Masters are: The ability to attend a minimum of 75% of classes and actively engage in the analysis and critique of complex materials and debate; The ability to read, analyse and comprehend complex written legal materials and complex interdisciplinary materials; The ability to clearly and independently communicate in writing a knowledge and application of legal principles and interdisciplinary materials and to critically evaluate these; The ability to clearly and independently communicate orally a knowledge and application of legal principles and interdisciplinary materials and critically evaluate these; The ability to work independently and as a part of a group; The ability to present orally and in writing legal analysis to a professional standard. Students who feel their disability will inhibit them from meeting these inherent academic requirements are encouraged to contact the Disability Liaison Unit: www.services.unimelb.edu.au/disability/
Contact:	For more information, contact the Melbourne Law Masters office. Email: law-masters@unimelb.edu.au (mailto:law-masters@unimelb.edu.au) Phone: +61 3 8344 6190 Website: www.law.unimelb.edu.au/masters (http://www.law.unimelb.edu.au/masters)
Subject Overview:	<p>Regulation has become a permanent feature of the way in which contemporary democratic economies, including Australia, are governed. There are few spheres of economic activity that are not subject to some form of regulatory oversight and control. Daily news programs rarely pass without some mention of a significant regulatory decision, proposed regulatory reform, or allegations of some regulatory failure or scandal. For lawyers, dealings with regulators and regulatory regimes have become part of the staple diet of their work. Yet the practice of regulation is far from straightforward. Regulatory policy and practice has evolved considerably from its traditional origins in the form of 'command and control', accompanied by the growth of specific terminology and concepts that are likely to be unfamiliar to those other than regulatory technocrats. This subject provides an opportunity for students to develop an understanding of, and critically to evaluate, the basic tools, techniques and decision-making methodologies that are employed in regulatory design and practise. It will be of interest to both private and public sector lawyers who practice in regulated sectors of the economy, enhancing their understanding of how regulators go about the business of regulatory decision-making.</p> <p>Principal topics will include:</p> <ul style="list-style-type: none"> # Introduction: What is 'regulation' and 'governance'?; the regulatory agency: institutional features, strengths and shortcomings; the rise of the 'regulatory state'; regulatory regimes and the role of non-state actors

	<ul style="list-style-type: none"> # Tools, Techniques and Instruments of Regulation: command—traditional legal prohibitions backed by sanctions; competition—market based approaches; communication—information disclosure and publicity-based approaches; consensus (including self-regulation); code architecture and the use of 'Nudge' techniques # 'New Governance' approaches to regulation: choice of Instrument; 'Hybrid' approaches to regulation; Responsive Regulation, 'Smart Regulation' and its variants (including meta-regulation); Cost-Benefit Analysis and Regulatory Impact Assessment and 'Better Regulation'; the Precautionary Principle # Enforcement and Compliance: problems with rules; principles-based regulation; the role of the criminal and civil law; punitive civil sanctions (The Macrory Review); regulatory enforcement styles; national styles of regulation; private enforcement, third party monitoring and certification systems # Appraising Regulation: regulatory accountability; regulatory legitimacy: between democracy and expertise.
Learning Outcomes:	<ul style="list-style-type: none"> # To acquire a set of general analytical tools and concepts that may be applied to the regulation of any domain of social activity, in any jurisdiction, in seeking to understand how regulatory authorities pursue the social objectives that they are expected to promote; # To acquire an awareness of the challenges (of both a principled and practical kind) associated with attempts by regulatory authorities in seeking to promote particular social goals, including an appreciation of the kinds of conflicts and tensions which may arise within, or as a product of, the regulatory process; and # To critically appraise regulatory design, policy and practice, including the role and limits of the law's contribution to regulation.
Assessment:	Take-home examination (100%) (30 May – 2 June)
Prescribed Texts:	Core subject materials will be provided free of charge to all students. Some subjects require further texts to be purchased. Details regarding any prescribed texts will be provided prior to the commencement of the subject.
Breadth Options:	This subject is not available as a breadth subject.
Fees Information:	Subject EFTSL, Level, Discipline & Census Date, http://enrolment.unimelb.edu.au/fees
Links to further information:	www.law.unimelb.edu.au/subject/LAWS70460/2014