

LAWS70447 Executive Power in Australia

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:	None
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>The powers of the executive branch of government have been debated in some of the most significant constitutional cases in Australia in recent years. Despite the High Court's decisions in the School Chaplains Case and <i>Pape v FCT</i>, and the 2013 referendum on section 96 grants to local government, the scope of these powers and the validity of government programs remain very unclear.</p> <p>This subject will explain and critically analyse the key contemporary questions relating to the powers of executive government in Australia. It will help students understand the current complexity and anticipate future developments in the High Court.</p> <p>Key questions to be addressed include: When can the Commonwealth act through the executive branch alone? When does it require legislative support for its programs including spending programs and contracting? What is the effect of legislation on the inherent powers of the executive branch? When can legislation displace, override or otherwise limit executive power—and when can it not? When does executive power stray into powers that can be exercised only by the legislature? How do these questions play out in the context of the federal system and the state context? How are conflicts resolved? Can the Commonwealth “outsource” the exercise of executive power to private bodies? Are there limits on the powers of Parliament to hold the executive accountable? What light does the constitutional law of comparable jurisdictions shed on any of these questions?</p> <p>Professor Simon Evans is a constitutional law scholar at Melbourne Law School with particular expertise in the executive branch of government. Graeme Hill regularly advises the</p>

	<p>Commonwealth and state governments concerning constitutional matters and appears in the High Court in such matters, including matters related to executive power.</p> <p>Principal topics will include:</p> <ul style="list-style-type: none"> # Mapping the executive power of the Commonwealth and the executive branch # The Crown, the nation and the people: the bases of executive power # Crown prerogatives under the Constitution # Inherent executive power and non-statutory executive power # The effect of legislation on executive power # Responsible executive government in a contemporary federation <ul style="list-style-type: none"> # Outsourcing executive decision-making # Statutory corporations # The relationship between Commonwealth and State executive power # Intergovernmental co-operation # Executive spending, contracts and section 96 grants: the impact of responsible government, federalism and separation of powers # The executive as law-maker and the validity of delegated legislation.
Learning Outcomes:	<p>Students who have successfully completed this subject will:</p> <ul style="list-style-type: none"> # Be familiar with and able to analyse the key contemporary questions relating to the powers of executive government in Australia # Understand the current complexity and anticipate future developments in the High Court # Be able to relate Australian developments to ongoing debates in comparable jurisdictions # Understand the effect of legislation on executive power.
Assessment:	Take-home examination (100%) (5 – 8 December) or 10,000 word research paper (100%) (21 January 2015) on a topic approved by the subject coordinator
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/LAWS70447/2014