

Australian National University
School of Economics
Law and Economics (P) and (H)
ECON 2120 and ECON 2139
Semester 2, 2009
Course Information Sheet

“The rules of just conduct which the lawyer studies serve a kind of order of the character of which the lawyer is largely ignorant; and this order is studied chiefly by the economist who in turn is similarly ignorant of the rules of conduct on which the order that he studies rests.”

– F.A. Hayek, *Law, Legislation and Liberty*, Volume I, page 4.

Instructor: Dr Alex Robson. Consultation Room: Arndt 1002. Phone: 6126-5021.

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Lecture Times and Locations: TBA Monday 12pm-2pm, JD 101.

Tutorial Time and Location, Wednesday 9am-10am, Arndt Lecture Theatre 2. There will be one tutorial meeting per week. Tutorials will begin in week 2. I expect students to prepare for tutorials and come ready to answer questions about the problems assigned for each week’s tutorial.

Instructor’s Office Hours: Monday 2pm-3pm.

Prerequisite: Economics II (prior or concurrent)

Course Description: This course is an introduction to the economic analysis of law and legal institutions. The goal is to teach students how to apply the tools of economic analysis (many of which have already been learned and mastered by students in Microeconomics I and II) to develop insights about the economic effects of legal rules. The course covers issues in the economic analysis of tort law, property law, contract law, criminal law, litigation and settlement, and other topics as time permits.

Textbook: The textbook for the course is:

Cooter, R. and T. Ulen (2007) *Law and Economics*, Addison-Wesley, 5th edition.

Copies have been ordered for the bookshop. Supplementary materials for this book can be found at: <http://www.cooter-ulen.com/>

Assessment and Grading:

Mid-Semester Exam	30%
Final Exam	70%

Students must sit all exams to be able to pass the course. In accordance with the ANU Undergraduate Handbook, the grading scheme for the course is as follows:

High Distinction (80-100)	Pass (50-59)
Distinction (70-79)	Fail (0-49)
Credit (60-69)	Not completed fail

ECON 2139: Law and Economics (H) The honours component of this course will involve an additional 1 hour lecture per week which will be based on journal articles that are assigned by me and which I expect you to read. The time and location for this additional lecture will be arranged during the first week of class, and the first additional lecture will take place in week 2.

Exam Dates: *Mid Semester Exam:* To be announced. *Final Exam:* The final exam will be held according to the published university schedule posted at <http://timetable.anu.edu.au>. Students are responsible for keeping updated about any changes to the examination time.

Course Outline

The course will cover the following topics.

1. Introduction to the Economic Analysis of Law: The Coase Theorem and Transactions Costs

Topics: Review of Equilibrium and Pareto Efficiency, the First Welfare Theorem, the Potential Pareto Criterion. Externalities, Pigouvian taxes and subsidies, Property rights, the Coase theorem and its implications. Property Rights vs Liability Rules.

2. Negligence Law With and Without Markets

Topics: Incentives in the absence of markets; Basic game theory and applications to Legal Rules; Games in Strategic Form; Dominant Strategy Equilibrium, Nash Equilibrium. Review of the Economic Analysis of Risk and Uncertainty; Unilateral and Bilateral Care Models in the absence of Markets; Efficiency Properties of Strict Liability, No Liability and Negligence Rules. The Hand Rule, efficiency of the Hand Rule; Levels of activity and exposure to risk; Joint Tortfeasors; The Incentive Effects of Legal Errors and Wealth Constraints; Punitive Damages. Liability Rules Versus Regulation. Internalities Versus Externalities. Negligence Laws in the Presence of Market Exchanges. Applications include Product Liability and Workplace Safety Regulations.

3. Property Rights and Takings; Compensation for Regulatory Takings; The Economics of Insecure Property Rights; Economic Analysis of Intellectual Property Law

Topics: Government takings and compensation. Insecure and Ill-defined property rights; Economic analysis of intellectual property laws, including applications to trade secrets, copyright and patents, and trademarks. Optimal patent length.

4. Contract Law

Topics: Efficient breach of contract, Damage measures for breach of contract, damages and remedies as incentives; formation defenses and performance excuses, mistake, impossibility, duress, specific performance, unconscionability. Markets, reputation and contractual performance.

5. Criminal Law, Deterrence and Enforcement

Topics: Traditional vs. economic theories of criminal law; Efficient punishment and deterrence; Fines versus Imprisonment; Repeat offenders; Economic analysis of illicit drug laws, organ donations, the death penalty, handgun restrictions, terrorism and organised crime. Legal errors; other topics in criminal law as time permits.

6. Litigation and Settlement

Topics: Why Sue? Why Settle? Economic model of litigation and settlement; Differing perceptions, Legal errors, Asymmetric information; Frivolous litigation; Economic analysis of appeals courts; Plea Bargaining; Is the Common Law efficient?