

**The University of New South Wales School
of Aviation**

AVIA5001 – Law & Regulation in Aviation

2018 Course Outline

Course Staff

The lecturer in charge is Ron Bartsch of the School of Aviation. Ron can be contacted via e-mail at r.bartsch@unsw.edu.au.

About the Author

Ronald I C Bartsch

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President Asia-Pacific RPAS Consortium (ARC)

Principal and Managing Director of AvLaw International – Aviation Consultants

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The author contributes a diverse range of professional experiences in aviation, law and education to this specialist post graduate course. For the past 35 years Ron has been active in commercial aviation in a variety of senior operational and management roles including Chief Pilot, Chief Flying Instructor and Aviation Consultant. Admitted to practice as a Barrister to the High Court of Australia back in 1993, and as a lecturer in Aviation Law for over 30 years, Ron has accumulated some 7,000 hours flying experience with endorsements on some twenty multi engine aircraft types from Cessna's through to corporate jets and the Boeing 717-200. Ron was previously the Head of Safety for Qantas Airways Air Operator's Certificate (2007-2009). Ron was also formerly Manager Air Transport Operations with the Civil Aviation Safety Authority (CASA) in Sydney. Ron is currently principal and Managing Director of AvLaw International. Ron is also Adjunct Senior Lecturer and Visiting Senior Fellow at the University of NSW and author and coordinator of several publications including *Aviation Law in Australia* (4th Edition, 2013, Thomson Reuters), *International Aviation Law* (2012, Ashgate Publishing), *Drones in Society* (2017, Routledge) and other postgraduate programs in aviation safety and accident prevention, aviation law and business law and technology.

Course Information

Aims

This 6 UoC course aims to provide students with an overview of the regulatory structure of civil aviation in Australia.

Aviation and the law share some basic similarities. Both the aviation and legal professions are highly specialised and each require an extensive degree of training before one can be classed as a “professional” within the respective disciplines. Although aviation professionals are highly trained technicians or managers it does not follow that such training has necessarily included training in the law and legal systems.

The fact that the aviation industry is a highly regulated and legislated sector provides an even greater reason why today’s aviation professional should be conversant with, and knowledgeable of, the law as it applies to the aviation industry. In most sections of the aviation industry there are no formal requirements for training in the law or legal systems. Of course there is a myriad of rules and regulations in aviation that must be known but that does not equate to training in statutory interpretation or the like.

Aviation professionals, like their legal counterparts, spend a long time undertaking formal, structured training. Then there follows years of practical, on-the-job training. In fact the training never really ends. Both professions require ongoing professional training. Because of the extensive time taken to “learn the profession” quite often people working in the aviation sector enter at an early age. It is not usually a career in which one ‘switches’ to later in their working life.

Law and Regulation in Aviation provides you with an overview of the regulatory structure of civil aviation in Australia. The subject focuses on the legal system within which this regulatory system operates and the powers, responsibilities and scope of the various aviation regulatory authorities. In particular, the subject will concentrate on providing a practical insight into the legal implications associated with various aviation personnel including the pilot-in-command.

To help develop your understanding of the law and its relationship to the aviation regulatory regime, legal principles and concepts, as they apply to the aviation industry, are explained. In certain instances, selected aviation-related cases are summarised to emphasise a point or legal principle. Legislation is explained in plain English and where relevant, extracted from source documentation.

In light of the recent restructuring of Australia’s aviation regulatory regime particular emphasis has been given to a consideration of the role and functions of Airservices Australia and the Civil Aviation Safety Authority. Also the recent developments in the increasingly important area of aviation environmental law are considered.

Learning Outcomes

On completion of this course students should be able to:

- Have a good understanding of the regulatory structure of aviation in Australia.
- Have an understanding of the legal implications associated with various aviation personnel including the pilot-in-command.
- Have an understanding of the law and its relationship to the aviation regulatory regime, legal principles and concepts, as they apply to the aviation industry
- Have an understanding of the way in which the Australian legal system has been developed.

Location

This course runs for the duration of Semester 1.

The course is delivered via distance education. Course materials are supplied.

Learning and Teaching Philosophy

Law and Regulation in Aviation provides you with an overview of the regulatory structure of civil aviation in Australia. The subject focuses on the legal system within which this regulatory system operates and the powers, responsibilities and scope of the various aviation regulatory authorities. In particular, the subject will concentrate on providing a practical insight into the legal implications associated with various aviation personnel including the pilot-in-command.

This course aims to provide an academic environment in which students are actively engaged in the learning process. The course aims to be interesting, challenging and enjoyable. Activities are linked to research, scholarship and the real world, allowing students to reflect on how system safety issues affect them and others in the aviation industry. Student diversity in terms of experiences and learning styles is valued. A supportive environment is provided but there is an expectation that students will take responsibility for their own learning and also learn co-operatively with their peers. Student assessment is designed to reflect the learning outcomes and meaningful and timely feedback will be provided on coursework.

Internet

Online content and study materials can be accessed via Moodle:

<https://moodle.telt.unsw.edu.au/>

Reference materials for the course also available at:

<http://www.avlawinternational.com>

Assessment

The MScTech (Aviation)/MAvMgmt Program's approach to assessment closely follows that of the Australian Open Learning Program of the Australian Graduate School of Management. At all times assessment is intended to form a component of the learning process and assignments are designed to encourage you to apply what you learn to your own organisation. Assignments will be assessed on the basis of how you apply subject material to gaining new insight into your organisation. Written comments will accompany your return assignments and exercises and should provide useful feedback. The examination will provide you and us with feedback about your comprehension of the subject content.

Criteria for Assessment

Unless otherwise specified, the following criteria will be applied in assessing your written work:

- Evidence of understanding of the legal concepts, theories and ideas developed in the subject;
- Ability to apply these concepts to situations from your own experience;
- Capacity to structure an exercise or assignment logically and limit it to the length required;
- Degree to which the material submitted for assessment addresses the specified or negotiated assignment requirements.

Assignment 1

Submission: End of Week 7 (2359 Sunday 15th April)

Weighing: 30%

Hand in your answers to all the *Exercises* contained in Units 1 to 5 (inclusive).

Assignment 2A

Submission: End of Week 11 (2359 Sunday 20th May)

Weighing: 40%

Hand in your answers to all the *Exercises* contained in Units 6 to 9 (inclusive).

OR

Assignment 2B

Submission: 2359 Sunday 10th June

Weighing: 40%

Hand in your answers to all the *Exercises* contained in Units 9 to 12 (inclusive).

You can begin the above exercises at any time you wish.

The Final Examination

The final examination will be a take home paper and worth 30% of the total assessment. You will have one week to complete the examination. The purpose of the exam is to test your understanding of the underlying principles of Law and Regulation in Aviation and will concentrate on assessing your grasp of legal concepts, and the application of legal principles to aviation scenarios and the aviation industry. You will be permitted to use your MScTech (Aviation)/MAvMgmt Manual, the prescribed text and any other reference materials.

The details and the administration of this examination will be provided later in the course.

Final Course Results

All final course results are reviewed and scaled by the School and the Faculty. The final approved course results will be officially released via UNSW email and myUNSW in July (S1) and December (S2). Students should not assume their final official marks directly from each assessment task even after all the marks for each and every assessment are received.

Special Consideration

You can apply for special consideration when illness or unexpected circumstances beyond your control interfere with your assessment performance.

Assignment Extensions

If you need an assignment extension up to one week, you need to make a formal request with supporting documentation to the course facilitator by email **PRIOR** to the due date. Assignment extensions are not guaranteed and students should not assume that they will be given one.

Exams and Significant Long-Term Issues

A formal Special Consideration request must be lodged online with supporting documentation via <https://student.unsw.edu.au/special-consideration>

Course Content

Unit 1	An Introduction to Aviation Law
Unit 2	The Australian Legal System
Unit 3	The Regulation of Aviation Law
Unit 4	Contract Law I
Unit 5	Contract Law II
Unit 6	Tort I
Unit 7	Tort II
Unit 8	Employment Law
Unit 9	Administrative Law
Unit 10	Criminal Law
Unit 11	Commercial Law
Unit 12	Airline Operations

Academic Honesty and Plagiarism

The MScTech (Aviation)/MAvMgmt Postgraduate Program requires compliance with the UNSW Policy on Academic Honesty and Plagiarism.

Students are referred to the University's rules on academic conduct, which are contained within the *Student Handbook*. Put simply, plagiarism is intellectual dishonesty and the theft of other people's work. Consequences for students caught plagiarising or stealing the work of others can include failure of the course or even exclusion from the University.

Plagiarism is the presentation of the thoughts or work of another as one's own¹. Examples include:

- direct duplication of the thoughts or work of another, including by copying work, or knowingly permitting it to be copied. This includes copying material, ideas or concepts from a book, article, report or other written document (whether published or unpublished), composition, artwork, design, drawing, circuitry,

¹ Based on that proposed to the University of Newcastle by the St James Ethics Centre. Used with kind permission from the University of Newcastle.

- computer program or software, web site, Internet, other electronic resource, or another person's assignment without appropriate acknowledgement;
- paraphrasing another person's work with very minor changes keeping the meaning, form and/or progression of ideas of the original;
 - piecing together sections of the work of others into a new whole;
 - presenting an assessment item as independent work when it has been produced in whole or part in collusion with other people, for example, another student or a tutor; and
 - claiming credit for a proportion of work contributed to a group assessment item that is greater than that actually contributed.²

Submitting an assessment item that has already been submitted for academic credit elsewhere may also be considered plagiarism. The inclusion of the thoughts or work of another with attribution appropriate to the academic discipline does not amount to plagiarism. Students are encouraged to seek advice from academic staff whenever necessary to ensure they avoid plagiarism in all its forms.

UNSW Academic Skills and Support website provides information for students on plagiarism and academic honesty. It can be located at:
<https://student.unsw.edu.au/plagiarism>

Open Book Examinations and Plagiarism

Open book examinations are examinations which allow students to refer to notes/texts/etc. to assist in preparing answers. They allow students, in effect, to research answers during examinations. Students in open book examinations are, however, expected to submit their own work as answers to examination questions. Students in open book examinations who merely copy portions of notes/texts into their answers rather than submitting their own work are plagiarising or stealing the copied material and will receive no marks for such answers and, in addition, will be subject to the University sanctions for plagiarism.

Informal feedback

As well as the formal assessment procedure, every attempt will be made to give informal feedback during the instruction sessions. This might consist of students swapping exercises to comment on each other's work, or it might consist of group discussion. It is essential that all the set exercises be attempted in order to achieve a satisfactory level of understanding of the basic concept of the subject.

² Adapted with kind permission from the University of Melbourne.

Internet

Of increasing importance and relevance in studying is of course the Internet. Online legal systems allow you to research source material such as legislation and judgments (both reported and unreported). Search facilities allow instant access to quality information not previously possible. CASA, Airservices (Aviation Information Centre) and ATSB all have excellent websites.

Aviation law public research site at: <http://avlawinternational.com/publicresources/>

Please ensure you fully cite any web references you use in your assignments and the date on which you referenced the material.

Online reference materials for the course is a most important aspect for any course but in particular for legal studies as the latest law sources must always be referenced. I have established an aviation law specialist website that provides up to date reference materials and links to other aviation law sites. This reference material is available at: <http://www.avlawinternational.com>

The Australian Legal Information Institute website <http://www.austlii.edu.au> is a joint UNSW and UTS law faculty database of legislation and case law and is an extremely useful research and reference site.

Where reference is made to a particular website or to research topic on the internet the following symbol will appear.



Please research this topic:

As a final comment, it is most important with any research but in particularly with online research, that the reference source be verified and checked to ascertain its accuracy and authenticity. Obviously the official websites of governments, educational institutions, agencies and reputable organisations are usually the best and most reliable source of information but most references still need to be checked for currency—especially in relation to legislation. It is also common practice to state the date of viewing or referencing of online information sources.

Studying and Research

To supplement the course materials reference to particular sections of *Aviation Law in Australia (Fourth edition)* will be made. The following symbol



Please read your textbook:

Note: Reference is to paragraph numbers of the Fourth edition of the prescribed text. Earlier editions may also address the subject matter. For example: "Please read your textbook at paragraphs [1.55]-[1.60]" is reference to paragraphs 1.55 and 1.60 (inclusive) in Chapter 1, Fourth Edition.

Textbooks

The prescribed text for *Law and Regulation in Aviation* is:

→ Bartsch R, *Aviation Law in Australia (Fourth edition)* Thomson Reuters Lawbook Co, Sydney 2013

This text can be purchased online at <http://www.avlaw.com.au/books.php> (author signed edition if requested) or through the UNSW Bookshop. This text is also the prescribed text for *Aviation Safety and Accident Prevention (AVIA 5004)* and a useful reference text for various other subjects in this program. The publication has chapters on Airline Operations, Aviation Security, Air Traffic Management, Accident Investigation, Safety Management, Environmental Law and the growing area of Space Law.

Other texts that may be of assistance are extracted in the various sections to each unit. You may find that some of these publications are also useful references in areas other than the extracted sections. The Faculty of Law Library (online services including legal databases are available) at the University of New South Wales has an excellent range of introductory texts in law and legal studies as well as specialised texts in every conceivable area of the law, including aviation law.

Report Writing

Report writing standards and requirements are very varied in the University environment and within industry and Government. It is not expected that students will be perfect in this area. The standards in this course are similar to the author's experience in producing action-orientated papers for a Company Board's approval. The standards for referencing etc. are not important as long as you do use quotes where appropriate and acknowledge other people's ideas where necessary.

Continual Course Improvement

Periodically, student evaluative feedback on the course is gathered, using among other means, UNSW's [myExperience](#) process. Student feedback is taken seriously, and continual improvements are made to the course based in part on such feedback. Significant changes to the course will be communicated to subsequent cohorts of students taking the course

Teaching Strategies

The MAvMgmt and its associated program, the Graduate Diploma in Aviation Management, are offered through distance education and have been specifically designed for students who are unable to attend weekly sessions at the university. The MAvMgmt is targeted towards professionals and managers who work in aviation related environments.

Administrative Matters

Students should be familiar with the information contained in <https://my.unsw.edu.au> regarding expectations of students, assignment submission, examination procedures, equity and diversity and other policies that affect you. A Postgraduate Aviation Student Guide can be obtained from the School of Aviation which is also available on Moodle. Please contact Mike Williams at: aviam@unsw.edu.au for any administrative enquiries.

Updated: February 2018