

School of Law

Understanding the Law – LW 3120

Module Outline

Objective: In order to grasp the effect of substantive legal rules, it is essential to understand the context of the legal system. A core objective of this intensive, four-week module is to provide students with a solid knowledge of the sources of Irish law and how the system works. A concomitant objective is to prepare the student for the ordinary tasks he/she will likely encounter when working as a practising lawyer or in a related field, i.e., the reading, citation and interpretation of statutes and cases; research of law; legal writing; advocacy; etc. In an overarching sense, and utilising a range of innovative teaching and learning methodologies, the module is intended to expand the student's capacity for critical thought – to help him/her "think like a lawyer."

Lecturers: Ms. Nicola Murphy, Room 413, Floor Two, Tower Two
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Office hours: Physical and virtual office hours by appointment.

Mr. Larry Donnelly, Room 511, Floor Three, Tower Two
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Office hours: Physical and virtual office hours by appointment.

Lecture Times: Please see the timetable

Learning

Outcomes: Upon completion of this module, students should:

- be well versed in the sources of Irish law;
- be familiar with legal terminology;
- be familiar with the Irish court structure;
- be cognisant of the impact of EU and international law on the Irish legal system;
- be able to read and analyse primary and secondary legal sources of law quickly and effectively;

- have the ability to perform legal research using both traditional methods and online legal databases
- understand the principles of legal citation and know the OSCOLA Ireland system;
- write clear, concise and sophisticated prose;
- have an enhanced capacity for critical thought.

Programmes: 1st BCL, 1st BCL (Human Rights), 1st BCL (Criminology), 1st BCL (Taxation), 1st Bachelor of Law and Business and 1st LL.B.

Course Material: Some of the relevant materials (announcements, assignment details, further readings, etc) will be available on Blackboard.

Core Texts: Raymond Byrne, Paul McCutcheon, Laura Cahillane and Emma Roche-Cagney, *Byrne and McCutcheon on the Irish Legal System*, 7th ed, (Dublin, Bloomsbury, 2021) (available free though University of Galway library website)
Jennifer Schweppe, Rónán Kennedy, and Lawrence Donnelly, *How to think, write and cite: Key skills for Irish law students* (Dublin, Round Hall Thompson Reuters, 2nd ed, 2016)
Bunreacht na hÉireann

Supplementary Texts: Tanya Ní Mhuirthile, Catherine O'Sullivan and Liam Thornton, *Fundamentals of the Irish Legal System: Law, Policy and Politics* (Dublin, Roundhall, 2016)

Assessments: 100% continuous assessment. There will be a series of progressively more involved assignments. Please see pages 6 and 7 for a detailed breakdown of assignments and their due dates.

Credit Weighting 10 ECTS

Workload Hours: Approximately 250.

ADDITIONAL INFORMATION

Attendance: Attendance at in-person class meetings and tutorials is mandatory. Students may be called upon to provide their comments, reactions and/or analysis as to any of the assigned readings or tasks during the course because this module is predicated upon active and fully engaged participation. Students are strongly encouraged to contact the lecturers with questions and whenever issues arise.

Late Assignments: It is imperative that assignments be submitted by the notified deadline. While late submissions will attract penalties, it is recognised that, at times, extensions may become necessary. If any student ever requires an extension to complete an assignment, kindly make contact with the lecturer as the need arises. Provided the reason is a valid one, the request will be accommodated.

Plagiarism: Students should familiarise themselves with the contents of the Code of Practice on Plagiarism, which applies to all written work submitted to the faculty. Students should note that there will be heavy penalties, including disciplinary proceedings where appropriate, for plagiarism (using passages from another person's work, published or otherwise, without appropriate acknowledgement). For further information on the code and on legal writing generally, please see http://www.universityofgalway.ie/law/legal_writing.html.

Legal Citation: Students must use appropriate legal citation in all written assignments. Failure to use proper legal citation will result in penalties. The main textbook for legal citation is Jennifer Schweppe, Rónán Kennedy, Lawrence Donnelly, *How to think, write and cite: Key skills for Irish law students* (Dublin, Round Hall Thompson Reuters, 2nd ed, 2016). Students can access the OSCOLA Ireland citation guide online. This citation guide was originally developed by OSCOLA by the Faculty of Law at Oxford University and has been adapted by a number of Irish academics with a view to creating a uniform citation style for Ireland. OSCOLA Ireland is available at: <http://www.legalcitation.ie/page5/files/OSCOLA%20Ireland%202011.pdf>.

Week 1 – Introduction to the Irish Legal System; Irish Legal History and Introduction to the Legal Method

Topics

Structure of the Irish Legal System – The Constitution – Organs of state – Separation powers – The rule of law

Classifications of Law – Public law – Private law – Adjectival law – Criminal & civil law – Common law & civil law – Common law & equity

Legal History – Foundation of the Common law in England – Brehon law – Establishment of the Common law in Ireland – History of equity – Nineteenth-century reforms – War of Independence and the Dáil courts – the Irish legal system since independence

Introduction to the Legal Method – “The Case of the Speluncean Explorers” 62 Harvard Law Review 616 (1949)

Legal Writing – An introduction to the fundamentals – Core principles of legal writing

Week 2 – Sources of Law; Statutory Interpretation; Legal Research and Citation

Topics

Sources of Law – The Constitution – Enumerated and Unenumerated rights – Consequences of unconstitutionality – Legislation – Common law – European law – Textbooks and other legal writings

Legal Research and Citation - Sources and Techniques - Computerised Legal Research Database Training – Review of OSCOLA Ireland

The Legislative Process - Article 15 – Pre-parliamentary origins of legislation – Legislative power of the Dáil and Seanad – Five-stage process – Role of the president – Referral of bills to the Supreme Court – Private Member bills – Private bills – Delegated legislation

Statutory Interpretation – How to read and analyse statutes

Week 3 – The Courts, the Doctrine of Precedent and Case Analysis

Topics

Doctrine of Precedent – *Stare decisis* – Binding and persuasive authority – Factors affecting the weight of a precedent – *Ratio decidendi* and *Obiter dictum* – Restrictive and non-restrictive distinguishing

The Courts – Hierarchy of the Irish courts – Constitutional basis for jurisdiction of the courts – Special position of the superior courts – Constitutional safeguards of judicial independence – Original jurisdiction – Appellate jurisdiction – Judicial review – Hierarchy of the English courts

Reading and Briefing a Case – Critical reading and analysis

Week 4 – The Legal Profession; International and European Law; Bringing Skills Together

Topics

The Legal Profession – Functions of solicitors and barristers – Legal education – Discipline – DPP – Attorney General – Judicial appointments.

Remedies – Damages – Injunctions – Specific Performance – Contempt of Court

International and European Law – Monism and Dualism – Status of international agreements in the domestic legal system – Article 29 – International institutions – European Convention on Human Rights – The European Union – Institutions of the EU

Bringing Skills Together – Analytical, research and writing redux and recap – Introduction to Essay Writing

Assignments

Week 1

No assignments

Week 2

Court Visit – worth 5% of the overall mark in this module. Consists of a visit to Galway courthouse and a short written assignment. Submission via Canvas by 5pm on Friday, 29th September.

Week 3

Individual legal research and citation assignment - worth 15% of the overall mark in this module. Submission via Canvas by 5pm on Thursday 5th October.

Week 4

Legal technology assessment – worth 5% of the overall mark in this module. Submission online by 5pm on Thursday 12th October.

EU Law assessment – worth 5% of the overall mark in this module. Submission online by 5pm on Friday 13th October.

Week 5

Group case brief assignment - worth 15% of the overall mark in this module. Submission via Canvas by 5pm on Monday 16th October.

Legal system group PowerPoint presentation – worth 20% of the overall mark in this module. Submission via Canvas by 5pm on Friday 20th October.

Week 6

Research-based essay - worth 35% of the overall mark. The essay will focus on structural issues covered in this module. Submission via Canvas by 5pm on Monday 23rd October (at the latest!).

Assessment – 100% Continuous Assessment
Individual legal research and citation assignment – 15% Group case brief assignment – 15% Individual research-based essay - 35% Court Visit – 5% Legal System Group PowerPoint presentation – 20% EU Law Assessment – 5% Legal Technology Assessment – 5%