LAWGENRL 429 : Law of Family Property (15 POINTS)
2021 Semester One

Course Prescription
Advanced study of the law of property in family contexts, including trusts, succession, and matrimonial property.

Course Overview
The law of family property is an important and interesting area of law that is relevant to general practitioners as well as family law specialists. This course will provide preliminary study in relation to front-end issues (asset protection measures) and advanced study on back-end issues (asset disputes) in the family law context.

In particular, we will discuss law and policy issues that arise in the interpretation and application of the Property (Relationships) Act 1976 such as pre-nuptial agreements, relationship property disputes, family trust disputes and estate disputes. We will examine the recent developments in ‘trust-busting’ as it pertains to family trusts.

We will also cover the law and policy behind spousal maintenance and re-settlement of family trusts under the Family Proceedings Act 1980 and estate disputes under the Family Protection Act 1955 and the Law Reform (Testamentary Promises) Act 1949.

Course Requirements
Corequisite: LAW 306 Restriction: LAW 445

Capabilities Developed in this Course

- **Capability 1:** Disciplinary Knowledge and Practice
- **Capability 2:** Critical Thinking
- **Capability 3:** Solution Seeking
- **Capability 4:** Communication and Engagement
- **Capability 5:** Independence and Integrity
- **Capability 6:** Social and Environmental Responsibilities

Graduate Profile: Bachelor of Laws

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Learning Outcomes

By the end of this course, students will be able to:

1. Critically engage with current issues in policy and practice relating to the law of family property, including the nature and function of the law of family property within a wider social context. (Capability 1.1, 1.2, 1.3, 2.1, 2.2, 2.3, 3.1, 3.2, 3.3, 4.1, 4.2, 5.1, 6.1, 6.2 and 6.3)
2. Understand and apply provisions in the PRA to differing fact scenarios. (Capability 1.1, 1.2, 1.3, 2.1, 2.2, 2.3, 3.1, 3.2, 3.3, 4.1 and 4.2)
4. Utilise critical and analytical reasoning skills in the way you to interpret, apply and communicate the law (Capability 1.1, 1.2, 1.3, 2.1, 2.2, 2.3, 3.1, 3.2, 3.3, 4.1, 4.2, 5.1, 6.2 and 6.3)

Assessments

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Workload Expectations

This is a standard 15-point course. There will be around 36 hours of lectures in this course. As a general guide, you should expect a workload of three hours outside of the classroom for each hour spent in class. The guideline for the total workload for this course is 150 hours.

Delivery Mode

Campus Experience
Attendance is expected at scheduled activities.
Lectures will be available as recordings.
The course will not include live online events.
Attendance on campus is required for the exam.

Learning Resources

Course book:

The course book is available electronically on CANVAS under the “Reading List” Tab. The Faculty is no longer preparing hardcopies of the course book.

Recommended Text:

Please ensure that you have a copy of the Property (Relationships) Act 1976 (updated with amendments). Please also review the Law Commission Report posted on CANVAS.

NOTE: On 25 May 2016, the Minister of Justice announced that she requested the Law Commission to commence a review of the PRA. The Law Commission Report was released at the end of 2018. As a result, what we cover in this course under the PRA may be substantially altered as a consequence of the Law Commission's recommendation.

Additional Material:

Please ensure that you have access to the Family Court Rules 2002 (as amended); the High Court Rules 2009 (as amended); schedule 2 of the Judicature Act 1908 (as amended) and the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008. You are not required to buy textbooks.

The standard textbooks (which are available at the Davis Law Library) are: LexisNexis Family Law Service; Brookers Family Law: Family Property (Thomson Reuters, 2013); Fisher on Matrimonial Property (LexisNexis); Relationship Property Legislation (3rd ed., LexisNexis, 2009); Atkin & Parker, Relationship Property in New Zealand (3rd ed., 2009); Peart, Briggs & Henaghan (eds) Relationship Property on Death (Thomson Brookers, 2004).

Student Feedback

At the end of every semester students will be invited to give feedback on the course and teaching through a tool called SET or Qualtrics. The lecturers and course co-ordinators will consider all feedback and respond with summaries and actions.

Your feedback helps teachers to improve the course and its delivery for future students.

Class Representatives in each class can take feedback to the department and faculty staff-student consultative committees.
Digital Resources

Course materials are made available in a learning and collaboration tool called Canvas which also includes reading lists and lecture recordings (where available).

Please remember that the recording of any class on a personal device requires the permission of the instructor.

Academic Integrity

The University of Auckland will not tolerate cheating, or assisting others to cheat, and views cheating in coursework as a serious academic offence. The work that a student submits for grading must be the student's own work, reflecting their learning. Where work from other sources is used, it must be properly acknowledged and referenced. This requirement also applies to sources on the internet. A student's assessed work may be reviewed against online source material using computerised detection mechanisms.

Inclusive Learning

All students are asked to discuss any impairment related requirements privately, face to face and/or in written form with the course director, lecturer or tutor.

Student Disability Services also provides support for students with a wide range of impairments, both visible and invisible, to succeed and excel at the University. For more information and contact details, please visit the Student Disability Services' website http://disability.auckland.ac.nz

Special Circumstances

If your ability to complete assessed coursework is affected by illness or other personal circumstances outside of your control, contact a Student Academic and Support Adviser as soon as possible before the assessment is due.

If your personal circumstances significantly affect your performance, or preparation, for an exam or eligible written test, refer to the University's aegrotat or compassionate consideration page https://www.auckland.ac.nz/en/students/academic-information/exams-and-final-results/during-exams/aegrotat-and-compassionate-consideration.html.

This should be done as soon as possible and no later than seven days after the affected test or exam date.

Learning Continuity

In the event of an unexpected disruption we undertake to maintain the continuity and standard of teaching and learning in all your courses throughout the year. If there are unexpected disruptions the University has contingency plans to ensure that access to your course continues and your assessment is fair, and not compromised. Some adjustments may need to be made in emergencies. You will be kept fully informed by your course co-ordinator, and if disruption occurs you should refer to the University Website for information about how to proceed.
Student Charter and Responsibilities

The Student Charter assumes and acknowledges that students are active participants in the learning process and that they have responsibilities to the institution and the international community of scholars. The University expects that students will act at all times in a way that demonstrates respect for the rights of other students and staff so that the learning environment is both safe and productive. For further information visit Student Charter  https://www.auckland.ac.nz/en/students/forms-policies-and-guidelines/student-policies-and-guidelines/student-charter.html.

Disclaimer

Elements of this outline may be subject to change. The latest information about the course will be available for enrolled students in Canvas.

In this course you may be asked to submit your coursework assessments digitally. The University reserves the right to conduct scheduled tests and examinations for this course online or through the use of computers or other electronic devices. Where tests or examinations are conducted online remote invigilation arrangements may be used. The final decision on the completion mode for a test or examination, and remote invigilation arrangements where applicable, will be advised to students at least 10 days prior to the scheduled date of the assessment, or in the case of an examination when the examination timetable is published.