# COURSE OUTLINE LAW AND ECONOMICS

# ECON 2120, ECON 2139(H) and ECON 8047 (Graduate) Semester 2, 2012

STUDENTS: Course details change from semester to semester. **Please check** that you are reading the Course Outline for the correct semester.

# **Course Description**

The course is designed for both Economics and combined Economics/Law students. The course does not assume any prior legal knowledge, nor does it pretend to provide any legal training. It applies economic analysis to legal issues. The course uses both positive analysis, employing price theory to predict the consequences of legal rules: how they affect the behaviour of individuals and groups; and normative analysis: using welfare economics to evaluate legal rules, especially their efficiency effects.

Legal issues examined in the course include property rights, tort law, contract law, criminal law, litigation and settlement. One attraction of economic analysis of the law is that it provides a unified vision of the law, tying together diverse areas of law into a common theoretical structure. Economic theory provides an intellectual basis for the actual outcomes of legal cases and explains why the common law has evolved the way it has.

Law and economics is an interesting application of the economic way of thinking to real world problems and policy issues. It sharpens our understanding of economics and knowledge of the effects of laws on economic activity and behaviour. Law and economics gives experience in analysing real world policy issues in an imperfect world, accounting for the actions and incentives of, and constraints on, all the actors (including the lawmakers and enforcers). The law is also useful to economists as a vast pool of interesting puzzles and as data. Examining actual legal cases gives students experience in relating abstract economic models to practical problems and demonstrates their direct relevance.

The emphasis in this course is on "thinking like an economist" to understand legal issues from an economic perspective, with a focus on a clear understanding of the logic and underlying economic intuition rather than just the results.

### **Course Delivery**

The course consists of two one-hour lectures and a one-hour tutorial per week. Tutorial meetings start in week 2. It is expected that students prepare for tutorials and come ready with answers to the problems assigned for each week's tutorial. The lectures and tutorials will be recorded and the powerpoint slides placed on Wattle after each lecture.

# Honours and graduate students (ECON 2139 and ECON 8047)

For graduate students and those doing the course at the honours level, 5-6 extra lectures covering additional topics will be offered.

#### **Learning Outcomes**

On satisfying the requirements for this course, students should have the knowledge and skills to:

- Recognise the economic issues in a legal problem and apply the economic way of thinking to analyse it.
- Assess the efficiency effects of legal rules and policies

#### Workload

Students taking this course are expected to commit at least 10 hours a week to completing the work, including:

2-3 hours a week: lectures

• 1 hour a week: tutorial

• 7 hours a week: reading, research, writing and tutorial preparation

Tutorial exercises are designed to apply and reinforce the economic principles and models taught in lectures. Tutorial questions for the following week will be available on Wattle. I emphasise that you should attempt the tutorial problems <u>before</u> attending the tutorial. The final exam questions will be tutorial style problems. You will only learn problem solving skills (necessary to pass the final exam) through practice, NOT by simply writing down the answers given in tutorials. You learn by doing and practicing.

# **Assessment**

#### **Proposed Assessment Schedule**

Details about assessment may change during the first two weeks of semester. Please ensure that you check with your lecturer or tutor about any changes. Changes to the assessment schedule will be posted to the Wattle site.

Assessment for this course will consist of two in-class tests (1 hour each) and a final exam.

The in class tests will be one hour each and will take place probably in Weeks 6 and 10. The in-class tests will cover material done in the weeks prior to the test and since the last one (e.g. Test 1 covers Weeks 1-5, Test 2 Weeks 6-10).

Students will be advised at a later date, in class and on Wattle, of the time of, and material covered in, the in class tests.

The final exam will cover all material in the course and will be three hours long, plus thirty minutes reading time.

One in class test is worth 10 per cent of the final mark, the other 20 per cent (with the test that counts more being chosen to maximize your mark).

The final exam is worth 70 per cent of the total mark.

The Graduate and Honours students will sit a different final exam which includes some questions on the honours material.

# **Texts and Other Reading**

### **Prescribed Text**

The textbook for the course is *An Introduction to Law and Economics* by A. M. Polinsky, (2011) 4<sup>th</sup> edition, Wolters Kluwer. Copies should be available for purchase in the co-op bookshop. Although the textbook forms the core of the course, I will go into deeper in topics, and into more topics, than the textbook does, especially in the graduate/honours part of the course. Extra readings will be set from other textbooks and journal articles and copies will be placed on the course Wattle web site. If placed on the reserve desk, they will be in the Law Library.

#### Other useful references

Friedman, David 2000. Law's Order: What Economics Has to Do with Law and Why it Matters, New York: Princeton University Press. Full version available for free viewing on the world wide web at: <a href="http://www.daviddfriedman.com/Laws">http://www.daviddfriedman.com/Laws</a> Order draft/laws order ToC.htm. Could be considered an alternative textbook, and the course will draw on it a lot. Full of economic insight and a good read.

Miceli, Thomas 2004. *The Economic Approach to Law*, Stanford: Stanford University Press. (A new 2008 edition is out, but the library doesn't have it).

Cooter, R. and T. Ulen 2008. Law and Economics, Addison-Wesley, 5th edition. A 6<sup>th</sup> edition came out in 2010.

Posner, Richard *An economic analysis of law* Boston Little Brown Now in its 8<sup>th</sup> edition 2010. One of the first textbooks in the field, a treatise that applies economics to almost all areas of the law. Contains a cornucopia of applications. The author is now a US Federal Court of Appeals judge.

Miceli, Thomas. 1997. *Economics of the law: torts, contracts, property, litigation*. New York: Oxford University Press. A more mathematical treatment, suitable for graduate students.

Newman, Peter (ed) 1998. *The New Palgrave Dictionary of Economics and the Law* New York: Stockton Press. Is in the reference section of the law library.

Wittman, D. (ed) 2003. *Economic Analysis of the Law: Selected Readings*, New York: Blackwell. This contains edited versions of major articles in the field. A pdf of the book is available at: <a href="http://people.ucsc.edu/~wittman/book.pdf">http://people.ucsc.edu/~wittman/book.pdf</a>

Wittman, Donald *Economic Foundations of Law and Organization*. A pdf of the first 4 chapters is available at <a href="http://people.ucsc.edu/~wittman/econ169.chap1to4.pdf">http://people.ucsc.edu/~wittman/econ169.chap1to4.pdf</a>. It is not in the Law Library, but some of it can be read on google books.

Shavell, S. 1987. Economic Analysis of Accident Law

Shavell, S. 2003. Foundations of Economic Analysis of Law

Landes, W. and R. Posner. 1987. The Economic Structure of Tort Law

Robson, A. 2012. Law and Markets.

DeSerpa, A. 2005. Economics and the Common Law: Cases and Analysis

Dnes, A. 2005. The Economics of Law: Property, contracts and obligations

Veljanovski, C.2007. Economic Principles of Law

Veljanovski, C.2006. The Economics of Law 2<sup>nd</sup> ed.

Eirik G. Furubotn and Svetozar Pejovich (eds) 1974. *The economics of property rights* Ballinger

Pejovich, Svetozar (1997) *The economic foundations of property rights* Cheltenham: Edward Elgar.

Bethell, Tom. (1998) The Noblest Triumph: Property and Prosperity Through the Ages, New York: St.Martin's Press. A nice examination of the role of private property throughout history.

Bouckaert, B. and G. De Geest (2000) The Encyclopedia of Law and Economics, Edward Elgar. Published on the web at: <a href="http://encyclo.findlaw.com/">http://encyclo.findlaw.com/</a>

A number of leading figures in the field keep blogs (although they are not confined to law and economics):

Richard Posner and Gary Becker <a href="http://www.becker-posner-blog.com/">http://www.becker-posner-blog.com/</a>

David Friedman <a href="http://daviddfriedman.blogspot.com/">http://daviddfriedman.blogspot.com/</a>

Steven Landsburg http://www.thebigquestions.com/blog/

# Course reading list

A detailed outline and reading list for each topic will be distributed before lectures each week and placed on the course web site. The relevant chapters in Polinsky for each topic are set out below.

# **Course Outline**

# Topic 1: Introduction: Economics and the law (Week 1)

Polinsky ch. 1.

# Topic 2: Tools of economic analysis (Weeks 1-3)

Price theory

Market failure

Efficiency

Game theory

Polinsky chs. 2,12,18.

# Topic 3: Property rights and the Coase theorem (Week 4)

Polinsky ch.3

## Topic 4: Torts (control of externalities) (Weeks 5 – 9)

Nuisance law

Accidents

Risk and insurance

Pollution control

Products liability

Principal-agent liability

Polinksy chs.4, 6, 7, 9, 13, 14, 15.

# **Topic 5 Contracts (Weeks 10-11)**

Polinsky chs. 5, 8

# Topic 6: Criminal Law, law enforcement and punishment (Weeks 11-12)

Polinsky chs. 10, 11

### Topic 7: Suit, settlement and trial (Week 13)

Polinsky ch. 16

# Topic 8: Regulation, corrective taxes, injunctions or liability rules to control externalities (Week 13)

Polinsky ch. 17

# Summing Up (Week 13)

Polinsky ch. 19

# **Graduate and Honours lectures**

There will be about 5-6 honours lectures on various topics, including:

Competition and the core.

The hold out problem and the anti-commons

Intellectual property

Eminent domain and compensation for takings

Non-pecuniary losses and the value of life

# **Course Information**

The web address for this course is <a href="http://studyat.anu.edu.au/courses/ECON2120;details.html">http://studyat.anu.edu.au/courses/ECON2120;details.html</a>. Core material for this course will be available on Wattle (<a href="https://wattle.anu.edu.au/">https://wattle.anu.edu.au/</a>), including course outline, handouts, weekly tutorial questions, reading lists and lecture outlines, readings, notices and announcements. All students formally enrolled in the course should have access to Wattle and check it regularly. Those students who are not formally enrolled and are considering doing so should provide their student ID numbers to the lecturer in order to gain access to WebCT while they decide on changing their enrolment.

#### Requisites

The formal prerequisite for this course is ECON2101/2111 Microeconomics 2 (P or H).

# **Contacts**

| Role   | Office address               | Email                    | Telephone | Consultation<br>Times |
|--|------------------------------|--------------------------|-----------|-----------------------|
| Course<br>Convenor and<br>Lecturer<br>(Course<br>Authority)<br>Mark Harrison | Room1009,<br>HW Arndt Bldg.  | Mark.Harrison@anu.edu.au | 6125 4544 | Friday 11-1           |
| Maria Tatarow,<br>School<br>Administrator.                                   | Room 1014,<br>HW Arndt Bldg. | maria.tatarow@anu.edu.au | 6125 3590 | 09:00 – 17:00         |
| Terry Embling,<br>Course<br>Administrator                                    | Room1013<br>HW Arndt Bldg.   | terry.embling@anu.edu.au | 5124 0384 | 09:00 – 17:00         |

# Communication

#### **Email**

If necessary, the lecturers and tutors for this course will contact students on their official ANU student email address. Information about your enrolment and fees from the Registrar and Student Services' office will also be sent to this email address.

#### **Announcements**

Students are expected to check the Wattle site for announcements about this course (in the course Announcements Forum), e.g. changes to timetables or notifications of cancellations. Notifications of emergency cancellations of lectures or tutorials will be posted on the door of the relevant room.

#### **Course URLs**

More information about this course may be found on:

Study @ ANU,

- the College of Business and Economics website, and
- Wattle, the University's online learning environment. Log on to Wattle using your student number and your ISIS password.

# General Information for all Students

#### **CBE Student Office**

#### http://www.cbe.anu.edu.au/

The CBE Student Office provides assistance with program and course selection, enrolment, change of program, variation to enrolment, status and other general matters. It is located on Level 2 of CBE Building 26c, contact details:

- T: (61) 02 6125 3807
- E: info.cbe@anu.edu.au

#### Main Administrative Dates 2011

## http://www.anu.edu.au/sas/SEAP guide/

The main administrative dates regarding teaching sessions, course census dates, examination period, graduation and enrolment variations (i.e. add and drop courses) are available from the ANU SEAP Guide 2011.

# **Associate Dean (Education)**

Dr Royston Gustavson is the Associate Dean (Education) in the ANU College of Business & Economics.

### **ANU Student Support**

Academic Skills and Learning Centre

http://www.anu.edu.au/academicskills/

The Academic Skills and Learning Centre, in the Pauline Griffin Building, offers services to students regarding a range of academic issues including essay writing, note-taking, referencing, reading, examination preparation, and plagiarism.

#### **ANU College**

#### http://www.anucollege.com.au/

ANU College offers the following introductory and extended programs:

- maths bridging courses; and
- English language support for students from non-English-speaking backgrounds.

### **Information Literacy Program**

# http://ilp.anu.edu.au/index.html

Workshops are available to undergraduate and graduate students to develop skills in handling information and communication technologies.

# Policies, Procedures and Rules

#### **ANU SEAP Guide 2010**

http://www.anu.edu.au/sas/SEAP\_guide/

The Student Enrolment and Administrative Procedures Guide (SEAP) supplements the ANU Undergraduate Handbook information available on Study@ANU (<a href="http://info.anu.edu.au/studyat/">http://info.anu.edu.au/studyat/</a>), the ANU Rules (<a href="http://www.anu.edu.au/cabs/rules/">http://www.anu.edu.au/cabs/rules/</a>), and the Graduate Research website (<a href="http://www.anu.edu.au/graduate/">http://www.anu.edu.au/graduate/</a>).

#### Information for Enrolled Students

http://cbe.anu.edu.au/Current Students/general info/

Students are expected to be familiar with the ANU College of Business & Economics and university-wide policies and procedures on the following:

- Code of Practice for Student Academic Honesty
- Assessment Arrangements for Students from Language Backgrounds Other Than English
- · Academic Progress Rules and Procedures
- Special examinations/consideration
- Supplementary examinations
- Review of assessment procedures

# **Special Examinations**

http://cbe.anu.edu.au/Current Students/general info/specexam.asp

You must contact the College Office for guidance on the procedure for special examinations for final examination. Do not approach your lecturer for this information.

Students who are unable to attend an examination for reasons outlined in the policies above, may *apply* to sit a special examination by lodging an application with the College Student Administration Office no later than 72 hours after the scheduled examination. It is important to emphasise that *travel arrangements and minor illnesses are not normally acceptable grounds for special examinations* (Section 2, College 'Special Examination Policy').

Section 7.7 of the 'Student Enrolment and Procedures Guide 2009' states:

Students must make themselves available for the duration of the examination period in order to attend any special examination that may be required.

If you know in advance of circumstances whereby you will be unable to sit the examination, you should lodge an application for a special examination as soon as possible.

The dates on which Special Examinations will be held will be published on the School website when the final timetable is published.

Applications for special examinations must be correctly completed with all original supporting documentation attached. Where an application is made on the grounds of sickness, Section B of the application **must be completed by a medical practitioner** and a detailed medical certificate stating the effect on your capacity to sit the examination is required.

The medical certificate must carry the stamp from the medical practice, and will not always be sufficient evidence.

Special examinations are **not** automatically granted. If approved, successful candidates are required to contact the relevant School Office to obtain details of the special exam. If you do not sit the examination, or your application for a special examination is declined, then you will fail the course as incomplete.

It is not grounds for a further special examination if students are not contactable and miss the scheduled examination date.

# **Special Consideration**

If illness or other disruptive events have affected your preparation for, or performance during, an examination, you can bring this to the attention of the examiners by making a request for special consideration using the Application for Special Consideration form.

Requests for special consideration must be lodged with the relevant **School Office** before the scheduled date of the examination. However, if it relates to a problem that arose during the examination, it should be submitted immediately after the examination (see the invigilator).

Requests for special consideration must be accompanied by documentation of the illness and/or a letter setting out the reasons for the difficulties in studying for or sitting an examination. The examiners will take this into account in awarding the final grade.

#### **Special Arrangements**

If you have a disability or disorder (permanent or temporary) which makes undertaking a formal sit-down examination difficult, then *you are responsible for requesting special arrangements to be made for your examination*. In the past these arrangements have included the use of special equipment, additional time, writing breaks, a scribe (someone to write for you), etc.

Please contact the Examinations and Graduations Office early in the semester and at least 10 days prior to the examination period.

Failure to make appropriate arrangements for an examination may result in a subsequent application for a special examination/special consideration being declined.

#### **Disabilities**

If you have any queries about special arrangements with respect to disabilities, please refer to the Disabilities Officer. The ANU Disability Services Centre's website is at <a href="http://www.anu.edu.au/disabilities/">http://www.anu.edu.au/disabilities/</a>.

# **Supplementary Examinations**

http://www.anu.edu.au/cabs/rules/ExamsRules.pdf

In accordance with the University Examinations Rules 2009 (No. 3), you may be provided with a supplementary examination.

If you have qualified for a supplementary examination, your grade will be recorded as a PX on your Notification of Results. *You must notify the School Office, in writing (email is satisfactory), within 7 days of the official publication date of examination results to indicate your acceptance or otherwise to sit the supplementary examination.* 

If you pass the supplementary examination you will receive the grade of PS (pass at supplementary examination) and a mark of 50. If you are unsuccessful, or you decide not to sit the supplementary examination, your grade will be recorded as N (fail) and your original mark will stand.

Supplementary examinations will be held early in the next semester on dates to be advised. For information regarding the timing and venues for supplementary examinations please refer to the school websites in week 2 of the current semester:

ABIS: <a href="http://www.cbe.anu.edu.au/schools/abis/">http://www.cbe.anu.edu.au/schools/abis/</a>
ECONOMICS: <a href="http://www.cbe.anu.edu.au/schools/fas/">http://www.cbe.anu.edu.au/schools/fas/</a>
MMIB: <a href="http://www.cbe.anu.edu.au/schools/mmib/">http://www.cbe.anu.edu.au/schools/mmib/</a>

Travel plans should be made accordingly as travel plans are not an acceptable reason to miss a supplementary examination.

# **Results and Examinations**

In accordance with the University Assessment Grades/Codes, CBE applies the following scale when awarding grades:

| Final Pass Grades  |        |  |  |  |
|--|--------|--|--|--|
| HD – High Distinction  | 80–100 |  |  |  |
| D – Distinction  | 70–79  |  |  |  |
| CR – Credit  | 60–69  |  |  |  |
| P – Pass   | 50–59  |  |  |  |
| PS – Pass at supplementary examination                                     | 50     |  |  |  |
| Final Fail Grades  |        |  |  |  |
| N – Fail   | 00–49  |  |  |  |
| NCN - Not Completed/Fail   |        |  |  |  |
| WN – Withdrawn with failure  |        |  |  |  |
| Interim Codes (used when a result for a course has not yet been finalised) |        |  |  |  |
| DA – Deferred assessment   |        |  |  |  |
| PX – Offered supplementary assessment                                      |        |  |  |  |
| RP – Result pending  |        |  |  |  |
| WA – Withheld for administrative reasons                                   |        |  |  |  |

# **Results Notification**

To access results students should check their ISIS accounts on the advertised date for release of examination results. After publication, students enquiring about results must provide an ANU student card as proof of identification to the Examinations, Graduations, Prizes and Timetabling Office (Building 12). For privacy reasons students should not make enquiries regarding the results of other students.

# **Examination Timetable – Final Examination Period**

# http://timetable.anu.edu.au/

Details of the final examination timetable are available on the ANU Timetabling website. The onus is upon students to acquire their own scheduling details.

#### **Examination Timetable – Mid-Semester Examinations**

When a mid-semester exam is scheduled, timetable information will be posted by the relevant School.

#### **Misconduct**

http://www.anu.edu.au/cabs/rules/DisciplineRules.pdf

In relation to an examination, misconduct on the part of a student includes:

- cheating;
- plagiarism (including the reproducing in, or submitting for assessment for, any
  examination, by way of copying, paraphrasing or summarising, without
  acknowledgement and with the intention to deceive, any work of another person as
  the student's own work, with or without the knowledge or consent of that other
  person):
- submitting for an examination any work previously submitted for examination (except with the approval of the prescribed authority);
- failing to comply with the University's instructions to students at, or in relation to, an examination:
- acting, or assisting another person to act dishonestly, in or in connection with an examination; and/or
- taking a prohibited document into an examination venue.

The administrative procedures regarding misconduct are incorporated in the ANU Discipline Rules.

### **Plagiarism**

#### http://academichonesty.anu.edu.au/

The College regards plagiarism as any appropriation of the ideas or expressions of another without relevant and appropriate acknowledgment. This includes un-attributed appropriation of text or content and may extend to improper referencing. Plagiarism will not be tolerated in any course and all discovered instances would be pursued to the full extent allowable under the rules.

Where students have doubts as to how to deal with or acknowledge source materials in course assignments they should consult the lecturer or tutor.

The penalties and administrative procedures regarding plagiarism are incorporated in the ANU Policy on Academic Honesty.

On-line material discussing plagiarism and referencing styles is available from the Academic Skills and Learning Centre Web page (<a href="http://www.anu.edu.au/academicskills/">http://www.anu.edu.au/academicskills/</a>).