

FOUNDATIONS OF LAW

**FIRST SEMESTER 2011
STATUTORY INTERPRETATION ASSIGNMENT**

GENERAL INSTRUCTIONS: Please read these instructions carefully.

1. **WEIGHT:** This assignment is worth 30% of the final mark in the subject. Provided a bona fide effort is made, the mark is redeemable by a higher mark in the statutory interpretation question in the final exam.

2. **DUE DATE:** The assignment is due on **Tues, 18th May 2011 at 2.00pm**

Assignments which are submitted after the due date will lose 5% of the available marks per day, or part thereof. *If you need an extension of time you need to apply as soon as possible. The grounds for an extension are set out below at point 8.*

3. **LENGTH OF ASSIGNMENT AND FORMATTING INSTRUCTIONS:**

The assignment is to be a **maximum of 4 pages** in length.

The assignment is to be presented in typed form on **one side of A4 paper** using **Times New Roman 12-point font** and using **double line spacing**. The margins of the paper (right, left, top and bottom) must be no less than 2.5cm.

The paper is **not** to include a bibliography.

A penalty of up to 10% of the value of the assignment may be deducted for failing to comply with the page limit and/or the formatting instructions.

4. **PRESENTATION OF THE ASSIGNMENT:**

All written work in the law school is required to comply with *The Australian Guide to Legal Citation* available on:

<http://www.law.adelaide.edu.au/library/resources/style/>.

Please read the AGLC before submitting your paper and make sure you comply with it. The assignment must be written in prose style (using complete sentences), adhere to grammatical rules, and use correct spelling. You need to number each question you are answering.

5. **MARKING CRITERIA AND GRADING**

Marks will be awarded according to the following rubric:

	EXCELLENT (>85%) ¹		VERY GOOD (75-84%)
C	Fulfils and exceeds all the criteria with an excellent level of overall performance: <ul style="list-style-type: none">• Legislation is used accurately; no errors of fact, uses only relevant information.• Information is clearly and logically organised to develop coherent explanations and persuasive and sustained arguments; presents and employs effective counter-	C	Fulfils and exceeds all the criteria with a very good level of overall performance: <ul style="list-style-type: none">• Legislation is used accurately; no errors of fact, uses only relevant information.• Information is clearly and logically organised to develop coherent explanations and persuasive and sustained arguments; presents and employs effective counter-

¹ This rubric was adapted from one written by **Tracey Winning**: Dental School, University of Adelaide.

E	<p>arguments wherever relevant.</p> <ul style="list-style-type: none"> Techniques of statutory interpretation are used and applied thoughtfully and often with originality to the fact scenarios, clearly demonstrating an excellent understanding of statutory interpretation Accurately analyses the relevant legislation and the questions and employs the MIRAT formula seamlessly <p>• Academic style is consistently used and expression is clear and error free.</p> <p>• Requested format is followed.</p>	E	<p>arguments.</p> <ul style="list-style-type: none"> Techniques of statutory interpretation are used and applied thoughtfully to the fact scenarios, clearly demonstrating a very good understanding of statutory interpretation. Accurately analyses the relevant case and the questions and employs the MIRAT formula to very good effect <p>• Academic style is consistently used and expression is clear and error free.</p> <p>• Requested format is followed.</p>
GOOD (65-74%)		SATISFACTORY (50-64%)	
C	<p>Fulfills most of the criteria with a good level of overall performance.</p> <ul style="list-style-type: none"> Legislation is used mostly with accuracy; no errors of fact, may use some irrelevant information. Some attempt at organisation but either incomplete or not easy to follow. Arguments are good without demonstrating persuasiveness and originality of thought. Presents some effective counter-arguments. Techniques of statutory interpretation are used and applied well, demonstrates a good understanding of statutory interpretation. Accurately analyses the relevant legislation and the questions and has made a good attempt to use the MIRAT formula <p>• Academic style is mostly used and expression has very few errors.</p> <p>Requested format is followed.</p>	C	<p>Fulfills most of the criteria with a satisfactory level of overall performance.</p> <ul style="list-style-type: none"> Legislation is used mostly with accuracy; some errors of fact, may use some irrelevant information. Some level of logical organisation evident, but does not consider all relevant facts or does not discriminate relevant from irrelevant facts, arguments reveal limited synthesis of techniques of statutory interpretation/ fact scenarios, limited use of effective counter-arguments. Techniques of statutory interpretation are used and applied, demonstrates an understanding of statutory interpretation. Analyses the relevant legislation and the questions mostly with accuracy and has attempted to use the MIRAT formula <p>• Academic style is mostly used and expression has some errors that do not prevent understanding.</p>
BORDERLINE (40-49%)		UNSATISFACTORY (30-39%)	
C	<p>Does not fulfil most of the criteria to a satisfactory standard – does not achieve a satisfactory level of overall performance.</p> <ul style="list-style-type: none"> Only a few key concepts or points are noted; other information noted is inaccurate and/or irrelevant Limited listing and simple brief descriptions of knowledge resulting in only partial explanation, with restating of question/case read, with little transformation or application. Some major errors of fact, does not discriminate relevant from irrelevant data. Organisation is limited and not logical. Arguments are poorly developed, may not use counter-arguments or use poor counter-arguments. <p>• Academic style not used and expression has some errors, eg grammar, making communication difficult.</p>	C	<p>Fails to meet more than half of the criteria – unsatisfactory in most aspects.</p> <ul style="list-style-type: none"> Misses point of questions; doesn't answer questions; repeats words in question but says nothing/adds nothing; incorrect information/terminology. Explains issues/knowledge incompletely or minimally, with little or no application of knowledge. Major errors of fact, does not discriminate relevant from irrelevant facts. Organisation of knowledge is not evident. <p>• Academic style not used, expression has major errors, information cannot be understood, requiring extensive clarification.</p>
VERY UNSATISFACTORY MARK (0-29%)			
Achieves few or none of the criteria. Fails to submit work.			

C: Content: knowledge acquisition, integration, organisation, relevance and application

E: Expression: Academic Writing

6. PLAGIARISM AND CHEATING

The University of Adelaide policy on Plagiarism and Cheating applies to all work submitted for assessment in this course. This policy is found at:

<<http://www.adelaide.edu.au/policies/?230>>

<http://www.adelaide.edu.au/policies/465/>

Students should ensure that they have read and understood this policy prior to submitting their assignment.

Assignments should comply with academic convention regarding the proper citation of work (both published and unpublished). Copying the work of others and failing to properly acknowledge the ideas of others constitutes plagiarism. Students are reminded that they are required to undertake their assessment on an

individual basis and must not collaborate with others by writing papers or parts of papers together.

'TURN IT IN' PLAGIARISM DETECTION SOFTWARE

The University of Adelaide holds a licence to the plagiarism detection software, turnitin®. The software electronically compares your work to that of your classmates and previous students, material available on the Internet, and both freely available and subscription-based electronic journals. You will be required to submit your research assignment electronically so that it can be examined using turnitin® software as well as via the normal method of hard copy submission. Detailed instructions about how to submit assignments using turnitin® are set out below.

7. SUBMISSION OF ASSIGNMENTS

Students are required to submit their assignments electronically and in hard copy. **Both electronic and hard copies of the assignment must be submitted by the due date.**

First, you must submit your assignment electronically to 'Turnitin'. Here are the instructions:

- Go to www.turnitin.com.
- Log in using the email address and password you created for the case analysis assignment
- the Foundations class ID is 3916657, and the Enrolment Password is FOL2011
- (If you have a problem with the turnitin agreement, and do not wish to agree to the conditions, you must contact the course coordinator).
- Log in to Turnitin and you will then be taken to the homepage for Foundations where you will be able to submit your assignment under the 'Statutory Interpretation' link.
- Once you have submitted your assignment you will be e-mailed a receipt. Please **print out the first page only of this e-mail receipt and attach it to the end of your assignment** when submitting in hard copy. Make sure that what you attach includes your receipt number from Turnitin.
- Please note that if you want to retain your anonymity for the marking process you can submit to Turnitin using your student number, or black out your name on the receipt prior to submission.
- **Failure to lodge a hard copy with a Turnitin receipt will mean that your assignment has not been validly submitted and a special penalty of 10% may be applied, in addition to any other penalties that are applicable.**
- Be sure to leave plenty of time to submit electronically, get a receipt and still get your hard copy in by the deadline.

Important notes for those who have used Turnitin before:

- Unlike some other courses, it is not possible in this course to submit a draft to Turnitin and then have it checked. So please **do not submit your assignment to Turnitin until you are sure it is the final version.**

Hardcopies of assignments must have a cover sheet and Turnitin receipt attached and be submitted in the assignment slot at the Front Office on Level One of the law school. You must attach a coversheet to the assignment

with all the details completed. These are available in the law school foyer. When filling out this sheet:

- use your student number (**not** your name) to identify yourself.
- sign the declaration at the bottom of the front sheet that the work is your own.

8. EXTENSIONS

Extensions beyond the due date will only be granted in the case of serious and unforeseen incapacity. If you require an extension, you use the on-line application form available on the law school website (<http://www.law.adelaide.edu.au/student/forms/>) as soon as you are aware of the need for an extension, and before the due date of the assignment.

The course coordinator will reply by email, determining whether an extension is warranted, what evidence is required to verify the student's incapacity, and the length of the extension. Evidence of the incapacity must be submitted with the assignment, and must be consistent with details in the email requesting the extension. **If the details of the request for an extension, and the medical or other evidence verifying the extension are not consistent in all respects, the extension is nullified, and the assignment may not be accepted.**

Statutory Interpretation Assignment

Notes:

1. You should assume that the legislation is valid.
2. This is not a research exercise. You should confine your discussion to the facts given and, where necessary, to appropriate references to the cases and legislation **on statutory interpretation** referred to in lectures and the textbook.
3. Your answer should comply with the *Australian Guide to Legal Citation*. That is, it should cite any relevant Acts and cases, and **use footnotes** and quotations, in the manner set out in the *Australian Guide to Legal Citation*, **but there is no need to do a bibliography**.

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The Commonwealth Parliament passes a new Act, the *Cake Act 2011* (Cth).
The Minister for Education in his second reading speech heralds the Bill as a new beginning:

It has long been clear that university students and academic staff are in need of more cake. Since the time of Marie Antoinette the call has been ‘Let them eat cake’. However the previous government did nothing to correct the abysmal lack of cake in Foundations of Law seminars at the University of Adelaide. This government, by contrast, is committed to fundamental reform. No longer will students and academics be deprived of cake during their classes. Not only will students learn about the substantive law in their Foundations of Law classes but they will also develop their cake-making skills, and be happier and more productive scholars thereafter.

The Bill passes smoothly through the Parliament and receives the Royal Assent on 12 January 2011.

CAKE ACT 2011²

No. 1 of 2011

PART 1 - PRELIMINARY

1. Short Title

This Act may be cited as the *Cake Act 2011*.

2. Object

To regulate the provision of cake to staff and students in LAW1501 Foundations of Law course in order to enhance student learning and staff happiness.

3. Interpretation

In this Act, unless the contrary intention appears—

² The *Cake Act* is developed from the *Cake Act 2011*(Tas) drafted by Dr Gail Lugten.

cake means a sweet, unleavened bread with chocolate, carrot, cream cheese, spices, eggs, sugar, or other ingredients, baked in a thick disk or ornamental shape and served with or without cream as the Minister for Cake may approve from time to time, or an approved substitute.

institution means the University of Adelaide

Minister for Cake is the course coordinator of LAW1501 Foundations of Law as may be appointed from time to time

Student means a student enrolled in full-time or part-time study at the institution

4 Approved Substitutes—

For the purposes of the operation of this Act, the approved substitutes for cake are:

- (1) a substitute that reasonably resembles cake in aroma; or
- (2) other food combinations as approved in advance by the Minister for Cake.

5 Declaration of designated area or exclusion zone

- (1) The Minister for Cake may, by notice on MyUni—
 - (a) declare an area within the institution to be a cake zone for the purposes of this Act;
 - (b) declare land in the institution to be an exclusion zone for the purposes of this Act, and the declaration will have effect according to its terms.
- (2) The Minister for Cake may, by subsequent notice on MyUni, vary or revoke a declaration under subsection (1).
- (3) If a declaration under this section applies to any part of the library the Minister for Cake must consult with the Librarian.
- (4) If the Minister makes a declaration under this section, the Minister must ensure that a copy of the declaration is published in a newspaper circulating generally throughout the State.

6 Production of Cakes

- (1) The Minister for Cake has the power to nominate cake providers in each seminar

- (2) Nominated cake providers must produce their cake on the date of cake obligation as designated by the Minister of Cakes.
- (3) Cakes must be produced in the cake zone.
- (4) The Minister for Cake has the power to issue penalty notices to nominated cake providers in accordance with Part 2.

PART 2- PENALTIES

- 7 (1) Inadvertent failure to produce cake is an offence.
Penalty: a requirement for provision of cakes or approved substitutes for morning and afternoon tea the next following seminar day.
- (2) Deliberate failure to produce cake is an offence.
Penalty: A period of at least 10 minutes in the naughty corner.
8. (1) A person who carries out repeated cake failure commits an offence.
Penalty: Provision of cakes from an approved Bakery or such other supplier as the Minister for Cake may approve.
- (2) Wilful and repeated cake failure is an offence.
Penalty: academic failure with no opportunity for deferred or supplementary cake.
- (3) Persons that traffic cakes in an exclusion zone commit an offence.
Penalty: Such persons may not share in produced cake for no less than three seminars.

On 1st March 2011, the course coordinator of Foundations of Law is busy organising for the new students in the Foundations of Law course. To her delight she notes that the Commonwealth has passed the *Cake Act 2011*. She decides to declare room 314, where she has all her seminars, as a cake zone. She places an announcement on MyUni to that effect.

That same day she bumps into the librarian and chats to him about the Act. He is also delighted to hear that it has been passed and requests that she declare the library as a cake zone as well so that the legal research library tour can be facilitated by cake. Unfortunately the course coordinator does not plan on sharing cake unless she absolutely has to so she immediately decides to declare the library an exclusion zone. She places a notice on MyUni to that effect and takes an advertisement in the *Barossa Valley Rosegrowers' Weekly* publishing her two declarations.

On 15 March the course coordinator is particularly hungry. She designates Entwhistle, Mariella and Bartholomew to provide cake at their next Foundations of Law seminar on the 22 March. Mariella is not much of a cook and she casts about for something to take. She finds an old picture book with a 'scratch and sniff' picture of a luscious chocolate cake. She decides to take it to class. Entwhistle is a chef extraordinaire. He begins planning the day of the designation and by 22 March is putting the finishing touches to a confection entirely of his own design. It is made up of yeasted pistachio squares sandwiched together with raspberry icing. One of the distinguishing characteristics of the squares is that they are totally without any odour. Bartholomew asks his mother to make her speciality, a Victoria sponge.

All three students bring their contributions on 22 March. At the seminar Mariella proudly produces her picture book. Entwhistle is having trouble carrying the squares. He makes four trips into the seminar before he has all the squares present. Bartholomew is late for class because his mother was putting the final sprinkle of icing sugar on his sponge. Unfortunately Bartholomew has also forgotten to print off the case they are considering that week. He runs down to the computer lab in the library carrying his creation, prints the case and heads off to room 314. He rushes into room 314 and trips over a student bag. The sponge falls on the floor.

The course coordinator is bitterly disappointed with the contributions of each student. She finds Entwhistle's squares to be uninviting, Bartholomew's cake destroyed and Mariella's picture book a betrayal of the intention of the Act. She issues notices to all three students using her powers under the Act.

Entwhistle receives a notice under s 8(2), Bartholomew receives notices under s 7(1) and 8(3), and Mariella receives a notice under s 7(2). Please advise each student as to whether they have committed these offences.