

## **COURSE SYLLABUS – 2153.03A**

Course: Business and Environmental Law (Fall Term 2008)  
Instructor: Sean Foreman  
Wickwire Holm  
Phone: 429-4111  
Fax: 429-8215  
Email: [sean.foreman@dal.ca](mailto:sean.foreman@dal.ca)

### **Class Schedule**

#### **Sept 3 – Brief Introduction and Overview**

Setting for this course: practical focus on environmental issues (civil and regulatory) in the business context within Canada, principally related to:

1. Buying, selling and financing/refinancing business assets; and
2. Business operations and use of owned or leased real property.

We will have time throughout for additional discussion on topics of interest that may arise but that are not specifically referenced in the Schedule.

#### **Sep 10 & 17 - Legislative framework, guidelines/policies and environmental assessment**

Primary Federal and Provincial Law

*NS Environment Act & Regulations (+ 2006 amendments)* (on reserve)

*Environmental Goals & Sustainable Prosperity Act, SNS 2007, c.7* (on reserve)

Environmental assessment: CEAA (federal) and Nova Scotia (provincial)

*Prairie Acid Rain Coalition v. Canada (Minister of Fisheries & Oceans)*

*Miningwatch Canada v. Canada (Minister of Fisheries & Oceans)*

*Pembina Institute for Appropriate Development v. Canada (Attorney General)*

Environmental Site Assessments (i.e. Phase I, II & III ESAs);

Contaminated sites remediation; risk assessment

*R. v. New Brunswick Power* (on reserve)

Comparative criteria, i.e. RBCA, CCME, criteria from other jurisdictions

NS Guidelines for Management of Contaminated Sites (on reserve)

*Fairmount v. Nova Scotia* (on reserve)

NS Domestic Fuel Oil Spill Policy (on reserve)

### Sep 24 & Oct 1 - Environmental issues in buying, selling and financing business assets

1. General requirements of lending institutions  
Environmental Assessments/Audits  
Reliance letters
2. Lawyer's due diligence  
*Fraser Park v. Lang Michener* – trial/appeal decisions (on reserve)  
Environmental registry (s.10) and superliens (s.132)  
Title search
3. Corporate due diligence prior to a purchase  
*Tony's Broadloom* (on reserve)  
*McCluskie v. Reynolds* (on reserve)  
*Antorisa Investments Ltd. v. 172965 Canada Ltd.* (on reserve)
4. Environmental consultant's liability  
*Ontario (Attorney General) v. CH2M Gore & Storrie Ltd.* (on reserve)  
*R. v. Greenough* (on reserve)
5. Representations/warranties  
Indemnities (draft clauses on reserve)

### Oct 8, 15, 22 & 29 - Environmental issues involved with business operations on owned or leased real property

Oct 8

1. s. 165 of *Environment Act*  
Duty to report by owner and consultant  
s. 69 of *Environment Act*  
*R. v. Edmonton (City)* (on reserve)
2. Confidentiality of site assessments/audits  
*McCarthy Tetrault* (on reserve)  
*Gregory v. Minister of National Revenue* (on reserve)
3. Judicial Review Applications  
*Ecology Action Centre Society v. Canada (A.G.)* (on reserve)  
*O'Dell v. New Brunswick* (on reserve)  
*Imperial Oil Ltd. v. Quebec* (on reserve)

Oct 15

## 4. Ongoing corporate issues

- (a) Corporate due diligence
  - R. v. Sault Ste. Marie* (on reserve)
  - R. v. Bata #1* (on reserve)
  - R. v. Petro-Canada* (on reserve)
  - Should corporations be allowed to indemnify officers/directors?
  - R. v. Bata #2* (on reserve)
  - Duty of loyalty and duty of care of corporate officers and directors
  - Peoples Department Stores Inc. v. Wise* (on reserve)
  - s. 163 and 164 of *Environment Act*
  - R. v. Shell Canada Ltd.* (on reserve)
  - ISO 14000
- (b) Sentencing Criteria
  - R. v. United Keno Mines Ltd.* (on reserve)
  - R. v. Terroco Industries Ltd.* (on reserve)

- 5. *Canadian Environmental Protection Act* (ss. 272-287 and use of EPAMs)
  - Articles on use of EPAMs (on reserve)
  - Part 10 of CEEA: Environmental Protection Measures (on reserve)

Oct 22

## 6. Environmental actions and damages

- (a) Causes of action:
  - Rylands v. Fletcher* (on reserve)
  - Nuisance
  - Negligence (*Bingley v. Sable Offshore Energy Inc.*) (on reserve)
  - Class Action/Battery (*MacQueen v. Ispat*) (on reserve)
  - Charlie Baillie et. al. v. Nova Scotia Power Inc.*, S.P. No. 243240 (on reserve)
- (b) Onus of proof (*Snell v. Farrell*) (on reserve)
- (c) Toxic Torts
  - Toxic torts and the Environmental Lawyer. Article by Alan Rudlin and Christopher Graham (on reserve)
- (d) Between contractual persons
  - Westfair Foods Ltd. v. Domo Gasoline Corp.* (on reserve)
  - SEP Holdings Ltd. v. Metropolitan Stores* (on reserve)

Oct 29

- (e) Damages - Between neighbours/environmental “stigma”  
*Tridan Developments Ltd. v. Shell Canada Products Ltd.*  
 (trial/appeal decisions) (on reserve)  
 “Deconstructing Tridan: A Litigator’s Perspective”. Article by  
 Katherin van Rensburg (on reserve)  
*Donkin v. River Road Co-op* (on reserve)  
*Teck Cominco* (trial/appeal decisions) (on reserve)  
*Cousins v. McColl-Frontenac Inc.* (pending SCC) (on reserve)
- (f) Between Insurer/Insured  
*Zurich Insurance Company v. 686234 Ontario Limited* (on reserve)

### Nov 5 – International and Aboriginal Issues

Climate Change – Federal/Provincial

Aboriginal Consultation

*Taku River Tlingit First Nation v. British Columbia (Project Assessment Director)*  
*Haida Nation v. British Columbia (Minister of Forests)*

### Nov 5, 12, 19 & 26 – Student Presentations

Dec 17 – Major Papers Due

### Evaluation:

#### Marks:

- 15% Class participation (incl. attendance/review of materials in advance of class and questioning of other students during their presentations)
- 15% Presentation of approx 30 min in length (on topic other than paper topic)
- 70% Major Paper

#### Papers:

All paper topics to be approved by instructor.  
 All paper topics must be finalized on or before October 29/08.  
 Paper due by Wednesday December 17, 2008.  
 All papers should be double-sided, minimum of 25 pages (expectation is 25-40 pages).  
 The primary 2-3 articles or cases used in the preparation of the paper are to be attached to the final paper for review.

#### Presentations:

All presentations to be allocated and topics chosen on or before October 22/08

### **Paper/Presentation Deadline Extensions:**

**ALL** student requests for extensions to paper or assignment deadlines and all requests for other accommodations **must** be directed to the Studies Committee. Professors do **not** have the authority to grant individual extensions or accommodation.

A **FULL** copy of the Major Paper Guidelines are attached to this syllabus as Appendix “A”.

### **Accommodation :**

Professor Pothier is the faculty advisor to students with disabilities. Students with disabilities wishing to discuss in-class accommodation or study assistance needs should see Professor Pothier. Students wishing to request accommodation regarding exam writing or other aspects of evaluation must make the request in writing to the Studies Committee and should see Associate Dean Deturbide or Assistant Dean Hughes for more information.

Material for the Studies Committee should be given to Tiffany Coolen-Jewers, administrative assistant to the Associate Dean.

### **Plagiarism:**

#### **All students in this course must read:**

- the University policies on plagiarism and academic honesty referenced in the Policies and Student Resources sections of the plagiarism.dal.ca website, and
- the Law School policy on plagiarism, as set out in:
  - the law school regulations (available in hard copy from the Associate Dean’s office and online at [http://law.dal.ca/Current\\_Students](http://law.dal.ca/Current_Students)) and,
  - the First Year Handbook (provided to all first year students and available from Assistant Dean’s Office).

Any paper or assignment submitted by a student at Dalhousie Law School may be checked for originality to confirm that the student has not plagiarized from other sources.

Plagiarism is considered a serious academic offence which may lead to loss of credit, suspension or expulsion from the law school, or even revocation of a degree.

It is essential that there be correct attribution of authorities from which facts and opinions have been derived.

Prior to submitting any paper or other assignment, students should read and familiarize themselves with the policies referred to above.

**Ignorance of the policies on plagiarism will not excuse any violation of those policies.**

## Case Citations for Business and Environment Law

Antorisa Investments	[2006] CarswellOnt 5160 (S.C.)
Bingley	[2003] CarswellNS 46 (S.C.)
CH2M Gore & Storrie	(2002), C.E.L.R. (N.S.) 145 (Sup. Ct.)
Cousins v. McColl-Frontenac	[2006] NBQB 255, add'l reasons in [2006] NBQB 406, aff'd by [2007] NBCA 83, leave to appeal to S.C.C. granted by [2008] CarswellNB 174 (S.C.C., April 3, 2008).
Donkin	[1991] N.B.J. No. 416 (Q.B.)
Ecology Action Centre	[2004] F.C.J. No. 1318 (F.C.)
Fairmount Developments	[2004] N.S.J. No. 251 (S.C.)
Fraser Park	[1999] B.C.J No. 1414 (S.C.), aff'd on appeal
Gregory v. MNR	[1992] F.C.J. No. 854 (T.D.)
Imperial Oil v. Quebec	[2003] 2 S.C.R. 624
McCarthy Tetrault	[1992] O.J. No. 1680 (Prov. Div.)
McCluskie	[1998] B.C.J No. 1662 (S.C.)
Miningwatch Canada	[2008] CarswellNat 1699 (F.C.A.)
O'Dell v. N.B.	[2005] N.B.J. No. 207 (C.A.)
Peoples Dep't Stores	[2004] 3 S.C.R. 461
Prairie Acid Rain Coalition	[2006] CarswellNat 170 (F.C.A.)
Pembina Institute	[2008] CarswellNat 508 (F.C.)
R. v. Bata #1	[1992] O.J. No.236 (Prov. Div.)
R. v. Bata #2a	[1992] O.J. No. 667 (Prov. Div.)
R. v. Bata #2b	1993 CarswellOnt 264 (Gen. Div.); 1995 CarswellOnt 923 (C.A.)
R. v. Edmonton (City)	2006 CarswellAlta 210 (Prov. Ct.)
R. v. Greenough	[2006] N.B.J. No. 409 (Prov. Ct.)
R. v. NB Power	(1999), 240 N.B.R. (2d) 21 (Prov. Ct.)
R. v. Petro-Canada	[2003] O.J. No.216 (C.A.)
R. v. Sault Ste. Marie	[1978] 2 S.C.R. 1299, 1978 CarswellOnt 24 (S.C.C.)
R. v. Shell Canada	[1999] A.J. No. 1297 (Prov. Ct.)
R. Terroco Industries	(2005), 13 C.E.L.R. (3d) 48 (Alta. C.A.)
R. v. United Keno Mines	(1980), 10 C.E.L.R. 43 (Yukon Terr. Ct.)
Rylands v. Fletcher	(1868), LR 3 H.L. 330.
SEP Holdings	[1993] P.E.I.J. No. 9 (T.D.); [1994] P.E.I.J. No. 35 (C.A.)
Snell v. Farrell	1990 CarswellNB 82 (S.C.C.)
Teck Cominco	2004 U.S. Dist. LEXIS 23041 (N.D. Was. 2004); 2005 U.S. App. LEXIS 16684 (9th Cir. 2005)
Tony's Broadloom	[1996] O.J. No.4372 (C.A.)
Tridan	2000 CarswellOnt 1969 (Sup. Ct.); [2002] O.J. No.1 (C.A.)
Westfair	[1999] M.J. No 532 (C.A.)
Zurich Insurance	[2002]O.J. No. 4496 (C.A.)

## **APPENDIX “A” - MAJOR PAPER GUIDELINES**

A “major paper” is a writing requirement worth not less than 60% of the final mark awarded in a class (i.e between 60% and 100%).

Faculty Council designates which courses are to be taught as paper courses.

### **Guidelines for Major Paper Classes**

- a. Normally the paper will not be shorter than 25 pages.
- b. At the beginning of the course, the professor should give the class an indication of the expectations regarding length. The professor might say “the minimum page length is 25 pages; while there is no maximum length, my expectation is that most papers will between 25 and 40 pages long.”
- c. Normally a paper of a general descriptive nature will not meet the standards.
- d. Normally the topic undertaken will be suitable for in-depth research with legal emphasis in a limited field of inquiry.
- e. Normally the supervisor should approve the topic and the outline or draft of the paper.
- f. Faculty members should make themselves available to meet with students to discuss the graded papers.
- g. At each stage of the supervision of major papers, both the supervising faculty member and the student should pay explicit attention to each of the criteria relevant to the evaluation of the paper.
- h. Copies of the major paper guidelines should be made available to students.

### **1. Objective of Major Paper Requirement**

The major paper requirement is intended to assist in the improvement of the legal research and writing skills the student already has. It is to be, in effect, an extension of the first year legal writing program. The topics upon which the written assignments are undertaken should be of a type suitable for in-depth research in a limited field of inquiry and substantial Faculty input is essential.

### **2. Performance Expectation**

The aim should be writing of publishable quality. It is to be expected that most students will not achieve such a high level of quality, just as most students will be unable to achieve an A standing in other classes. Papers should exhibit at least some level of legal analysis and not consist of a more recitation of decisions and facts. Supervision should be sufficient to make the writing requirement a real learning experience. This necessarily involves feedback to the student during the preparation of the paper and after its completion.

### **3. Curve Does Not Apply**

The curve does not apply as a guideline in the marking of major papers, although a median grade range of 73-75 is enforced.

#### 4. Criteria

The criteria of (a) Research; (b) Organization: Logic/Coherence; (c) Analysis-Insight-Synthesis; (d) Literary Style and (e) Originality are adopted explicitly as the ones relevant to evaluation of major papers. The definition of these criteria and the alphabetical grade equivalents and weights assigned to them as set out in the following table are adopted.

Please see Major Paper Guidelines Table in the calendar

- a. **Research** involves the ability to find, select and use effectively all primary materials (case, statutes, regulations) and secondary sources (books or articles) relevant to the topic. In many classes, a comparative analysis of material from other jurisdictions (e.g. Britain and the United States) is appropriate or even essential. Students should not rely exclusively on secondary sources, but should read the original text of major cases and statutes referred to in the literature. Research materials should include, where appropriate, non-legal sources. Empirical research by students ought to be encouraged.

The table adopts the following descriptors for research (horizontal axis):

- i) Outstanding - as defined above
- ii) Thorough- no important area of research has been missed but there are a few loose ends or other sources that ought to have been explored.
- iii) Not quite thorough - an important area of research has been missed or there are both loose ends and other sources to be explored.
- iv) Serious but Unsuccessful canvass of sources contains the failings of (iii) only more so.
- v) Mere attempt to consider sources - distinguishable from (iv) as being cursory rather than serious in considering main sources or there are clear errors in research, e.g. student fails to check for appeals of relevant decisions, and bases much of the analysis on a court of appeal case that has been reversed by the Supreme Court of Canada.
- vi) No serious research effort - self explanatory

- b. **Organization: Logic/Coherence** relates to the logical and coherent presentation of the subject matter, so that it is readily intelligible to the reader.

The introduction should assist the reader by providing both a clear statement of the problem that the student has chosen to analyze, the goal she/he seeks to achieve and a brief overview of the subjects she/he intends to discuss. The conclusion should play a similar role at the end of the paper, except that it should also summarize the student's conclusions. Topics should appear in a logical sequence. Legal and factual material that provides the foundation for discussion of a particular issue should be set out before that issue is reached. The student should use headings to structure the paper and indicate when she/he is moving to a new topic or subtopic. There should also be transitional text to justify the shift to a new topic, explain its connection to issues previously discussed, and the like.

The table adopts the following descriptors for Organization (vertical axis):

- Excellent Organization
- Well organized: A few minor flaws, but generally good logical flow

- Moderate Disorganization throughout, but paper is generally intelligible
- Substantial Disorganization: paper hard to follow
- Incoherent: Disorganization is so great that paper is unintelligible

- c. **Analysis-Insight-Synthesis:** These criteria relate to the evaluation of the student's ability to understand and utilize effectively the materials that she/he has found through research. They require an understanding of the subject matter that goes beyond the ability to merely recite the rationales of cases, the conclusions reached by other authorities or bare statistics.

Analysis relates to the student's detailed use of cases, statutes, and secondary sources within the paper to explore particular issues that she/he has identified. Good analysis will assist the reader to achieve a sophisticated understanding of the issues and relevant legal authorities without the need to read all the various sources that the student had identified through research. The student should provide a factual background adequate to permit the reader to understand the context in which legal problems arise. She/he should describe relevant legal material (cases/statutes) and important policy analysis (for example, Law Reform Commission materials) in sufficient detail to provide the reader with a clear view of any legal controversies that exist and reasoning that has been put forward to support the various positions. There are a wide variety of analytical weaknesses that may be displayed by students. Examples include missing a relevant issue or legal argument, identifying legal problems but not exploring available legal principles that may have a bearing on their solution, or stating the conclusions of cases significant to analysis of an issue without setting out the reasoning that the court used to justify its conclusions.

“Insight” involves an in-depth understanding of the fundamental issues. Good “Synthesis”, which usually demonstrates this understanding, reflects the ability of the student to integrate the diverse material that she/he has found into a conceptual framework that is clearly explained to the reader. Insight and synthesis would probably show up in a strong statement of thematic material at the outset, its use as an organizing device in the paper, and a serious attempt in the conclusion either to determine whether the initial hypothesis had been proven or to assess the conceptual apparatus for its explanatory power. Weak insight and synthesis may be demonstrated by a student's failure to integrate relevant authorities for some or all of the paper.

A better paper will draw inferences from the digested material as to the present state and future development of the law in the area researched, as well as formulating recommendations for legal changes that might improve the situation and serve appropriate policy goals. Good analysis without much insight or synthesis may be average depending on the complexity or the novelty of the topic or research method. For instance, good analysis of an original topic (see Originality *infra*) may be as much as can be expected and should be rewarded highly. The same quality of analysis of a topic on which there is already a body of published critical writing that provides a framework or platform for the student's paper would have to show its own insight and synthesis to rate equally highly. A paper that sets out numerous cases or articles or otherwise merely describes the results of the student's research efforts, however extensive, without attempting to extract common principles or create an analytical basis is likely to be judged as poor.

The table adopts the following descriptors for analysis-insight-synthesis (vertically within each box in the table):

- Excellent
- Very Good
- Average
- Weak
- Poor

- d. **Literary Style:** This criterion relates to the linguistic style in which the paper is written. Most Dalhousie law students do a competent job with grammar and spelling and many have excellent literary style. The stylistic problems present in papers are of two sorts. Legal writing should be formal but clear and straightforward. Some students tend to be too colloquial, using slang or contractions such as “won’t”. Other students try too hard to be formal, producing convoluted sentences, making excessive use of the passive voice, and the like.

Because most students are competent in terms of literary style, this criterion is used to make adjustments in the grades produced by the table set out above only in extreme cases. The professor may increase or reduce the alphabetic grade result produced by the table set out above by one grade level for exceptionally strong or exceptionally weak literary style as described below:

Descriptors for literary style:

**Excellent:** Literary style is significantly above the norm for Dalhousie Law students.  
Raise table mark by one alphabetic grade level, e.g. B to B+

**Average:** Literary style is consistent with that demonstrated by the majority of Dalhousie law students, i.e. some stylistic weaknesses but basically competent  
No change in table grade level as determined above

**Weak:** Student's literary style falls significantly below the norm for Dalhousie Law Students and demonstrates serious, persistent weaknesses in grammar, spelling, or style  
Reduce table mark by one alphabetic grade level, e.g. B to C+

- e. **Originality:** A highly prized, all-too-rare quality that cannot be easily defined, is used in the Table to raise the alphabetic grade that would have been assigned otherwise by a maximum of two grade levels. A paper may demonstrate good “analysis-synthesis” but still be lacking in originality. There are two different kinds of originality: topic originality and substantive originality.

The first sort of originality relates to the topic itself. This kind of originality exists when the student selects a topic where no research has been previously undertaken in Canada (i.e. there are no Canadian secondary sources that deal with the issue that the student has selected). There may or may not be articles or books that have been published on the topic in foreign

jurisdictions (e.g. the United States or Britain), but even when such foreign sources do exist, a significant degree of creativity and extrapolation is required on the part of a student who undertakes to write on a topic where no previous Canadian research is available to help with all or part of the topic. This kind of originality may exist in major papers that display weaknesses in other areas. indeed, some kinds of analytical or organizational problems may be attributable precisely to the fact that the student is working in an area where no guidance is available from previous research carried out by more experienced scholars. The professor may recognize this kind of originality relating to topic by increasing the alphabetic grade produced by the table above by one level (e.g. from a B to a B+).

The second kind of originality may appear in the way the research is approached or in the understanding that the writer has gained of the topic and is able to convey to the reader, or in the form of new and convincing insights that are unique to the student author. This kind of originality, which is the hallmark of a paper of “publishable quality”, is not mere novelty although in other contexts the word may have that meaning: the new position advocated by the student must be credible, as well as novel. A major paper may demonstrate this kind of originality, even though the topic has been previously considered by other researchers in Canada. Originality of this kind will normally be associated with good “insight- synthesis- analysis”. The professor may recognize this kind of substantive originality by increasing the alphabetic grade produced by the table above by either one or two levels depending on the extent of the originality demonstrated by the paper (e.g. from a B+ to an A, or from a B+ to an A+ grade).

The cumulative effect of increases for originality is restricted to a jump of two grade levels. In other words, a professor cannot award a student an originality increase of three grade levels by accumulating an award of one grade level for topic originality, and two grade levels for substantive originality.

**Major Paper Guidelines Table**

Research:>		Outstanding	Thorough	Not quite thorough	Serious but Unsuccessful canvass of sources	Mere attempt to consider sources	No serious research effort
Organization/ Logical Flow   	Analysis Insight- Synthesis- 						
	Excellent	A	A-	B+	B	B-	F
Excellent	Very Good	A-	B+	B	B-	C+	F
Organization	Average	B+	B	B-	C+	C	F
	Weak	B	B-	C+	C	D+	F
	Poor	B-	C+	C	D+	D	F

Major Paper Guidelines Table							
Research:>		Outstanding	Thorough	Not quite thorough	Serious but Unsuccessful canvass of sources	Mere attempt to consider sources	No serious research effort
	Excellent	A-	B+	B	B-	C+	F
	Very Good	B+	B	B-	C+	C	F
Well Organized	Average	B	B-	C+	C	D+	F
	Weak	B-	C+	C	D+	D	F
	Poor	C+	C	D+	D	F	F
	Excellent	B+	B	B-	C+	C	F
Moderate	Very Good	B	B-	C+	C	D+	F
Disorganization	Average	B-	C+	C	D+	D	F
	Weak	C+	C	D+	D	F	F
	Poor	C	D+	D	F	F	F
	Excellent	B	B-	C+	C	D+	F
Substantial	Very Good	B-	C+	C	D+	D	F
Organization	Average	C+	C	D+	D	F	F
	Weak	C	D+	D	F	F	F
	Poor	D+	D	F	F	F	F
	Excellent	B-	C+	C	D+	D	F
	Very Good	C+	C	D+	D	F	F
Incoherent	Average	C	D+	D	F	F	F
	Weak	D+	D	F	F	F	F
	Poor	D+	F	F	F	F	F
<b>Literary Style:</b>							
Excellent:	Raise table mark by one alphabetic grade level, e.g. B to B+						
Average:	No change in table grade level as determined above						
Weak:	Reduce table mark by one alphabetic grade level, e.g. B to B-						
<b>Originality:</b>	Raise table mark by one or two alphabetic grade levels e.g. B+ to A-, or A- or B+ to A.						

## LATE PENALTIES

### Introduction

These rules apply to LL.B. students.

In order to ensure that all students are treated equally and that no student is allowed to profit from taking extra time to complete an exam, paper or assignment, late penalties will be imposed for work that is not completed on time. The quantum of penalty imposed will vary depending on the amount of time allowed for the student to complete the assignment, the degree of lateness, and the existence of any mitigating circumstances.

1. The date for submission of major papers shall be announced orally and in writing by the instructor before the end of the course change period; the due date shall in no case be later than noon on the last regular day of exams.
2. The date for submission of other papers and assignments shall be announced in class with appropriate notice; the due date shall in no case be later than noon on the last regular day of exams.
3. The above stipulations apply equally in the case of optional course components, with the further proviso that the date for deciding whether to exercise the option shall be a time no later than the start of the final examination for that course. (In the event that the instructor sets an earlier date for deciding to exercise the option, it is within the instructor's discretion to allow a student who has opted to do a non-compulsory component to opt out of that component as long as the decision to opt out is made no later than the start of the final examination for that course.)
4. At any time during the course, it is within the discretion of the instructor to grant a general extension for papers and/or assignments, with appropriate notice to the class, as long as the revised deadline does not extend past noon on the last regular day of exams.
5. Faculty members do not have the authority to grant individual requests for an extension. Any request for an extension or to have a late penalty waived or moderated must be made to the Studies Committee, chaired by the Associate Dean, Academic.
6. Any request for an extension must be made as soon as the circumstances being relied upon arise, and in any event no later than the day on which the paper or assignment is due. Students must contact the Director of Studies or the Associate Dean, Academic, promptly, should they anticipate that they will not be able to meet a deadline and they plan to seek a waiver of penalty.
7. Students should be aware that not all circumstances will be accepted as justifying an extension. Where the Studies Committee is satisfied that an acceptable medical or other justification exists, the Committee will waive the late penalty for the period of time that, in the opinion of the Committee, was reasonably lost due to the factors outlined by the student and supported by documentation. It should be noted that making a request for an extension does not operate as a stay of late penalties.
8. Computer problems are not a justifiable excuse for lateness.
9. The current late penalties are as set out below.

### **Major Papers:**

The standard late penalty for a major paper is **five points out of 100 per day of lateness or part thereof**. Note that the penalty is out of 100. If the paper is worth less than 100 per cent of the grade in the course, the penalty should be adjusted accordingly. Thus, for a paper worth 75% of

the final grade, the late penalty would amount to 3.75 marks out of 75 per day of lateness. This calculation can be made either by marking the paper out of 100, subtracting the amount of the penalty and then converting the remaining number into a mark out of 75, or by calculating 75% of the standard late penalty amount and applying it against the mark out of 75.

**EXAMPLES:**

(Note that these examples apply to major papers)

- a) Paper worth 100% of the course is 2 days late; late penalty of 10 marks for the paper and the course
- b) Paper worth 100% of the course is 5 days late; late penalty of 25 marks for the paper and the course.
- c) Paper worth 60% of the course is 5 days late; late penalty of 25 percent for the paper, which results in a deduction of 15 marks from the final grade in the course
- d) Paper worth 100% of the course is 9 days late; late penalty of 45 marks for the paper and the course.
- e) Paper worth 75% of the course is 9 days late; late penalty of 45 percent for the paper, which results in a deduction of 33.75 marks from the final grade in the course.

**Assignments:**

The major paper late penalty is calculated based on the assumption that all students were given the whole term in which to write the paper. In this context, lateness of a day or two is less significant. However, where an assignment is given with a shorter time frame for completion (such as, for example, 2 or 3 weeks), then a day or two of lateness is a much more significant extension of the time allowed for the work to be completed. The late penalty will therefore be more severe. As a benchmark, the late penalty for an assignment which students were given 3 weeks to complete, and which was late, would be 10 points out of 100 per day. Thus, an assignment worth 20 points would suffer a penalty of 2 marks per day. The penalties would be more severe for an assignment for which students were given less time to complete. As these penalties are more complex to calculate, it is suggested that faculty members either submit information regarding late assignments to Studies Committee for calculation of penalties, or request in advance a schedule of penalties to impose on the late submission of a particular assignment.