



# LAWS803

## The Law of Obligations I - Contracts

S2 External 2014

*Dept of Law*

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#### **Disclaimer**

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## General Information

Unit convenor and teaching staff

Unit Convenor

Peter Radan

[peter.radan@mq.edu.au](mailto:peter.radan@mq.edu.au)

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Room 527, W3A

Wednesdays 11 am - 12 noon

Credit points

4

Prerequisites

Admission to JD

Corequisites

Co-badged status

Unit description

A study of the law of contract is fundamental for any law student. In this unit students will study the foundational elements of contract law such as the formation of contract, the characterisation and interpretation of contractual terms, factors which vitiate the formation of a valid contract, the requirement for consideration, privity of contract and the discharge of contractual liabilities. Greater depth of understanding of significant issues in the historical and contemporary development of contract law is achieved through the examination and critique of competing philosophies of contract and international comparisons. Problem solving skills are also developed and tested.

## Important Academic Dates

Information about important academic dates including deadlines for withdrawing from units are available at <https://www.mq.edu.au/study/calendar-of-dates>

## Learning Outcomes

On successful completion of this unit, you will be able to:

Demonstrate a detailed and thorough knowledge of legal principles relating to contract law as well as their and historical and social origins

Interpret and transmit knowledge, skills and concepts to specialist and non-specialist audiences

Analyse complex factual situations involving contract law and apply relevant legal principles to solving legal problems

Formulate, present and evaluate oral and written arguments on complex contractual problems and principles, drawing upon relevant legal authority and policy considerations.

Apply advanced research skills

Assume responsibility for one's own learning by managing one's time effectively so as to complete and submit assessment items on time.

## Assessment Tasks

Name	Weighting	Due
<a href="#"><u>Assignment No 1</u></a>	25%	10 am, 15 September 2014
<a href="#"><u>Assignment No 2</u></a>	25%	10 am, 27 October 2014
<a href="#"><u>Final Examination (Take Home)</u></a>	50%	5 pm, 19 November 2014

### Assignment No 1

Due: **10 am, 15 September 2014**

Weighting: **25%**

Assignment No 1 in this unit is a research paper.

The question for Assignment No 1 will be available on iLearn by the end of the first week of semester.

Assignment No 1 must be a properly referenced formal response with appropriate analysis and argument supported by relevant authoritative cases and commentary. Assignment No 1 must be typed and must be kept to a maximum 2,500 words (excluding footnotes and the bibliography).

In completing Assignment No 1, students must comply with the Australian Guide to Legal Citation, compiled by the Melbourne University Law Review. The Guide is available for download free at:

<http://www.law.unimelb.edu.au/mulr/aglc.htm>.

Further instructions in relation to Assignment No 1, including on how to submit it, will be posted on iLearn.

If, for justifiable reasons, a student is unable to submit the Assignment No 1 on time, he or she may submit an application for Special Consideration in accordance with the University's Disruption to Studies policy. If Special Consideration is granted the student will be given a different research question to be completed at a time determined by the unit convenor.

Any student who does not submit Assignment No 1 on time or at all, will receive: (i) a zero mark

for the this assessment item; and (ii) a mark for the unit of no more than 49/100, irrespective of marks gained in any other assessment item.

On successful completion you will be able to:

- Demonstrate a detailed and thorough knowledge of legal principles relating to contract law as well as their and historical and social origins
- Formulate, present and evaluate oral and written arguments on complex contractual problems and principles, drawing upon relevant legal authority and policy considerations.
- Apply advanced research skills
- Assume responsibility for one's own learning by managing one's time effectively so as to complete and submit assessment items on time.

## Assignment No 2

Due: **10 am, 27 October 2014**

Weighting: **25%**

Assignment No 2 in this unit will be require students to answer a problem question or problem questions.

The problem question or questions for Assignment No 2 will be available on iLearn by the end of the first week of semester.

Assignment No 2 must be a properly referenced formal response with appropriate analysis and argument supported by relevant legal authorities. Assignment No 2 must be typed and must be kept to a maximum 2,000 words (excluding footnotes and the bibliography).

In completing Assignment No 2, students must comply with the *Australian Guide to Legal Citation*, compiled by the Melbourne University Law Review. The Guide is available for download free at:

<http://www.law.unimelb.edu.au/mulr/aglc.htm>.

Further instructions in relation to Assignment No 2, including on how to submit it, will be posted on iLearn.

If, for justifiable reasons, a student is unable to submit the Assignment No 2 on time, he or she may submit an application for Special Consideration in accordance with the University's Disruption to Studies Policy. If Special Consideration is granted the student will be given a different problem question or questions to be completed at a time determined by the unit convenor.

Any student who does not submit Assignment No 2 on time or at all, will receive: (i) a zero mark for the this assessment item; and (ii) a mark for the unit of no more than 49/100, irrespective of marks gained in any other assessment item.

On successful completion you will be able to:

- Demonstrate a detailed and thorough knowledge of legal principles relating to contract law as well as their and historical and social origins
- Analyse complex factual situations involving contract law and apply relevant legal principles to solving legal problems
- Formulate, present and evaluate oral and written arguments on complex contractual problems and principles, drawing upon relevant legal authority and policy considerations.
- Assume responsibility for one's own learning by managing one's time effectively so as to complete and submit assessment items on time.

## Final Examination (Take Home)

Due: **5 pm, 19 November 2014**

Weighting: **50%**

The final examination in this unit will be a take home examination.

The final examination will be based on material covered in the unit, ie all topics and materials covered in the unit.

The final examination will be in the form of a number of problem style questions. All questions will have to be answered.

Students will be able to access the final examination paper on iLearn from 9 am on Wednesday, 19 November 2014 and must submit their answers to the final examination paper by 5 pm on Wednesday 19 November 2014.

A student's answers to the final examination paper's questions cannot exceed 2,500 words (exclusive of footnotes). This is an upper word limit and a student need not write 2,500 words if he or she can answer the questions in less than 2,500 words. A bibliography is not required.

The answers to the final examination paper's questions must be a properly referenced with appropriate analysis and argument supported by relevant authority. The answers must be typed.

If, for justifiable reasons, a student is unable to do the final examination at the above time or his or her performance in the final examination is adversely affected, he or she should submit an application for Special Consideration in accordance with the University's Disruption to Studies policy, which, if granted, will enable the student to complete a supplementary examination. The supplementary examination will be the final examination set for students who take this unit when it is next offered by the University.

Any student who does not submit answers to the final examination or supplementary examination, as the case may be, on time or at all, will receive a zero mark for this assessment item.

On successful completion you will be able to:

- Demonstrate a detailed and thorough knowledge of legal principles relating to contract law as well as their and historical and social origins
- Interpret and transmit knowledge, skills and concepts to specialist and non-specialist audiences
- Analyse complex factual situations involving contract law and apply relevant legal principles to solving legal problems
- Formulate, present and evaluate oral and written arguments on complex contractual problems and principles, drawing upon relevant legal authority and policy considerations.
- Assume responsibility for one's own learning by managing one's time effectively so as to complete and submit assessment items on time.

## Delivery and Resources

### DELIVERY OF UNIT

#### Weekly Lectures (Internal Students)

Weekly lectures in this unit will be pre-recorded and available to students through the link on iLearn. Weekly lectures will commence in Week 1 of the semester and go through to Week 13 of the semester. The topics to covered in each week's lectures are noted under the heading *Unit Schedule* (above).

There will not be any live lectures in this unit.

#### Weekly Lectures (Distance Students)

The weekly lectures that are available to internal students will also be available to distance students through the link on iLearn.

#### Weekly Tutorials (Internal Students)

For internal students, weekly tutorials of 1.5 hours duration commence in Week 1 of the semester. The last tutorial will be in Week 13.

Week	Topic(s)
1	Agreement
2	Consideration; Intention; Certainty and Completeness
3	Capacity; Requirement of Writing
4	Express Terms
5	Implied Terms; Construction of Terms

6	Discharge by Performance; Discharge by Agreement
7	Discharge by Breach; Discharge by Frustration
	MID-SESSION BREAK
8	Illegality
9	Misrepresentation; Misleading or Deceptive Conduct; Mistake; Unfair Terms
10	Duress; Undue Influence; Unconscionability; Unjust Contracts
11	Rescission; Rectification; Privity of Contract
12	Damages
13	Actions for Fixed Sums; Restitution

For tutorial times and classrooms students should consult the MQ Timetable website: <http://www.timetables.mq.edu.au>. This website will display up-to-date information on classes and classroom locations.

The problem and discussion questions for each tutorial are set out in the Tutorial Questions document available on iLearn.

Generally, the questions for each tutorial will be on topics covered in the previous week’s lecture.

**On Campus Sessions (Distance Students)**

For distance students, on campus sessions will be held, at Macquarie University as follows:

	Date	Time	Location
Session 1	28 September 2014	9 am - 4 pm	C5A 313
Session 2	29 September 2014	9 Am - 4 pm	C5A 313
Session 3	1 November 2014	9 am - 4 pm	C5A 313

Distance Students must attend Session 1 and Session 2 of on campus sessions is compulsory. Attendance at Session 3 of the on campus sessions is not mandatory, but is highly recommended.

The problem and discussion questions for each of the on campus sessions are the same as the problem and discussion questions that are used in the tutorials for internal students and which are set out in the Tutorial Questions document available on iLearn. Questions set for Weeks 1-8 (inclusive) in the Tutorial Questions document will be discussed in the Sessions 1 and 2 of the on campus sessions. Questions in

Weeks 9-13 (inclusive) will be discussed in Session 3 of the on campus sessions.

## RESOURCES

### Prescribed Materials

1. J Gooley, P Radan & I Vickovich, *Principles of Australian Contract Law*, 3rd ed, LexisNexis, 2014
2. P Radan, J Gooley & I Vickovich, *Principles of Australian Contract Law, Cases & Materials*, 2nd ed, LexisNexis, 2010
3. Up-dates to the textbook and other additional materials available on iLearn
4. C Cook, R Creyke, R Geddes & D Hamer, *Laying Down the Law*, 8th ed, LexisNexis, 2012

### Reference Materials

1. H G Beale (ed), *Chitty on Contracts, Volume 1: General Principles*, 31st ed, Sweet & Maxwell, 2012
2. J W Carter, *Contract Law in Australia*, 6th ed, LexisNexis, 2013
3. J Paterson, A Robertson & A Duke, *Principles of Australian Contract Law*, 4th ed, Thomson Reuters, 2011
4. E Peel, *Treitel, The Law of Contract*, 13th ed, Sweet & Maxwell, 2011
5. N Seddon, R Bigwood, M Ellinghaus, *Cheshire & Fifoot, Law of Contract*, 10th Australian Edition, LexisNexis, 2012
6. S A Smith, *Atiyah's Introduction to the Law of Contract*, 6th ed, Clarendon Press, 2005
7. L Willmott, S Christensen, D Butler & B Dixon, *Contract Law*, 4th ed, Oxford University Press, 2013
8. *Journal of Contract Law*

## Unit Schedule

### TOPICS STUDIED IN THIS UNIT

All lectures in this unit are pre-recorded and will be available on iLearn.

The topics to be covered in each week's lectures in this unit are as follows:

Week	Topic(s)
1	Agreement
2	Consideration; Intention; Certainty and Completeness
3	Capacity; Requirement of Writing
4	Express Terms



5	Implied Terms; Construction of Terms
6	Discharge by Performance; Discharge by Agreement
7	Discharge by Breach; Discharge by Frustration
	MID-SESSION BREAK
8	Illegality
9	Misrepresentation; Misleading or Deceptive Conduct; Mistake; Unfair Terms
10	Duress; Undue Influence; Unconscionability; Unjust Contracts
11	Rescission; Rectification; Privity of Contract
12	Damages
13	Actions for Fixed Sums; Restitution

The required readings for the above topics are set out in detail on iLearn.

#### CHANGES TO PREVIOUS OFFERING OF THIS UNIT

The content of this unit has changed from when it was previously offered.

The assessment regime for this unit has changed from when it was previously offered.

## Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central](#). Students should be aware of the following policies in particular with regard to Learning and Teaching:

Academic Honesty Policy [http://mq.edu.au/policy/docs/academic\\_honesty/policy.html](http://mq.edu.au/policy/docs/academic_honesty/policy.html)

Assessment Policy <http://mq.edu.au/policy/docs/assessment/policy.html>

Grading Policy <http://mq.edu.au/policy/docs/grading/policy.html>

Grade Appeal Policy <http://mq.edu.au/policy/docs/gradeappeal/policy.html>

Grievance Management Policy [http://mq.edu.au/policy/docs/grievance\\_management/policy.html](http://mq.edu.au/policy/docs/grievance_management/policy.html)

Disruption to Studies Policy [http://www.mq.edu.au/policy/docs/disruption\\_studies/policy.html](http://www.mq.edu.au/policy/docs/disruption_studies/policy.html) *The Disruption to Studies Policy is effective from March 3 2014 and replaces the Special Consideration Policy.*

In addition, a number of other policies can be found in the [Learning and Teaching Category](#) of Policy Central.

## **Student Code of Conduct**

Macquarie University students have a responsibility to be familiar with the Student Code of Conduct: [https://students.mq.edu.au/support/student\\_conduct/](https://students.mq.edu.au/support/student_conduct/)

## **Student Support**

Macquarie University provides a range of support services for students. For details, visit <http://students.mq.edu.au/support/>

## **Learning Skills**

Learning Skills ([mq.edu.au/learningskills](http://mq.edu.au/learningskills)) provides academic writing resources and study strategies to improve your marks and take control of your study.

- [Workshops](#)
- [StudyWise](#)
- [Academic Integrity Module for Students](#)
- [Ask a Learning Adviser](#)

## **Student Services and Support**

Students with a disability are encouraged to contact the [Disability Service](#) who can provide appropriate help with any issues that arise during their studies.

## **Student Enquiries**

For all student enquiries, visit Student Connect at [ask.mq.edu.au](http://ask.mq.edu.au)

## **IT Help**

For help with University computer systems and technology, visit <http://informatics.mq.edu.au/help/>.

When using the University's IT, you must adhere to the [Acceptable Use Policy](#). The policy applies to all who connect to the MQ network including students.

## **Graduate Capabilities**

### **PG - Discipline Knowledge and Skills**

Our postgraduates will be able to demonstrate a significantly enhanced depth and breadth of knowledge, scholarly understanding, and specific subject content knowledge in their chosen fields.

This graduate capability is supported by:

## Learning outcomes

- Demonstrate a detailed and thorough knowledge of legal principles relating to contract law as well as their and historical and social origins
- Analyse complex factual situations involving contract law and apply relevant legal principles to solving legal problems

## Assessment tasks

- Assignment No 2
- Final Examination (Take Home)

## PG - Critical, Analytical and Integrative Thinking

Our postgraduates will be capable of utilising and reflecting on prior knowledge and experience, of applying higher level critical thinking skills, and of integrating and synthesising learning and knowledge from a range of sources and environments. A characteristic of this form of thinking is the generation of new, professionally oriented knowledge through personal or group-based critique of practice and theory.

This graduate capability is supported by:

## Learning outcomes

- Interpret and transmit knowledge, skills and concepts to specialist and non-specialist audiences
- Analyse complex factual situations involving contract law and apply relevant legal principles to solving legal problems

## Assessment tasks

- Assignment No 1
- Assignment No 2

## PG - Research and Problem Solving Capability

Our postgraduates will be capable of systematic enquiry; able to use research skills to create new knowledge that can be applied to real world issues, or contribute to a field of study or practice to enhance society. They will be capable of creative questioning, problem finding and problem solving.

This graduate capability is supported by:

## Learning outcomes

- Analyse complex factual situations involving contract law and apply relevant legal principles to solving legal problems
- Formulate, present and evaluate oral and written arguments on complex contractual

problems and principles, drawing upon relevant legal authority and policy considerations.

- Apply advanced research skills

## **Assessment tasks**

- Assignment No 1
- Assignment No 2
- Final Examination (Take Home)

## **PG - Effective Communication**

Our postgraduates will be able to communicate effectively and convey their views to different social, cultural, and professional audiences. They will be able to use a variety of technologically supported media to communicate with empathy using a range of written, spoken or visual formats.

This graduate capability is supported by:

## **Learning outcomes**

- Interpret and transmit knowledge, skills and concepts to specialist and non-specialist audiences
- Formulate, present and evaluate oral and written arguments on complex contractual problems and principles, drawing upon relevant legal authority and policy considerations.
- Apply advanced research skills

## **Assessment tasks**

- Assignment No 1
- Assignment No 2
- Final Examination (Take Home)

## **PG - Engaged and Responsible, Active and Ethical Citizens**

Our postgraduates will be ethically aware and capable of confident transformative action in relation to their professional responsibilities and the wider community. They will have a sense of connectedness with others and country and have a sense of mutual obligation. They will be able to appreciate the impact of their professional roles for social justice and inclusion related to national and global issues

This graduate capability is supported by:

## **Learning outcome**

- Assume responsibility for one's own learning by managing one's time effectively so as to complete and submit assessment items on time.

## Assessment task

- Assignment No 1

## PG - Capable of Professional and Personal Judgment and Initiative

Our postgraduates will demonstrate a high standard of discernment and common sense in their professional and personal judgment. They will have the ability to make informed choices and decisions that reflect both the nature of their professional work and their personal perspectives.

This graduate capability is supported by:

## Learning outcomes

- Apply advanced research skills
- Assume responsibility for one's own learning by managing one's time effectively so as to complete and submit assessment items on time.

## Assessment tasks

- Assignment No 2
- Final Examination (Take Home)