



# LAW 204

## Contracts

S2 Day 2014

*Dept of Law*

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### **Disclaimer**

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## General Information

Unit convenor and teaching staff

Unit Convenor

Ilija Vickovich

[ilija.vickovich@mq.edu.au](mailto:ilija.vickovich@mq.edu.au)

Contact via [ilija.vickovich@mq.edu.au](mailto:ilija.vickovich@mq.edu.au)

W3A 624

Mon 10am-12pm

Credit points

3

Prerequisites

LAW115 and (admission prior to 2014 to LLB or BAppFinLLB or BALLB or BA-MediaLLB or BA-PsychLLB or BBALLB or BComLLB or BCom-ProfAccgLLB or BEnvLLB or BITLLB or BIntStudLLB or BScLLB or BSocScLLB)

Corequisites

Co-badged status

Unit description

The law of contracts is a fundamental area of study for an undergraduate degree in law and serves as the basis for a variety of later core and elective units. This unit equips students with a knowledge of essential doctrinal principles of contract law and the capacity to apply legal problem solving skills to the resolution of contractual disputes. It covers the formation of contracts, the contents and interpretation of contractual terms, the vitiating factors affecting contract formation, the discharge of contractual liabilities, and other related issues such as formal requirements, illegality and privity of contract. In addition, the unit conveys an understanding of the main competing philosophies of contract and the practical role of contracts in a broader social and historical context.

## 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 an understanding of legal principles relating to contract law.

Understand the main competing philosophies underpinning contract law and appreciate

the role of contracts in a historical and social context.

Formulate, present and evaluate oral and written arguments about contract law, drawing upon relevant precedent and policy considerations.

Analyse hypothetical fact situations, identify legal and factual issues involving the law relating to contract law, and apply relevant principles to solve legal problems.

Demonstrate research, writing and referencing skills appropriate to students undertaking a 100 level unit.

Take responsibility for one's own learning; manage one's time productively; demonstrate a capacity to plan a task and work effectively to achieve it.

## General Assessment Information

### Disruption to Study and Special Consideration

If a student suffers a disruption to study which is **'serious and unavoidable'**, he or she may apply for special consideration. In order to do so, the student must meet the criteria under the Macquarie University 'Disruption to Studies' policy and be approved by the Unit Convenor. Applications are made online at [ask.mq.edu.au](http://ask.mq.edu.au). Outcomes for recognized serious and unavoidable disruptions to studies are as set out in the University schedule: [http://www.mq.edu.au/policy/docs/disruption\\_studies/schedule\\_outcomes.html](http://www.mq.edu.au/policy/docs/disruption_studies/schedule_outcomes.html)

If a disruption to study is **not 'serious and unavoidable'**, the approach to special consideration and the impact on your assessment will be as follows:

1. **Attendance for tutorial and on campus session:** You will be marked as absent.
2. **Class Participation**
  - For tutorial: You will receive a zero grade for class participation if there are more than three unauthorized absences
  - For on campus session: You will receive a zero grade for the class participation.
3. **Early Assessment Quiz and Assignment**
  - No submission: You will receive a zero grade for the assessment task.
  - Late submission: You will receive a zero grade for the assessment task.
  - Preparation affected: You will receive a zero grade for the assessment task.
4. **Final Examination**
  - Absence: You will receive a zero grade for the Final Examination.
  - Performance affected: You will receive a zero grade for the Final Examination and no right to sit for a supplementary exam.
  - Preparation affected: You will receive a zero grade for the Final Examination and no right to sit for a supplementary exam.

## Assessment Tasks

Name	Weighting	Due
<a href="#"><u>Early Assessment</u></a>	10%	Week 4
<a href="#"><u>Assignment</u></a>	20%	19/09 (int); 26/09 (ext)
<a href="#"><u>Final Exam</u></a>	60%	Examination period
<a href="#"><u>Class participation</u></a>	10%	Continuing

### Early Assessment

Due: **Week 4**

Weighting: **10%**

The early assessment task is a compulsory multiple choice test. This assessment task's purpose is to engage students with their unit early in the session and to provide an opportunity for relatively early feedback. The questions will be drawn from the topics covered in lectures and readings of the first three weeks of the unit schedule. The multiple choice test will be closed book and will consist of 20 multiple choice questions to be completed in 20 minutes. Each question is worth a half mark. Students are to sit the test in their usual and designated tutorial group in week 4.

Students who are unable to sit for the test in their enrolled tutorial group in week 4 must contact the unit convenor at the earliest possible opportunity to complete the test at a time and place determined by the unit convenor. They will not be permitted to sit the test in another tutorial class, or in their own group in any subsequent week. Any student who has not completed the test must not be present in their tutorial group at a time when feedback on the test is given by the tutor. If that occurs, the student will not be permitted to sit the test at all and will receive a zero grade for the early assessment task.

On successful completion you will be able to:

- Demonstrate an understanding of legal principles relating to contract law.
- Take responsibility for one's own learning; manage one's time productively; demonstrate a capacity to plan a task and work effectively to achieve it.

### Assignment

Due: **19/09 (int); 26/09 (ext)**

Weighting: **20%**

The Assignment in this unit is compulsory and will be a hypothetical problem question. The assignment question will be available on iLearn in week 2. The assignment must be a properly

referenced formal response with appropriate analysis and argument supported by relevant authoritative cases and commentary. It must be kept to a maximum 1,500 words (excluding footnotes) and is to be submitted on the Turnitin link in iLearn. The actual word length must be stated on the assignment. In completing their assignment, students must comply with the *Australian Guide to Legal Citation* (3rd ed). The Guide is available at:

<http://mulr.law.unimelb.edu.au/go/AGLC3>

Assignments lodged out of time will not be marked and will result in a fail grade. Students who are seeking an extension of time must contact the unit convenor at the earliest possible opportunity and also lodge an application in accordance with the University's disruption to study policy. If the application is approved by the unit convenor, an extension may be granted. The length of the extension will depend on the extent and nature of the disruption, but extensions are usually limited to maximum of seven days. A failure to submit an Assignment will result in a zero grade and provide grounds for the unit convenor to have the student excluded from the unit.

On successful completion you will be able to:

- Demonstrate an understanding of legal principles relating to contract law.
- Formulate, present and evaluate oral and written arguments about contract law, drawing upon relevant precedent and policy considerations.
- Analyse hypothetical fact situations, identify legal and factual issues involving the law relating to contract law, and apply relevant principles to solve legal problems.
- Demonstrate research, writing and referencing skills appropriate to students undertaking a 100 level unit.
- Take responsibility for one's own learning; manage one's time productively; demonstrate a capacity to plan a task and work effectively to achieve it.

## Final Exam

Due: **Examination period**

Weighting: **60%**

The end of semester examination in this unit will be a formal sit-down open book examination. It will be based on material covered in the unit (more detailed information will be provided by the unit convenor). The examination will provide choice between hypothetical and essay questions. Three hours plus reading time will be provided. The University's examination period in Session 2 is from 17 November 2014 to 5 December 2014. Students must be available for examination at the time and place designated in the University examination timetable. The timetable will be available in draft form approximately eight weeks before the commencement of the examinations and in final form approximately four weeks before the commencement of the examinations.

Any student who is unable to attend the final exam due to exceptional and unforeseen circumstances must contact the unit convenor at the earliest possible opportunity and also make an application, with appropriate evidence, in accordance with the university's disruption to study policy. If approved, the student may be permitted to attend any supplementary exam that is held

for the unit at a time and place determined by the unit convenor. In such cases, students must be prepared to attend the supplementary exam outside the official university exam period.

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- Analyse hypothetical fact situations, identify legal and factual issues involving the law relating to contract law, and apply relevant principles to solve legal problems.
- Take responsibility for one's own learning; manage one's time productively; demonstrate a capacity to plan a task and work effectively to achieve it.

## Class participation

Due: **Continuing**

Weighting: **10%**

Internal students will participate in a compulsory one-hour tutorial every week that will provide the opportunity to explore, analyse and apply the principal doctrinal rules covered in lectures. Each student must enrol in a tutorial group and attend only that group for the duration of the semester (unless the unit convenor's approval is obtained in exceptional circumstances). For internal students, outside work commitments are not to be taken into account by the unit convenor if approval for change of tutorial group is sought. Students who have more than three unauthorised absences will receive a zero grade for class participation.

For internal students, tutorials commence in Week 1 of the semester. Tutorials will focus on addressing the set Questions in the Tutorial Program, although other tutorial exercises may be distributed from time to time. Because of the minimal time available in tutorials, students will be expected to have attempted the Questions at home in study time and to bring their notes to class where group discussion will take place. Students should be prepared to talk to any of the set Questions when called upon to do so by their Tutor. Grading criteria for the class participation mark will be posted on the iLearn unit web page.

External students will be expected to fulfil the class participation requirements at the On-Campus Session. All external students must make the necessary personal and work arrangements to attend the On Campus Session. In the event of an exceptional and unforeseen inability to attend the On Campus Session, students must contact the unit convenor urgently and also make an application with appropriate evidence under the university's disruption to study policy. If approved, the unit convenor will allocate written work to the student in lieu of attendance. An unauthorised absence from the On Campus Session will provide the unit convenor with grounds to exclude the student from the unit.

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- Take responsibility for one's own learning; manage one's time productively; demonstrate a capacity to plan a task and work effectively to achieve it.

## Delivery and Resources

### Prescribed Materials

§ J Gooley, P Radan & I Vickovich, *Principles of Australian Contract Law*, 3rd ed, LexisNexis, Sydney, 2014

§ J Gooley, P Radan & I Vickovich, *Principles of Australian Contract Law: Cases & Materials*, 2nd ed, LexisNexis, Sydney, 2010

§ Notes and other additional materials available on iLearn.

### Reference Materials

- Carter, Peden & Tolhurst, *Contract Law in Australia*, 5th ed, Lexis Nexis, 2007
- Graw, *An Introduction to the Law of Contract*, 7th ed, Thomson Reuters, 2011
- Peterson, Robertson & Duke, *Principles of Contract Law*, 4th ed, Thomson Reuters, 2011
- Seddon & Ellinghaus, *Cheshire & Fifoot's Law of Contract*, 9th Australian edition, LexisNexis, 2011
- Bruce, *Consumer Protection Law in Australia*, LexisNexis, 2011
- *Journal of Contract Law*

## Unit Schedule

Week	Week Beginning	Lecture Topic	Tutorial Topic
1	Mon 4 Aug	Introduction to Contracts; Overview of Contract Remedies	Legal Problem Solving Model
2	Mon 11 Aug	Agreement	Introduction to Contracts; Overview of Contract Remedies
3	Mon 18 Aug	Consideration; Equitable Estoppel; Intention	Agreement
4	Mon 25 Aug	Certainty and Completeness; Capacity; Requirement of Writing	Consideration; Equitable Estoppel; Intention
5	Mon 1 Sep	Express Terms	Certainty and Completeness; Capacity; Requirement of Writing
6	Mon 8 Sep	Implied Terms; Construction of Terms; Exclusion Clauses	Express Terms
7	Mon 15 Sep	Misrepresentation; Misleading or Deceptive Conduct; Mistake	Implied Terms; Construction of Terms; Exclusion Clauses
		MID-SEMESTER BREAK On Campus Session Sat 20, Sun 21 Sep	
8	Mon 6 Oct	Duress; Unconscionability; Undue Influence; Unjust Contracts	Misrepresentation; Misleading or Deceptive Conduct; Mistake
9	Mon 13 Oct	Discharge by Performance; Discharge by Agreement	Duress; Unconscionability; Undue Influence; Unjust Contracts
10	Mon 20 Oct	Discharge by Breach; Discharge by Frustration	Discharge by Performance; Discharge by Agreement



11	Mon 27 Oct	Illegality	Discharge by Breach; Discharge by Frustration
12	Mon 3 Nov	Privity; Contract Theory	Illegality
13	Mon 10 Nov	Contracts in Context; Exam Preparation	Privity

## 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/)

### Extensions

Any application for extensions of time must comply with the information provided in this Unit Guide under 'Assessment Tasks'. An application in accordance with the university's disruption to study policy will be required in all cases.

Students requiring special arrangements for the completion of any assessment task (including the final exam) due to any disability must contact Campus Wellbeing and seek advice. The unit convenor will deal with such cases only with the approval of Campus Wellbeing.

## 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

### Capable of Professional and Personal Judgement and Initiative

We want our graduates to have emotional intelligence and sound interpersonal skills and to demonstrate discernment and common sense in their professional and personal judgement. They will exercise initiative as needed. They will be capable of risk assessment, and be able to handle ambiguity and complexity, enabling them to be adaptable in diverse and changing environments.

This graduate capability is supported by:

## Learning outcomes

- Understand the main competing philosophies underpinning contract law and appreciate the role of contracts in a historical and social context.
- Formulate, present and evaluate oral and written arguments about contract law, drawing upon relevant precedent and policy considerations.
- Analyse hypothetical fact situations, identify legal and factual issues involving the law relating to contract law, and apply relevant principles to solve legal problems.

## Assessment tasks

- Assignment
- Final Exam
- Class participation

## Commitment to Continuous Learning

Our graduates will have enquiring minds and a literate curiosity which will lead them to pursue knowledge for its own sake. They will continue to pursue learning in their careers and as they participate in the world. They will be capable of reflecting on their experiences and relationships with others and the environment, learning from them, and growing - personally, professionally and socially.

This graduate capability is supported by:

## Learning outcomes

- Demonstrate an understanding of legal principles relating to contract law.
- Formulate, present and evaluate oral and written arguments about contract law, drawing upon relevant precedent and policy considerations.
- Take responsibility for one's own learning; manage one's time productively; demonstrate a capacity to plan a task and work effectively to achieve it.

## Assessment tasks

- Early Assessment
- Assignment
- Final Exam
- Class participation

## Discipline Specific Knowledge and Skills

Our graduates will take with them the intellectual development, depth and breadth of knowledge, scholarly understanding, and specific subject content in their chosen fields to make them competent and confident in their subject or profession. They will be able to demonstrate, where relevant, professional technical competence and meet professional standards. They will be able

to articulate the structure of knowledge of their discipline, be able to adapt discipline-specific knowledge to novel situations, and be able to contribute from their discipline to inter-disciplinary solutions to problems.

This graduate capability is supported by:

## **Learning outcomes**

- Demonstrate an understanding of legal principles relating to contract law.
- Understand the main competing philosophies underpinning contract law and appreciate the role of contracts in a historical and social context.
- Formulate, present and evaluate oral and written arguments about contract law, drawing upon relevant precedent and policy considerations.
- Analyse hypothetical fact situations, identify legal and factual issues involving the law relating to contract law, and apply relevant principles to solve legal problems.
- Demonstrate research, writing and referencing skills appropriate to students undertaking a 100 level unit.
- Take responsibility for one's own learning; manage one's time productively; demonstrate a capacity to plan a task and work effectively to achieve it.

## **Assessment tasks**

- Early Assessment
- Assignment
- Final Exam
- Class participation

## **Critical, Analytical and Integrative Thinking**

We want our graduates to be capable of reasoning, questioning and analysing, and to integrate and synthesise learning and knowledge from a range of sources and environments; to be able to critique constraints, assumptions and limitations; to be able to think independently and systemically in relation to scholarly activity, in the workplace, and in the world. We want them to have a level of scientific and information technology literacy.

This graduate capability is supported by:

## **Learning outcomes**

- Formulate, present and evaluate oral and written arguments about contract law, drawing upon relevant precedent and policy considerations.
- Analyse hypothetical fact situations, identify legal and factual issues involving the law relating to contract law, and apply relevant principles to solve legal problems.
- Demonstrate research, writing and referencing skills appropriate to students undertaking a 100 level unit.

## Assessment tasks

- Assignment
- Final Exam
- Class participation

## Problem Solving and Research Capability

Our graduates should be capable of researching; of analysing, and interpreting and assessing data and information in various forms; of drawing connections across fields of knowledge; and they should be able to relate their knowledge to complex situations at work or in the world, in order to diagnose and solve problems. We want them to have the confidence to take the initiative in doing so, within an awareness of their own limitations.

This graduate capability is supported by:

### Learning outcomes

- Demonstrate an understanding of legal principles relating to contract law.
- Formulate, present and evaluate oral and written arguments about contract law, drawing upon relevant precedent and policy considerations.
- Analyse hypothetical fact situations, identify legal and factual issues involving the law relating to contract law, and apply relevant principles to solve legal problems.
- Take responsibility for one's own learning; manage one's time productively; demonstrate a capacity to plan a task and work effectively to achieve it.

## Assessment tasks

- Assignment
- Final Exam
- Class participation

## Creative and Innovative

Our graduates will also be capable of creative thinking and of creating knowledge. They will be imaginative and open to experience and capable of innovation at work and in the community. We want them to be engaged in applying their critical, creative thinking.

This graduate capability is supported by:

### Learning outcomes

- Formulate, present and evaluate oral and written arguments about contract law, drawing upon relevant precedent and policy considerations.
- Analyse hypothetical fact situations, identify legal and factual issues involving the law relating to contract law, and apply relevant principles to solve legal problems.

## Assessment tasks

- Assignment
- Class participation

## Effective Communication

We want to develop in our students the ability to communicate and convey their views in forms effective with different audiences. We want our graduates to take with them the capability to read, listen, question, gather and evaluate information resources in a variety of formats, assess, write clearly, speak effectively, and to use visual communication and communication technologies as appropriate.

This graduate capability is supported by:

### Learning outcomes

- Demonstrate an understanding of legal principles relating to contract law.
- Formulate, present and evaluate oral and written arguments about contract law, drawing upon relevant precedent and policy considerations.
- Analyse hypothetical fact situations, identify legal and factual issues involving the law relating to contract law, and apply relevant principles to solve legal problems.
- Demonstrate research, writing and referencing skills appropriate to students undertaking a 100 level unit.

## Assessment tasks

- Assignment
- Class participation

## Engaged and Ethical Local and Global citizens

As local citizens our graduates will be aware of indigenous perspectives and of the nation's historical context. They will be engaged with the challenges of contemporary society and with knowledge and ideas. We want our graduates to have respect for diversity, to be open-minded, sensitive to others and inclusive, and to be open to other cultures and perspectives: they should have a level of cultural literacy. Our graduates should be aware of disadvantage and social justice, and be willing to participate to help create a wiser and better society.

This graduate capability is supported by:

### Learning outcomes

- Understand the main competing philosophies underpinning contract law and appreciate the role of contracts in a historical and social context.
- Take responsibility for one's own learning; manage one's time productively; demonstrate a capacity to plan a task and work effectively to achieve it.

## Socially and Environmentally Active and Responsible

We want our graduates to be aware of and have respect for self and others; to be able to work with others as a leader and a team player; to have a sense of connectedness with others and country; and to have a sense of mutual obligation. Our graduates should be informed and active participants in moving society towards sustainability.

This graduate capability is supported by:

### Learning outcome

- Understand the main competing philosophies underpinning contract law and appreciate the role of contracts in a historical and social context.

## Changes since First Published

Date	Description
18/07/2014	Disruption to Study and Special Consideration