



# LAW 317

## Equity and Trusts

S2 Day 2014

*Dept of Law*

### Contents

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<u>General Information</u>	2
<u>Learning Outcomes</u>	2
<u>Assessment Tasks</u>	3
<u>Delivery and Resources</u>	5
<u>Unit Schedule</u>	7
<u>Policies and Procedures</u>	8
<u>Graduate Capabilities</u>	9

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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)

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

Room 527, W3A

Wednesdays 11 am - 12 noon

Credit points

3

Prerequisites

LAW316

Corequisites

Co-badged status

Unit description

This unit relates to and continues on from LAW316 and focuses on equitable notions of property, with a particular emphasis of the law of trusts, but also covering the historical development of equity and its relationship to common law, the assignment and other dispositions of property in equity, the obligation of confidence in equity with respect to information, equitable estoppel and fiduciary obligations. This unit will provide students with a theoretical grounding in the relevant principles as well as equip them with the capacity to apply these principles in practice.

## 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 thorough understanding of legal principles relating to equity and trusts

Demonstrate an enquiring, critical, analytical and thoughtful approach to equitable property interests and their place in the overall scheme of property interests

Formulate, present and evaluate oral and written arguments about equity and trusts, drawing upon relevant precedent and policy considerations

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

Demonstrate sophisticated research, writing and referencing skills appropriate to students undertaking a 300 level unit

Take responsibility for one's own learning by managing one's time effectively so as to be able to undertake readings for weekly seminars on time as well as complete and submit assessment items on time

## Assessment Tasks

Name	Weighting	Due
<a href="#">Quiz</a>	10%	4 September 2014
<a href="#">Assignment</a>	30%	10 am, 15 September 2014
<a href="#">Final Examination (Take Home)</a>	60%	5 pm, 15 November 2014

### Quiz

Due: **4 September 2014**

Weighting: **10%**

This assessment task's purpose is to engage students with their unit early in the semester and to provide an opportunity for relatively early feedback. The quiz will consist of twenty (20) multiple choice questions.

The quiz questions will be drawn from the topics covered in the first four weeks of lectures (see Unit Schedule for details). To answer the quiz questions, students will be expected to have listened to the said lectures and have read the required readings for the topics covered in the those lectures.

All students must complete the quiz online.

Students will be able to commence the quiz between 4-00 pm and 8-30 pm on Thursday, 4 September 2014. Students will be allowed 25 minutes to complete the quiz.

If, for justifiable reasons, a student is unable to do the quiz at the above time or his or her performance in the quiz is adversely affected, he or she may submit an application for Special Consideration pursuant to the University's Disruption to Studies Policy, which, if granted, will enable the student to complete a replacement quiz at a time determined by the unit convenor. The topics covered by the replacement quiz will not be the same as for the above quiz. Students will be advised by the convenor what topics will be covered in the replacement quiz.

Any student who does not complete this assessment item on time or at all, will receive: (i) a zero mark for it; 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 thorough understanding of legal principles relating to equity and trusts
- Take responsibility for one's own learning by managing one's time effectively so as to be able to undertake readings for weekly seminars on time as well as complete and submit assessment items on time

## Assignment

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

Weighting: **30%**

The Assignment in this unit is a research paper. The research question will be available on iLearn by the end of the first week of semester. The research paper must be a properly referenced formal response with appropriate analysis and argument supported by relevant authoritative cases and commentary. The research paper must be typed and must be kept to a maximum 1,500 words (excluding footnotes and the bibliography). In completing their research paper, 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 the assignment, including on how to submit it, will be posted on iLearn.

If, for justifiable reasons, a student is unable to submit the Assignment on time, he or she may submit an application for Special Consideration pursuant to 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 in consultation with the student.

Any student who does not submit the Assignment 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 thorough understanding of legal principles relating to equity and trusts
- Formulate, present and evaluate oral and written arguments about equity and trusts, drawing upon relevant precedent and policy considerations
- Demonstrate sophisticated research, writing and referencing skills appropriate to students undertaking a 300 level unit

## Final Examination (Take Home)

Due: **5 pm, 15 November 2014**

Weighting: **60%**

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 Saturday, 15 November 2014 and must submit their answers to the final examination paper by 5 pm on Saturday 15 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 properly referenced with appropriate analysis and argument supported by relevant authority. The answers must be typed.

Further instructions in relation to the final examination, including on how to submit answers to its questions, will be posted on iLearn.

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 pursuant to 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 the this assessment item.

On successful completion you will be able to:

- Demonstrate a thorough understanding of legal principles relating to equity and trusts
- Demonstrate an enquiring, critical, analytical and thoughtful approach to equitable property interests and their place in the overall scheme of property interests
- Analyse hypothetical fact situations, identify legal and factual issues involving the law relating to equity and trusts, and apply relevant principles to solve legal problems
- Take responsibility for one's own learning by managing one's time effectively so as to be able to undertake readings for weekly seminars on time as well as complete and submit assessment items on time

## **Delivery and Resources**

### **DELIVERY OF UNIT**

#### **Weekly Lectures (Internal Students)**

Weekly lectures will commence in Week 1 of the semester and go through to Week 12 of the

semester.

For the lecture time and venue students should consult the MQ Timetable website: <http://www.timetables.mq.edu.au>.

### 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 two (2) hours duration commence in Week 2 of the semester (ie the week beginning Monday 11 August 2014). The last tutorial will be in Week 13.

Attendance at tutorials does not form any part of any assessment item.

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 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 as follows:

	Date	Time	Location
<b>Session 1</b>	22 Sept 2014	9-00 am-4-00 pm	Macquarie Uni
<b>Session 2</b>	23 Sept 2014	9-00 am-4-00 pm	Macquarie Uni

Attendance at the on campus sessions for distance students is compulsory. If for justifiable reasons a student cannot attend one or both days of the on campus sessions, he or she must submit an application for Special Consideration pursuant to the University's Disruption to Studies Policy. Successful applications will usually be granted on condition that the student submit such written work as may be prescribed by the unit convenor.

Unless a student's absence from attending the on campus sessions is approved, failure to attend the whole of both days of the on campus sessions will result in his or her exclusion from the unit.

Distance students will be divided into two groups for the on campus sessions.

Prior to the on campus sessions students will be advised of the rooms in which the on campus sessions will be held.

The topics for the on campus sessions will be those covered weeks 1-7 of the lecture program.

The problem and discussion questions for the on campus sessions will be made available on

iLearn.

## **RESOURCES**

### **Prescribed Materials**

P Radan & C Stewart, *Principles of Australian Equity & Trusts*, 2nd ed, LexisNexis, Sydney, 2013

P Radan, C Stewart & I Vickovich, *Principles of Australian Equity & Trusts, Cases & Materials*, 2nd ed, LexisNexis, Sydney, 2014

Up-dates to the textbook and other additional materials available on iLearn

### **Reference Materials**

G E Dal Pont, *Equity & Trusts in Australia*, 5th ed, Thomson Lawbook Co, 2011

M Evans, *Equity & Trusts*, 3rd ed, LexisNexis, 2012

J D Heydon & M J Leeming, *Jacobs' Law of Trusts*, 7th ed, LexisNexis, 2006

R P Meagher, W M C Gummow, & J R F Lehane, *Equity - Doctrines and Remedies*, 4th ed, LexisNexis, 2002

D S K Ong, *Trusts Law in Australia*, 4th ed, Federation Press, 2012

D S K Ong, *Ong on Equity*, Federation Press, 2011

P W Young, C Croft & M L Smith, *On Equity*, Thomson Lawbook Co, 2009

## **Unit Schedule**

### **TOPICS STUDIED IN THIS UNIT**

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

<b>Week</b>	<b>Date</b>	<b>Topics</b>
1	4-8 August	History & Nature of Equity
2	11-15 August	Law & Equity; Equitable Property
3	18-22 August	Disposition of Property in Law and Equity I
4	25-29 August	Disposition of Property in Law and Equity II
5	1-5 September	Equitable Estoppel; Confidential Information

6	8-12 September	Fiduciary Obligations
7	15-19 September	Introduction to Trusts
		MID-SEMESTER BREAK
8	6-10 October	Express trusts
9	13-17 October	Charitable Trusts
10	20-24 October	Resulting Trusts; Constructive Trusts
11	27-31 October	Rights and Duties of Trustees
12	3-7 November	Rights and Duties of Beneficiaries

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

### CHANGES TO PREVIOUS OFFERINGS OF THIS UNIT

The content of the unit has not changed from that offered in the previous year. The assessment regime has not changed from that which applied in the previous year.

## 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

### 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

- Formulate, present and evaluate oral and written arguments about equity and trusts, drawing upon relevant precedent and policy considerations
- Take responsibility for one's own learning by managing one's time effectively so as to be able to undertake readings for weekly seminars on time as well as complete and submit assessment items on time

## 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 a thorough understanding of legal principles relating to equity and trusts
- Demonstrate an enquiring, critical, analytical and thoughtful approach to equitable property interests and their place in the overall scheme of property interests

## Assessment tasks

- Quiz
- Assignment
- Final Examination (Take Home)

## 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

- Demonstrate an enquiring, critical, analytical and thoughtful approach to equitable property interests and their place in the overall scheme of property interests
- Formulate, present and evaluate oral and written arguments about equity and trusts,

drawing upon relevant precedent and policy considerations

- Analyse hypothetical fact situations, identify legal and factual issues involving the law relating to equity and trusts, and apply relevant principles to solve legal problems
- Demonstrate sophisticated research, writing and referencing skills appropriate to students undertaking a 300 level unit

## Assessment tasks

- Assignment
- Final Examination (Take Home)

## 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 enquiring, critical, analytical and thoughtful approach to equitable property interests and their place in the overall scheme of property interests
- Formulate, present and evaluate oral and written arguments about equity and trusts, drawing upon relevant precedent and policy considerations
- Analyse hypothetical fact situations, identify legal and factual issues involving the law relating to equity and trusts, and apply relevant principles to solve legal problems
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## Assessment tasks

- Assignment
- Final Examination (Take Home)

## 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 outcome**

- Demonstrate sophisticated research, writing and referencing skills appropriate to students undertaking a 300 level unit

### **Assessment task**

- Assignment