



# LAWS104

## Contracts

S1 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

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W3A 624

Mon 10am-12pm

Credit points

3

Prerequisites

LAW115

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:

Explain legal principles relating to contract law.

Recognise competing philosophies underpinning contract law and consider the role of contracts in a historical and social context.

Formulate, defend 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.

Produce written work that demonstrates the ability to carry out basic research, writing and referencing skills.

## Assessment Tasks

Name	Weighting	Due
<u>Early Assessment</u>	10%	Week 4
<u>Assignment</u>	20%	11/04 (int); 26/04 (ext)
<u>Final Exam</u>	60%	Examination period
<u>Class participation</u>	10%	Continuing

### Early Assessment

Due: **Week 4**

Weighting: **10%**

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 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. Students are to sit the test in their usual and designated tutorial group in week 4.

On successful completion you will be able to:

- Explain legal principles relating to contract law.

### Assignment

Due: **11/04 (int); 26/04 (ext)**

Weighting: **20%**

The Assignment in this unit 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 zero mark for that assessment task. Students who anticipate submitting late, or seeking an extension of time, must contact the unit convenor and lodge a special consideration application in accordance with the University's special consideration policy.

On successful completion you will be able to:

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- Produce written work that demonstrates the ability to carry out basic research, writing and referencing skills.

## 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 1 is from 16 June 2014 to 4 July 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.

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## 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. Students who have more than three unauthorised absences will fail the unit regardless of other completed assessment items. 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. Students who fail to attend the On-Campus Session without authorisation will fail the unit regardless of other completed assessment items.

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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.

## 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	Date	Lecture Topic	Tutorial Topic
1	Wed 5 Mar	Introduction to Unit; Overview of Contract Remedies	Materials; Assessment; Resources; Problem Solving Model
2	Wed 12 Mar	Agreement	Introduction to Unit; Overview of Contract Remedies
3	Wed 19 Mar	Consideration; Intention; Certainty and Completeness	Agreement
4	Wed 26 Mar	Capacity; Requirement of Writing	Consideration; Intention; Certainty and Completeness
5	Wed 2 Apr	Express Terms	Capacity; Requirement of Writing
6	Wed 9 Apr	Implied Terms; Construction of Terms; Exclusion Clauses	Express Terms
		<b>Mid-Semester Break</b> <b>On-Campus Session 22-23 April</b>	
7	Wed 30 Apr	Misrepresentation; Misleading or Deceptive Conduct; Mistake	Implied Terms; Construction of Terms; Exclusion Clauses
8	Wed 7 May	Duress; Unconscionability; Undue Influence; Unjust Contracts	Misrepresentation; Misleading or Deceptive Conduct; Mistake
9	Wed 14 May	Discharge by Performance; Discharge by Agreement	Duress; Unconscionability; Undue Influence; Unjust Contracts

10	Wed 21 May	Discharge by Breach; Discharge by Frustration	Discharge by Performance; Discharge by Agreement
11	Wed 28 May	Illegality	Discharge by Breach; Discharge by Frustration
12	Wed 4 Jun	Privity of Contract	Illegality
13	Wed 11 Jun	Contract Theory and Context; Exam Preparation	Privity of Contract

## 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 student seeking an extension of time to submit the assignment must advise the Unit Convenor at the earliest opportunity and also submit an application for Special Consideration in accordance with the University special consideration policy (see link above). All relevant medical and/or other evidence is to be provided. Extensions of greater than seven (7) days will not usually be granted.

Students are referred also to the 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)

## 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

- Recognise competing philosophies underpinning contract law and consider the role of contracts in a historical and social context.
- Formulate, defend 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.
- Produce written work that demonstrates the ability to carry out basic research, writing and referencing skills.

### 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

- Explain legal principles relating to contract law.
- Formulate, defend and evaluate oral and written arguments about contract law, drawing upon relevant precedent and policy considerations.

### Assessment tasks

- Early Assessment
- Assignment
- Final Exam
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## 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:

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- 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

- Explain legal principles relating to contract law.
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## 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

- Explain legal principles relating to contract law.
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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.
- Produce written work that demonstrates the ability to carry out basic research, writing and referencing skills.

## 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, defend 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

- Explain legal principles relating to contract law.
- Formulate, defend 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.
- Produce written work that demonstrates the ability to carry out basic research, writing and referencing skills.

## 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 outcome

- Recognise competing philosophies underpinning contract law and consider the role of contracts in a historical and social context.

## 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

- Recognise competing philosophies underpinning contract law and consider the role of contracts in a historical and social context.