



LAWS804

Law of Obligations II - Torts

S2 Day 2015

Dept of Law

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Disclaimer

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General Information

Unit convenor and teaching staff

Caitriona McCabe

caitriona.mccabe@mq.edu.au

Credit points

4

Prerequisites

LAWS803

Corequisites

Co-badged status

Unit description

The law of obligations encompasses private law obligations in contract, tort, and restitution. This compulsory unit examines the law of torts and its operation in context from doctrinal, practical, theoretical and normative perspectives. Torts addresses critical questions about social responsibility and obligations members of a community owe to one other, and how civil legal standards can and should be used to encourage appropriate behaviour and rectify wrongs. Negligence is the principal focus; other topics studied include assault, battery, false imprisonment, trespass to land and goods, nuisance, conversion, defences, and types of liability. The unit extends and integrates knowledge and skills developed in previous law units, focusing on communication, teamwork, problem solving and research. It also lays a foundation for the capstone unit LAWS815 Remedies, Reparations and Resolutions in Law.

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:

Describe at an advanced level the fundamental doctrines, concepts, principles, values and sources (both common law and statute) for different types of torts and categories of liability.

Recognise a number of contemporary developments in the law, and reflect upon how such developments may impact upon tort-feasors and claimants.

Identify and articulate complex legal issues via engagement with hypothetical problem-

based scenarios and other relevant materials.

Engage in critical legal reasoning, analysis and research to generate appropriate responses to tort-based legal issues.

Communicate in ways that are effective, appropriate and persuasive for legal and non-legal audiences.

Demonstrate a high level of autonomy, accountability and professionalism in relation to study, research, performance and conduct.

General Assessment Information

Please note that word limits noted above are strictly applied.

Assessment Tasks

Name	Weighting	Due
<u>Tutorial Participation</u>	20%	Weekly
<u>Hypothetical</u>	30%	25/09/2015
<u>Essay</u>	35%	20/11/2015
<u>Online Quiz/Questions</u>	15%	Week 13

Tutorial Participation

Due: **Weekly**

Weighting: **20%**

This assessment task relates to preparation for tutorials and participation in tutorial discussions, debates and activities.

Each week both external and internal students must submit a summary of the prescribed readings. A short summary must be submitted by Monday 9am the following week.eg. Week 1 summary submitted by 9am Monday, week 2. A summary of no more than 200 words is sufficient to show your understanding and this may include your thoughts or comments on the materials for discussion purposes. Four summaries will be chosen to assess a student's knowledge of the tutorial preparation material at the end of the semester and this will be used alongside participation in class to assess your mark for this assessment.

The Unit Convenor will engage in ongoing assessment of student participation in tutorials and at the OCS sessions in accordance with the marking rubric in iLearn using the following criteria: 1. Preparation and understanding of material: the student has listened to the lecture, read the required reading and has attempted to link the materials to the lectures and to other course materials; 2. Ability to think critically about the material: the student is able to think critically about the materials from different angles and is able to question the materials; 3. Clear expression of

ideas: the student is able to clearly express their ideas about the materials; 4. Engaging with other students: the student engages with others in the class taking an active role in discussions, role plays, debates and other activities assigned by the convenor. The student responds to others in the class by listening to them, providing constructive feedback and asking questions. 5. Demonstration of skills: The student is able to demonstrate communication skills including good communication, presentation and reasoning skills. If you cannot attend a tutorial or an OCS session you must email the Unit Convenor to inform them of your absence. All communication will be conducted through the 'Communicate Privately with Teaching Staff' link on iLearn.

Extended absences from tutorials must meet the criteria for Disruption to Studies and be approved by the Unit Convenor. Applications for Disruption to Studies are made online at ask.mq.edu.au

The Unit Convenor will raise any concerns about poor preparation or participation with the student involved through the 'Communicate Privately with Teaching Staff' link. Students will be given an opportunity to submit remedial work where there are concerns about participation or unexplained absences.

On successful completion you will be able to:

- Recognise a number of contemporary developments in the law, and reflect upon how such developments may impact upon tort-feasors and claimants.
- Communicate in ways that are effective, appropriate and persuasive for legal and non-legal audiences.
- Demonstrate a high level of autonomy, accountability and professionalism in relation to study, research, performance and conduct.

Hypothetical

Due: **25/09/2015**

Weighting: **30%**

The First Assignment for this unit will require students to engage with a hypothetical problem-based question.

The assignment question will be available on iLearn in week 2. The assignment must be a properly referenced formal response to the hypothetical scenario, in which complex legal issues are identified, and an appropriate analysis and argument supported by relevant authoritative cases and commentary is developed. The response must be a maximum of 2000 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.

On successful completion you will be able to:

- Describe at an advanced level the fundamental doctrines, concepts, principles, values and sources (both common law and statute) for different types of torts and categories of liability.
- Identify and articulate complex legal issues via engagement with hypothetical problem-based scenarios and other relevant materials.
- Engage in critical legal reasoning, analysis and research to generate appropriate responses to tort-based legal issues.
- Communicate in ways that are effective, appropriate and persuasive for legal and non-legal audiences.
- Demonstrate a high level of autonomy, accountability and professionalism in relation to study, research, performance and conduct.

Essay

Due: **20/11/2015**

Weighting: **35%**

Please refer to iLearn for full details of the essay topic. This essay will test students understanding of the application of principles of corrective and distributive justice in the realm of tort law.

The essay must be a maximum of 2000 words (excluding footnotes) and is to be submitted on the Turnitin link in iLearn. All work is to be submitted via Turnitin on iLearn Late submissions will not be marked and will receive a score of 0.

On successful completion you will be able to:

- Recognise a number of contemporary developments in the law, and reflect upon how such developments may impact upon tort-feasors and claimants.
- Communicate in ways that are effective, appropriate and persuasive for legal and non-legal audiences.
- Demonstrate a high level of autonomy, accountability and professionalism in relation to study, research, performance and conduct.

Online Quiz/Questions

Due: **Week 13**

Weighting: **15%**

There will be an online quiz to be completed during the final week of semester.

Students will be required to answer a variety of questions showing engagement with, and understanding of, the course materials and subject matter.

On successful completion you will be able to:

- Describe at an advanced level the fundamental doctrines, concepts, principles, values and sources (both common law and statute) for different types of torts and categories of liability.
- Recognise a number of contemporary developments in the law, and reflect upon how such developments may impact upon tort-feasors and claimants.
- Identify and articulate complex legal issues via engagement with hypothetical problem-based scenarios and other relevant materials.
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Delivery and Resources

1. Resources

PRESCRIBED MATERIALS

- 1) Carolyn Sappideen, Prue Vines, Penelope Watson, *Torts: Commentary and Materials* (Law Book Co/Thomson Reuters, 11th ed, 2012).
- 2) Civil Liability Act 2002 (NSW)
- 3) Lectures and associated materials
- 4) Primary and secondary source materials (eg. cases, statutes, articles)
- 5) Online materials
- 6) Seminar activity materials

REFERENCE MATERIALS

Suggested materials for further reference include:

JOURNALS

- *The Torts Law Journal*,
- *Australian Civil Liability*,
- *Torts Law Review*

ONLINE MATERIALS

Example: Australian Torts Reporter (CCH Online) = providing the latest detailed commentary, cases and legislation related to torts law jurisdictions across Australia.

TEXTS

H. Luntz, D. Hambly, K. Burns, J. Dietrich and N. Foster, *Torts: Cases and Commentary*, (7 ed, 2013).

Martin Davies and Ian Malkin, *Torts* (LexisNexis Butterworths, 7th ed, 2015).

Julia Davis, *Connecting with Tort Law* (Oxford University Press, 2012).

Tim Paine, *Torts, Q&A series* (LexisNexis Butterworths, 4th Ed, 2015)

2. Teaching and Learning Activities

Lectures	Weekly lectures from staff are pre-recorded and posted online on iLearn each week from Week 1 to Week 13 - for all students (external and internal).
Seminars	Seminars in which legal principles and complex legal issues are examined, critiqued and analysed by students and staff. (Seminars for internal students begin in Week 1 and end in Week 13; external students will attend on campus sessions as scheduled).
Reading and writing	Students will have personal responsibility for reading all materials, note taking, and preparation of written answers to seminar questions, assignments and exam.
Collaboration	Students are encouraged to form study groups to discuss course content, engage in online discussion with each other, and to prepare answers to seminar questions jointly.
Communication	Discussion of legal principles, issues and hypotheticals both in and out of class; students will be called upon in class.
Self-Directed Learning	Students will complete self-directed learning tasks using online resources and other materials as required.

Each week students will be required to engage with the teaching and learning activities in order to develop the expected proficiency in The Law of Obligations II - Torts.

Note that students should understand that, as is the case in other disciplines, **most learning occurs outside the classroom** for law-related studies. Students are expected, as adults in the higher education system, to assume responsibility for much of their own learning; and as university students completing a JD-level law degree, are expected to exercise a high level of autonomy and professionalism toward their studies. Academics will have put in a significant amount of time and effort into designing and preparing materials, which includes both delivery of content and guiding students to other resources that will aid their learning. They are available to discuss, provide feedback, and respond to questions *however*, the student is ultimately responsible for engaging with the required materials and completing the required tasks.

Specific Activities Each Week:

On the subject page in iLearn, at the top of each week, will be a list of topics to be covered in that week. Students are required to engage with other materials placed online (at iLearn) and

beyond. The pattern of study for each week should include that students:

1. **Read** the 'Topic Overview' pages
2. **Listen** to lectures/short information recordings;
3. **Watch** videos (when relevant);
4. **Complete**
 - a. the assigned readings – which will include such things as reading of the text, common law judgments, statutes, and other secondary sources – and engage in note taking. (Note taking is an active form of learning which helps students order information in a way that they understand it, and aids in retention and ability to recall information);
 - b. any further activities placed online (eg. self-test quizzes, etc).
5. **Prepare** draft answers to seminar questions.

You are encouraged to **communicate** and **collaborate** with other students when engaging with the above pattern of study.

NOTE: engaging each week with the above pattern of study will improve your learning and ability to analyse legal issues and critique the law. As the semester progresses, students will find their ability to read legal materials will improve. Mirroring that change, the subject's pace quickens as the semester progresses.

Tip: Always look up and learn unfamiliar phrases in a law dictionary.

Seminar Groups

Seminar groups provide an opportunity to discuss what you have read, evaluate your reading from new perspectives and share your ideas with classmates. Classes will help students 'make sense' of the reading, and give them regular opportunities to practise analytical skills. In order for the classes to work successfully, **students must come ready to ask and answer questions**. The seminar leader will act as a guide, but the discussion should be dominated by students. Again, all students are encouraged to work with others in preparing notes and completing seminar questions.

Remember to engage with the materials studied and participate in class. Try not to be shy: relax, and make the most of the chance to discuss moral, ethical, and legal issues. You have the opportunity to hear what other students have to say, and a chance to teach one another. Active class participation can produce an inspiring, stimulating, learning experience, whereby you can and will learn from each other as well as from your lecturer. An important immediate consequence of learning in this fashion, where class discussion will challenge your thoughts and understanding of the material studied, is that you will have to learn to read acutely.

General Matters

Don't become anxious if you fall behind on occasion. However, try not to fall too far behind, too often! It is your responsibility to catch up if you have fallen behind. While guidance and advice can be provided by your lecturers, the onus will be on you to catch up. Lecturers are not in a position to re-teach material that has already been discussed in classes you have missed.

Please check your e-mail and the Torts iLearn page for important information relevant to Torts, guest speakers, video presentations, etc.

If you have *any* questions or comments about the subject, the reading or the way in which your studies are progressing, be sure to talk to your seminar leader or Unit Convenor.

Note that **the University has schemes in place that provide learning and well-being support.**

3. Feedback

There are a number of opportunities offered to students during the semester to find out how you are progressing in *Law of Obligations II - Torts*. Students have a role in ensuring that they exploit opportunities for feedback. While there are several ways in which feedback is provided, it is important to realise that any initiative to give quality feedback can only work in an atmosphere in which both students and lecturers are actively engaged with one another throughout the semester in the teaching and learning process. Effective and useful feedback opportunities in *Torts* include formal and informal methods. These include the following:

a) Answering questions during and after class: this is a useful form of feedback, as the responses given to your queries verify your understanding of particular issues.

b) Learning from one another: students are encouraged to form study groups so that they can take advantage of the opportunity to learn from one another.

- Course Content: Study groups for engaging with course materials generally can be as formal as meeting regularly throughout the semester, or as informal as meeting once or twice, for example, to discuss how you are going in the subject.
- Seminars: students are encouraged to form study groups and work together (either in person or online) to practice and prepare draft answers/notes regarding set problem-based questions prior to seminars. Engaging with the seminar questions and activities, and attendance at the seminars, provides you with an opportunity to receive feedback from the lecturer and other students that will help you develop your skills and understanding without being assessed (graded) on the answer you have provided. *Note: your actual answers for the seminars are not graded, but your **participation and preparation** are.*
- Group feedback: You can also arrange to meet with the lecturer as a group to get feedback on the group's analysis of problem questions.
- Assignment: You will be *required* to engage in a group (paired) assignment.

c) Constructive and effective use of e-mail/online forums to provide quick help: E-mail/discussion on online forums (with fellow students and/or the lecturer) can be an effective way to obtain quick feedback. Such mediums are useful for answering brief, pointed, discrete queries. Note, though, that some questions are better dealt with in person (for example, because of the

complexity of the question). In emailing the lecturer, it is helpful to provide a telephone number where you can be reached so the lecturer can seek clarification of your question and offer a better response if necessary.

d) **Weekly meeting or interview times:** members of academic staff set time aside each week to meet with students (in addition to other meetings you may wish to arrange with them). We encourage you to use this regularly scheduled meeting time effectively. This is a genuine opportunity for one-on-one or small group feedback.

e) **Comments on your Assignment:** these provide useful assistance for improvement purposes. You can also make an appointment to see your lecturer to receive additional oral comments on your paper. Such meetings are an invaluable tool for you to improve your hypothetical and essay writing skills.

Unit Schedule

A topic overview which includes reference to the required readings is posted on **ilearn**, along with other resources that students are required to read, watch, listen to, or otherwise complete. Separate tutorial activities will also be posted online.

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

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

Disruption to Studies Policy 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/

Results

Results shown in *iLearn*, or released directly by your Unit Convenor, are not confirmed as they are subject to final approval by the University. Once approved, final results will be sent to your student email address and will be made available in [eStudent](#). For more information visit [ask.m](#)

mq.edu.au.

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) 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

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 - 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

- Engage in critical legal reasoning, analysis and research to generate appropriate responses to tort-based legal issues.
- Communicate in ways that are effective, appropriate and persuasive for legal and non-legal audiences.

- Demonstrate a high level of autonomy, accountability and professionalism in relation to study, research, performance and conduct.

Assessment tasks

- Tutorial Participation
- Essay

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

- Describe at an advanced level the fundamental doctrines, concepts, principles, values and sources (both common law and statute) for different types of torts and categories of liability.
- Recognise a number of contemporary developments in the law, and reflect upon how such developments may impact upon tort-feasors and claimants.
- Identify and articulate complex legal issues via engagement with hypothetical problem-based scenarios and other relevant materials.
- Engage in critical legal reasoning, analysis and research to generate appropriate responses to tort-based legal issues.
- Communicate in ways that are effective, appropriate and persuasive for legal and non-legal audiences.

Assessment tasks

- Tutorial Participation
- Hypothetical
- Essay
- Online Quiz/Questions

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

- Describe at an advanced level the fundamental doctrines, concepts, principles, values and sources (both common law and statute) for different types of torts and categories of liability.
- Recognise a number of contemporary developments in the law, and reflect upon how such developments may impact upon tort-feasors and claimants.
- Identify and articulate complex legal issues via engagement with hypothetical problem-based scenarios and other relevant materials.
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- Communicate in ways that are effective, appropriate and persuasive for legal and non-legal audiences.

Assessment tasks

- Tutorial Participation
- Hypothetical
- Essay
- Online Quiz/Questions

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

- Describe at an advanced level the fundamental doctrines, concepts, principles, values and sources (both common law and statute) for different types of torts and categories of liability.
- Recognise a number of contemporary developments in the law, and reflect upon how such developments may impact upon tort-feasors and claimants.
- Identify and articulate complex legal issues via engagement with hypothetical problem-based scenarios and other relevant materials.
- Engage in critical legal reasoning, analysis and research to generate appropriate responses to tort-based legal issues.
- Communicate in ways that are effective, appropriate and persuasive for legal and non-

legal audiences.

Assessment tasks

- Tutorial Participation
- Hypothetical
- Essay

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

- Describe at an advanced level the fundamental doctrines, concepts, principles, values and sources (both common law and statute) for different types of torts and categories of liability.
- Identify and articulate complex legal issues via engagement with hypothetical problem-based scenarios and other relevant materials.
- Engage in critical legal reasoning, analysis and research to generate appropriate responses to tort-based legal issues.
- Communicate in ways that are effective, appropriate and persuasive for legal and non-legal audiences.

Assessment tasks

- Tutorial Participation
- Hypothetical
- Essay

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 outcomes

- Engage in critical legal reasoning, analysis and research to generate appropriate responses to tort-based legal issues.
- Communicate in ways that are effective, appropriate and persuasive for legal and non-legal audiences.
- Demonstrate a high level of autonomy, accountability and professionalism in relation to study, research, performance and conduct.

Assessment task

- Tutorial Participation

Changes since First Published

Date	Description
25/07/2015	Changes to assessment dates and descriptions to correspond with semester timetable and unit focus.