



# LAW 317

## Equity and Trusts

S2 External 2015

*Dept of Law*

### Contents

<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>	7
<u>Graduate Capabilities</u>	9

#### **Disclaimer**

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## General Information

Unit convenor and teaching staff

Unit Convenor

Shayne Davenport

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Room 519, W3A

Wednesdays 2 - 3

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
Class test	20%	In class
Assignment	30%	5pm sharp, 12 October
Final Examination (Take Home)	50%	2pm 13 November

### Class test

Due: **In class**

Weighting: **20%**

Internal students will take the test in their tutorials in Week 7 (week commencing 7 September).

**Students may only take the test in the tutorial in which they are enrolled.** External students will take the test at 12pm on 15 September, 2015 (day 2 of the on-campus session). Different questions will be provided for each tutorial group.

The questions for the in class test will be drawn from the topics covered in the first four lectures (see Unit Schedule for details).

If a student is unable to take the class test in the tutorial in which they are enrolled, or on 15 September (external students) they must apply under the Disruption to Studies Policy (available in the Policies and Procedures tab below) to sit a formal supplementary test in the Law School at an alternative time or as otherwise agreed with the convenor.

On successful completion you will be able to:

- Demonstrate a thorough understanding of legal principles relating to equity and trusts
- 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

## Assignment

Due: **5pm sharp, 12 October**

Weighting: **30%**

The Assignment in this unit is a research paper. The research question will be available on iLearn by the end of week 4. The research paper must be a properly referenced formal response with appropriate analysis and argument supported by relevant authoritative cases and commentary. Word limit is 1500 words (excluding footnotes). Markers will not read any material in excess of 1500 words. 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 will be posted on iLearn.

**Submission of essays:** All essays are to be submitted electronically through the ilearn webpage by file upload

**NOTE VERY CLOSELY:** It is Law School policy that in the absence of a successful application under the Disruption to Studies policy late assignments will not be accepted. It is a student's responsibility to allow sufficient time for file upload so that the essay is received by the due date and time and to ensure that the correct file is uploaded.

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
- 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
- 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

## Final Examination (Take Home)

Due: **2pm 13 November**

Weighting: **50%**

The final examination in this unit will be a take home examination consisting of a number of

problem style questions.

Students (internal and external) will be able to access the final examination paper on iLearn from 2pm on Friday 13 November 2015 and must submit their answers by 6 pm on that date.

A student's answers to the final examination paper's questions cannot exceed 2,000 words (exclusive of footnotes). This is an upper word limit and a student need not write 2,000 words if he or she can answer the questions in less than 2,000 words. **Markers will not read nor take into account any material in excess of 2000 words.**

If a student is unable to sit the examination at the designated time they must make an application for special consideration under the Disruption to Studies Policy (available in the Policies and Procedures tab below). Students who are granted special consideration under this process will sit a formal 3 hour on- campus supplementary exam at a time set by the convenor (internal students) or an alternative assessment (external students).

**Submission of final examinations:** All examinations are to be submitted electronically through the ilearn webpage by file upload

**NOTE VERY CLOSELY:** It is Law School policy that in the absence of a successful application under the Disruption to Studies policy late assessments will not be accepted. It is a student's responsibility to allow sufficient time for file upload so that the examination is received by the due date and time and to ensure that the correct file is uploaded.

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
- 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
- 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.ti>

[metables.mq.edu.au](http://metables.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 3 August 2015). The last tutorial will be in Week 13.

**Students may only attend the tutorial in which they are enrolled.**

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

### **On Campus Sessions (Distance Students)**

For distance students, the on campus session will be held on Monday 14 and Tuesday 15 September. Attendance on Day 2 (15<sup>th</sup> September, 2015) is compulsory in order to sit the class test (see assessments).

The topics for the on- campus sessions will be those covered in weeks 1-9 of the lecture program.

## **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.

In addition, students are expected to listen to all lectures and to participate in tutorials.

### **Selected Reference Materials**

G E Dal Pont, *Equity & Trusts in Australia*, 6th ed, Thomson Lawbook Co, 2015

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

Heydon, Leeming & Turner, Meagher Gummow & Lehane's *Equity - Doctrines and Remedies*, 5th ed, LexisNexis, 2015

## Unit Schedule

Week	Lecture date 2015	Topics
1	31 July	History & Nature of Equity
2	7 August	Law & Equity; Equitable Property
3	14 August	Disposition of Property in Law and Equity I
4	21 August	Disposition of Property in Law and Equity II
5	28 August	Fiduciary Obligations
6	4 September	Introduction to Trusts
7	11 September	Express trusts
		MID-SEMESTER BREAK
8	2 October	Variation and termination of express trusts
9	9 October	Charitable Trusts
10	16 October	Resulting Trusts; Introduction to Constructive Trusts
11	23 October	Constructive Trusts
12	30 October	Rights and Duties of Trustees and beneficiaries; tracing
13	6 November	Confidential Information; Equitable estoppel

## 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/)

## 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.mq.edu.au](http://ask.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](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

- Class test
- 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
- 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**

- Class test
- 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 tasks**

- Assignment
- Final Examination (Take Home)