



# LAW 203

## Torts

S2 External 2015

*Dept of Law*

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### Disclaimer

Macquarie University has taken all reasonable measures to ensure the information in this publication is accurate and up-to-date. However, the information may change or become out-dated as a result of change in University policies, procedures or rules. The University reserves the right to make changes to any information in this publication without notice. Users of this publication are advised to check the website version of this publication [or the relevant faculty or department] before acting on any information in this publication.

## General Information

Unit convenor and teaching staff

Lecturer/Convener

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W3A 341

TBA

Tutor

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Credit points

3

Prerequisites

LAW109 and (LAW204 or LAWS104) and (admission 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 BPsych(Hons)LLB or BScLLB or BSocScLLB)

Corequisites

Co-badged status

Unit description

This unit examines the law of torts and its operation in context from doctrinal, practical and theoretical perspectives. The unit builds on and extends knowledge and skills gained in previous law units, with particular emphasis on skills of oral and written communication, problem solving, and analysis of primary source material. 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 intentional torts, nuisance and different types of liability.

## 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:

- Identify the authoritative sources of tort law in Australia through a combination of knowledge of tort law and legal research
- Competently synthesise and interpret case law and statute law applicable to tort law problems
- Describe the elements of a cause of action for each of the intentional torts and negligence
- Apply knowledge of tort law to analyse and evaluate legal problems
- Evaluate and critique legal reasoning in significant tort law cases and lines of authority
- Discern problems and gaps in tort law (case law and legislation) and areas of contention for legal argument or development
- Express arguments clearly, logically, concisely, in plain English and with supporting legal authority
- Judge which of competing arguments in tort law is more likely to be accepted by Australian courts and explain your reasoning
- Describe the theoretical approaches to tort law
- Debate current policy issues in tort law
- Evaluate how tort law and developments impact on the work of legal practitioners and legal managers in public and private practice
- Present legal or policy advice or argument in a balanced, professional and audience-appropriate style
- Analyse and solve problems collaboratively
- Reflect on how you have analysed legal problems and policy issues and incorporate lessons learned

## General Assessment Information

### Time required to complete assessments

To assist you in planning your time, as a general guide:

- Assignment 1 is designed to be completed in 2 days.
- Assignment 2 is designed to be completed in 2 days.
- The Final Assessment is designed to be completed in 3 days.

### Word limits

Word limits will be strictly applied and work above the word limit will not be marked.

## Assessment submission

All assessments in the unit are to be submitted electronically. Plagiarism detection software is used in this unit.

## Supplementary examinations

Any student who is unable to complete the Final Assessment or who completes the Final Assessment but then makes a successful application for Disruption to Studies will be provided with an alternative assessment. This may be in the form of an oral examination to be conducted by the unit convenor.

## Granting of extensions

Students will be expected to upload drafts of their assessments into Turnitin. If a student successfully applies for an extension due to a 'Disruption to Studies', the convenor will take into account the quality of the draft assessment.

## Assessment Tasks

Name	Weighting	Due
<u>Assignment 1</u>	0%	Friday Week 4 (21/8/15)
<u>Assignment 2</u>	30%	Friday Week 7 (11/9/15)
<u>Final Assessment</u>	50%	Sunday 15/11/15
<u>OCS participation</u>	20%	Entire OCS

### Assignment 1

Due: **Friday Week 4 (21/8/15)**

Weighting: **0%**

Hypothetical legal problem (ungraded)

On successful completion you will be able to:

- Identify the authoritative sources of tort law in Australia through a combination of knowledge of tort law and legal research
- Competently synthesise and interpret case law and statute law applicable to tort law problems
- Describe the elements of a cause of action for each of the intentional torts and negligence
- Apply knowledge of tort law to analyse and evaluate legal problems
- Express arguments clearly, logically, concisely, in plain English and with supporting legal

authority

- Reflect on how you have analysed legal problems and policy issues and incorporate lessons learned

## Assignment 2

Due: **Friday Week 7 (11/9/15)**

Weighting: **30%**

Hypothetical legal problem and essay questions

On successful completion you will be able to:

- Competently synthesise and interpret case law and statute law applicable to tort law problems
- Describe the elements of a cause of action for each of the intentional torts and negligence
- Apply knowledge of tort law to analyse and evaluate legal problems
- Express arguments clearly, logically, concisely, in plain English and with supporting legal authority
- Judge which of competing arguments in tort law is more likely to be accepted by Australian courts and explain your reasoning
- Debate current policy issues in tort law
- Present legal or policy advice or argument in a balanced, professional and audience-appropriate style
- Reflect on how you have analysed legal problems and policy issues and incorporate lessons learned

## Final Assessment

Due: **Sunday 15/11/15**

Weighting: **50%**

Hypothetical legal problem and essay questions

On successful completion you will be able to:

- Competently synthesise and interpret case law and statute law applicable to tort law problems
- Apply knowledge of tort law to analyse and evaluate legal problems
- Evaluate and critique legal reasoning in significant tort law cases and lines of authority
- Discern problems and gaps in tort law (case law and legislation) and areas of contention

for legal argument or development

- Express arguments clearly, logically, concisely, in plain English and with supporting legal authority
- Judge which of competing arguments in tort law is more likely to be accepted by Australian courts and explain your reasoning
- Evaluate how tort law and developments impact on the work of legal practitioners and legal managers in public and private practice
- Present legal or policy advice or argument in a balanced, professional and audience-appropriate style

## OCS participation

Due: **Entire OCS**

Weighting: **20%**

Active participation in On Campus Sessions (OCS) from 9am to 4.15pm on both days, including discussion, collaborative legal problem solving, mooted, reflection and debate

On successful completion you will be able to:

- Competently synthesise and interpret case law and statute law applicable to tort law problems
- Apply knowledge of tort law to analyse and evaluate legal problems
- Evaluate and critique legal reasoning in significant tort law cases and lines of authority
- Discern problems and gaps in tort law (case law and legislation) and areas of contention for legal argument or development
- Express arguments clearly, logically, concisely, in plain English and with supporting legal authority
- Judge which of competing arguments in tort law is more likely to be accepted by Australian courts and explain your reasoning
- Describe the theoretical approaches to tort law
- Debate current policy issues in tort law
- Evaluate how tort law and developments impact on the work of legal practitioners and legal managers in public and private practice
- Present legal or policy advice or argument in a balanced, professional and audience-appropriate style
- Analyse and solve problems collaboratively
- Reflect on how you have analysed legal problems and policy issues and incorporate lessons learned

## Delivery and Resources

### Delivery

The unit is delivered by way of weekly 2-hour lectures for 13 weeks and two full days of On Campus Sessions (OCS) on 21 and 22 September 2015. The lectures are held each Monday at 8am in W2.4A MQTH, and are available via iLecture.

### Textbooks and reference materials

#### Required textbook and legislation

You are required to obtain the following materials only:

- Carolyn Sappideen, Prue Vines, Penelope Watson, *Torts: Commentary and Materials* (Law Book Co/Thomson Reuters, 11<sup>th</sup> ed, 2012)
- *Civil Liability Act 2002* (NSW) (download from austlii or via the library)

#### Recommended additional materials

For reference or further study any Australian Torts text or annotation that is up to date will be suitable. We recommend:

- Dominic Villa, *Annotated Civil Liability Act 2002 (NSW)* (Thomson Reuters, 2<sup>nd</sup> ed, 2013)
- Rosalie Balkin and JLR Davis, *Law of Torts* (Lexisnexis Butterworths, 5<sup>th</sup> ed, 2013)
- Tim Paine, *Torts*, Q&A series (LexisNexis Butterworths, 3<sup>rd</sup> ed, 2012) – helpful for guidance on hypotheticals (examples, feedback, practice), chapter is useful on interpreting the Civil Liability legislation, chapter 11 contains revision questions
- Martin Davies and Ian Malkin, *Torts* (LexisNexis Butterworths, 6<sup>th</sup> ed, 2012) – text and short case extracts; also helpful for guidance on hypotheticals (examples, feedback, practice)
- Julia Davis, *Connecting with Tort Law* (Oxford University Press, 2012)
- Pam Stewart and Anita Stuhmcke, *Australian Principles of Tort Law* (Federation Press, 3<sup>rd</sup> ed, 2012)
- Kit Barker, Peter Cane, Mark Lunney, Francis Trindade, *The Law of Torts in Australia* (Oxford University Press, 5<sup>th</sup> ed, 2011)
- *Torts Law Journal*, *Australian Civil Liability*, *Tort Law Review*, and Australian Torts Reporter

## Technology

This unit uses iLearn, iLecture (Echo 360); Grademark and Turnitin

## Unit Schedule

### Weekly schedule

Week	Description and readings
1	<i>Introduction to torts: law and theory; introduction to intentional torts</i> <u>READING</u> : Ch 1, pp 3-22; Ch 2 pp 25-37
2	<i>Intentional interference with the person, trespass to land, interference with chattels</i> <u>READING</u> : Ch3, pp39-68, Ch 4 pp 77-90; Ch 5 pp 98-128
3	<i>Defences to intentional torts</i> <u>READING</u> : Ch 6 pp141-175; Ch 16 pp 760-777
4	<i>Negligence: duty of care - general principles</i> <u>READING</u> : Ch 7 pp 179 -227
5	<i>Negligence: duty of care (cont) - categories of harm</i> <u>READING</u> : Ch 8 pp 230 -278
6	<i>Negligence: duty of care (cont) - special parties</i> <u>READING</u> : Ch 8, pp 278-301; Ch 9 pp 303-326
7	<i>Negligence: duty of care (cont) - special parties (cont)</i> <u>READING</u> : Ch 9 pp 326-375
<b>Mid-semester recess – OCS 21 &amp; 22 September</b>	
8	<i>Negligence: standard of care and breach of duty</i> <u>READING</u> : Ch 10 pp 378- 422
9	<i>Negligence: standard of care and breach of duty (cont)</i> <u>READING</u> : Ch 10 pp 422-445 and 451-471 <b>The lecture for this week will be iLecture only (Monday public holiday)</b> <b>There will be no tutorials this week</b>
10	<i>Negligence: damage, causation, remoteness</i> <u>READING</u> : Ch 11, pp 474 -502



11	<i>Negligence: damage, causation and remoteness (cont)</i> <u>READING</u> : Ch 11 pp 502-548
12	<i>Negligence: concurrent liability</i> <u>READING</u> : Ch 13 pp 621-667
13	<i>Negligence: defences</i> <u>READING</u> : Ch 14, pp 674-713

## On Campus Session Program

<b>Monday 21 September 2015</b>	
Time	Description and readings
8.30-8.50	Sign Attendance Register at COE Front Office X5B Level 1
9.00-10.30	<i>Introduction and overview of course to date</i>
10.30-10.45	Break
10.45-12.15	<i>Collaborative problem solving: intentional torts, negligence</i>
12.15-1.00	Lunch
1.00-2.30	<i>Moots: negligence</i>
2.30-2.45	Break
2.45-4.15	<i>Written legal argument and professional writing (overnight task)</i>
4.15-4.30	Consultation (optional)
<b>Tuesday 22 September 2015</b>	
9.00-10.30	<i>Collaborative problem solving: negligence</i>
10.30-10.45	Break
10.45-12.15	<i>Moots: negligence and defences</i>
12.15-1.00	Lunch

1.00-2.30	<i>Discussion, reflection and debate: tort law theory and policy</i>
2.30-2.45	Break
2.45-4.15	<i>Presentation of written work and summing up</i>
4.15-4.30	Consultation (optional)

## Learning and Teaching Activities

### Lectures

Lectures from teaching staff

### On Campus Sessions (OCS)

Small group discussion of unit content, collaborative legal problem solving, mooting, reflection and debate

### Mooting

Argument of hypothetical cases by students in OCS

### Reflection and debate

Reflecting on and debating issues of theory and policy in OCS

### Collaborative problem solving

Small group collaborative problem solving in OCS

### Research

Individual research on matters of law, theory or policy concerning tort law

### Reading

Individual reading of journal articles, resources, prescribed textbook and legislation

### Legal writing

Preparation of written legal and policy argument and advice

## 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).

## Submissions after deadline

**In the absence of a successful application for special consideration due to a disruption to studies, any assessment task submitted after its published deadline will not be graded and will receive a mark of zero. Applications for a Disruption to Studies are made electronically via [ask.mq.edu.au](http://ask.mq.edu.au) and should be accompanied by supporting documentation. Students should refer to the [Disruption to Studies policy](#) for complete details of the policy and a description of the supporting documentation required.**

## Word limits

Word limits will be strictly applied and work above the word limit will not be marked.

## Assessment submission and plagiarism

All assessments in the unit are to be submitted electronically. Plagiarism detection software is used in this unit.

## 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

### 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

- Discern problems and gaps in tort law (case law and legislation) and areas of contention for legal argument or development
- Debate current policy issues in tort law

### Assessment tasks

- Assignment 2
- Final Assessment
- OCS participation

### 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**

- Judge which of competing arguments in tort law is more likely to be accepted by Australian courts and explain your reasoning
- Evaluate how tort law and developments impact on the work of legal practitioners and legal managers in public and private practice
- Present legal or policy advice or argument in a balanced, professional and audience-appropriate style

## **Assessment tasks**

- Assignment 1
- Assignment 2
- Final Assessment
- OCS 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 outcome**

- Reflect on how you have analysed legal problems and policy issues and incorporate lessons learned

## **Assessment tasks**

- Assignment 1
- Assignment 2
- OCS 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**

- Identify the authoritative sources of tort law in Australia through a combination of knowledge of tort law and legal research
- Competently synthesise and interpret case law and statute law applicable to tort law problems
- Describe the elements of a cause of action for each of the intentional torts and negligence
- Apply knowledge of tort law to analyse and evaluate legal problems
- Evaluate and critique legal reasoning in significant tort law cases and lines of authority
- Discern problems and gaps in tort law (case law and legislation) and areas of contention for legal argument or development
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- Judge which of competing arguments in tort law is more likely to be accepted by Australian courts and explain your reasoning
- Describe the theoretical approaches to tort law
- Debate current policy issues in tort law
- Evaluate how tort law and developments impact on the work of legal practitioners and legal managers in public and private practice
- Analyse and solve problems collaboratively

## **Assessment tasks**

- Assignment 1
- Assignment 2
- Final Assessment
- OCS 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**

- Evaluate and critique legal reasoning in significant tort law cases and lines of authority
- Discern problems and gaps in tort law (case law and legislation) and areas of contention for legal argument or development
- Debate current policy issues in tort law
- Evaluate how tort law and developments impact on the work of legal practitioners and legal managers in public and private practice

## **Assessment tasks**

- Assignment 1
- Assignment 2
- Final Assessment
- OCS 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**

- Identify the authoritative sources of tort law in Australia through a combination of knowledge of tort law and legal research
- Apply knowledge of tort law to analyse and evaluate legal problems
- Evaluate and critique legal reasoning in significant tort law cases and lines of authority
- Judge which of competing arguments in tort law is more likely to be accepted by Australian courts and explain your reasoning
- Analyse and solve problems collaboratively

## **Assessment tasks**

- Assignment 1
- Assignment 2
- Final Assessment
- OCS 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

- Express arguments clearly, logically, concisely, in plain English and with supporting legal authority
- Present legal or policy advice or argument in a balanced, professional and audience-appropriate style

### Assessment tasks

- Assignment 1
- Assignment 2
- Final Assessment
- OCS 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:

### Assessment tasks

- Final Assessment
- OCS participation

## 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 outcomes

- Debate current policy issues in tort law
- Analyse and solve problems collaboratively

## Assessment tasks

- Assignment 1
- Assignment 2
- Final Assessment
- OCS participation

## Changes from Previous Offering

There have been no changes made to previous offerings of this course.