



# LAW 203

## Torts

S2 Day 2016

*Dept of Law*

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### Disclaimer

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## General Information

Unit convenor and teaching staff

Unit Convenor

Caitriona McCabe

[caitriona.mccabe@mq.edu.au](mailto:caitriona.mccabe@mq.edu.au)

Contact via [Contact via caitriona.mccabe@mq.edu.au](mailto:caitriona.mccabe@mq.edu.au)

W3A519

Monday 9.30am to 10.30am and other times by appointment

Holly Doel-Mackaway

[holly.doel-mackaway@mq.edu.au](mailto:holly.doel-mackaway@mq.edu.au)

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 BSecStudLLB 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 different theoretical approaches to tort law and relate these approaches to a range of problems and settings.

Explain the roles and functions of the law of torts; differentiate between different types of torts and categories of liability, including strict, vicarious, concurrent and fault based liability, and the distinguishing features of each.

Apply the ratio of a relevant case or series of cases, identifying issues and commenting on reasoning, relevant statutory provisions, and the interaction between the two, accurately and concisely to various contexts.

Construct, present and evaluate oral and written arguments about tort law, drawing on relevant precedent and policy considerations; integrate and synthesise learning and knowledge about torts from a range of sources and engage in independent legal and scholarly research.

Work effectively in teams and individually to analyse hypothetical fact situations, identify legal, ethical and factual issues involving the law of torts, and apply the relevant law to solve tort problems; take responsibility for learning; manage time productively; demonstrate capacity to plan a task and work to achieve it; reflect on learning.

Discuss and analyse the legal components of selected property torts including nuisance, trespass to land and chattels, conversion; intentional torts to the person including assault, battery, false imprisonment, action on the case; appropriate defences.

Explain and analyse the common law and statutory components of a negligence action including duty of care, breach, causation, harm and relevant defences; demonstrate understanding of duty of care in a variety of contexts including statutory authorities; discuss and evaluate statutory changes to the common law of negligence, the assumptions underpinning those changes, and their impact.

## **General Assessment Information**

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 will be strictly applied and work above the word limit will not be marked. All assessments in the unit are to be submitted electronically. Plagiarism detection software is used in this unit.

Detailed marking rubrics will be made available on iLearn. Markers in this unit undertake a process of 'blind marking' to establish a common marking standard and all Fail papers are double marked.

## Assessment Tasks

Name	Weighting	Due
<u>Tutorial Participation / OCS</u>	30%	Weeks 1 - 12
<u>Hypothetical Problem Solving</u>	40%	9pm Monday 10th October
<u>Quiz</u>	30%	9pm Monday 31st October

### Tutorial Participation / OCS

Due: **Weeks 1 - 12**

Weighting: **30%**

See rubric posted on iLearn for criteria and descriptors.

Specific readings and exercises will be set for each tutorial. The tutorial program is set out on iLearn in a weekly format.

External students will be assessed on their participation at the compulsory on-campus session to be held on the 27th and 28th September.

External students should also undertake the readings and look at the exercises for the tutorials, as this material will form the basis for the activities undertaken at the on campus session. More information on the structure of the on campus session will be provided closer to the time on iLearn.

Tutors will engage in ongoing assessment of student participation in the tutorial discussions, debates, exercises and any other activities using the following criteria:

- 1. Preparation and understanding of material:** the student has listened to the lecture materials and other learning resources provided online, read the required reading and has attempted to link the tutorial materials to the lectures, to other course materials and to their life experience.
- 2. Ability to critically discuss the material:** the student is able to critically discuss the tutorial materials and contributes to class discussions in a way that assists the learning of others.
- 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, debates and other activities assigned by the tutor. 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 good communication skills and engage with others in a respectful and professional manner.

From time to time, tutors will collect examples of student work completed in tutorials. Tutors may

set impromptu quizzes in class or at the on campus session to assess a student's knowledge of the tutorial preparation material.

If you cannot attend a tutorial you must send a message to your tutor on iLearn to inform them of your absence. Your tutor may assign you work to complete in lieu of attendance.

Extended absences of more than two tutorials must meet the criteria for Disruption to Studies. Applications for Disruptions to Studies are made online at [ask.mq.edu.au](http://ask.mq.edu.au) in response to a serious and unavoidable event.

On successful completion you will be able to:

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- Explain the roles and functions of the law of torts; differentiate between different types of torts and categories of liability, including strict, vicarious, concurrent and fault based liability, and the distinguishing features of each.
- Apply the ratio of a relevant case or series of cases, identifying issues and commenting on reasoning, relevant statutory provisions, and the interaction between the two, accurately and concisely to various contexts.
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- Work effectively in teams and individually to analyse hypothetical fact situations, identify legal, ethical and factual issues involving the law of torts, and apply the relevant law to solve tort problems; take responsibility for learning; manage time productively; demonstrate capacity to plan a task and work to achieve it; reflect on learning.
- Discuss and analyse the legal components of selected property torts including nuisance, trespass to land and chattels, conversion; intentional torts to the person including assault, battery, false imprisonment, action on the case; appropriate defences.
- Explain and analyse the common law and statutory components of a negligence action including duty of care, breach, causation, harm and relevant defences; demonstrate understanding of duty of care in a variety of contexts including statutory authorities; discuss and evaluate statutory changes to the common law of negligence, the assumptions underpinning those changes, and their impact.

## Hypothetical Problem Solving

Due: **9pm Monday 10th October**

Weighting: **40%**

Please see ilearn page for full details of problem question.

This essay will test students knowledge of tort law and theory.

Students will also be assessed on their ability to apply the principles of plain English.

All work is to be submitted via Turnitin on iLearn.

Late submissions will not be marked and will receive a score of 0.

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## Quiz

Due: **9pm Monday 31st October**

Weighting: **30%**

This is a time limited quiz of one hour to test students understanding of all the unit materials.

Students can open the quiz at any time after 6pm. The quiz will automatically shut down at 9pm. Students will have one hour to complete the quiz from the time that they open it. When one hour has expired, all saved answers will be automatically submitted.

Full details will be released on iLearn.

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## **Delivery and Resources**

There are no "live" lectures for this unit. This unit is delivered via online learning content and a weekly one hour tutorial from weeks 1-12 for internal students and a compulsory two day on campus session for external students.

The required text is: Sappideen, Vines & Watson, *Torts: Commentary & Materials* (Thomson Reuters, 12<sup>th</sup> ed, 2016). Available from the Macquarie University Co-op Bookshop.

Additional reading will be available via iLearn.

Students require access to a computer and a secure and reliable server. All Unit requirements and a weekly teaching and reading schedule are outlined in iLearn.

All assessments are to be submitted electronically via Turnitin.

## Unit Schedule

The complete schedule of readings, learning materials and tutorial requirements is outlined on iLearn	
<b>Week 1 - NB Tutorials start in week 1</b> <b>Introduction to Torts: Law and Theory</b>	
<b>Week 2</b> <b>Trespass to the Person and Interference with Chattels</b>	
<b>Week 3</b> <b>Trespass to Land and Nuisance</b>	
<b>Week 4</b> <b>Defences to Intentional Torts</b>	
<b>Week 5</b> <b>Negligence: Duty of Care Principles</b>	
<b>Week 6</b> <b>Negligence: Duty of Care Categories of Harm and Recovery of Loss</b>	
<b>Week 7</b> <b>Negligence: Duty of Care Categories of Harm and Recovery of Loss (continued)</b>	
<b>Week 8</b> <b>Negligence: Special Parties</b>	
<b>Week 9</b> <b>Negligence: Standard of Care and Breach of Duty</b>	
<b>Week 10</b> <b>Negligence: Causation</b>	
<b>Week 11</b> <b>Negligence: Challenges to Causation</b>	



Week 12	
Negligence: Concurrent Liability and Defences	
Week 13	
Revision	

## Learning and Teaching Activities

### Development of analytical and research skills in tort law.

Students will be presented with a variety of legal problems related to the application of the law and principles of tort law and will be expected to engage in class discussions, debates and other activities to develop their tort law analytical research skills.

## 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)

**New Assessment Policy in effect from Session 2 2016** [http://mq.edu.au/policy/docs/assessment/policy\\_2016.html](http://mq.edu.au/policy/docs/assessment/policy_2016.html). For more information visit [http://students.mq.edu.au/events/2016/07/19/new\\_assessment\\_policy\\_in\\_place\\_from\\_session\\_2/](http://students.mq.edu.au/events/2016/07/19/new_assessment_policy_in_place_from_session_2/)

Assessment Policy prior to Session 2 2016 <http://mq.edu.au/policy/docs/assessment/policy.html>

Grading Policy prior to Session 2 2016 <http://mq.edu.au/policy/docs/grading/policy.html>

Grade Appeal Policy <http://mq.edu.au/policy/docs/gradeappeal/policy.html>

Complaint Management Procedure for Students and Members of the Public [http://www.mq.edu.au/policy/docs/complaint\\_management/procedure.html](http://www.mq.edu.au/policy/docs/complaint_management/procedure.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://www.mq.edu.au/about\\_us/offices\\_and\\_units/information\\_technology/help/](http://www.mq.edu.au/about_us/offices_and_units/information_technology/help/).

When using the University's IT, you must adhere to the [Acceptable Use of IT Resources 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

- Identify different theoretical approaches to tort law and relate these approaches to a range of problems and settings.
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## **Assessment tasks**

- Tutorial Participation / OCS
- Hypothetical Problem Solving

## **Learning and teaching activities**

- Students will be presented with a variety of legal problems related to the application of the law and principles of tort law and will be expected to engage in class discussions, debates and other activities to develop their tort law analytical research skills.

## **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**

- Explain the roles and functions of the law of torts; differentiate between different types of torts and categories of liability, including strict, vicarious, concurrent and fault based liability, and the distinguishing features of each.
- Apply the ratio of a relevant case or series of cases, identifying issues and commenting on reasoning, relevant statutory provisions, and the interaction between the two, accurately and concisely to various contexts.

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## **Assessment tasks**

- Tutorial Participation / OCS
- Hypothetical Problem Solving
- Quiz

## **Learning and teaching activities**

- Students will be presented with a variety of legal problems related to the application of the law and principles of tort law and will be expected to engage in class discussions, debates and other activities to develop their tort law analytical research skills.

## **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**

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## **Assessment tasks**

- Tutorial Participation / OCS
- Hypothetical Problem Solving

## **Learning and teaching activities**

- Students will be presented with a variety of legal problems related to the application of the law and principles of tort law and will be expected to engage in class discussions, debates and other activities to develop their tort law analytical research skills.

## **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 different theoretical approaches to tort law and relate these approaches to a range of problems and settings.
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## **Assessment tasks**

- Tutorial Participation / OCS
- Hypothetical Problem Solving
- Quiz

## **Learning and teaching activities**

- Students will be presented with a variety of legal problems related to the application of

the law and principles of tort law and will be expected to engage in class discussions, debates and other activities to develop their tort law analytical research skills.

## 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.

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### Learning outcomes

- Identify different theoretical approaches to tort law and relate these approaches to a range of problems and settings.
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## Assessment tasks

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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.

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## Learning outcomes

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- Tutorial Participation / OCS
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## **Learning and teaching activities**

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## **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**

- Construct, present and evaluate oral and written arguments about tort law, drawing on relevant precedent and policy considerations; integrate and synthesise learning and knowledge about torts from a range of sources and engage in independent legal and scholarly research.
- Work effectively in teams and individually to analyse hypothetical fact situations, identify legal, ethical and factual issues involving the law of torts, and apply the relevant law to solve tort problems; take responsibility for learning; manage time productively; demonstrate capacity to plan a task and work to achieve it; reflect on learning.
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## **Assessment tasks**

- Tutorial Participation / OCS
- Hypothetical Problem Solving
- Quiz

## **Learning and teaching activities**

- Students will be presented with a variety of legal problems related to the application of the law and principles of tort law and will be expected to engage in class discussions, debates and other activities to develop their tort law analytical research skills.

## **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 outcomes**

- Identify different theoretical approaches to tort law and relate these approaches to a range of problems and settings.
- Explain the roles and functions of the law of torts; differentiate between different types of torts and categories of liability, including strict, vicarious, concurrent and fault based liability, and the distinguishing features of each.
- Construct, present and evaluate oral and written arguments about tort law, drawing on relevant precedent and policy considerations; integrate and synthesise learning and knowledge about torts from a range of sources and engage in independent legal and scholarly research.
- Work effectively in teams and individually to analyse hypothetical fact situations, identify legal, ethical and factual issues involving the law of torts, and apply the relevant law to solve tort problems; take responsibility for learning; manage time productively; demonstrate capacity to plan a task and work to achieve it; reflect on learning.

- Discuss and analyse the legal components of selected property torts including nuisance, trespass to land and chattels, conversion; intentional torts to the person including assault, battery, false imprisonment, action on the case; appropriate defences.
- Explain and analyse the common law and statutory components of a negligence action including duty of care, breach, causation, harm and relevant defences; demonstrate understanding of duty of care in a variety of contexts including statutory authorities; discuss and evaluate statutory changes to the common law of negligence, the assumptions underpinning those changes, and their impact.

## **Assessment tasks**

- Tutorial Participation / OCS
- Hypothetical Problem Solving
- Quiz

## **Learning and teaching activities**

- Students will be presented with a variety of legal problems related to the application of the law and principles of tort law and will be expected to engage in class discussions, debates and other activities to develop their tort law analytical research skills.

## **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**

- Identify different theoretical approaches to tort law and relate these approaches to a range of problems and settings.
- Apply the ratio of a relevant case or series of cases, identifying issues and commenting on reasoning, relevant statutory provisions, and the interaction between the two, accurately and concisely to various contexts.
- Construct, present and evaluate oral and written arguments about tort law, drawing on relevant precedent and policy considerations; integrate and synthesise learning and knowledge about torts from a range of sources and engage in independent legal and scholarly research.
- Work effectively in teams and individually to analyse hypothetical fact situations, identify legal, ethical and factual issues involving the law of torts, and apply the relevant law to

solve tort problems; take responsibility for learning; manage time productively; demonstrate capacity to plan a task and work to achieve it; reflect on learning.

- Discuss and analyse the legal components of selected property torts including nuisance, trespass to land and chattels, conversion; intentional torts to the person including assault, battery, false imprisonment, action on the case; appropriate defences.
- Explain and analyse the common law and statutory components of a negligence action including duty of care, breach, causation, harm and relevant defences; demonstrate understanding of duty of care in a variety of contexts including statutory authorities; discuss and evaluate statutory changes to the common law of negligence, the assumptions underpinning those changes, and their impact.

## **Assessment tasks**

- Tutorial Participation / OCS
- Hypothetical Problem Solving
- Quiz

## **Learning and teaching activities**

- Students will be presented with a variety of legal problems related to the application of the law and principles of tort law and will be expected to engage in class discussions, debates and other activities to develop their tort law analytical research skills.