



# LAWS104

## Contracts

S2 Day 2017

*Dept of Law*

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### Disclaimer

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## General Information

Unit convenor and teaching staff

Unit Convenor

Ilija Vickovich

[ilija.vickovich@mq.edu.au](mailto:ilija.vickovich@mq.edu.au)

Contact via [ilija.vickovich@mq.edu.au](mailto:ilija.vickovich@mq.edu.au)

W3A 624

Monday 11am-12pm

Tutor

Lucy Bylhouwer

[lucy.bylhouwer@mq.edu.au](mailto:lucy.bylhouwer@mq.edu.au)

Tutor

Julian Dight

[julian.dight@mq.edu.au](mailto:julian.dight@mq.edu.au)

Credit points

3

Prerequisites

LAW115

Corequisites

Co-badged status

LAW204 Contracts

Unit description

The law of contracts is a fundamental area of study for an undergraduate degree in law and serves as the basis for a variety of later core and elective units. This unit equips students with a knowledge of essential doctrinal principles of contract law and the capacity to apply legal problem solving skills to the resolution of contractual disputes. It covers the formation of contracts, the contents and interpretation of contractual terms, the vitiating factors affecting contract formation, the discharge of contractual liabilities and other related issues such as formal requirements, illegality and privity of contract. In addition, the unit conveys an understanding of the main competing philosophies of contract and the practical role of contracts in a broader social and historical context.

## Important Academic Dates

Information about important academic dates including deadlines for withdrawing from units are

available at <https://www.mq.edu.au/study/calendar-of-dates>

## Learning Outcomes

On successful completion of this unit, you will be able to:

Describe the legal principles relating to contract law.

Explain the main competing philosophies underpinning contract law and describe the role of contracts in a historical and social context

Formulate, present and evaluate oral and written arguments about contract law, drawing upon relevant precedent and policy considerations.

Analyse hypothetical fact situations, identify legal and factual issues involving the law relating to contract law, and apply relevant principles to solve legal problems.

Demonstrate research, writing and referencing skills appropriate to students undertaking a 100 level unit.

## General Assessment Information

In the absence of a successful **disruption to studies application**, any assessment task submitted after its published deadline will not be graded and will receive a mark of zero.

Applications for Disruption to Studies are made electronically via [ask.mq.edu.au](https://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.

The assignment and quiz assessments tasks in this unit are to be submitted electronically. Plagiarism detection software is used in this unit.

## Assessment Tasks

Name	Weighting	Hurdle	Due
<a href="#">Early Assessment</a>	10%	No	Week 4
<a href="#">Assignment</a>	30%	No	15 Sep (int); 29 Sep (ext)
<a href="#">Mid-Semester Assessment</a>	10%	No	Week 9
<a href="#">Final Exam</a>	40%	No	Examination Period
<a href="#">Class Participation</a>	10%	No	Weekly (int); OCS (ext)

## Early Assessment

Due: **Week 4**

Weighting: **10%**

The early assessment task is an **online multiple choice test** to take place on the weekend following the conclusion of **week 4 (Sat-Sun 26-27 August)**. This assessment task's purpose is to engage students with their unit early in the session and to provide an opportunity for relatively early feedback. The questions will be drawn from the topics covered in lectures and readings of the first three weeks of the unit schedule. The multiple choice test will consist of 20 multiple choice questions to be completed in 25 minutes. Further instructions to students about completing the quiz online will be posted in due course.

Students who are unable to sit for the test at the designated time **must not attempt it at all** and must make a disruption to study application. If it is approved, they may sit for an equivalent paper test by appointment with the unit convenor in his office. **Failure to complete the quiz will result in zero marks for this assessment.**

On successful completion you will be able to:

- Describe the legal principles relating to contract law.

## Assignment

Due: **15 Sep (int); 29 Sep (ext)**

Weighting: **30%**

The Assignment in this unit will be a **hypothetical problem question** and will be available on iLearn in week 2. The assignment must be a properly referenced formal response with appropriate analysis and argument supported by relevant authoritative cases and commentary. The assignment is to be submitted on the Turnitin link in iLearn. The maximum length is **1,700 words (excluding footnotes)**. The actual word length must be stated on the assignment. Word limits will be strictly applied and work above the word limit will not be marked. Footnotes are not to include substantive material. In completing their assignment, students must comply with the *Australian Guide to Legal Citation* (3rd ed). The Guide is available at:

<http://mulr.law.unimelb.edu.au/go/AGLC3>

Assignments submitted **out of time** will not be marked unless a Disruption to Study application is lodged and approved in accordance with the university's disruption to study policy which is available at: [http://www.mq.edu.au/policy/docs/disruption\\_studies/policy.html](http://www.mq.edu.au/policy/docs/disruption_studies/policy.html).

If a student submits the **wrong assignment** (eg an assignment for another unit) it will not be marked and a zero mark will be recorded. It is the student's responsibility to submit the correct assignment in ALL units. Turnitin will accept only ONE assignment, so it is imperative that the final iteration of the assignment is submitted.

On successful completion you will be able to:

- Describe the legal principles relating to contract law.
- Formulate, present and evaluate oral and written arguments about contract law, drawing upon relevant precedent and policy considerations.
- Analyse hypothetical fact situations, identify legal and factual issues involving the law relating to contract law, and apply relevant principles to solve legal problems.
- Demonstrate research, writing and referencing skills appropriate to students undertaking a 100 level unit.

## Mid-Semester Assessment

Due: **Week 9**

Weighting: **10%**

The mid-semester assessment task is an **online multiple choice test** to take place on the weekend following the conclusion of **week 9 (Sat-Sun 14-15 Oct)**. The questions will be drawn from the topics covered in lectures and readings of weeks 5 and 6 of the unit schedule. The multiple choice test will consist of 20 multiple choice questions to be completed in 25 minutes. Further instructions to students about completing the quiz online will be posted in due course.

Students who are unable to sit for the test at the designated time **must not attempt it at all** and must make a disruption to study application. If it is approved, they may sit for an equivalent paper test by appointment with the unit convenor in his office. **Failure to complete the quiz will result in zero marks for this assessment.**

On successful completion you will be able to:

- Describe the legal principles relating to contract law.

## Final Exam

Due: **Examination Period**

Weighting: **40%**

The end of semester examination in this unit will be a **formal sit-down open book examination**. It will be based on material covered in the unit (more detailed information will be provided by the unit convenor). The examination will contain both hypothetical and essay questions. **Two hours plus 10 mins reading time will be provided.** The University's **examination period in Session 2 is from 13 Nov to 1 Dec 2017**. Students **must be available for examination** at the time and place designated in the University examination timetable. The timetable will be available in draft form approximately eight weeks before the commencement of the examinations and in final form approximately four weeks before the commencement of the examinations.

Any student who is unable to attend the final exam due to exceptional and unforeseen circumstances must contact the unit convenor at the earliest possible opportunity and also make an application, with appropriate evidence, in accordance with the university's Disruption to Study

policy. If approved, the student may be permitted to attend any supplementary exam that is held for the unit at a time and place determined by the unit convenor. In such cases, students must be prepared to attend the supplementary exam outside the official university exam period.

**FIT TO SIT MODEL** Macquarie University operates under a 'Fit to Sit' model. **This means that in sitting an exam and/or in-class test or otherwise submitting an assessment (including an online quiz), a student declares themselves fit to do so.** Therefore, if a student is feeling unfit to sit the exam or test, or otherwise submit the assessment (as the case may be), they should not do so. If a student sits an exam or test, or otherwise submits an assessment, knowing that they are unfit to do so, they will not be granted Special Consideration.

It is the responsibility of the student to determine whether they are fit to sit an examination or test or otherwise submit an assessment, or whether a Disruption to Studies claim should be submitted for non-participation.

A student's sitting an examination or test or otherwise submitting an assessment will not preclude the student from being granted Special Consideration if the student can demonstrate that:

- they were unfit to make reasonable judgement on their fitness to undertake the assessment, due to mental illness or other exceptional circumstances;
- they were taken ill during the assessment (in the case of an examination or test); or
- other exceptional circumstances beyond their control vitiated the Fit to Sit declaration.

On successful completion you will be able to:

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- Explain the main competing philosophies underpinning contract law and describe the role of contracts in a historical and social context
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- Analyse hypothetical fact situations, identify legal and factual issues involving the law relating to contract law, and apply relevant principles to solve legal problems.

## Class Participation

Due: **Weekly (int);OCS (ext)**

Weighting: **10%**

Internal students will participate in a **compulsory one-hour tutorial** every week that will provide the opportunity to explore, analyse and apply the principal doctrinal rules covered in lectures.

**Each student must enrol in a tutorial group and attend only that group for the duration of the semester** (unless, because of exceptional or unforeseen circumstances, the unit convenor's approval is obtained ). For internal students, outside work commitments are not to be taken into

account by the unit convenor if approval for change of tutorial group is sought. **Students who are unable to attend a tutorial should submit a disruption to study application through ask.mq.edu and comply with the university's disruption to study policy.** Students who have more than three unauthorised absences will receive a **zero grade** for class participation.

**For internal students, tutorials commence in Week 1 of the semester.** Tutorials will focus on addressing the set questions and exercises in the Tutorial Program, although other tutorial exercises may be distributed from time to time. Because of the minimal time available in tutorials, students will be expected to have attempted the questions at home in study time and to bring their notes to class where group discussion will take place. Students should be prepared to talk to any of the set questions when called upon to do so by their Tutor. Grading criteria for the class participation mark will be posted on the iLearn unit web page.

**External students will be expected to fulfil the class participation requirements at the compulsory On-Campus Session (Fri-Sat 22-23 Sep).** All external students must make the necessary personal and work arrangements to attend the On Campus Session. In the event of an exceptional and unforeseen inability to attend the On Campus Session, students must contact the unit convenor and also make an application with appropriate evidence under the university's disruption to study policy. If approved, the unit convenor will allocate written work to the student in lieu of attendance. **An unauthorised absence from the On Campus Session will result in zero marks for the class participation assessment.**

On successful completion you will be able to:

- Describe the legal principles relating to contract law.
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- Analyse hypothetical fact situations, identify legal and factual issues involving the law relating to contract law, and apply relevant principles to solve legal problems.

## Delivery and Resources

### Prescribed Materials

§ J Gooley, P Radan & I Vickovich, *Principles of Australian Contract Law*, 3rd ed, LexisNexis, Sydney, 2014

§ J Gooley, P Radan & I Vickovich, *Principles of Australian Contract Law: Cases & Materials*, 3rd ed, LexisNexis, Sydney, 2015

§ Notes and other additional materials available on iLearn.

#### Reference Materials

- Carter, Peden & Tolhurst, *Contract Law in Australia*, 5th ed, Lexis Nexis, 2007
- Graw, *An Introduction to the Law of Contract*, 7th ed, Thomson Reuters, 2011
- Paterson, Robertson & Duke, *Principles of Contract Law*, 5th ed, Thomson Reuters, 2015
- Seddon & Ellinghaus, *Cheshire & Fifoot's Law of Contract*, 9th Australian edition, LexisNexis, 2011
- Bruce, *Consumer Protection Law in Australia*, LexisNexis, 2011
- *Journal of Contract Law*

## Unit Schedule

### LECTURE AND TUTORIAL SCHEDULE

#### Session 2, 2017

### LECTURE SCHEDULE

#### Session 2, 2017

Week	Week Commencing	Lecture Topic	Tutorial Topic
1	31 July	Introduction to Contracts; Overview of Contract Remedies	Legal Problem Solving Model
2	6 August	Agreement – Offer and Acceptance	Introduction to Contracts; Overview of Contract Remedies
3	13 August	Consideration; Equitable Estoppel; Intention	Agreement – Offer and Acceptance
4	20 August	Certainty and Completeness; Capacity; Requirement of Writing	Consideration; Equitable Estoppel; Intention
5	27 August	Express Terms	Certainty and Completeness; Capacity; Requirement of Writing



6	4 September	Implied Terms; Construction of Terms; Exclusion Clauses	Express Terms
7	11 September	Misrepresentation; Misleading or Deceptive Conduct; Mistake	Implied Terms; Construction of Terms; Exclusion Clauses
		<b>Mid-Semester Break</b> <b>[On Campus Session 22-23 Sep]</b>	
8	2 October	Duress; Unconscionability; Undue Influence; Unjust Contracts	Misrepresentation; Misleading or Deceptive Conduct; Mistake
9	9 October	Discharge by Performance; Discharge by Agreement	Duress; Unconscionability; Undue Influence; Unjust Contracts
10	16 October	Discharge by Breach; Discharge by Frustration	Discharge by Performance; Discharge by Agreement
11	23 October	Illegality	Discharge by Breach; Discharge by Frustration
12	30 October	Privity; Contract Theory	Illegality
13	6 November	Contracts in Context; Exam Preparation	Privity

## 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\\_2016.html](http://mq.edu.au/policy/docs/assessment/policy_2016.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 (in effect until Dec 4th, 2017): [http://www.mq.edu.au/policy/docs/disruption\\_studies/policy.html](http://www.mq.edu.au/policy/docs/disruption_studies/policy.html)

Special Consideration Policy (in effect from Dec 4th, 2017): <https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policies/special-consideration>

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).

### Extensions

Any application for extensions of time must comply with the information provided in this Unit Guide under 'Assessment Tasks'. An application in accordance with the university's disruption to study policy will be required in all cases.

Students requiring special arrangements for the completion of any assessment task (including the final exam) due to any disability must contact Campus Wellbeing and seek advice. The unit convenor will deal with such cases only with the approval of Campus Wellbeing.

## 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

- Explain the main competing philosophies underpinning contract law and describe the role of contracts in a historical and social context
- Formulate, present and evaluate oral and written arguments about contract law, drawing upon relevant precedent and policy considerations.
- Analyse hypothetical fact situations, identify legal and factual issues involving the law relating to contract law, and apply relevant principles to solve legal problems.

### Assessment tasks

- Assignment
- Final Exam

## 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 main competing philosophies underpinning contract law and describe the role of contracts in a historical and social context
- Formulate, present and evaluate oral and written arguments about contract law, drawing upon relevant precedent and policy considerations.
- Analyse hypothetical fact situations, identify legal and factual issues involving the law relating to contract law, and apply relevant principles to solve legal problems.
- Demonstrate research, writing and referencing skills appropriate to students undertaking a 100 level unit.

## **Assessment tasks**

- Early Assessment
- Assignment
- Final Exam
- Class Participation

## **Commitment to Continuous Learning**

Our graduates will have enquiring minds and a literate curiosity which will lead them to pursue knowledge for its own sake. They will continue to pursue learning in their careers and as they participate in the world. They will be capable of reflecting on their experiences and relationships with others and the environment, learning from them, and growing - personally, professionally and socially.

This graduate capability is supported by:

## **Learning outcomes**

- Describe the legal principles relating to contract law.
- Explain the main competing philosophies underpinning contract law and describe the role of contracts in a historical and social context
- Formulate, present and evaluate oral and written arguments about contract law, drawing upon relevant precedent and policy considerations.
- Analyse hypothetical fact situations, identify legal and factual issues involving the law relating to contract law, and apply relevant principles to solve legal problems.

## Assessment tasks

- Early Assessment
- Assignment
- Mid-Semester Assessment
- Final Exam
- Class 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

- Describe the legal principles relating to contract law.
- Explain the main competing philosophies underpinning contract law and describe the role of contracts in a historical and social context
- Formulate, present and evaluate oral and written arguments about contract law, drawing upon relevant precedent and policy considerations.
- Analyse hypothetical fact situations, identify legal and factual issues involving the law relating to contract law, and apply relevant principles to solve legal problems.
- Demonstrate research, writing and referencing skills appropriate to students undertaking a 100 level unit.

## Assessment tasks

- Early Assessment
- Assignment
- Mid-Semester Assessment
- Final Exam
- Class Participation

## Critical, Analytical and Integrative Thinking

We want our graduates to be capable of reasoning, questioning and analysing, and to integrate and synthesise learning and knowledge from a range of sources and environments; to be able to

critique constraints, assumptions and limitations; to be able to think independently and systemically in relation to scholarly activity, in the workplace, and in the world. We want them to have a level of scientific and information technology literacy.

This graduate capability is supported by:

## **Learning outcomes**

- Explain the main competing philosophies underpinning contract law and describe the role of contracts in a historical and social context
- Formulate, present and evaluate oral and written arguments about contract law, drawing upon relevant precedent and policy considerations.
- Analyse hypothetical fact situations, identify legal and factual issues involving the law relating to contract law, and apply relevant principles to solve legal problems.
- Demonstrate research, writing and referencing skills appropriate to students undertaking a 100 level unit.

## **Assessment tasks**

- Assignment
- Final Exam
- Class 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**

- Describe the legal principles relating to contract law.
- Formulate, present and evaluate oral and written arguments about contract law, drawing upon relevant precedent and policy considerations.
- Analyse hypothetical fact situations, identify legal and factual issues involving the law relating to contract law, and apply relevant principles to solve legal problems.
- Demonstrate research, writing and referencing skills appropriate to students undertaking a 100 level unit.

## **Assessment tasks**

- Early Assessment

- Assignment
- Mid-Semester Assessment
- Final Exam
- Class Participation

## Effective Communication

We want to develop in our students the ability to communicate and convey their views in forms effective with different audiences. We want our graduates to take with them the capability to read, listen, question, gather and evaluate information resources in a variety of formats, assess, write clearly, speak effectively, and to use visual communication and communication technologies as appropriate.

This graduate capability is supported by:

### Learning outcomes

- Describe the legal principles relating to contract law.
- Formulate, present and evaluate oral and written arguments about contract law, drawing upon relevant precedent and policy considerations.
- Analyse hypothetical fact situations, identify legal and factual issues involving the law relating to contract law, and apply relevant principles to solve legal problems.
- Demonstrate research, writing and referencing skills appropriate to students undertaking a 100 level unit.

### Assessment tasks

- Early Assessment
- Assignment
- Mid-Semester Assessment
- Final Exam
- Class Participation

## Engaged and Ethical Local and Global citizens

As local citizens our graduates will be aware of indigenous perspectives and of the nation's historical context. They will be engaged with the challenges of contemporary society and with knowledge and ideas. We want our graduates to have respect for diversity, to be open-minded, sensitive to others and inclusive, and to be open to other cultures and perspectives: they should have a level of cultural literacy. Our graduates should be aware of disadvantage and social justice, and be willing to participate to help create a wiser and better society.

This graduate capability is supported by:

## Learning outcomes

- Explain the main competing philosophies underpinning contract law and describe the role of contracts in a historical and social context
- Formulate, present and evaluate oral and written arguments about contract law, drawing upon relevant precedent and policy considerations.

## Assessment tasks

- Early Assessment
- Assignment
- Mid-Semester Assessment
- Final Exam
- Class 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

- Explain the main competing philosophies underpinning contract law and describe the role of contracts in a historical and social context
- Formulate, present and evaluate oral and written arguments about contract law, drawing upon relevant precedent and policy considerations.

## Assessment task

- Class Participation