LAWS804

Law of Obligations II - Torts

S2 External 2017

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

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Credit points
4

Prerequisites
(LAWS803 and corequisite LAWS600) or (admission to JD in 2014)

Corequisites

Co-badged status

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

Important Academic Dates

Information about important academic dates including deadlines for withdrawing from units are available at https://www.mq.edu.au/study/calendar-of-dates

Learning Outcomes

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

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

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

Identify and articulate complex legal issues via engagement with hypothetical problem-based scenarios and other relevant materials.

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

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

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

General Assessment Information

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 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.

For external students, the on-campus session is compulsory. Students who are unable to attend must apply for a disruption to studies. If that application is accepted, alternative work will be set in lieu of on-campus attendance.

Detailed marking rubrics will be made available on iLearn, assessments are moderated by the convenor for consistency and all Fail papers are double marked.

Assessment Tasks

Name	Weighting	Hurdle	Due
Tutorial Participation	10%	No	Weekly
Hypothetical Problem Quiz	20%	No	9pm Wenesday, 6th September

Name	Weighting	Hurdle	Due
Research Essay	40%	No	9pm, Wednesday, 11th October
Final Exam	30%	No	9pm Thursday 16th November

Tutorial Participation

Due: **Weekly**
Weighting: **10%**

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

The Unit Convenor will engage in ongoing assessment of student participation in tutorials and at the OCS sessions in accordance with the marking rubric in iLearn using the following criteria: 1. Preparation and understanding of material: the student has listened to the lecture, read the required reading and has attempted to link the materials to the lectures and to other course materials; 2. Ability to think critically about the material: the student is able to think critically about the materials from different angles and is able to question the materials; 3. Clear expression of ideas: the student is able to clearly express their ideas about the materials; 4. Engaging with other students: the student engages with others in the class taking an active role in discussions, role plays, debates and other activities assigned by the convenor. The student responds to others in the class by listening to them, providing constructive feedback and asking questions. 5. Demonstration of skills: The student is able to demonstrate communication skills including good communication, presentation and reasoning skills. If you cannot attend a tutorial or an OCS session you must email the Unit Convenor to inform them of your absence. All communication will be conducted through the 'Communicate Privately with Teaching Staff' link on iLearn.

Extended absences from tutorials must meet the criteria for Disruption to Studies and be approved by the Unit Convenor. Applications for Disruption to Studies in relation to absence from tutorials are made online at ask.mq.edu.au after two weeks of absence in relation to the third missed class.

The Unit Convenor will raise any concerns about poor preparation or participation with the student involved through the 'Communicate Privately with Teaching Staff' link. Students will be given an opportunity to submit remedial work where there are concerns about participation or unexplained absences. Remedial work will be at the discretion of your tutor and may be different to exercises posted for preparation purposes through ilearn.

On successful completion you will be able to:

- Describe at an advanced level the fundamental doctrines, concepts, principles, values and sources (both common law and statute) for different types of torts and categories of liability.
- Recognise a number of contemporary developments in the law, and reflect upon how

such developments may impact upon tort-feasors and claimants.
- Identify and articulate complex legal issues via engagement with hypothetical problem-based scenarios and other relevant materials.
- Engage in critical legal reasoning, analysis and research to generate appropriate responses to tort-based legal issues.
- Communicate in ways that are effective, appropriate and persuasive for legal and non-legal audiences.
- Demonstrate a high level of autonomy, accountability and professionalism in relation to study, research, performance and conduct.

Hypothetical Problem Quiz

Due: **9pm Wenesday, 6th September**
Weighting: **20%**

There will be an online quiz to be completed in relation to the materials from weeks 1 - 4.

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

On successful completion you will be able to:

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

Research Essay

Due: **9pm, Wednesday, 11th October**
Weighting: **40%**

Please refer to iLearn for full details of the essay question.

All work is to be submitted via Turnitin on iLearn.

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

On successful completion you will be able to:

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- Recognise a number of contemporary developments in the law, and reflect upon how such developments may impact upon tort-feasors and claimants.
- Identify and articulate complex legal issues via engagement with hypothetical problem-based scenarios and other relevant materials.
- Engage in critical legal reasoning, analysis and research to generate appropriate responses to tort-based legal issues.
- Communicate in ways that are effective, appropriate and persuasive for legal and non-legal audiences.
- Demonstrate a high level of autonomy, accountability and professionalism in relation to study, research, performance and conduct.

Final Exam

Due: **9pm Thursday 16th November**
Weighting: **30%**

There will be an online quiz to be completed in relation to the materials from weeks 1 - 13.

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

On successful completion you will be able to:

- Describe at an advanced level the fundamental doctrines, concepts, principles, values and sources (both common law and statute) for different types of torts and categories of liability.
- Recognise a number of contemporary developments in the law, and reflect upon how such developments may impact upon tort-feasors and claimants.
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legal audiences.

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Delivery and Resources

1. Resources

PRESCRIBED MATERIALS

1) Carolyn Sappideen, Prue Vines, *Torts: Commentary and Materials* (Thomson Reuters, 12th ed, 2016)

2) Civil Liability Act 2002 (NSW)

3) Lectures and associated materials

4) Primary and secondary source materials (eg. cases, statutes, articles)

5) Online materials

6) Seminar activity materials

REFERENCE MATERIALS

Suggested materials for further reference include:

JOURNALS

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

ONLINE MATERIALS

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

TEXTS

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

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

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

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

2.Teaching and Learning Activities

Lectures	Weekly lectures from staff are pre-recorded and posted online on ilearn each week from Week 1 to Week 13 - for all students (external and internal).
Seminars	Seminars in which legal principles and complex legal issues are examined, critiqued and analysed by students and staff. (Seminars for internal students begin in Week 1 and end in Week 12; external students will attend on campus sessions as scheduled).
Reading and writing	Students will have personal responsibility for reading all materials, note taking, and preparation of written answers to seminar questions, assignments and exam.
Collaboration	Students are encouraged to form study groups to discuss course content, engage in online discussion with each other, and to prepare answers to seminar questions jointly.
Communication	Discussion of legal principles, issues and hypotheticals both in and out of class; students will be called upon in class.
Self-Directed Learning	Students will complete self-directed learning tasks using online resources and other materials as required.

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

Unit Schedule

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

Week 1 - NB Tutorials start in week 1 **Introduction to Torts: Law and Theory**	
Week 2 **Trespass to the Person and Interference with Chattels**	
Week 3 **Trespass to Land and Nuisance**	
Week 4 **Defences to Intentional Torts**	
Week 5 **Negligence: Duty of Care Principles**	
Week 6 **Negligence: Duty of Care Categories of Harm and Recovery of Loss**	

Week 7 **Negligence: Duty of Care Categories of Harm and Recovery of Loss (continued)**	
Week 8 **Negligence: Special Parties**	
Week 9 **Negligence: Standard of Care and Breach of Duty**	
Week 10 **Negligence: Causation**	
Week 11 **Negligence: Challenges to Causation**	
Week 12 **Negligence: Concurrent Liability and Defences**	
Week 13 **Revision**	

Learning and Teaching Activities

Development of in-depth analytical and research skills in tort law and engagement with social science doctrine

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 and gain sophisticated insight into the broader context of tort law in society.

Policies and Procedures

Macquarie University policies and procedures are accessible from Policy Central. Students should be aware of the following policies in particular with regard to Learning and Teaching:

Academic Honesty Policy http://mq.edu.au/policy/docs/academic_honesty/policy.html

Assessment Policy http://mq.edu.au/policy/docs/assessment/policy_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

Disruption to Studies Policy (in effect until Dec 4th, 2017): 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/

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.

Student Support

Macquarie University provides a range of support services for students. For details, visit http://students.mq.edu.au/support/

Learning Skills

Learning Skills (mq.edu.au/learningskills) provides academic writing resources and study strategies to improve your marks and take control of your study.

- Workshops
- StudyWise
- Academic Integrity Module for Students
- Ask a Learning Adviser

Student Services and Support

Students with a disability are encouraged to contact the Disability Service who can provide appropriate help with any issues that arise during their studies.

Student Enquiries

For all student enquiries, visit Student Connect at ask.mq.edu.au

IT Help

For help with University computer systems and technology, visit http://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

PG - Capable of Professional and Personal Judgment and Initiative

Our postgraduates will demonstrate a high standard of discernment and common sense in their professional and personal judgment. They will have the ability to make informed choices and decisions that reflect both the nature of their professional work and their personal perspectives.

This graduate capability is supported by:

Learning outcomes

- Describe at an advanced level the fundamental doctrines, concepts, principles, values and sources (both common law and statute) for different types of torts and categories of liability.
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- Demonstrate a high level of autonomy, accountability and professionalism in relation to study, research, performance and conduct.

Assessment tasks

- Tutorial Participation
- Hypothetical Problem Quiz
- Research Essay
- Final Exam

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 and gain sophisticated insight into the broader context of tort law in society.

PG - Discipline Knowledge and Skills

Our postgraduates will be able to demonstrate a significantly enhanced depth and breadth of

knowledge, scholarly understanding, and specific subject content knowledge in their chosen fields.

This graduate capability is supported by:

Learning outcomes

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

Our postgraduates will be capable of utilising and reflecting on prior knowledge and experience, of applying higher level critical thinking skills, and of integrating and synthesising learning and knowledge from a range of sources and environments. A characteristic of this form of thinking is the generation of new, professionally oriented knowledge through personal or group-based critique of practice and theory.

This graduate capability is supported by:

Learning outcomes

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PG - Research and Problem Solving Capability

Our postgraduates will be capable of systematic enquiry; able to use research skills to create new knowledge that can be applied to real world issues, or contribute to a field of study or practice to enhance society. They will be capable of creative questioning, problem finding and problem solving.

This graduate capability is supported by:

Learning outcomes

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

liability.

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

Our postgraduates will be able to communicate effectively and convey their views to different social, cultural, and professional audiences. They will be able to use a variety of technologically supported media to communicate with empathy using a range of written, spoken or visual formats.

This graduate capability is supported by:

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Learning and teaching activities

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PG - Engaged and Responsible, Active and Ethical Citizens

Our postgraduates will be ethically aware and capable of confident transformative action in relation to their professional responsibilities and the wider community. They will have a sense of connectedness with others and country and have a sense of mutual obligation. They will be able to appreciate the impact of their professional roles for social justice and inclusion related to national and global issues

This graduate capability is supported by:

Learning outcomes

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

Textbook has been updated to include recent legal developments.

Changes since First Published

Date	Description
05/09/2017	Exam date changed from 15th November to 16th November as previously announced.