



# LAWS521

## Foundations of Commercial Law

S2 External 2017

*Dept of Law*

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#### **Disclaimer**

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## General Information

Unit convenor and teaching staff

Unit Convenor

Shayne Davenport

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Contact via [shayne.davenport@mq.edu.au](mailto:shayne.davenport@mq.edu.au)

By appointment

Credit points

3

Prerequisites

(24cp in LAW or LAWS units including (LAWS104 or LAW204)) or (39cp at 100 level or above including BUSL250 and BUSL301)

Corequisites

Co-badged status

Unit description

The unit begins with an historical introduction to commercial law and then proceeds to examine its purpose, who uses it, how far it should extend and the role and effect of lawyers on commercial law and the market place. The second half of the unit has a detailed examination of the sale of goods and other important commercial areas such as agency, insurance law, negotiable instruments, security over goods and bankruptcy. Particular emphasis is placed on the relationship between the common law in these areas and the working of the market.

## Important Academic Dates

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

## Learning Outcomes

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

- Demonstrate an understanding of the historical and conceptual development of commercial law and formulate some ideas of how it might develop in the future
- Communicate a considered opinion about the role that commercial law plays in commercial relationships and also the importance of factors other than the law in forming and maintaining these relationships

Critically appraise specific current issues in contract law particularly related to commercial transactions

Demonstrate strong foundational understanding of the law relating to the major commercial transactions in Australia

Effectively communicate legal and commercial information through class presentations and participation

## General Assessment Information

### Macquarie Law School Assessment Policy

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.

### Moderation

Detailed marking guidelines will be made available on iLearn. The convenor moderates all assessments. All Fail research essays and take-home exams are double marked.

## Assessment Tasks

Name	Weighting	Hurdle	Due
<a href="#">Research essay</a>	40%	No	Wednesday 6 September, 5pm
<a href="#">Tutorial participation</a>	20%	No	weeks 2 - 13
<a href="#">Final take home examination</a>	40%	No	Tuesday 14 November 8pm

### Research essay

Due: **Wednesday 6 September, 5pm**

Weighting: **40%**

The essay will be based on the material covered in the first 3 lectures. Word limit 1500 words. Further information will be available on ilearn and on the essay question itself. Referencing in accordance with AGLC (3rd ed) required

On successful completion you will be able to:

- Demonstrate an understanding of the historical and conceptual development of commercial law and formulate some ideas of how it might develop in the future
- Communicate a considered opinion about the role that commercial law plays in commercial relationships and also the importance of factors other than the law in forming and maintaining these relationships
- Critically appraise specific current issues in contract law particularly related to commercial transactions

## Tutorial participation

Due: **weeks 2 - 13**

Weighting: **20%**

Participation marks will be awarded as follows:

- 10% for a group or individual presentation . For this task students will sit on an “experts panel” for one tutorial topic. The experts on the panel will be expected to lead discussion and answer questions about the material for their topic. Marks will be awarded individually. Allocation of topics for experts panels will be made in tutorials in week 2 for internal students and by announcement on the unit webpage for external students
- 10% for individual participation (weeks 2 - 13)

On successful completion you will be able to:

- Demonstrate an understanding of the historical and conceptual development of commercial law and formulate some ideas of how it might develop in the future
- Communicate a considered opinion about the role that commercial law plays in commercial relationships and also the importance of factors other than the law in forming and maintaining these relationships
- Critically appraise specific current issues in contract law particularly related to commercial transactions
- Demonstrate strong foundational understanding of the law relating to the major commercial transactions in Australia
- Effectively communicate legal and commercial information through class presentations and participation

## Final take home examination

Due: **Tuesday 14 November 8pm**

Weighting: **40%**

The final examination will consist of one or more hypothetical problem questions and will

be based on the material in lectures 4 - 12. The question will be available at 12pm on Tuesday 14 November and will be due at 8pm on the same day. Word limit 2000 words including footnotes. AGLC referencing is not required for this assessment; more information will be given prior to the examination.

On successful completion you will be able to:

- Demonstrate strong foundational understanding of the law relating to the major commercial transactions in Australia

## Delivery and Resources

### Delivery and Resources

Lectures are pre-recorded and loaded onto the ilearn page each week. Lectures will be available in weeks 1 - 12. . The schedule of topics to be covered in the lectures, and notes on required readings, will be available in detail on iLearn. A list of covered topics is provided below in the Unit Schedule.

Weekly one hour tutorials begin in **Week 2 and finish in Week 13**. Required readings will be notified on iLearn.

Students require access to a computer and a secure and reliable internet provider.

Online units can be accessed at: <http://ilearn.mq.edu.au/>.

The required text is Samantha Traves, *Commercial Law*, 4th ed, 2016 LexisNexis. The text will be used from Week 4. Additional material is to be found on the unit ilearn webpage.

The on campus session for external students will be held on Sunday 24 September and Monday September 25, 2017 from 9.30am to 4.30pm in C5C 238. Attendance is **compulsory** in order that students may complete tutorial presentations and participation. In the absence of a successful application for special consideration and completion of required additional work, students who do not attend the compulsory on campus session will receive a mark of 0 / 20 for participation.

Please double check room location closer to the time of session at [timetables.mq.edu.au](http://timetables.mq.edu.au)

## Unit Schedule

TOPIC	DATE 2017	ISSUES
1	31/7	Introduction to the Unit The History and Essential Foundations of Commercial Law The Australian Perspective

2	7/8	Commercial Law in Theory and Practice
3	14/8	Commercial Law in Theory and Practice (cont) The Law of Contract: Current Issues for Commercial Law
4	21/8	Bailment Agency
5	28/8	Sale of Goods The Contract for Sale of Goods Transfer of title
6	4/9	Sale of Goods Reservation of title Transfer by Non Owner
7	11/9	Sale of Goods Express and Implied Terms
		<b>MID SEMESTER BREAK – ON CAMPUS SESSION 24 and 25 September, 2017</b>
8	2/10	The International Perspective
9	9/10	Security interests over personal property
10	16/10	Guarantees and introduction to banking law
11	23/10	Insurance
12	30/10	Bankruptcy
13		<b>NO LECTURE THIS WEEK</b>

## 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).

## 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

### 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 outcome

- Communicate a considered opinion about the role that commercial law plays in commercial relationships and also the importance of factors other than the law in forming and maintaining these relationships

#### Assessment tasks

- Research essay
- Tutorial 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

- Effectively communicate legal and commercial information through class presentations and participation



## Assessment task

- Tutorial 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

- Demonstrate an understanding of the historical and conceptual development of commercial law and formulate some ideas of how it might develop in the future
- Communicate a considered opinion about the role that commercial law plays in commercial relationships and also the importance of factors other than the law in forming and maintaining these relationships
- Demonstrate strong foundational understanding of the law relating to the major commercial transactions in Australia
- Effectively communicate legal and commercial information through class presentations and participation

## Assessment tasks

- Research essay
- Tutorial participation
- Final take home examination

## 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

- Critically appraise specific current issues in contract law particularly related to

commercial transactions

- Demonstrate strong foundational understanding of the law relating to the major commercial transactions in Australia

## Assessment tasks

- Research essay
- Tutorial participation
- Final take home examination

## 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 outcome

- Demonstrate strong foundational understanding of the law relating to the major commercial transactions in Australia

### Assessment tasks

- Tutorial participation
- Final take home examination

## Effective Communication

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

This graduate capability is supported by:

### Learning outcome

- Effectively communicate legal and commercial information through class presentations and participation

### Assessment task

- Tutorial participation