



# LAWS521

## Foundations of Commercial Law

S2 External 2018

*Dept of Law*

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#### **Disclaimer**

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## General Information

Unit convenor and teaching staff

Unit Convenor

Shayne Davenport

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

Contact via Email

Wednesday 2 - 3pm

Unit Convenor

Rod Smith

[roderick.smith@mq.edu.au](mailto:roderick.smith@mq.edu.au)

Contact via Email

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) or BUSL251)

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

#### *Late Submission Penalty*

Unless a Special Consideration request has been submitted and approved, (a) a penalty for lateness will apply – two (2) marks out of 100 will be deducted per day for assignments submitted after the due date – and (b) no assignment will be accepted more than seven (7) days (incl. weekends) after the original submission deadline. No late submissions will be accepted for timed assessments – e.g. quizzes, online tests.

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 convenors moderate all assessments. All Fail research essays and take-home exams are double marked.

## Assessment Tasks

Name	Weighting	Hurdle	Due
<u>Case Note</u>	30%	No	Wednesday 5 September, 5pm
<u>Tutorial participation</u>	20%	No	weeks 2 - 13
<u>Final take home examination</u>	50%	No	Tuesday 13 November 8pm

### Case Note

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

Weighting: **30%**

This assessment requires students to write a case note on a case of commercial interest. Word limit 1500 words. Further information, including instructions on how to write a case note will be available on ilearn and on the 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) or at the on campus session

**NOTE** - do not enrol into this unit if you are unable to attend tutorials or the on campus session

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 13 November 8pm**

Weighting: **50%**

The final examination will consist of one or more hypothetical problem questions. The question will be available at 12pm on Tuesday 13 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 Shayne Davenport and David Parker, Business and Law in Australia, 2nd ed, 2015, Thomson Reuters. Additional materials are to be found on the iLearn webpage.

The on campus session for external students will be held on Sunday 23 September and Monday September 24, 2017 from 9.30am to 4.30pm 10 Haddenfield Avenue, Room 212. 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 2018	ISSUES
1	30/7	Introduction to the Unit The History and Essential Foundations of Commercial Law The Australian Perspective
2	6/8	Commercial Law in Theory and Practice
3	13/8	Commercial Law in Theory and Practice (cont) The Law of Contract: Current Issues for Commercial Law
4	20/8	Bailment Agency
5	27/8	Sale of Goods The Contract for Sale of Goods Transfer of title
6	3/9	Sale of Goods Reservation of title Transfer by Non Owner
7	10/9	Sale of Goods Express and Implied Terms
		<b>MID SEMESTER BREAK – ON CAMPUS SESSION 23 and 24 September, 2018</b>
8	1/10	The International Perspective
9	8/10	Security interests over personal property

10	15/10	Bills of exchange: guarantees; Intro to banking law
11	22/10	Insurance
12	29/10	Bankruptcy
13		<b>NO LECTURE THIS WEEK</b>

## Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central](https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central) (<https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central>). Students should be aware of the following policies in particular with regard to Learning and Teaching:

- [Academic Appeals Policy](#)
- [Academic Integrity Policy](#)
- [Academic Progression Policy](#)
- [Assessment Policy](#)
- [Fitness to Practice Procedure](#)
- [Grade Appeal Policy](#)
- [Complaint Management Procedure for Students and Members of the Public](#)
- [Special Consideration Policy](#) (**Note:** *The Special Consideration Policy is effective from 4 December 2017 and replaces the Disruption to Studies Policy.*)

Undergraduate students seeking more policy resources can visit the [Student Policy Gateway](https://students.mq.edu.au/support/study/student-policy-gateway) (<https://students.mq.edu.au/support/study/student-policy-gateway>). It is your one-stop-shop for the key policies you need to know about throughout your undergraduate student journey.

If you would like to see all the policies relevant to Learning and Teaching visit [Policy Central](https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central) (<https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/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/study/getting-started/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](https://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 task

- 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

- Case Note
- 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

- Case Note
- 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 task

- 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 tasks

- Case Note
- Tutorial participation
- Final take home examination

## Engaged and Ethical Local and Global citizens

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

This graduate capability is supported by:

### Assessment task

- Case Note