



LAWS104

Contracts

S1 Day 2018

Dept of Law

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Disclaimer

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General Information

Unit convenor and teaching staff

Unit Convenor

Ilija Vickovich

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Contact via ilija.vickovich@mq.edu.au

W3A 624 (6 First Walk)

Tuesday 11.30am-12.30pm

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

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 Special Consider application 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.

Assessment Tasks

| Name | Weighting | Hurdle | Due |
|--------------------------------|-----------|--------|----------------------------|
| <u>Early Assessment</u> | 10% | No | Week 4 |
| <u>Assignment</u> | 30% | No | 13 Apr (int); 20 Apr (ext) |
| <u>Mid-Semester Assessment</u> | 10% | No | Week 9 |
| <u>Final Exam</u> | 40% | No | Examination Period |
| <u>Class Participation</u> | 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 24-25 March)**. 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: **13 Apr (int); 20 Apr (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>

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.

Turnitin will accept only ONE assignment, so it is imperative that the final iteration of the assignment is submitted. It is the student's responsibility to submit the correct assignment in ALL units. If a student submits the wrong assignment, they must advise the unit convenor. The late penalty described above will apply to any assignment lodged in these circumstances. It will

not be possible to change the assignment after seven days, and a zero mark will be recorded.

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- 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 12-13 May)**. 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 1 is from 11 June to 29 June 2018**. 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 Special Consideration 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. If a student fails to attend the supplementary exam, a fresh application in accordance with the university's Special Consideration policy will be required. If approved, the student will be allowed to sit the final exam on the next occasion the exam will be run (November 2018).

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.

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 an application in accordance with the university's Special Consideration policy in relation to that tutorial.** 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 (Mon-Tue 16-17 April). 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 Special Consideration 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:

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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

§ P Radan, J Gooley & I Vickovich, *Principles of Australian Contract Law*, 4th ed, LexisNexis, Sydney, 2018

§ P Radan, J Gooley & I Vickovich, *Principles of Australian Contract Law: Cases & Materials*, 4th ed, LexisNexis, Sydney, 2018

§ 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 1, 2018

| Week | Week Commencing | Lecture Topic | Tutorial Topic |
|------|-----------------|--|--|
| 1 | 26 February | Introduction to Contracts; Overview of Contract Remedies | Legal Problem Solving Model |
| 2 | 5 March | Agreement – Offer and Acceptance | Introduction to Contracts; Overview of Contract Remedies |
| 3 | 12 March | Consideration; Equitable Estoppel; Intention | Agreement – Offer and Acceptance |
| 4 | 19 March | Certainty and Completeness; Capacity; Requirement of Writing | Consideration; Equitable Estoppel; Intention |
| 5 | 26 March | Express Terms | Certainty and Completeness; Capacity; Requirement of Writing |
| 6 | 2 April | Implied Terms; Construction of Terms; Exclusion Clauses | Express Terms |
| 7 | 9 April | Misrepresentation; Misleading or Deceptive Conduct; Mistake | Implied Terms; Construction of Terms; Exclusion Clauses |
| | | <p>Mid-Semester Break</p> <p>[On Campus Session 16-17 April]</p> | |

| | | | |
|----|----------|--|--|
| 8 | 30 April | Duress; Unconscionability; Undue Influence; Unjust Contracts | Misrepresentation; Misleading or Deceptive Conduct; Mistake |
| 9 | 7 May | Discharge by Performance; Discharge by Agreement | Duress; Unconscionability; Undue Influence; Unjust Contracts |
| 10 | 14 May | Discharge by Breach; Discharge by Frustration | Discharge by Performance; Discharge by Agreement |
| 11 | 21 May | Illegality | Discharge by Breach; Discharge by Frustration |
| 12 | 28 May | Privity; Contract Theory | Illegality |
| 13 | 4 June | Contracts in Context; Exam Preparation | Privity |

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 \(htt](#)

[ps://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 \(http://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central\)](http://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.

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 Special Consideration 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) 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

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