LAWS5021

Foundations of Commercial Law

Session 2, Weekday attendance, North Ryde 2021

Macquarie Law School

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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.

Session 2 Learning and Teaching Update

The decision has been made to conduct study online for the remainder of Session 2 for all units WITHOUT mandatory on-campus learning activities. Exams for Session 2 will also be online where possible to do so.

This is due to the extension of the lockdown orders and to provide certainty around arrangements for the remainder of Session 2. We hope to return to campus beyond Session 2 as soon as it is safe and appropriate to do so.

Some classes/teaching activities cannot be moved online and must be taught on campus. You should already know if you are in one of these classes/teaching activities and your unit convenor will provide you with more information via iLearn. If you want to confirm, see the list of units with mandatory on-campus classes/teaching activities.

Visit the MQ COVID-19 information page for more detail.

General Information

Unit convenor and teaching staff
Lecturer & Tutor
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Credit points
10

Prerequisites
130cp in LAW or LAWS units

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:

ULO1: Demonstrate an understanding of the historical and conceptual development of commercial law and formulate some ideas of how it might develop in the future.

ULO2: 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.

ULO3: Critically appraise specific current issues in contract law particularly related to commercial transactions.

ULO4: Demonstrate strong foundational understanding of the law relating to the major commercial transactions in Australia.

General Assessment Information

1. In class and online activities

Assessment Type 1: Participatory task

Due: **Weeks 1-12** Weighting: **30%**

Discussions and problem solving tasks online and in class (15%) and a mid-semester multiple choice online Quiz (15%)

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.
- 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.

Marking criteria:

15% weighting will be allocated to class participation and reasoning in tutorials.

15% weighting will be allocated to a mid-semester online quiz in Week 5 due on 27th August 11.59pm.

2. Case Note

Assessment Type 1: Case study/analysis

Due: **Friday 17th September 11.59pm** Weighting: **30%**

Word Limit: 1500 words excluding footnotes.

This assessment requires students to write a case note on a case of commercial interest.

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

Marking criteria: A rubric will be uploaded on iLearn with corresponding marking criteria.

Unless a Special Consideration request has been submitted and approved, (a) a penalty for lateness will apply – 10 marks out of 100 credit will be deducted per day for assignments submitted after the due date – and (b) no assignment will be accepted seven days (incl. weekends) after the original submission deadline.

3. Final Unit Assessment

Assessment Type 1: Quiz/Test

Due: **Saturday 13th November - 9:00am - 1:00pm (4 hours to complete assessment)**

Weighting: **40%**

Word limit: 2000 Words excluding footnotes.

A time-limited take home assessment covering the entirety of the unit that may include essay style questions or hypothetical problems.

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.

Marking criteria: A rubric will be uploaded on iLearn with corresponding marking criteria.

Unless a Special Consideration request has been submitted and approved, (a) a penalty for lateness will apply – 10 marks out of 100 credit will be deducted per day for assignments submitted after the due date – and (b) no assignment will be accepted seven days (incl. weekends) after the original submission deadline.

1 If you need help with your assignment, please contact:

- the academic teaching staff in your unit for guidance in understanding or completing this type of assessment
- the Learning Skills Unit for academic skills support.

2 Indicative time-on-task is an estimate of the time required for completion of the assessment task and is subject to individual variation

Assessment Tasks

Name	Weighting	Hurdle	Due
Final Unit Assessment	40%	No	Examination Period - Saturday - 13/11/2021
In class and online activities	30%	No	Ongoing - Weeks 1 - 12
Case Note	30%	No	Friday 11.59pm - 17/09/2021

Final Unit Assessment

Assessment Type [1]: Quiz/Test
Indicative Time on Task [2]: 8 hours
Due: **Examination Period - Saturday - 13/11/2021**
Weighting: **40%**

A time-limited take home assessment covering the entirety of the unit that may include essay style questions or hypothetical problems

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.

In class and online activities

Assessment Type [1]: Participatory task
Indicative Time on Task [2]: 30 hours
Due: **Ongoing - Weeks 1 - 12**
Weighting: **30%**

A series of quizzes, discussions and problem solving tasks online and in class

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.
- 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.

Case Note

Assessment Type [1]: Case study/analysis
Indicative Time on Task [2]: 30 hours
Due: **Friday 11.59pm - 17/09/2021**
Weighting: **30%**

This assessment requires students to write a case note on a case of commercial interest.

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.

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[1] If you need help with your assignment, please contact:

- the academic teaching staff in your unit for guidance in understanding or completing this

type of assessment

- the Writing Centre for academic skills support.

[2] Indicative time-on-task is an estimate of the time required for completion of the assessment task and is subject to individual variation

Delivery and Resources

A. Delivery and Resources

Lectures are pre-recorded will be loaded on the iLearn page each week in conjunction with the accompanying PowerPoint slides. Lectures will be available in weeks 1 - 12. The schedule of topics to be covered in the lectures, required readings, and supplementary resources 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 and all tutorial questions will be posted on iLearn.

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

B. Prescribed Text

Clive Turner and John Trone, *Australian Commercial Law,* Thomson Reuters, 33rd ed, 2020. (Referred to in the Topics as 'Turner & Trone'.)

The text is available to purchase as an eBook and/or Hardcopy Directly via the Thomson Reuters website or from online resellers including Booktopia, Amazon and Zookal.

Thomson Reuters have set up a student page in which Students can receive 15% discount and free shipping if they sign up for the student Promo Code. Book and eBook bundles can be purchased at a 25% discount.

The site is: https://legal.thomsonreuters.com.au/student/

The Text is also available through the library. A limited number of hard copies are available, both on short loan and generally. An online version is available, albeit with a restriction on the number of concurrent users.

C. Databases and eReadings

All of the statutory provisions referred to in each Topic may be accessed via Austlii

Most of the Australian cases referred to in each topic can be accessed via the Macquarie University law reports databases:

https://libguides.mq.edu.au/law/Cases

English cases in the authorised reports can be accessed through the ICLR database:

https://www-iclr-co-uk.simsrad.net.ocs.mq.edu.au/search/fullSearch

Where a case is not available through the on-line databases a scanned copy will be made available on the iLearn Page.

D. Other useful supplementary materials

The below materials are not within the required reading and are supplementary in nature only:

- Ewan McKendrick**,** *Goode and McKendrick on Commercial Law*, (Penguin Press, 6th ed, 2021)
- Michael Bridge, Louise Gullifer, Gerard McMeel and Sarah Worthington, *The Law of Personal Property* (Sweet and Maxwell, 2017)
- Del Cseti and Anne Wardell, *Understanding Personal Property Securities Law* (CCH Australia, 2nd ed, 2015).
- A.J. Duggan and David Brown, *Australian Personal Property Securities Law* (LexisNexis, 2nd ed, 2015)
- Clive Turner, Roger Gamble and John Trone, *Concise Australian Commercial Law* (Thomson Reuters, 5th ed, 2019)
- Gail Pearson et al., *Commercial Law Commentary and Materials*, 4th Ed (Thompson Reuters, 4th ed, 2019)

Unit Schedule

University Week	Week Commencing	Topic
Week 1	26th July	1: The Concept and Nature of Personal Property
Week 2	2nd August	2: Engaging in dealings in choses in possession
Week 3	9th August	3: Agency
Week 4	16th August	4: Bailment
Week 5	23rs August	5: Sale of Goods: The Contract for Sale of Goods, Transfer of Title
Week 6	30th August	6: Sale of Goods: Reservation of Title, Transfer by Non Owner
Week 7	6th September	7: Sale of Goods: Express and Implied Terms
RECESS	13th September	No Lectures or Tutorials
RECESS	20th September	No Lectures or Tutorials
Week 8	27th September	8: E-Commerce
Week 9	4th October	9: Security interests over personal property: PPSA

Week 10	11th October	10: Negotiable Instruments and Guarantees
Week 11	18th October	11: Insurance
Week 12	25th October	12: Bankruptcy
Week 13	1st November	13: NO LECTURE THIS WEEK

Policies and Procedures

Macquarie University policies and procedures are accessible from Policy Central (https://policies.mq.edu.au). 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

Students seeking more policy resources can visit Student Policies (https://students.mq.edu.au/support/study/policies). It is your one-stop-shop for the key policies you need to know about throughout your undergraduate student journey.

To find other policies relating to Teaching and Learning, visit Policy Central (https://policies.mq.edu.au) and use the search tool.

Student Code of Conduct

Macquarie University students have a responsibility to be familiar with the Student Code of Conduct: https://students.mq.edu.au/admin/other-resources/student-conduct

Results

Results published on platform other than eStudent, (eg. iLearn, Coursera etc.) 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 or if you are a Global MBA student contact globalmba.support@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 help you improve your marks and take control of your study.

- Getting help with your assignment
- Workshops
- StudyWise
- Academic Integrity Module

The Library provides online and face to face support to help you find and use relevant information resources.

- Subject and Research Guides
- Ask a Librarian

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

If you are a Global MBA student contact globalmba.support@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.

Changes since First Published

Date	Description
22/07/2021	Updated assessment for final unit assessment to Saturday November 13th due to clash with evidence.
09/07/2021	Change to assessment date for case note and tutorial participation marks from weeks 1 -12.