



# LAWS8023

## Commercial Law

Session 2, Special circumstances 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

Adrian Coorey

[adrian.coorey@mq.edu.au](mailto:adrian.coorey@mq.edu.au)

Madeline Taylor

[madeline.taylor@mq.edu.au](mailto:madeline.taylor@mq.edu.au)

Credit points

10

Prerequisites

(Admission to JD and 80cp in LAWS or LAW units at 6000 level or above including LAWS803 or LAWS8030) or (admission to LLM or MInTrdeComLaw)

Corequisites

Co-badged status

Unit description

The unit begins with an examination of the historical and theoretical framework of commercial law. The completing claims of predictability and certainty with principles such as good faith, fairness and reasonableness are analysed. A critical approach to the existing law of contract concentrating on methods of interpretation in the commercial context completes this part of the unit. Students then undertake a detailed study of the law of common commercial relationships and transactions such as principal and agent, commercial sale of goods, negotiable instruments, insurance and bankruptcy.

## 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 a sophisticated understanding of the historical and theoretical development of commercial law and articulate a view of whether commercial law should be treated differently to other areas of law.

**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:** Articulate and critique aspects of Australian contract law’s approach to the governance of commercial transactions and compare international and soft law alternatives.

**ULO4:** Solve complex problems in the area of commercial law demonstrating ability to identify key legal issues.

## General Assessment Information

### ASSESSMENT ONE: PRESENTATION

Assessment Type	Presentation
Indicative Time on Task	6 hours
Assessment Weight	20%
Start	Week 2
Finish	Week 12
Presentation Time	10 minutes
Submission	No Submission Required

Each student must complete a ten minute online presentation in a tutorial class (usually in the later half of the tutorial class) on any week between Week 2 (i.e. Monday, 2<sup>nd</sup> August, 2021) and Week 12 (25<sup>th</sup> October, 2021).

You can use power-point slides, but you must only present with a maximum of ten slides. You may also show a short video in your presentation if you wish, but keep the video to less than 2 minutes. You may also want to be creative and include a questionnaire at the end, or a quiz at the start (but this is entirely optional).

You must select a case on an interesting topic in Commercial Law. The case must be selected from the prescribed text.

There will be no more than 10 presentations per session. Each student must select a different case to another student (‘first come, first serve’). There will be a link and a list uploaded to iLearn, where you can insert the following:

**Name:** John Lennon

**Case Name:** *E v Australian Red Cross Society* (1992) 31 FCR 299.

**Case Topic:** Meaning of acceptable quality

**Week Presenting:** Week 7

Please do not present for more than 10 minutes. The usual structure of a presentation is: (i) facts of the case; (ii) legal issues; (iii) judgment; and (iv) any implications of the case (and why you consider it important or an interesting case to present on).

Questions will be asked by the Unit Coordinator at the end of your presentation, and from your colleagues in class.

**Marking Criteria:** Marks will be based on the quality of the presentation and how well you 'master' the topic of the case, and how well you respond to questions from the Unit Coordinator and the class at the end of your presentation. Marks will not be awarded for reading off paper.

## ASSESSMENT TWO: RESEARCH ESSAY

<b>Assessment Type</b>	Research Essay
<b>Indicative Time on Task</b>	32 hours
<b>Assessment Weight</b>	40%
<b>Start</b>	9am, Monday 26 July 2021
<b>Due</b>	5pm, Monday 20 <sup>th</sup> September 2021
<b>Assessment Question</b>	See Question Below
<b>Word Count</b>	2,500 (inclusive of headings and sub-headings, but exclusive of footnotes)
<b>Submission</b>	Turnitin
<b>Submission Format</b>	<p>There are strict formatting requirements with which students are required to comply.</p> <p>The unit coordinator reserves the right to refuse to mark assignments that are not submitted in accordance with formatting requirements:</p> <ul style="list-style-type: none"> <li>§ Ensure your full name and student number appears on the footer of each page.</li> <li>§ Do not manipulate the margins of the page.</li> <li>§ Conform to a standard size and type of font such as 11.5-12 point fonts in Calibri, Arial or Times New Roman.</li> <li>§ Assignments must be one and a half spaced or double spaced.</li> <li>§ Number all pages consecutively.</li> <li>§ Students must use footnotes in accordance with the AGLC. <u>Do not annotate footnotes.</u></li> <li>§ <u>No bibliography required</u></li> </ul>

**Assessment Question**

Explain the *nemo dat quod non habet* rule and the statutory and common law exceptions to this rule.

Do you agree that the exceptions to the *nemo dat* rule are 'piece meal', overly complex and in some instances confusing?

Are the exceptions necessary, and/or in need of statutory reform?

**Marking criteria:** Further guidance on marking criteria will be provided on iLearn. A rubric will also be uploaded.

**ASSESSMENT THREE: HYPOTHETICAL PROBLEM QUESTIONS**

<b>Assessment Type</b>	Hypothetical problem questions
<b>Indicative Time on Task</b>	32 hours
<b>Assessment Weight</b>	40%
<b>Start</b>	9am, Wednesday 3rd November 2021
	5pm, Friday 5th November 2021
<b>Assessment Question</b>	Available online at start date
<b>Word Count</b>	2,500 (inclusive of headings and sub-headings, but exclusive of footnotes)
<b>Submission</b>	Turnitin
<b>Submission Format</b>	<p>There are strict formatting requirements with which students are required to comply.</p> <p>The unit coordinator reserves the right to refuse to mark assignments that are not submitted in accordance with formatting requirements:</p> <ul style="list-style-type: none"> <li>§ Ensure your full name and student number appears on the footer of each page.</li> <li>§ Do not manipulate the margins of the page.</li> <li>§ Conform to a standard size and type of font such as 11.5-12 point fonts in Calibri, Arial or Times New Roman.</li> <li>§ Assignments must be one and a half spaced or double spaced.</li> <li>§ Number all pages consecutively.</li> <li>§ Students must use footnotes in accordance with the AGLC. <u>Do not annotate footnotes.</u></li> <li>§ <u>No bibliography required</u></li> </ul>

Information about the final assessment will be uploaded on iLearn in due course. The Unit Coordinator will upload an 'Information and Hints Sheet' in Week 13.

**Marking criteria:** Marks will be *primarily* awarded for issue identification and analysis and robust application of the law to the facts given. Marks will be *ancillary* awarded for structure, presentation and footnotes. Further guidance on marking criteria will be provided on iLearn. A rubric will also be uploaded.

## IMPORTANT INFORMATION ABOUT LATE SUBMISSION OF ASSESSMENT

Unless a Disruption to Studies 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 assessments submitted after the due date - and (b) no assignment will be accepted seven days (incl. weekends) after the original submission deadline.

## Assessment Tasks

Name	Weighting	Hurdle	Due
<u>Presentation</u>	20%	No	Weeks 2 - 12
<u>Research Essay</u>	40%	No	5pm, Monday 20th September 2021
<u>Hypothetical Problem Question</u>	40%	No	5pm, Friday 5th November 2021

## Presentation

Assessment Type <sup>1</sup>: Presentation

Indicative Time on Task <sup>2</sup>: 6 hours

Due: **Weeks 2 - 12**

Weighting: **20%**

Students are required to do a presentation on an aspect of the unit.

On successful completion you will be able to:

- Demonstrate a sophisticated understanding of the historical and theoretical development of commercial law and articulate a view of whether commercial law should be treated differently to other areas of law.
- 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.
- Articulate and critique aspects of Australian contract law's approach to the governance of commercial transactions and compare international and soft law alternatives.

## Research Essay

Assessment Type <sup>1</sup>: Essay

Indicative Time on Task <sup>2</sup>: 32 hours

Due: **5pm, Monday 20th September 2021**

Weighting: **40%**

Students are required to prepare a research essay on an aspect of the unit.

On successful completion you will be able to:

- Demonstrate a sophisticated understanding of the historical and theoretical development of commercial law and articulate a view of whether commercial law should be treated differently to other areas of law.
- 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.
- Articulate and critique aspects of Australian contract law's approach to the governance of commercial transactions and compare international and soft law alternatives.

## Hypothetical Problem Question

Assessment Type <sup>1</sup>: Quiz/Test

Indicative Time on Task <sup>2</sup>: 32 hours

Due: **5pm, Friday 5th November 2021**

Weighting: **40%**

Students are required to solve a hypothetical problem.

On successful completion you will be able to:

- Solve complex problems in the area of commercial law demonstrating ability to identify key legal issues.

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<sup>1</sup> 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.

<sup>2</sup> 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

### DELIVERY

Lectures are available for Week 1 to Week 12.

Lectures are pre-recorded and uploaded on iLearn each week.

Tutorials are on a weekly basis starting from Week 1 to Week 13. Tutorial times are 3pm to 4pm each week.

For the infrequent mode of teaching, tutorials are on Weeks 2, 4, 6, 8, 10 and 12. Tutorial times are 7pm to 9pm each week of teaching the infrequent mode.

Attendance is compulsory.

### LEARNING RESOURCES

**Prescribed Text:** The required text is Clive Turner and John Trove, *Australian Commercial Law* (33rd Edition) (Thomson Reuter, Sydney, 2020).

**Recommended Material:** Jurisprudentia, *Commercial Law I and II* (Student Guide Cards, Sydney, 2021) (Optional);

G. Pearson, *Commercial Law - Commentary and Materials* (4th ed) (Thomson Reuters, Sydney, 2019) (Optional).

D. Parker and L Ward, *Business and Law* (3rd ed) (Thomson Reuters, Sydney, 2020) (Optional).

## Unit Schedule

Topic	Week	Topic
1	26th July	The Concept and Nature of Personal Property
2	2 <sup>nd</sup> August	Engaging in dealings in choses in possession
3	9 <sup>th</sup> August	Agency
4	16 <sup>th</sup> August	Bailment
5	23 <sup>rd</sup> August	Sale of Goods I
6	30 <sup>th</sup> August	Sale of Goods II
7	6 <sup>th</sup> September	Sale of Goods III
8	27 <sup>th</sup> September	E-Commerce



9	4 <sup>th</sup> October	Security interests over personal property
10	11 <sup>th</sup> October	Negotiable Instruments and Guarantees
11	18 <sup>th</sup> October	Insurance
12	25 <sup>th</sup> October	Bankruptcy
13	1 <sup>st</sup> November	NO LECTURE THIS WEEK

## Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central \(https://policies.mq.edu.au\)](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 \(https://students.mq.edu.au/support/study/policies\)](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 \(https://policies.mq.edu.au\)](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](https://ask.mq.edu.au) or if you are a Global MBA student contact [globalmba.support@mq.edu.au](mailto: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](http://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](http://ask.mq.edu.au)

If you are a Global MBA student contact [globalmba.support@mq.edu.au](mailto: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/](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
07/07/2021	There was an incorrect date on Topic List for the week concerning Bankruptcy. The correct date is the 25th Oct (not 15th Oct).