



LAWS8023

Commercial Law

Session 2, In person-scheduled-weekday, North Ryde 2022

Macquarie Law School

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General Information

Unit convenor and teaching staff

Convenor, Lecturer, and Tutor

Madeline Taylor

madeline.taylor@mq.edu.au

Contact via iLearn

441

6 First Walk, Room 441, Wednesday 11:00am - 12:00pm or by appointment.

Tutor

Peter Joy

peter.joy@mq.edu.au

Credit points

10

Prerequisites

Admission to LLM or MIntTrdeComLaw or (Admission to JD and LAWS600 or LAWS8001)

Corequisites

Co-badged status

Unit description

The unit begins with an examination of the historical and theoretical framework of commercial law. The competing 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

Class participation

Assessment Type ¹: Participatory task Indicative Time on Task ²: 30 hours Due: **Weeks 1-12** Weighting: **20%**

Tutorials are designed to extend the comprehensive and broad examination of commercial law principles provided in the lectures and required readings by creating the opportunity for students to engage in in-depth discussions of selected issues. The tutorial discussion is prompted by the consideration of relevant readings, cases, and other materials to discuss conceptual questions and solve practical hypothetical problem questions.

Students are required to listen to lectures and complete required readings to discuss the questions outlined in the tutorial questions each week. Students must participate in class discussions and tutorial questions in all tutorials by consistently demonstrating understanding and critical engagement with the required readings.

Tutorials are on a weekly basis starting from Week 1 to Week 12.

For the infrequent mode of teaching, tutorials are on Weeks 2, 4, 6, 8, 10 and 12.

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 commercial transactions.
- Demonstrate critical understanding of the law relating to the major commercial transactions in Australia.
- Apply the law to hypothetical fact situations through analogising and distinguishing.
- Provide legal advice through properly identifying legal issue(s), applying the relevant law to the identified issues, and accurately assessing the likely outcome.
- Present, articulate, and defend through oral legal reasoning responses to diverse commercial law questions.

Case Note

Assessment Type ¹: Case study/analysis Indicative Time on Task ²: 30 hours Due: **17/09/2022 at 11.55pm** Weighting: **30%**

This assessment requires students to write a case note on a recent case of commercial interest advancing persuasive arguments that effectively analyses the relevant case to current policies, doctrines, and/or practices.

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 understanding of the law relating to the major commercial transactions in Australia.

Final Unit Assessment

Assessment Type ¹: Quiz/Test Indicative Time on Task ²: 8 hours Due: **12/22/2022** Weighting: **50%**

A time-limited take home assessment covering the entirety of the unit comprising an authentic professional writing task in the form of a client brief. 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 critical understanding of the law relating to the major commercial transactions in Australia.

Assessment Tasks

Name	Weighting	Hurdle	Due
<u>Case note</u>	30%	No	17/09/2022 at 11:55pm
<u>Take Home Final Unit Assessment.</u>	50%	No	12/11/2022
<u>Class participation</u>	20%	No	Ongoing

Case note

Assessment Type ¹: Case study/analysis

Indicative Time on Task ²: 6 hours

Due: **17/09/2022 at 11:55pm**

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 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.

Take Home Final Unit Assessment.

Assessment Type ¹: Quiz/Test

Indicative Time on Task ²: 32 hours

Due: **12/11/2022**

Weighting: **50%**

A time-limited test during the examination period comprising an authentic professional writing task in the form of a client brief.

On successful completion you will be able to:

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

Class participation

Assessment Type ¹: Participatory task

Indicative Time on Task ²: 32 hours

Due: **Ongoing**

Weighting: **20%**

In class tutorial discussions, problem solving tasks, and conceptual questions.

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.

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

Delivery and Resources

Lectures are pre-recorded and loaded onto the ilearn page each week. Lectures will be available in weeks 1 - 13.

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.

The required textbook is: **Clive Turner and John Trone, *Australian Commercial Law* (Thompson Reuters, 33rd ed, 2020)** Additional materials are found on the iLearn webpage.

Weekly one hour tutorials begin in Week 1 and finish in Week 12 either on campus or online.

For the infrequent mode of teaching, tutorials are on Weeks 2, 4, 6, 8, 10 and 12.

Required readings will be available on iLearn via Leganto.

All students are required to prepare for, attend and actively participate in weekly tutorials. 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 tutorials will receive a mark of 0 for weekly participation.

Unit Schedule

University Week	Week Commencing	Topic	Assessment
Week 1	25th July	1: The Concept and Nature of Personal Property	
Week 2	1st August	2: Bailment	
Week 3	8th August	3: Agency	
Week 4	15th August	4: Construction Law	
Week 5	23rd August	5: Sale of Goods: The Contract for Sale of Goods, Transfer of Title	
Week 6	29th August	6: Sale of Goods: Reservation of Title, Transfer by Non Owner	
Week 7	5th September	7: Sale of Goods: Express and Implied Terms	
RECESS	12th September		Case Note: 17/09/2022
RECESS	19th September		
Week 8	26th September	8: E-Commerce, Cashless Debit Cards, and Thriving Indigenous Businesses	
Week 9	3rd October	9: Security interests over personal property: PPSA	

Week 10	10th October	10: Guarantees	
Week 11	17th October	11: Insurance	
Week 12	24th October	12: Bankruptcy	
Week 13	31st October	13: Commercial Disputes in Practice NO TUTORIAL THIS WEEK	
EXAMINATION PERIOD	7th November		Final Unit Assessment: 12/11/2022

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](#)
- [Assessment Procedure](#)
- [Complaints Resolution 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 or if you are a Global MBA student contact globalmba.support@mq.edu.au

Academic Integrity

At Macquarie, we believe [academic integrity](#) – honesty, respect, trust, responsibility, fairness and courage – is at the core of learning, teaching and research. We recognise that meeting the expectations required to complete your assessments can be challenging. So, we offer you a range of resources and services to help you reach your potential, including free [online writing and maths support](#), [academic skills development](#) and [wellbeing consultations](#).

Late Assessment Submission Penalty

Unless a Special Consideration request has been submitted and approved, a 5% penalty (of the total possible mark) will be applied each day a written assessment is not submitted, up until the 7th day (including weekends). After the 7th day, a mark of '0' (zero) will be awarded even if the assessment is submitted. Submission time for all written assessments is set at 11.55pm. A 1-hour grace period is provided to students who experience a technical issue.

This late penalty will apply to non-timed sensitive assessment (incl essays, reports, posters, portfolios, journals, recordings etc). Late submission of time sensitive tasks (such as tests/exams, performance assessments/presentations, scheduled practical assessments/labs etc) will only be addressed by the unit convenor in a Special consideration application. Special Consideration outcome may result in a new question or topic.

Student Support

Macquarie University provides a range of support services for students. For details, visit <http://students.mq.edu.au/support/>

The Writing Centre

[The Writing Centre](#) provides resources to develop your English language proficiency, academic writing, and communication skills.

- [Workshops](#)
- [Chat with a WriteWISE peer writing leader](#)
- [Access StudyWISE](#)
- [Upload an assignment to Studiosity](#)
- [Complete the 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

Macquarie University offers a range of [Student Support Services](#) including:

- [IT Support](#)

- [Accessibility and disability support](#) with study
- Mental health [support](#)
- [Safety support](#) to respond to bullying, harassment, sexual harassment and sexual assault
- [Social support including information about finances, tenancy and legal issues](#)

Student Enquiries

Got a question? Ask us via [AskMQ](#), or contact [Service Connect](#).

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.