



# LAWS8023

## Commercial Law

Session 2, Online-scheduled-weekday 2023

*Macquarie Law School*

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#### **Disclaimer**

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## General Information

Unit convenor and teaching staff

Madeline Taylor

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

Tutor

Peter Joy

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 <sup>1</sup>: Participatory task Indicative Time on Task <sup>2</sup>: 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 and engagement in problem questions. 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.

There are 12 tutorials in total. Students will receive a mark out of 10 for every tutorial and the overall average mark out of 10 throughout the semester will represent the final participation mark.

The tutorial questions for each tutorial are found in the iLearn site arranged under each topic.

***If you miss one of your tutorials***, please lodge an Ask Special Consideration application online at [ask.mq.edu.au](http://ask.mq.edu.au). Upon obtaining a special consideration approval, please submit your written answers to your tutor who will award you a mark out of 10 for the week missed.

Class participation will be assessed on both the quality and regularity of participation. Class participation will be assessed on the following criteria:

- **Oral contribution and participation:** Effective and frequent oral contribution. An ability to try out ideas and test understanding. Consistently thoughtful and insightful comments, going beyond the descriptive level. Contributions are volunteered. Co-operative attitude, and willingness to assist others in learning.
- **Engagement and answering of tutorial questions:** Demonstrated evidence of reading and preparation, as well as a clear understanding of the material. Demonstrated ability to apply law in problem-solving exercises. Independent thinker, takes initiative in discussion as well as co-operating effectively with others.
- **Attendance:** Excellent attendance (Attends all tutorials)

- Further detail is provided in the Participation Rubric on the ilearn site.

## Case Note

Assessment Type <sup>1</sup>: Case study/analysis Indicative Time on Task <sup>2</sup>: 30 hours Due: **15/09/2023** 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.

## Final Unit Assessment

Assessment Type <sup>1</sup>: Quiz/Test Indicative Time on Task <sup>2</sup>:

Assessment timing: 9:00am - 12:00pm (3 hour timed assessment)

**10/11/2023** 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.

### **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.

## **Assessment Tasks**

Name	Weighting	Hurdle	Due
<u>Take Home Final Unit Assessment.</u>	50%	No	10/11/23 (3 hour assessment) 9:00am - 12:00pm
<u>Class Participation</u>	20%	No	Weeks 1 - 12
<u>Case note</u>	30%	No	15/09/23 at 11:55pm

## Take Home Final Unit Assessment.

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

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

Due: **10/11/23 (3 hour assessment) 9:00am - 12:00pm**

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 <sup>1</sup>: Participatory task

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

Due: **Weeks 1 - 12**

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.

## Case note

Assessment Type <sup>1</sup>: Case study/analysis

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

Due: **15/09/23 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.

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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

### Lectures

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.

### Readings

The required textbook is: **Clive Turner and John Trone, *Australian Commercial Law* (Thomson Reuters, 34th ed, 2022).**

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 has 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 Leganto.

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 student users.

Ian Bailey, Construction Law in Australia (Thompson Reuters, 4th edition, 2019) is the prescribed Text for topic 4 Construction Law readings accessible via Leganto, albeit with a restriction on the number of concurrent student users.

Additional materials are found on the iLearn webpage.

## Tutorials

**Weekly one hour tutorials begin in Week 1 and finish in Week 12 and Fortnightly tutorials are held in Weeks 2, 4, 6, 8, 10 and 12.**

Required readings including case law 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	24th July	1: The Concept and Nature of Personal Property	
Week 2	31st July	2: Bailment	
Week 3	7th August	3: Agency	
Week 4	14th August	4: Construction Law	
Week 5	21st August	5: Sale of Goods: The Contract for Sale of Goods, Transfer of Title	
Week 6	28th August	6: Sale of Goods: Reservation of Title, Transfer by Non Owner	
Week 7	4th September	7: Sale of Goods: Express and Implied Terms	

RECESS	11th September		Case Note Due: 15/09/2023
RECESS	18th September		
Week 8	25th September	8: E-Commerce and Thriving Indigenous Businesses	
Week 9	2nd October	9: Security interests over personal property: PPSA	
Week 10	9th October	10: Guarantees	
Week 11	16th October	11: Insurance	
Week 12	23rd October	12: Bankruptcy	
Week 13	30th October	13: Commercial Disputes in Practice NO TUTORIAL THIS WEEK	
EXAMINATION PERIOD	6th November		Final Unit Assessment: 10/11/2022

## 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](http://ask.mq.edu.au) or if you are a Global MBA student contact [globalmba.support@mq.edu.au](mailto: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](#).

## 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 Advocacy](#) provides independent advice on MQ policies, procedures, and processes

## 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/](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 from Previous Offering

Updated textbook Australian Commercial Law 34th Edition (2022).

## Changes since First Published

Date	Description
08/07/2023	Hi Amanda, Thank you for your guidance and I have now updated the general assessment section, added due dates and limited the final unit assessment task to a 3 hour timed task (9:00am - 12:00pm). I will do the same now for the UG Commercial Law Unit LAWS5021.