



LAWS8023

Commercial Law

Session 2, In person-scheduled-weekday, North Ryde 2024

Macquarie Law School

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General Information

Unit convenor and teaching staff

Madeline Taylor

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Tutor

Peter Joy

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Credit points

10

Prerequisites

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

Corequisites

Co-badged status

Unit description

This unit explores commercial law by surveying the key frameworks and legal structures of commercial transactions that underpin commercial markets. The unit commences with fundamental concepts and taxonomy of personal property. This discussion provides the backdrop for the remainder of the unit providing a detailed examination of important specialist commercial law areas such as bailment, agency, construction law, the sale of goods, e-commerce and supporting thriving Indigenous businesses, personal property securities, guarantees, insurance, and bankruptcy. Particular emphasis is placed on the relationship between the common law, regulatory frameworks, and societal impacts in these areas of commercial law supplemented by guest interviews to embellish our understanding through a practical and engaging format.

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

All written assessments submitted electronically must be submitted through the link provided in iLearn. This unit will utilise Turnitin plagiarism detection software. Students should carefully check that they submit the correct file for an assessment, as re-submissions will not be accepted after the due date and time, including instances where students upload an incorrect file in error.

The design, moderation and feedback of all assessments is in accordance with the Macquarie University Assessment Procedure (link provided under 'Policies and Procedures' below).

Late Submission Policy

A maximum penalty of five (5) percentage points of the total possible marks will be applied per day to late submissions, for up to a maximum of seven calendar days. Tasks that have not been submitted within the maximum number of additional late days will receive a mark of zero. This provision does not apply to online exams or other assessment with a time limit of less than 24 hours.

Penalties for late submission will be applied consistently and equitably to all students enrolled in the unit. Where short-term, serious and unavoidable circumstances have affected their ability to submit an assessment task, a student must submit a formal application for Special Consideration as per the Special Consideration Policy. Students should not request an informal arrangement from their tutor, lecturer or Unit Convenor.

Where an application for Special Consideration is approved, and the outcome is an extension to the due date of a task, submissions that are received after the new due date will be subject to late penalties that are calculated from the new due date. This only applies where the outcome is an extension to the due date – see the Special Consideration Policy for a schedule of all possible outcomes.

Special Consideration

Students should submit applications for Special Consideration electronically via ask.mq.edu.au, along with the supporting documentation. Before submitting their applications, students should refer to the Special Consideration Policy (link provided under 'Policies and Procedures' below).

Assessment Tasks

Name	Weighting	Hurdle	Due
Class Participation	20%	No	Week 1 - Week 12
Critical Reflection Task	10%	No	2024-09-21
Case note	30%	No	2024-09-07
Take Home Final Unit Assessment.	40%	No	08/11/2024 9:00am - 13:00pm

Class Participation

Assessment Type ¹: Participatory task

Indicative Time on Task ²: 0 hours

Due: **Week 1 - Week 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.

Critical Reflection Task

Assessment Type ¹: Reflective Writing

Indicative Time on Task ²: 6 hours

Due: **2024-09-21**

Weighting: **10%**

A written task that critically reflects on thriving Indigenous businesses

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.

Case note

Assessment Type ¹: Case study/analysis

Indicative Time on Task ²: 6 hours

Due: **2024-09-07**

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: 18 hours

Due: **08/11/2024 9:00am - 13:00pm**

Weighting: **40%**

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.

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

Lectures

Lectures are pre-recorded and loaded to Echo360 accessible via 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.

Expert interviews will also be uploaded to Echo360 for some topics.

Class participation

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

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

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.

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. 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.

Tutorials commence in Week 1.

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.

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.

Resources

The required textbook is: John Trone and Clive Turner, 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.

Students require access to a computer, internet with decent speed and a secure/reliable server. The iLearn page contains all Unit requirements and a weekly schedule for teaching, readings and tutorials. Information about all assessment tasks is also available on iLearn.

This unit is with 10 credit points, which equates to 150 hours of work. Therefore, students should expect to commit an average of 10 hours per week to this unit, including all scheduled and unscheduled activities and preparing and executing the assessment tasks.

Unit Schedule

Unit Schedule

University Week	Week Commencing	Topic	Assessment
Week 1	22nd July	1: The Concept and Nature of Personal Property	
Week 2	29th July	2: Bailment	
Week 3	5th August	3: Agency	
Week 4	12th August	4: Construction Law	
Week 5	19th August	5: Sale of Goods: The Contract for Sale of Goods, Transfer of Title	
Week 6	26th August	6: Sale of Goods: Reservation of Title, Transfer by Non Owner	
Week 7	2nd September	7: E-Commerce	Case Note Due: 07/09/2023
Week 8	9th September	8: Thriving Indigenous Businesses	
RECESS	16th September		Critical Reflection Task Due 21/09/2023

RECESS	23rd September		
Week 9	30th September	9: Security interests over personal property: PPSA	
Week 10	7th October	10: Guarantees	
Week 11	14th October	11: Insurance	
Week 12	21st October	12: Bankruptcy	
Week 13	28th October	13: Commercial Disputes in Practice NO TUTORIAL THIS WEEK	
EXAMINATION PERIOD	6th November		Final Unit Assessment: 8/11/2022

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](#).

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/.

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.

Unit information based on version 2024.03 of the [Handbook](#)