



# LAWS803

## The Law of Obligations I - Contracts

S2 Day 2018

*Dept of Law*

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## General Information

Unit convenor and teaching staff

Unit Convenor

Peter Radan

[peter.radan@mq.edu.au](mailto:peter.radan@mq.edu.au)

Contact via [peter.radan@mq.edu.au](mailto:peter.radan@mq.edu.au)

Room 527, W3A

Tuesday 1 pm - 2 pm

Credit points

4

Prerequisites

((Admission after 2014 to GradCertLaw or GradDipLaw or JD) and corequisite LAWS600) or (admission to JD in 2014) or (admission to LLM)

Corequisites

Co-badged status

Unit description

A study of the law of contract is fundamental for any law student. In this unit students will study the foundational elements of contract law such as the formation of contract, the characterisation and interpretation of contractual terms, factors which vitiate the formation of a valid contract, the requirement for consideration, privity of contract and the discharge of contractual liabilities. Greater depth of understanding of significant issues in the historical and contemporary development of contract law is achieved through the examination and critique of competing philosophies of contract and international comparisons. Problem solving skills are also developed and tested.

## 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:

Demonstrate a detailed and thorough knowledge of legal principles relating to contract law

Interpret and transmit knowledge, skills and concepts to specialist and non-specialist

audiences

Analyse complex factual situations involving contract law and apply relevant legal principles to solving legal problems

Formulate, present and evaluate oral and written arguments on complex contract law problems and principles, drawing upon relevant legal authority and policy considerations.

Apply advanced research skills

Assume responsibility for one's own learning by managing one's time effectively so as to complete and submit assessment items on time.

## General Assessment Information

Detailed marking rubrics will be made available in iLearn.

## Assessment Tasks

Name	Weighting	Hurdle	Due
<a href="#"><u>Assignment No 1</u></a>	25%	No	10 am, 10 September 2018
<a href="#"><u>Assignment No 2</u></a>	25%	No	10 am, 12 October 2018
<a href="#"><u>Final Examination (Take Home)</u></a>	50%	No	3 pm, 12 November 2018

### Assignment No 1

Due: **10 am, 10 September 2018**

Weighting: **25%**

Assignment No 1 in this unit is a research paper.

The question for Assignment No 1 will be available on iLearn by the end of Week 1 of the semester.

Assignment No 1 must be a properly referenced formal response with appropriate analysis and argument supported by relevant legal authorities. A bibliography is required. Assignment No 1 must be typed and must be kept to a maximum 2,500 words (including footnotes, but not the bibliography). The word limit will be strictly applied and work above the word limit will not be marked.

Assignment No 1 must be submitted electronically through Turnitin. Plagiarism software is used in this unit.

In completing Assignment No 1, students must comply with the *Australian Guide to Legal Citation*, compiled by the Melbourne University Law Review. The Guide is available for download free online.

Further instructions and information in relation to Assignment No 1, including rubrics, will be made available on iLearn.

If, for justifiable reasons, a student is unable to submit the Assignment No 1 on time, he or she may submit an application for special consideration in accordance with the University's Special Consideration Policy.

Applications for special consideration pursuant to the Special Consideration Policy are made electronically via [ask.mq.edu.au](http://ask.mq.edu.au) and should be accompanied by supporting documentation. Students should refer to the Special Consideration Policy for complete details and a description of the supporting documentation required.

Any Assignment that is submitted after the due date and time without an approved special consideration application will attract a 2% per day penalty. Any Assignment that is submitted beyond 7 days of the due date and time will not be graded and will receive a zero mark.

This assessment task relates to the following learning outcomes:

- demonstrate a detailed knowledge of legal principles relating to the law on contracts;
- formulate, present and evaluate oral and written arguments on complex contract law problems and principles, drawing upon relevant legal authority and policy considerations; and
- assume responsibility for one's own learning by managing one's time effectively so as to complete and submit assessment items on time; and
- apply advanced research skills.

On successful completion you will be able to:

- Formulate, present and evaluate oral and written arguments on complex contract law problems and principles, drawing upon relevant legal authority and policy considerations.
- Assume responsibility for one's own learning by managing one's time effectively so as to complete and submit assessment items on time.

## Assignment No 2

Due: **10 am, 12 October 2018**

Weighting: **25%**

Assignment No 2 in this unit will require students to answer a problem question or questions.

The problem question or questions for Assignment No 2 will be available on iLearn by the end of Week 4 of the semester.

Assignment No 2 must be a properly referenced formal response with appropriate analysis and argument supported by relevant authoritative cases and commentary. Assignment No 2 must be typed and must be kept to a maximum 2,500 words (including footnotes). A bibliography is not required for this assignment. The word limit will be strictly applied and work above the word limit

will not be marked.

Assignment No 2 must be submitted electronically, through Turnitin. Plagiarism software is used in this unit.

In completing Assignment No 2, students must comply with the *Australian Guide to Legal Citation*, compiled by the Melbourne University Law Review. The guide is available for download free online.

Further instructions in relation to Assignment No 2, including rubrics, will be posted on iLearn.

If, for justifiable reasons, a student is unable to submit the Assignment No 2 on time, he or she may submit an application for special consideration in accordance with the University's Special Consideration Policy.

Applications for special consideration pursuant to the Special Consideration Policy are made electronically via [ask.mq.edu.au](http://ask.mq.edu.au) and should be accompanied by supporting documentation. Students should refer to the Special Consideration Policy for complete details of the policy and a description of the supporting documentation required.

Any Assignment that is submitted after the due date and time without an approved special consideration application will attract a 2% per day penalty. Any Assignment that is submitted beyond 7 days of the due date and time will not be graded and will receive a zero mark.

This assessment task relates to the following learning outcomes:

- demonstrate a detailed knowledge of legal principles relating to the law on contracts;
- interpret and transmit knowledge, skills and concepts to specialist and non-specialist audiences
- analyse complex factual situations in solving contract law problems and apply relevant legal; principles to solving legal problems;
- assume responsibility for one's own learning by managing one's time effectively so as to complete and submit assessment items on time; and
- apply advanced research skills.

On successful completion you will be able to:

- Demonstrate a detailed and thorough knowledge of legal principles relating to contract law
- Analyse complex factual situations involving contract law and apply relevant legal principles to solving legal problems
- Formulate, present and evaluate oral and written arguments on complex contract law problems and principles, drawing upon relevant legal authority and policy considerations.
- Apply advanced research skills
- Assume responsibility for one's own learning by managing one's time effectively so as to

complete and submit assessment items on time.

## Final Examination (Take Home)

Due: **3 pm, 12 November 2018**

Weighting: **50%**

The final examination in this unit will be a take home examination.

The final examination will be based on material covered in the unit, ie all topics and materials covered in the unit.

The final examination will be in the form of a number of problem style questions. All questions will have to be answered.

Students will be able to access the final examination paper on iLearn from 10 am on Monday 12 November 2018 and must submit their answers to the final examination paper by 3 pm on Monday 12 November 2018.

A student's answers to the final examination paper's questions cannot exceed 2,500 words (inclusive of footnotes). This is an upper word limit and a student need not write 2,500 words if he or she can answer the questions in less than 2,500 words. A bibliography is not required. The word limit will be strictly applied and work above the word limit will not be marked.

The take home examination must be submitted electronically, through Turnitin. Plagiarism detection software is used in this unit.

Further instructions and information in relation to the Take Home Examination, including rubrics, will be made available on iLearn.

If, for justifiable reasons, a student is unable to do the take home examination on the set date, he or she should submit an application for special consideration in accordance with the University's Special Consideration Policy, which, if granted, will enable the student to complete a supplementary examination in December 2018 (on a date to be determined). If, for justifiable reasons, a student is unable to do the supplementary take home examination on the set date, he or she should submit an application for special consideration in accordance with the University's Special Consideration Policy, which, if granted, will enable the student to complete, as their supplementary examination, the final examination for this unit when it is next offered.

The take home examination is a timed assessment. As a timed assessment, if it is submitted after the stipulated time on the due date, it will not be graded and will receive a zero mark.

This assessment task relates to the following learning outcomes:

- demonstrate a detailed knowledge of legal principles relating to the law on contracts;
- interpret and transmit knowledge, skills and concepts to specialist and non-specialist audiences
- analyse complex factual situations in solving contract law problems and apply relevant legal; principles to solving legal problems;
- formulate, present and evaluate oral and written arguments on complex contract law

problems and principles, drawing upon relevant legal authority and policy considerations;  
and

- assume responsibility for one's own learning by managing one's time effectively so as to complete and submit assessment items on time.

On successful completion you will be able to:

- Demonstrate a detailed and thorough knowledge of legal principles relating to contract law
- Interpret and transmit knowledge, skills and concepts to specialist and non-specialist audiences
- Analyse complex factual situations involving contract law and apply relevant legal principles to solving legal problems
- Formulate, present and evaluate oral and written arguments on complex contract law problems and principles, drawing upon relevant legal authority and policy considerations.
- Assume responsibility for one's own learning by managing one's time effectively so as to complete and submit assessment items on time.

## **Delivery and Resources**

### **DELIVERY OF THE UNIT**

**To complete this unit student will need to use a computer and have access to the Internet.**

#### **Weekly Lectures (Internal and Distance Students)**

Weekly lectures in this unit will be pre-recorded and available to students on iLearn. Weekly lectures will commence in Week 1 and go through to Week 12.

#### **Weekly Tutorials (Internal Students)**

For internal students, weekly tutorials of 1.5 hours duration will commence in Week 1 and go through to Week 12. As no assessment item is directly attached to attendance or participation in tutorials, attendance at weekly tutorials is not compulsory. However, it is highly recommended.

Tutorials will consist of questions for discussion. The questions to be discussed each week are available on iLearn.

For tutorial times and classrooms students should consult the MQ Timetable website.

#### **On Campus Sessions (Distance Students)**

For distance students, there are three days of on campus sessions. As no assessment item is directly attached to attendance or participation at the on campus sessions, attendance at the on campus sessions is not compulsory. However, it is highly recommended.

Students are expected to prepare answers to all the questions for Weeks 1-8 for discussion at the on campus sessions. The questions for the on campus sessions are available on iLearn.

On campus sessions will run from 9-am to 12 noon and 1 pm to 4 pm on each of the three days.

For the dates and venues for the on campus sessions students should consult the MQ Timetable website.

## RESOURCES

### Prescribed Materials

1. P Radan, J Gooley, & I Vickovich, *Principles of Australian Contract Law*, 4th ed, LexisNexis, 2018
2. P Radan, J Gooley, & I Vickovich, *Principles of Australian Contract Law, Cases & Materials*, 4th ed, LexisNexis, 2018
3. Up-dates to the textbook and other materials that are available on iLearn

### Reference Materials

1. J W Carter, *Contract Law in Australia*, 7th ed, LexisNexis Butterworths, 2018
2. D Reynolds & L Goddard, *Leading Cases in Contract Law*, Federation Press, 2017
3. J Paterson, A Robertson & A Duke, *Principles of Contract Law*, 5th ed, Thomson Law Book Co, 2015
4. N C Seddon & R A Bigwood, *Cheshire and Fifoot Law of Contract*, 11th Aust ed, LexisNexis Butterworths, 2017
5. L Willmott, S Christensen, D Butler & B Dixon, *Contract Law*, 4th ed, Oxford University Press, 2013

## Unit Schedule

### TOPICS STUDIED IN THIS UNIT

Week	Topic(s)
1	Introduction to Contract Law
2	Agreement
3	Certainty & Completeness; Consideration; Equitable Estoppel
4	Intention; Requirement of Writing; Capacity



5	Express Terms
6	Implied Terms; Construction of Exclusion Clauses
7	Discharge by Performance; Discharge by Agreement
8	Discharge by Breach; Discharge by Frustration
9	Illegality
10	Misrepresentation; Misleading or Deceptive Conduct; Mistake
11	Unfair Terms; Duress; Undue Influence; Unconscionability
12	Unjust Contracts; Privity of Contracts; Construction of Contracts
13	Revision

The required readings for the above topics are set out in detail on iLearn.

## Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central \(https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central\)](https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central). 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](#) (**Note:** *The Special Consideration Policy is effective from 4 December 2017 and replaces the Disruption to Studies Policy.*)

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

If you would like to see all the policies relevant to Learning and Teaching visit [Policy Central \(https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/p\)](https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/p)

[olicy-central](#)).

## Student Code of Conduct

Macquarie University students have a responsibility to be familiar with the Student Code of Conduct: <https://students.mq.edu.au/study/getting-started/student-conduct>

## Results

Results shown in *iLearn*, 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>.

## 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 improve your marks and take control of your study.

- [Workshops](#)
- [StudyWise](#)
- [Academic Integrity Module for Students](#)
- [Ask a Learning Adviser](#)

## 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>

## 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.

## Graduate Capabilities

### PG - Capable of Professional and Personal Judgment and Initiative

Our postgraduates will demonstrate a high standard of discernment and common sense in their

professional and personal judgment. They will have the ability to make informed choices and decisions that reflect both the nature of their professional work and their personal perspectives.

This graduate capability is supported by:

### **Learning outcomes**

- Apply advanced research skills
- Assume responsibility for one's own learning by managing one's time effectively so as to complete and submit assessment items on time.

### **Assessment tasks**

- Assignment No 1
- Final Examination (Take Home)

## **PG - Discipline Knowledge and Skills**

Our postgraduates will be able to demonstrate a significantly enhanced depth and breadth of knowledge, scholarly understanding, and specific subject content knowledge in their chosen fields.

This graduate capability is supported by:

### **Learning outcomes**

- Demonstrate a detailed and thorough knowledge of legal principles relating to contract law
- Analyse complex factual situations involving contract law and apply relevant legal principles to solving legal problems

### **Assessment tasks**

- Assignment No 1
- Final Examination (Take Home)

## **PG - Critical, Analytical and Integrative Thinking**

Our postgraduates will be capable of utilising and reflecting on prior knowledge and experience, of applying higher level critical thinking skills, and of integrating and synthesising learning and knowledge from a range of sources and environments. A characteristic of this form of thinking is the generation of new, professionally oriented knowledge through personal or group-based critique of practice and theory.

This graduate capability is supported by:

### **Learning outcomes**

- Interpret and transmit knowledge, skills and concepts to specialist and non-specialist audiences

- Analyse complex factual situations involving contract law and apply relevant legal principles to solving legal problems

## **Assessment tasks**

- Assignment No 1
- Assignment No 2

## **PG - Research and Problem Solving Capability**

Our postgraduates will be capable of systematic enquiry; able to use research skills to create new knowledge that can be applied to real world issues, or contribute to a field of study or practice to enhance society. They will be capable of creative questioning, problem finding and problem solving.

This graduate capability is supported by:

### **Learning outcomes**

- Demonstrate a detailed and thorough knowledge of legal principles relating to contract law
- Analyse complex factual situations involving contract law and apply relevant legal principles to solving legal problems
- Formulate, present and evaluate oral and written arguments on complex contract law problems and principles, drawing upon relevant legal authority and policy considerations.
- Apply advanced research skills

## **Assessment tasks**

- Assignment No 1
- Assignment No 2
- Final Examination (Take Home)

## **PG - Effective Communication**

Our postgraduates will be able to communicate effectively and convey their views to different social, cultural, and professional audiences. They will be able to use a variety of technologically supported media to communicate with empathy using a range of written, spoken or visual formats.

This graduate capability is supported by:

### **Learning outcomes**

- Interpret and transmit knowledge, skills and concepts to specialist and non-specialist audiences
- Formulate, present and evaluate oral and written arguments on complex contract law

problems and principles, drawing upon relevant legal authority and policy considerations.

- Apply advanced research skills

## **Assessment tasks**

- Assignment No 1
- Assignment No 2
- Final Examination (Take Home)

## **PG - Engaged and Responsible, Active and Ethical Citizens**

Our postgraduates will be ethically aware and capable of confident transformative action in relation to their professional responsibilities and the wider community. They will have a sense of connectedness with others and country and have a sense of mutual obligation. They will be able to appreciate the impact of their professional roles for social justice and inclusion related to national and global issues

This graduate capability is supported by:

## **Learning outcome**

- Assume responsibility for one's own learning by managing one's time effectively so as to complete and submit assessment items on time.

## **Assessment task**

- Assignment No 2

## **Changes from Previous Offering**

There have been no changes to the content and assessment regime since the previous offering of this unit.