



# HRM 222

## Foundations in Human Resources Law

S2 Day 2018

*Archive (Pre-2019) - Dept of Marketing and Management*

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#### **Disclaimer**

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## General Information

Unit convenor and teaching staff

Unit Convenor

Associate Professor Louise Thornthwaite

[louise.thornthwaite@mq.edu.au](mailto:louise.thornthwaite@mq.edu.au)

Contact via [louise.thornthwaite@mq.edu.au](mailto:louise.thornthwaite@mq.edu.au)

4ER (old E4A) Room 628

Monday 2.15-3.00 pm, Friday 12.15-1.00 pm

Tutor

Christine Sinclair

[christine.sinclair@mq.edu.au](mailto:christine.sinclair@mq.edu.au)

Contact via email

TBA

Credit points

3

Prerequisites

12cp at 100 level or above

Corequisites

Co-badged status

Unit description

This unit provides a foundation for human resources law. The unit provides students with grounding in human resources law that will assist them in future management careers. The need to incorporate law into HR practice provides a challenge particularly with ongoing changes to workplace law and management. Areas covered include: the Australian legal system, the development of human resources law, and the relationship of human resources law to other legal areas. Students will analyse the legal aspects of particular case studies relevant to human resources law and critically assess and make judgments on the merits of legal arguments.

## 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:

Understand how law are made and enforced in Australia

Appreciate the difference between Australian Legal systems

Understand the legal principles that apply to human resources contracts, tortious actions and their application to different business entities

Appreciate the legislation and case law that is relevant to HRL

Critically assess and make judgments on the merits of legal and ethical arguments

## Assessment Tasks

Name	Weighting	Hurdle	Due
<a href="#">In class quiz (1)</a>	10%	No	Week 5 (27 August)
<a href="#">Individual Essay</a>	30%	No	Week 9 (8 October)
<a href="#">In class quiz (2)</a>	10%	No	Week 11 (23 October)
<a href="#">Final Examination</a>	50%	No	University Examination period

### In class quiz (1)

Due: **Week 5 (27 August)**

Weighting: **10%**

In class quiz consists of 5-7 short answer/multiple choice questions. The quiz is conducted in the first quarter of the tutorial time and will take 10 minutes to complete, it is closed book under exam conditions and will relate to the first 3 chapters of the text book (lectures and tutorial material). Students will need to display their student identification card in order to sit the quiz.

#### Non-Attendance:

No alternative quiz will be granted. Students that do not attend the class quiz time will be awarded a mark of '0' for the task, except for cases in which an application for 'special consideration' is Made and approved.

On successful completion you will be able to:

- Understand how law are made and enforced in Australia
- Appreciate the difference between Australian Legal systems
- Appreciate the legislation and case law that is relevant to HRL

### Individual Essay

Due: **Week 9 (8 October)**

Weighting: **30%**

This is an individual essay with a maximum of 1800 words (+/- 10%), excluding references. All

finalised essays **MUST** be uploaded to the iLearn ('turnitin') by the due date, which is Monday 8 October by 12 midnight. It is strongly advised that students do not leave it to the last minute to upload their completed essay. **Please Note:** 'multiple' uploads will be possible.

**All assignments submitted must adhere to the following standards:**

- a) Cover page with full student details and exact word count
- b) Ensure that *your name and page number* is located on every page of your submitted essay
- c) Presentation of essay should adhere to normal academic and professional standards of presentation, including: page numbers, double spacing, appropriate page margins (2.54cm default margin setting), Times New Roman font
- d) 12 point *must be used*. Do not use 10 point or less (unless it is a direct quote), as this is too hard to read (even electronically) for the marker
- e) Essays should be edited and free of typographical and grammatical errors
- f) Legal referencing and citation required (this legal reference standard will be explained in your tutorial class; see also iLearn)
- g) No bibliography/end reference list required (as long as 'footnotes' are properly executed)
- h) **Please note:** Students are required to 'individually' research and write their response to the essay question (it is not a collaborative exercise and must be the sole work of the student)
- i) All use of 'other' ideas and work (quotes, paraphrasing, internet sites, cut and paste (not advised), etc.) must be appropriately acknowledged in your work. Students *will be held accountable* for their final essay submission where referencing is inadequate and/or misleading and could be subject to a penalty (such as '0' marks, etc.) for academic misconduct (see university academic honesty policy).
- j) Students *may be* required to discuss submitted essay topic content with their tutor to ensure student authorship.

**Submission Procedure:**

Students are required to submit their electronic copy of the essay to 'Turnitin' via the Internet as part of the submission process. Your essay will then be automatically compared to work of your classmates, previous students from Macquarie and other universities, with material available on the Internet, both freely available and subscription-based electronic journals.

Please do not leave it to the last minute to submit your essay (this can potentially overload the system).

**Late Submissions:**

No extensions will be granted. There will be a deduction of 10% of the total available marks made from the total awarded mark for each 24 hour period or part thereof that the submission is late (for example, 25 hours late in submission - 20% penalty). This penalty does not apply for cases in which an application for Special Consideration is made and APPROVED. No submission can be accepted after solutions/feedback have been discussed.

Marking criteria and rubric can be viewed on iLearn

On successful completion you will be able to:

- Understand how law are made and enforced in Australia
- Appreciate the difference between Australian Legal systems
- Understand the legal principles that apply to human resources contracts, tortious actions and their application to different business entities
- Appreciate the legislation and case law that is relevant to HRL
- Critically assess and make judgments on the merits of legal and ethical arguments

## In class quiz (2)

Due: **Week 11 (23 October)**

Weighting: **10%**

The second in-class quiz consists of 5-7 short answer/multiple choice questions based on weeks 4-8 (lectures and tutorial materials) of the course. The quiz is conducted in the tutorial time (at the beginning), is closed book under exam conditions and will take approximately 10 minutes to complete. Students must display their student identification card in order to sit the quiz.

### **Non-Attendance:**

No alternative quiz will be granted. Students that do not attend the class quiz time will be awarded a mark of '0' for the task, except for cases in which an application for Special Consideration is made and APPROVED.

On successful completion you will be able to:

- Appreciate the legislation and case law that is relevant to HRL

## Final Examination

Due: **University Examination period**

Weighting: **50%**

The examination is an 'open-book' exam worth 50% of your overall marks. 'Open-book' exam means that you are able to take any printed (written) material (e.g. lecture notes, student summaries, text book, etc.) into the exam room. However, you cannot take any electronic devices/recordings into the exam such as, for example, computers, calculators, electronic dictionaries, iPhones, iPads, iWatchers or other 'smart' devices', etc (see iLearn for specific details).

- Examination format and other relevant information will be posted on iLearn closer to the exam periods

The examination is three (3) hours and you are expected to present yourself for examination at the time and place designated in the University Examination Timetable. This timetable is

available in 'draft' form approximately eight weeks before the commencement of the examination and in final form approximately four weeks before the commencement of the examination - <http://mq.edu.au/exam/>

The only exception for not sitting an examination at the designated time is because of documented illness or unavoidable disruption. In these circumstances you are expected to consider applying for Special Consideration.

If a Supplementary Examination is granted as a result of the Special Consideration process the examination is scheduled after the conclusion of the official examination period. Information about special consideration is available at <https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policies/special-consideration>

The Macquarie University Examination Policy details and conduct of examinations at the University. The policy is available at - <http://www.mq.edu.au/policy/docs/examination/>

On successful completion you will be able to:

- Understand how law are made and enforced in Australia
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## **Delivery and Resources**

Number and length of classes: 1 x 2 hour lecture (Wednesday 11-1pm) and 1 x 1 hour tutorial per week. The subject is 3 hours face-to-face teaching per week.

**Please note:** The above information may be subject to timetable change - students must check final timetable before classes commence for confirmation of lecture/tutorial locations. The timetable for classes can be found on the University web site at - <http://www.timetables.mq.edu.au>.

### **Lecture Information**

Lectures are recorded for the main purpose of student 'revision' - not as a substitute for attending 'face-to-face' lectures. This is not an 'online' subject, therefore students are expected to attend lectures.

Signed attendance sheet not required for lectures

**Please note:** Due to the changing legal environment in the employment area - lecture slides on iLearn may be subject to ongoing updates at short notice.

### **Tutorial Information**

Students must attend their assigned tutorial class

Tutorials start in week 2 of the semester

**Please note:** The Unit Convenor/Lecturer/Tutors *cannot change your tutorial times*, any tutorial changes must be finalised through formal Department online processes.

It is expected that you come to tutorial classes prepared. This means doing the necessary readings and answering tutorial problems before the tutorial class

Attendance will be taken at each tutorial session. Please ensure that you sign the attendance sheet: if you miss a tutorial please send an email notifying your tutor (not the Unit Convenor) and (if necessary) provide appropriate documentation (e.g. medical certificate) to your tutor. In special circumstances, if your tutorial absence is going to be longer than two weeks (continuing) you may need to notify the Unit Convenor. Signed attendance sheets are not required for lectures but are required for tutorial attendance.

**Warning:** students must attend at least 10 out of 12 tutorials - failure to do this may affect your final grade.

Students are expected to arrive at class on time, and not leave until class ends. Mobil phones must be turned OFF and not simply set to silent. Computers and other electronic devices must ONLY be used for class purposes and not for social media updates or internet entertainment. Students who disrupt the lecture/tutorial will be asked to leave.

The week-by-week tutorial questions are available on iLearn (under the assessment icon). Students are expected to bring the questions to their tutorial class, do the required reading and attempt to answer the questions BEFORE the class.

The tutorial questions and sessions are designed to initiate active student discourse of the subject material

Students who have any queries or problems with the course must discuss this with their tutor

You need a minimum of 50% to pass the course, as well as attend tutorials and attempt each assessment task. Students are not required to gain a pass mark in the examination to pass the subject.

## **REQUIRED AND RECOMMENDED TEXTS AND MATERIALS**

### **Required:**

Stewart Andrew, *Employment Law* (The Federation Press, 6th ed, 2018)

The text book is available from the Coop bookshop. Students are required to have *their own copy* of this text and bring it to tutorials. There are some older copies available in the library (on the shelves and in closed reserve: NB page numbers will be different and most recent principles of law will not be included in those). While lecture materials on iLearn are important and available to students - it is stressed that these materials alone cannot replace the text book.

### **Highly Recommended:**

CCH, *Australian Master Human Resources Guide* (CCH, 10th ed, 2013)

Stone, Katherine, and Arthurs, Harry, (eds) *Rethinking Workplace Regulation: Beyond the Standard Contract of Employment* (Russel Sage Publ. 2013)

Creighton B, Andrew Stewart, *Labour Law* (The Federation Press, 5th ed, 2010)

Owens R, Jill Murray, *The Law of Work* (Oxford University Press, 2nd ed, 2011)

Sappideen, C., Paul O'Grady, J. Riley, Geoff Warburton and Kate Eastman, *Macken's Law of Employment* (Lawbook Company, Sydney, 7th ed, 2011)

Freedland, Mark and Kontouris, Nicola, *The Legal Construction of Personal Work Relations* (Oxford University Press, 2012)

Conaghan, Joanne, Fischl, R, and Klare, K. (eds) *Labour Law in an Era of Globalisation: Transformative Practices and Possibilities*. (Oxford University Press, 2002)

Davidov, Guy and Langille, Brian (eds) *Boundaries and Frontiers of Labour Law: Goals and Means in the Regulation of Work* (Hart Publishing, Oregon, 2006)

### **Journals:**

Apart from text books and lecture slides, students will find it valuable to access and read relevant articles in journals. There are a number of journals that deal with this subject area. It is suggested that you research the University library system in order to locate and access relevant journal articles. Key journals include the *Australian Journal of Labour Law*, *Industrial Law Journal (UK)* and the *Journal of Industrial Relations*.

Students are also encouraged to read a good daily newspaper such as the Sydney Morning Herald, The Australian and the Australian Financial Review in order to keep up to date with changes in this area.

### **Commonwealth legislation (available on [www.comlaw.gov.au](http://www.comlaw.gov.au))**

Fair Work Act 2009 (Cth)

Fair Work Regulations 2009 (Cth)

Australian Human Rights Act 986 (Cth)

Racial Discrimination Act 1975 (Cth)

Sex Discrimination Act 1984 (Cth)

Equal Opportunity for Women in the Workplace Act 1999 (Cth)

Disability Discrimination Act 1992 (Cth)

Age Discrimination Act 2004 (Cth)

Independent Contractors Act 2006 (Cth)

### **NSW Legislation (see online: [www.legislation.nsw.gov.au/](http://www.legislation.nsw.gov.au/))**



Industrial Relations Act 1996 (NSW)

Long Service Leave Act 1955 (NSW)

Work Health and Safety Act 2011 (NSW)

Work Health and Safety Regulations 2011 (NSW)

### **Useful Websites:**

**Fair Work Ombudsman:** [www.fairwork.gov.au](http://www.fairwork.gov.au)

**Fair Work Australia:** [www.fwa.gov.au](http://www.fwa.gov.au)

**Australian Human Rights Commission:** [www.humanrights.gov.au](http://www.humanrights.gov.au)

**Safe Work Australia:** [www.safeworkaustralia.gov.au](http://www.safeworkaustralia.gov.au)

**International Labour Organization:** [www.ilo.org](http://www.ilo.org)

### **Resources:**

Students in this subject will require access to a computer in order to access iLearn and complete/submit their essay

### **TECHNOLOGY USED AND REQUIRED**

Students are required to use information technology in this unit.

Students will need to use:

- Library databases to source materials for the research of essay, which is accessed electronically for conducting research for assignments;
- Electronic (internet) access to iLearn to download unit learning resources and upload assignments or other materials required for class activities and assignments or other materials required for class activities and assignments
- Microsoft Word and PowerPoint for presentations and reports (where applicable)
- **Unit Web Page:** Course material is available on the learning management system (iLearn). The web page for this unit can be found at - <http://ilearn.mq.edu.au/login/MQ/>
- It is the responsibility of individual students to keep informed about subject changes via iLearn. Consequently students are reminded that they **MUST access iLearn on a regular bases** (at least once a week) in order to keep updated with any development, announcements, messages or changes made by the Unit Convenor/Lecturer/Tutors to the unit.

## Unit Schedule

Week	Topic
Week 1	Human Resources Law: Basic concepts and the purpose of 'employment law' (Chapter 1) <b>No Tutorial</b>
Week 2	The Development and Coverage of Employment Laws in Australia. (Chapter 2) <b>Tutorials begin</b>
Week 3	Who is an Employee? / Special Types of Employment (Chapters 3 & 4)
Week 4	Creating an Employment Relationship - The employment contract: duties and obligations (Chapters 5, 12 & 13)
Week 5	Minimum Standards: The NES and Awards/Enterprise Agreements (Chapters 7 & 8) <i>In-class QUIZ (1)</i>
Week 6	Dispute Resolution and Enforcement of Employment Laws (Chapters 9)
Week 7	Remuneration, Working Hours and Leave (Chapters 10 & 11)  <i>17 September until 30 September</i>  <i>UNIVERSITY MID SEMESTER BREAK</i> <b>(Please Note:</b> Monday 2 October is a 'public holiday' - no classes)
	Monday 1 October is a Public holiday - no class
Week 9	Discrimination and Victimisation (Chapter 14)  <i>Essay Due</i>
Week 10	Workplace Safety (Chapter 15)

Week 11	Security at Work and the Termination of Employment (Chapter 16 and 17) <i>In-class QUIZ (2)</i>
Week 12	Industrial Action (Chapter 18)
Week 13	Subject Revision

(This unit schedule may be subject to modification. Any content changes will be noted on iLearn)

### TUTORIAL ATTENDANCE, QUESTIONS AND EXPECTATION:

Tutorials start in week 2, students must attend the tutorial that they are assigned by the timetable. Any changes must be formally negotiated and processed with the Department/Faculty. This policy is based on room size, student numbers, equity issues, and Occupational Health and Safety legal requirements.

The tutorial questions are available on iLearn and it is expected that students will read and prepare their answers to the problem questions BEFORE the tutorial

**Please note:** The tutorial session is an interactive communication process and must not be seen as providing a second catch-up lecture on the topic area. It is the responsibility of students to adequately prepare for tutorial sessions.

## 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 \(http://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central\)](http://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-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](http://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](http://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](http://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

### Capable of Professional and Personal Judgement and Initiative

We want our graduates to have emotional intelligence and sound interpersonal skills and to demonstrate discernment and common sense in their professional and personal judgement. They will exercise initiative as needed. They will be capable of risk assessment, and be able to handle ambiguity and complexity, enabling them to be adaptable in diverse and changing environments.

This graduate capability is supported by:

#### Learning outcomes

- Appreciate the difference between Australian Legal systems
- Understand the legal principles that apply to human resources contracts, tortious actions and their application to different business entities
- Appreciate the legislation and case law that is relevant to HRL
- Critically assess and make judgments on the merits of legal and ethical arguments

### Discipline Specific Knowledge and Skills

Our graduates will take with them the intellectual development, depth and breadth of knowledge, scholarly understanding, and specific subject content in their chosen fields to make them competent and confident in their subject or profession. They will be able to demonstrate, where relevant, professional technical competence and meet professional standards. They will be able to articulate the structure of knowledge of their discipline, be able to adapt discipline-specific knowledge to novel situations, and be able to contribute from their discipline to inter-disciplinary solutions to problems.

This graduate capability is supported by:

#### Learning outcomes

- Understand how law are made and enforced in Australia
- Appreciate the difference between Australian Legal systems
- Understand the legal principles that apply to human resources contracts, tortious actions and their application to different business entities
- Appreciate the legislation and case law that is relevant to HRL
- Critically assess and make judgments on the merits of legal and ethical arguments

#### Assessment tasks

- In class quiz (1)
- Individual Essay
- In class quiz (2)

- Final Examination

## Critical, Analytical and Integrative Thinking

We want our graduates to be capable of reasoning, questioning and analysing, and to integrate and synthesise learning and knowledge from a range of sources and environments; to be able to critique constraints, assumptions and limitations; to be able to think independently and systemically in relation to scholarly activity, in the workplace, and in the world. We want them to have a level of scientific and information technology literacy.

This graduate capability is supported by:

### Learning outcomes

- Understand how law are made and enforced in Australia
- Appreciate the difference between Australian Legal systems
- Understand the legal principles that apply to human resources contracts, tortious actions and their application to different business entities
- Appreciate the legislation and case law that is relevant to HRL
- Critically assess and make judgments on the merits of legal and ethical arguments

### Assessment tasks

- Individual Essay
- Final Examination

## Problem Solving and Research Capability

Our graduates should be capable of researching; of analysing, and interpreting and assessing data and information in various forms; of drawing connections across fields of knowledge; and they should be able to relate their knowledge to complex situations at work or in the world, in order to diagnose and solve problems. We want them to have the confidence to take the initiative in doing so, within an awareness of their own limitations.

This graduate capability is supported by:

### Assessment tasks

- Individual Essay
- Final Examination

## Changes from Previous Offering

The legal information and its application to human resources practice has been updated since 2018. This subject should be seen as a 'work-in-progress' because of the ongoing rapid political, social, economic and global changes experienced in the employment/human resource area. Extra material will be made available on iLearn that deal with recent developments and case law that comes from the Fair Work Commission (FWC).

## Research and Practice

This unit uses research by Louise Thornthwaite:

Thornthwaite, L. (2018) Social Media and Dismissal: Developing a Reasonable Expectation of Privacy, *Journal of Industrial Relations*, 60 (1): 119-136.

Thornthwaite, L. (2016) Social Media: an emerging privacy, *Precedent: Australian Lawyers Alliance Journal*, 135 (July/August): 8-13.

Thornthwaite, L. (2016) 'Chilling Times: Social Media Policies, Labour Law and Employment Relations', *Asia Pacific Journal of Human Resources* 54 (3), 332-51.

Holley, S., Thornthwaite, L., Markey, R., and O'Neill, S., (2015) 'NSW Workers' Compensation Reform: A Parody of Evidence-Based Policy Making' *Australian Journal of Public Administration*, 74 (2): 151-161.

Thornthwaite, L., (2013) 'Social Media, Unfair Dismissal and the Regulation of Employees' Conduct Outside Work', *Australian Journal of Labour Law*, 26 (2) 164-184.

This unit gives you practice in applying research findings in your assignments.

This unit gives you opportunities to conduct your own research.