



LAWS804

Law of Obligations II - Torts

S2 Day 2018

Dept of Law

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Disclaimer

Macquarie University has taken all reasonable measures to ensure the information in this publication is accurate and up-to-date. However, the information may change or become out-dated as a result of change in University policies, procedures or rules. The University reserves the right to make changes to any information in this publication without notice. Users of this publication are advised to check the website version of this publication [or the relevant faculty or department] before acting on any information in this publication.

General Information

Unit convenor and teaching staff

JD Convenor

Jemimah Roberts

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Contact via jemimah.roberts@mq.edu.au

Building W3A, Room 441

1 - 2pm Mondays

Uche Ngwaba

uche.ngwaba@mq.edu.au

Credit points

4

Prerequisites

(LAWS803 and corequisite LAWS600) or (admission to JD in 2014)

Corequisites

Co-badged status

Unit description

The law of obligations encompasses private law obligations in contract, tort, and restitution. This compulsory unit examines the law of torts and its operation in context from doctrinal, practical, theoretical and normative perspectives. Torts addresses critical questions about social responsibility and obligations members of a community owe to one other, and how civil legal standards can and should be used to encourage appropriate behaviour and rectify wrongs. Negligence is the principal focus; other topics studied include assault, battery, false imprisonment, trespass to land and goods, nuisance, conversion, defences, and types of liability. The unit extends and integrates knowledge and skills developed in previous law units, focusing on communication, teamwork, problem solving and research. It also lays a foundation for the capstone unit LAWS815 Remedies, Reparations and Resolutions in Law.

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:

Describe at an advanced level the fundamental doctrines, concepts, principles, values and sources (both common law and statute) for different types of torts and categories of liability.

Recognise a number of contemporary developments in the law, and reflect upon how such developments may impact upon tort-feasors and claimants.

Critically analyse the current state of the law in this area and consider law reform proposals and comparative developments in other jurisdictions.

Identify and articulate complex legal issues via engagement with hypothetical problem-based scenarios and other relevant materials.

Engage in critical legal reasoning, analysis and research to generate appropriate responses to tort-based legal issues.

Communicate in ways that are effective, appropriate and persuasive for legal and non-legal audiences.

Demonstrate a high level of autonomy, accountability and professionalism in relation to study, research, performance and conduct.

General Assessment Information

Unless a Special Consideration request has been submitted and approved, (a) a penalty for lateness will apply – two (2) marks out of 100 will be deducted per day for assignments submitted after the due date – and (b) no assignment will be accepted more than seven (7) days (incl. weekends) after the original submission deadline. No late submissions will be accepted for timed assessments – e.g. quizzes, online tests.

Applications for Special Consideration are made electronically via 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. Word limits will be strictly applied and work above the word limit will not be marked. All assessments in the unit are to be submitted electronically. Plagiarism detection software is used in this unit.

For external students, students who do not attend the on campus session will not receive any participation marks.

Detailed marking rubrics will be made available on iLearn, assessments are moderated by the convenor for consistency and all fail papers are double marked.

Assessment Tasks

| Name | Weighting | Hurdle | Due |
|-----------------------------|-----------|--------|--------|
| <u>Active Participation</u> | 20% | No | Weekly |

| Name | Weighting | Hurdle | Due |
|-----------------------|-----------|--------|--------------------------|
| <u>Research Essay</u> | 40% | No | 9pm, Friday, 5th October |
| <u>Final Exam</u> | 40% | No | 9pm Friday 16th November |

Active Participation

Due: **Weekly**

Weighting: **20%**

This assessment task relates to preparation for tutorials / seminars and participation in discussions, debates and activities. In addition to the general expectation that students will come prepared and ready to engage for all tutorials, in Week 1 students will be allocated to a specific tutorial topic where they will have additional responsibilities for presenting on the readings and facilitating class discussion and debate with their peers. Further details will be provided on iLearn and explained in the first seminar.

The Unit Convenor will (a) engage in ongoing assessment of student participation in all tutorials and at the OCS sessions; and (b) assess student contribution for their allocated topic, in accordance with the marking rubric in iLearn.

If you cannot attend a tutorial or an OCS session you must email the Unit Convenor to inform them of your absence.

Extended absences from tutorials must meet the criteria for Special Consideration. Applications for Special Consideration in relation to absence from tutorials are made online at ask.mq.edu.au after two weeks of absence in relation to the third missed class.

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- Engage in critical legal reasoning, analysis and research to generate appropriate responses to tort-based legal issues.
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Research Essay

Due: **9pm, Friday, 5th October**

Weighting: **40%**

Please refer to iLearn for full details of the essay question.

All work is to be submitted via Turnitin on iLearn.

Late submissions will be penalised per the policy listed under 'General Assessment'.

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Final Exam

Due: **9pm Friday 16th November**

Weighting: **40%**

There will be a take-home examination to be completed in relation to the materials from weeks 1 - 13.

Students will be required to answer a variety of questions showing engagement with, and understanding of, the course materials and subject matter. Questions may include short answer questions, extended responses and / or problem questions. Further details regarding exam format and structure will be provided on iLearn.

This is a timed assessment and no late submissions will be accepted.

Any student with a successful application for special consideration will be given a supplementary question.

On successful completion you will be able to:

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Delivery and Resources

1. Resources

PRESCRIBED MATERIALS

- 1) Carolyn Sappideen, Prue Vines, *Torts: Commentary and Materials* (Thomson Reuters, 12th ed, 2016)
- 2) Civil Liability Act 2002 (NSW)
- 3) Lectures and associated materials
- 4) Primary and secondary source materials (eg. cases, statutes, articles)
- 5) Online materials
- 6) Seminar activity materials

REFERENCE MATERIALS

Suggested materials for further reference include:

JOURNALS

- *The Torts Law Journal*,
- *Australian Civil Liability*,
- *Torts Law Review*

ONLINE MATERIALS

Example: Australian Torts Reporter (CCH Online) = providing the latest detailed commentary, cases and legislation related to torts law jurisdictions across Australia.

TEXTS

H. Luntz, D. Hambly, K. Burns, J. Dietrich and N. Foster, *Torts: Cases and Commentary*, (LexisNexis, 7 ed, 2013).

Martin Davies and Ian Malkin, *Torts* (LexisNexis, 7th ed, 2015).

Julia Davis, *Connecting with Tort Law* (Oxford University Press, 2012).

Tim Paine, *Torts, Q&A series* (LexisNexis, 4th Ed, 2015).

2. Teaching and Learning Activities

| | |
|------------------------|---|
| Lectures | Weekly lectures from staff are pre-recorded and posted online on ilearn each week from Week 1 to Week 13 - for all students (external and internal). |
| Seminars | Seminars in which legal principles and complex legal issues are examined, critiqued and analysed by students and staff. (Seminars for internal students begin in Week 1 and end in Week 12; external students will attend on campus sessions as scheduled). |
| Reading and writing | Students will have personal responsibility for reading all materials, note taking, and preparation of written answers to seminar questions, assignments and exam. |
| Collaboration | Students are encouraged to form study groups to discuss course content, engage in online discussion with each other, and to prepare answers to seminar questions jointly. |
| Communication | Discussion of legal principles, issues and hypotheticals both in and out of class; students will be called upon in class. |
| Self-Directed Learning | Students will complete self-directed learning tasks using online resources and other materials as required. |

Each week students will be required to engage with the teaching and learning activities in order to develop the expected proficiency in The Law of Obligations II - Torts.

Unit Schedule

A topic overview which includes reference to the required readings is posted on **ilearn**, along with other resources that students are required to read, watch, listen to, or otherwise complete. Separate tutorial activities will also be posted online.

| | |
|--|--|
| Week 1 - NB Tutorials start in week 1 Introduction to Torts: Law and Theory | |
| Week 2 Trespass to the Person and Interference with Chattels | |
| Week 3 Trespass to Land and Nuisance | |
| Week 4 Defences to Intentional Torts | |
| Week 5 Negligence: Duty of Care Principles | |
| Week 6 Negligence: Duty of Care Categories of Harm and Recovery of Loss | |
| Week 7 Negligence: Duty of Care Categories of Harm and Recovery of Loss (continued) | |
| Week 8 Negligence: Special Parties | |
| Week 9 Negligence: Standard of Care and Breach of Duty | |
| Week 10 Negligence: Causation | |
| Week 11 Negligence: Challenges to Causation | |
| Week 12 Negligence: Concurrent Liability and Defences | |
| Week 13 Revision | |

Learning and Teaching Activities

Development of in-depth analytical and research skills in tort law and engagement with social science doctrine

Students will be presented with a variety of legal problems related to the application of the law and principles of tort law and will be expected to engage in class discussions, debates and other activities to develop their tort law analytical research skills and gain sophisticated insight into the broader context of tort law in society.

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/policy-central) (<https://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.

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/.

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

- Describe at an advanced level the fundamental doctrines, concepts, principles, values and sources (both common law and statute) for different types of torts and categories of liability.
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such developments may impact upon tort-feasors and claimants.

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Assessment tasks

- Active Participation
- Research Essay
- Final Exam

Learning and teaching activities

- Students will be presented with a variety of legal problems related to the application of the law and principles of tort law and will be expected to engage in class discussions, debates and other activities to develop their tort law analytical research skills and gain sophisticated insight into the broader context of tort law in society.

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:

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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

- Describe at an advanced level the fundamental doctrines, concepts, principles, values and sources (both common law and statute) for different types of torts and categories of liability.
- Recognise a number of contemporary developments in the law, and reflect upon how such developments may impact upon tort-feasors and claimants.
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- Final Exam

Learning and teaching activities

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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

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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

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Assessment tasks

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- Research Essay
- Final Exam

Learning and teaching activities

- Students will be presented with a variety of legal problems related to the application of the law and principles of tort law and will be expected to engage in class discussions, debates and other activities to develop their tort law analytical research skills and gain sophisticated insight into the broader context of tort law in society.

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 outcomes

- Describe at an advanced level the fundamental doctrines, concepts, principles, values and sources (both common law and statute) for different types of torts and categories of liability.
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- Students will be presented with a variety of legal problems related to the application of the law and principles of tort law and will be expected to engage in class discussions, debates and other activities to develop their tort law analytical research skills and gain sophisticated insight into the broader context of tort law in society.

Changes from Previous Offering

Learning outcomes have been updated.

New assessment regime.