



LAWS810

Equity and Trusts

S2 Day 2019

Macquarie Law School

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General Information

Unit convenor and teaching staff

Unit Convenor

Peter Radan

peter.radan@mq.edu.au

Contact via peter.radan@mq.edu.au

Room 515, 6 First Walk

Thursday 11 am - 12 noon

Credit points

4

Prerequisites

LAWS809

Corequisites

Co-badged status

Unit description

This unit concentrates on the nature and function of equity with particular emphasis on the law of trusts. The historical development of the equitable jurisdiction and its past and present relationship with the common law informs the examination of equitable assignments and dispositions, the action for breach of confidence and fiduciary relationships. The broad scope of influence of trust law (express, implied and constructive) on both commercial and close personal relationships as well as the connection between trust and other legal topics such as contract and debt is also studied. Students will consider the modern policy impact of decisions about the granting of charitable status to some trusts and consider whether this area is in need of reform.

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 equity and trusts

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

audiences

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

Formulate, present and evaluate oral and written arguments on complex equity and trusts 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 |
|------------------------------------------------------|-----------|--------|--------------------------|
| <u>Assignment No 1</u> | 25% | No | 10 am, 16 September 2019 |
| <u>Assignment No 2</u> | 25% | No | 10 am, 14 October 2019 |
| <u>Final Examination (Take Home)</u> | 50% | No | 3 pm, 7 November 2019 |

Assignment No 1

Due: **10 am, 16 September 2019**

Weighting: **25%**

Assignment No 1 in this unit will require students to answer a problem question or questions.

The problem question or questions 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 authoritative cases and commentary. Assignment No 1 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 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 in relation to Assignment No 1, including rubrics, will be posted 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 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.

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 if submitted more than seven (7) days (including weekends) after the original submission deadline.

This assessment task relates to the following learning outcomes:

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

Assignment No 2

Due: **10 am, 14 October 2019**

Weighting: **25%**

Assignment No 2 in this unit is a research paper.

The question 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 legal authorities. Assignment No 2 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 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 and information in relation to Assignment No 2, including rubrics, will be made available 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 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.

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 if submitted more than seven (7) days (including weekends) after the original submission deadline.

This assessment task relates to the following learning outcomes:

- demonstrate a detailed knowledge of legal principles relating to the law on equity and trusts;
- formulate, present and evaluate oral and written arguments on complex equity and trusts 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 equity and trusts 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.

Final Examination (Take Home)

Due: **3 pm, 7 November 2019**

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 Thursday 7 November 2019 and must submit their answers to the final examination paper by 3 pm on Thursday 7 November 2019.

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 2019 (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 equity and trusts;
- interpret and transmit knowledge, skills and concepts to specialist and non-specialist audiences
- analyse complex factual situations in solving equity and trusts law and apply relevant legal principles to solving legal problems;
- formulate, present and evaluate oral and written arguments on complex equity and trusts 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 equity and trusts
- Interpret and transmit knowledge, skills and concepts to specialist and non-specialist audiences
- Analyse complex factual situations involving equity and trusts law and apply relevant legal principles to solving legal problems
- Formulate, present and evaluate oral and written arguments on complex equity and trusts 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 students will need the 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 hour duration will commence in Week 1 and go through to week 12. As no assessment item is directly associated with attendance and participation in tutorials, attendance at 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 two days of on campus sessions. As no assessment item is directly associated with attendance and 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 1-7 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 two days.

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

RESOURCES

The prescribed materials for this unit are:

1. P Radan & C Stewart, *Principles of Australian Equity & Trusts*, 4th ed, LexisNexis, 2019
2. P Radan, C Stewart & I Vickovich, *Principels of Australian Equity & Trusts, Cases & Materials*, 4th ed, LexisNexis, 2019
3. Up-dates to the textbook and other materials that are available on iLearn

Unit Schedule

TOPICS STUDIED IN THIS UNIT

| Week | Topic(s) |
|------|-------------------------------------------------|
| 1 | Introduction; History & Nature of Equity |
| 2 | Law and Equity; Equitable Estates and Interests |
| 3 | Dispositions in Equity I |
| 4 | Dispositions in Equity II |
| 5 | Fiduciary Obligations; Introduction to Trusts |
| 6 | Express Trusts |

| | |
|----|----------------------------------------------|
| 7 | Variation & Termination of Trusts; Trustees |
| 8 | Beneficiaries; Tracing |
| 9 | Charitable Trusts |
| 10 | Resulting Trusts |
| 11 | Constructive Trusts |
| 12 | Equitable Estoppel; Confidential Information |
| 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/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 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

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

If you are a Global MBA student contact globalmba.support@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

- 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 2
- 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 equity and trusts
- Analyse complex factual situations involving equity and trusts law and apply relevant legal principles to solving legal problems

Assessment tasks

- Assignment No 2
- 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 equity and trusts 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 equity and trusts
- Analyse complex factual situations involving equity and trusts law and apply relevant legal principles to solving legal problems
- Formulate, present and evaluate oral and written arguments on complex equity and trusts 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 equity and trusts 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 1

Changes from Previous Offering

There has been no change to the content and assessment regime for this unit since it was last offered.