



HRM 222

Foundations in Human Resources Law

S2 Day 2019

Department of Management

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General Information

Unit convenor and teaching staff

Unit Convenor

Associate Professor Louise Thornthwaite

louise.thornthwaite@mq.edu.au

Contact via Email

Please view consultation hours via iLearn - <https://ilearn.mq.edu.au/login/>

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:

Explain how employment law is made and enforced in Australia.

Apply relevant legal principles and techniques to solve current case problems in human resource law.

Critically analyse the merits of legal arguments on particular human resource issues both as individuals and in groups.

Assessment Tasks

Name	Weighting	Hurdle	Due
HR Law Case Study	30%	No	Week 6
HR Law Report	20%	No	Week 10
Final Examination	50%	No	University Examination period

HR Law Case Study

Due: **Week 6**

Weighting: **30%**

HR Law Case Study Assessment Summary Task Description The essay requires students to apply legal principles and techniques to solving a current case problem in HR law **Type of Collaboration** Individual **Submission** Please Submit Via Turnitin Link on [iLearn](#) **Format** Please refer to the [iLearn](#) Unit page for guidelines on essay format and submission. **Length** 2000 words (+/- 10% allowance) **Inherent Task Requirements** No **Late Submission**

Late tasks must also be submitted through Turnitin. No extensions will be granted. There will be a **deduction of 10%** made from the total available marks for each **24 hour period** or part thereof that the submission is late (for example, 25 hours late in submission incurs a 20% deduction). Late submissions will be accepted up to 96 hours after the due date and time.

This penalty does not apply for cases in which an application for [Special Consideration](#) is made and approved. Note: applications for [Special Consideration Policy](#) must be made within 5 (five) business days of the due date and time.

On successful completion you will be able to:

- Apply relevant legal principles and techniques to solve current case problems in human resource law.
- Critically analyse the merits of legal arguments on particular human resource issues both as individuals and in groups.

HR Law Report

Due: **Week 10**

Weighting: **20%**

Individual Essay Assessment Summary Task Description This assessment requires students to work together as a group to compile a report which applies legal principles and techniques to resolving a current human resource law case problem, and to complete an individual reflection on the process and the case. **Type of Collaboration** Group and Individual **Submission** Please Submit Via Turnitin Link on [iLearn](#) **Format** Please refer to the [iLearn](#) Unit page **Length**

Group Report - 750 words max

Individual Reflection-750 words max

Inherent Task Requirements None Late Submission

Late tasks must also be submitted through Turnitin. No extensions will be granted. There will be a **deduction of 10%** made from the total available marks for each **24 hour period** or part thereof that the submission is late (for example, 25 hours late in submission incurs a 20% deduction). Late submissions will be accepted up to 96 hours after the due date and time.

This penalty does not apply for cases in which an application for [Special Consideration](#) is made and approved. Note: applications for [Special Consideration Policy](#) must be made within 5 (five) business days of the due date and time.

On successful completion you will be able to:

- Explain how employment law is made and enforced in Australia.
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Final Examination

Due: **University Examination period**

Weighting: **50%**

Final Exam Assessment Summary Task Description A final examination is included as an assessment task for this unit. **Type of Collaboration Individual Submission** You are expected to present yourself for examination at the time and place designated in the University Examination Timetable. **Format** Details given in the **Week 13** Lecture. **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. **Length** 2 hours (plus 10 minutes reading time)

Inherent Task Requirements None Late Submissions

Please see [Assessment Policy Schedule 4](#).

The only exception to not sitting an examination at the designated time in the University Examination Timetable is because of documented illness or unavoidable disruption. In these circumstances you may wish to consider applying for special consideration.

This penalty does not apply for cases in which an application for [Special Consideration is made and approved](#). Note: applications for [Special Consideration Policy](#) must be made within 5 (five) business days of the due date and time.

On successful completion you will be able to:

- Explain how employment law is made and enforced in Australia.

- Apply relevant legal principles and techniques to solve current case problems in human resource law.
- Critically analyse the merits of legal arguments on particular human resource issues both as individuals and in groups.

Delivery and Resources

Required text	<ul style="list-style-type: none">• Stewart Andrew, <i>Employment Law</i> (The Federation Press, 6th ed, 2018) <p>The text book is available from the Coop bookshop. Students are required to have <i>their own copy</i> 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).</p>
Unit web page	The web page for this unit can be found at: https://ilearn.mq.edu.au/login/
Technology Used and Required	<ul style="list-style-type: none">• Students will need to be familiar with a web browser to access the unit web page.• 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)
Delivery Format and Other Details	<ul style="list-style-type: none">• Number and length of classes: 1 x 2 hour lecture and 1 x 1 hour tutorial, i.e. 3 hours face to face per week unless indicated otherwise in the lecture schedule. Classes may vary due to public holiday(s)• Tutorials will commence in Week 2 (Please note – there is no tutorial in week 3. This should be taken as a Reading Week)• The timetable for classes can be found on the University web site at: http://www.timetables.mq.edu.au/

Recommended readings

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)

- 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/)

- 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
- **Fair Work Australia:** www.fwa.gov.au
- **Australian Human Rights Commission:** www.humanrights.gov.au
- **Safe Work Australia:** www.safeworkaustralia.gov.au
- **International Labour Organization:** www.ilo.org

Unit Schedule

Week	Topic
Week 1	Human Resources Law: Basic concepts and the purpose of 'employment law' (Chapter 1) No Tutorial
Week 2	Who is an Employee? / Special Types of Employment (Chapters 3 & 4) Tutorials begin
Week 3	The Development and Coverage of Employment Laws in Australia. (Chapter 2) No Tutorial – Reading Week
Week 4	Creating an Employment Relationship - The employment contract: duties and obligations (Chapters 5, 12 & 13) Tutorials Resume
Week 5	Minimum Standards: The NES and Awards/Enterprise Agreements (Chapters 7 & 8)
Week 6	Dispute Resolution and Enforcement of Employment Laws (Chapters 9) <i>Individual Case Study Due</i>
Week 7	Remuneration, Working Hours and Leave (Chapters 10 & 11)
	UNIVERSITY MID SEMESTER BREAK
Week 8	Loyalty, Confidentiality and Privacy (Chapter 13)
Week 9	Discrimination and Victimisation (Chapter 14)
Week 10	Workplace Safety (Chapter 15)
Week 11	Security at Work and the Termination of Employment (Chapter 16 and 17)
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)

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

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

- Explain how employment law is made and enforced in Australia.
- Apply relevant legal principles and techniques to solve current case problems in human resource law.
- Critically analyse the merits of legal arguments on particular human resource issues both as individuals and in groups.

Assessment tasks

- HR Law Case Study
- HR Law Report
- Final Examination

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

- Explain how employment law is made and enforced in Australia.
- Apply relevant legal principles and techniques to solve current case problems in human resource law.
- Critically analyse the merits of legal arguments on particular human resource issues both as individuals and in groups.

Assessment tasks

- HR Law Case Study
- HR Law Report
- 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

- Explain how employment law is made and enforced in Australia.
- Apply relevant legal principles and techniques to solve current case problems in human resource law.

- Critically analyse the merits of legal arguments on particular human resource issues both as individuals and in groups.

Assessment tasks

- HR Law Case Study
- HR Law Report
- 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:

Learning outcomes

- Explain how employment law is made and enforced in Australia.
- Apply relevant legal principles and techniques to solve current case problems in human resource law.
- Critically analyse the merits of legal arguments on particular human resource issues both as individuals and in groups.

Assessment tasks

- HR Law Case Study
- Final Examination

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.