



# LAW 317

## Equity and Trusts

S2 Day 2019

*Macquarie Law School*

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## General Information

Unit convenor and teaching staff

Convenor/Tutor

Dr Uche Ngwaba

[uche.ngwaba@mq.edu.au](mailto:uche.ngwaba@mq.edu.au)

Contact via Email

6 First Walk, Room 441

Wednesday (1pm to 2pm); other times by appointment

Tutor

Dr Liza Rybak

[liza.rybak@mq.edu.au](mailto:liza.rybak@mq.edu.au)

Credit points

3

Prerequisites

LAW316

Corequisites

Co-badged status

Unit description

This unit relates to and continues on from LAW316 and focuses on equitable notions of property, with a particular emphasis of the law of trusts, but also covering the historical development of equity and its relationship to common law, the assignment and other dispositions of property in equity, the obligation of confidence in equity with respect to information, equitable estoppel and fiduciary obligations. This unit will provide students with a theoretical grounding in the relevant principles as well as equip them with the capacity to apply these principles in practice.

## 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 thorough understanding of legal principles relating to equity and trusts

Demonstrate an enquiring, critical, analytical and thoughtful approach to equitable

property interests and their place in the overall scheme of property interests

Formulate, present and evaluate oral and written arguments about equity and trusts, drawing upon relevant precedent and policy considerations

Analyse hypothetical fact situations, identify legal and factual issues involving the law relating to equity and trusts, and apply relevant principles to solve legal problems

Demonstrate sophisticated research, writing and referencing skills appropriate to students undertaking a unit at this level

Take responsibility for one's own learning by managing one's time effectively so as to be able to undertake readings for weekly seminars on time as well as complete and submit assessment items on time

## **General Assessment Information**

### **Marking Rubrics**

Detailed marking rubrics will be made available on iLearn. Markers in this unit undertake a process of 'blind marking' to establish a common marking standard and all Fail papers are double marked.

### **Late Submission Penalty**

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

### **Special Consideration**

In the absence of a successful application for special consideration, any assessment task submitted after seven (7) days will not be graded and will receive a mark of zero. Applications for special consideration 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.

### **Word Limits**

Word limits will be strictly applied and work above the word limit will not be marked.

### **Assessment Submission**

All assessments in the unit are to be submitted electronically. Plagiarism detection software is used in this unit.

## Assessment Tasks

Name	Weighting	Hurdle	Due
<u>Assignment</u>	20%	No	6pm, 12 September 2019
<u>Final Examination (Take Home)</u>	40%	No	4 - 8 November 2019
<u>Quiz</u>	20%	No	Weeks 4 and 10
<u>Participation Marks</u>	20%	No	Continuous

### Assignment

Due: **6pm, 12 September 2019**

Weighting: **20%**

This assessment task calls for the application of a variety of intellectual skills: concise exposition, succinct analysis and informed library research. Students will be required to locate and record citations on a relevant topic area and offer a descriptive and evaluative paragraph on the annotation, to inform on the relevance, accuracy, and quality of the sources cited.

The annotated bibliography must be typed and must be kept to a maximum of 1000 words (strict word limit). The word limit will be strictly applied and work above the word limit will not be marked.

The assignment must be electronically submitted. Plagiarism detection software is used in this unit.

In completing their answer, students must comply with the Australian Guide to Legal Citation, compiled by the Melbourne University Law Review. The guide is available here:

<https://www.usc.edu.au/media/19143539/aglc4.pdf>

Further instructions and information in relation to the assessment task, including detailed marking rubrics, will be made available on iLearn. Markers in this unit undertake a process of 'blind marking' to establish a common marking standard and all fail papers are double marked.

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, and an assignment submitted after this date, without special consideration will receive zero.

On successful completion you will be able to:

- Demonstrate a thorough understanding of legal principles relating to equity and trusts

- Demonstrate an enquiring, critical, analytical and thoughtful approach to equitable property interests and their place in the overall scheme of property interests
- Formulate, present and evaluate oral and written arguments about equity and trusts, drawing upon relevant precedent and policy considerations
- Demonstrate sophisticated research, writing and referencing skills appropriate to students undertaking a unit at this level
- Take responsibility for one's own learning by managing one's time effectively so as to be able to undertake readings for weekly seminars on time as well as complete and submit assessment items on time

## Final Examination (Take Home)

Due: **4 - 8 November 2019**

Weighting: **40%**

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 one problem question and one essay question. All questions will have to be answered.

Students will be able to access the final examination paper on iLearn from 10 am on Monday 4 November 2019 and must submit their answers to the final examination paper by 6 pm on Friday 8 November 2019. The examination must be electronically submitted. Plagiarism detection software is used in this unit.

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

A student's answers to the final examination paper's questions cannot exceed 2,000 words (exclusive of footnotes). This is an upper word limit and a student need not write 2,000 words if he or she can answer the questions in less than 2,000 words. A bibliography is not required. The word limit will be strictly applied and work above the word limit will not be marked. The answers to the examination questions must be typed.

Students are not required to comply with strict AGLC referencing, however must provide authority which can be provided via footnotes.

Further instructions and information in relation to the final examination will be made available on iLearn.

On successful completion you will be able to:

- Demonstrate a thorough understanding of legal principles relating to equity and trusts
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property interests and their place in the overall scheme of property interests

- Formulate, present and evaluate oral and written arguments about equity and trusts, drawing upon relevant precedent and policy considerations
- Analyse hypothetical fact situations, identify legal and factual issues involving the law relating to equity and trusts, and apply relevant principles to solve legal problems
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## Quiz

Due: **Weeks 4 and 10**

Weighting: **20%**

Students will sit two online quizzes, the first in Week 4, the second in Week 10. Each quiz is worth 10%. The questions will be based on work covered in any of the weeks prior to the quiz.

On successful completion you will be able to:

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## Participation Marks

Due: **Continuous**

Weighting: **20%**

The assessment of class participation will involve two components: presentation and class engagement. Each component carries 10 marks. The class will be divided into groups at the beginning of the semester and students will be expected to stay with their groups for the rest of the semester. Tutors will determine the order of presentation by the groups.

In addition to group presentations, students will be expected to have done the weekly readings before coming to class so as to properly engage with their peers and the Tutor on the topic area of the week.

NOTE that Tutors will maintain a record of the performance of students in group presentations and class engagement and this will form the basis of the computation of class participation marks at the end of the semester.

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- Analyse hypothetical fact situations, identify legal and factual issues involving the law relating to equity and trusts, and apply relevant principles to solve legal problems
- Take responsibility for one's own learning by managing one's time effectively so as to be able to undertake readings for weekly seminars on time as well as complete and submit assessment items on time

## Delivery and Resources

### DELIVERY OF UNIT

#### 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 Seminars (Internal Students)

For internal students, weekly seminars of two (2) hours duration commence in Week 1 of the semester (ie the week beginning Monday 29 July 2019). The last seminar will be in Week 13. Seminar attendance is **compulsory**. Students who are unable to attend must apply for special consideration. If that application is accepted, you will be expected to complete and submit responses to the seminar questions covered during the week you missed class.

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

**Students are required to complete the set readings prior to the seminar in preparation for the seminar.** The problem and discussion questions for each seminar will be made available on iLearn.

#### On Campus Sessions (Distance Students)

For distance students there are two days of on campus sessions. Attendance at the on campus sessions is **compulsory**. On campus sessions will run from 9 am to 12 noon and 1 pm to 4 pm on each of the two days.

Students who are unable to attend must apply for special consideration. If that application is accepted, alternative work will be set in lieu of on-campus attendance.

Students will be divided into groups and presentation tasks will be sent to students ahead of the on campus session. This will count towards your class participation marks.

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

The topics for the on campus sessions will be selected from the topics covered in the semester.

The problem and discussion questions for the on campus sessions will be made available on

iLearn prior to the on campus session dates.

## RESOURCES

### Prescribed Materials

P Radan & C Stewart, Principles of Australian Equity & Trusts, (LexisNexis, 4th ed, 2019)

P Radan, C Stewart & I Vickovich, Principles of Australian Equity & Trusts, Cases & Materials, LexisNexis, 4th ed, 2019)

### Other Recommended Material

Barnett & Harder, Remedies in Australian Private Law (Cambridge University Press, 2nd ed, 2018)

Bryan & Vann, Equity and Trusts in Australia (Cambridge University Press, 2nd ed, 2017) Evans, Equity and Trusts (LexisNexis, 4th ed 2016).

## Unit Schedule

Week	Topic(s)
1	Introduction; History and 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	Variations & Terminations of Trusts; Trustees
8	Beneficiaries; Tracing
9	Charitable Trusts
10	Resulting Trusts
11	Constructive Trusts
12	Equitable Estoppel; Confidential Information
13	Revision

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



al). 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 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](http://ask.mq.edu.au) or if you are a Global MBA student contact [globalmba.support@mq.edu.au](mailto: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](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)

If you are a Global MBA student contact [globalmba.support@mq.edu.au](mailto: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/](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

### Creative and Innovative

Our graduates will also be capable of creative thinking and of creating knowledge. They will be imaginative and open to experience and capable of innovation at work and in the community. We want them to be engaged in applying their critical, creative thinking.

This graduate capability is supported by:

### Learning outcomes

- Formulate, present and evaluate oral and written arguments about equity and trusts, drawing upon relevant precedent and policy considerations
- Analyse hypothetical fact situations, identify legal and factual issues involving the law relating to equity and trusts, and apply relevant principles to solve legal problems

### Assessment task

- Final Examination (Take Home)

### 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

- Formulate, present and evaluate oral and written arguments about equity and trusts, drawing upon relevant precedent and policy considerations
- Analyse hypothetical fact situations, identify legal and factual issues involving the law relating to equity and trusts, and apply relevant principles to solve legal problems
- Take responsibility for one's own learning by managing one's time effectively so as to be able to undertake readings for weekly seminars on time as well as complete and submit assessment items on time

## Commitment to Continuous Learning

Our graduates will have enquiring minds and a literate curiosity which will lead them to pursue knowledge for its own sake. They will continue to pursue learning in their careers and as they participate in the world. They will be capable of reflecting on their experiences and relationships with others and the environment, learning from them, and growing - personally, professionally and socially.

This graduate capability is supported by:

### Learning outcome

- Take responsibility for one's own learning by managing one's time effectively so as to be able to undertake readings for weekly seminars on time as well as complete and submit assessment items on time

### Assessment task

- Participation Marks

## 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

- Demonstrate a thorough understanding of legal principles relating to equity and trusts
- Demonstrate an enquiring, critical, analytical and thoughtful approach to equitable property interests and their place in the overall scheme of property interests

- Formulate, present and evaluate oral and written arguments about equity and trusts, drawing upon relevant precedent and policy considerations
- Analyse hypothetical fact situations, identify legal and factual issues involving the law relating to equity and trusts, and apply relevant principles to solve legal problems
- Demonstrate sophisticated research, writing and referencing skills appropriate to students undertaking a unit at this level

## **Assessment tasks**

- Assignment
- Final Examination (Take Home)
- Quiz
- Participation Marks

## **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**

- Demonstrate a thorough understanding of legal principles relating to equity and trusts
- Demonstrate an enquiring, critical, analytical and thoughtful approach to equitable property interests and their place in the overall scheme of property interests
- Formulate, present and evaluate oral and written arguments about equity and trusts, drawing upon relevant precedent and policy considerations
- Analyse hypothetical fact situations, identify legal and factual issues involving the law relating to equity and trusts, and apply relevant principles to solve legal problems
- Demonstrate sophisticated research, writing and referencing skills appropriate to students undertaking a unit at this level

## **Assessment tasks**

- Assignment
- Final Examination (Take Home)
- Quiz
- Participation Marks

## 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

- Demonstrate a thorough understanding of legal principles relating to equity and trusts
- Demonstrate an enquiring, critical, analytical and thoughtful approach to equitable property interests and their place in the overall scheme of property interests
- Formulate, present and evaluate oral and written arguments about equity and trusts, drawing upon relevant precedent and policy considerations
- Analyse hypothetical fact situations, identify legal and factual issues involving the law relating to equity and trusts, and apply relevant principles to solve legal problems

### Assessment task

- Final Examination (Take Home)

## Effective Communication

We want to develop in our students the ability to communicate and convey their views in forms effective with different audiences. We want our graduates to take with them the capability to read, listen, question, gather and evaluate information resources in a variety of formats, assess, write clearly, speak effectively, and to use visual communication and communication technologies as appropriate.

This graduate capability is supported by:

### Learning outcomes

- Demonstrate a thorough understanding of legal principles relating to equity and trusts
- Demonstrate an enquiring, critical, analytical and thoughtful approach to equitable property interests and their place in the overall scheme of property interests
- Formulate, present and evaluate oral and written arguments about equity and trusts, drawing upon relevant precedent and policy considerations
- Analyse hypothetical fact situations, identify legal and factual issues involving the law relating to equity and trusts, and apply relevant principles to solve legal problems
- Demonstrate sophisticated research, writing and referencing skills appropriate to students undertaking a unit at this level

## Assessment tasks

- Assignment
- Final Examination (Take Home)
- Participation Marks

## Engaged and Ethical Local and Global citizens

As local citizens our graduates will be aware of indigenous perspectives and of the nation's historical context. They will be engaged with the challenges of contemporary society and with knowledge and ideas. We want our graduates to have respect for diversity, to be open-minded, sensitive to others and inclusive, and to be open to other cultures and perspectives: they should have a level of cultural literacy. Our graduates should be aware of disadvantage and social justice, and be willing to participate to help create a wiser and better society.

This graduate capability is supported by:

### Learning outcome

- Demonstrate a thorough understanding of legal principles relating to equity and trusts

## Changes from Previous Offering

A number of changes have been introduced to the current offering of the unit, as follows:

1. A class participation component has been introduced to the assessment framework and seminar attendance has been made compulsory.
2. An annotated bibliography has been introduced as an assessment task in lieu of research essay.
3. The recommended text has been updated to a more recent edition.