



LAWS11064 Torts B

Term 2 - 2020

Profile information current as at 20/04/2024 09:29 pm

All details in this unit profile for LAWS11064 have been officially approved by CQU University and represent a learning partnership between the University and you (our student). The information will not be changed unless absolutely necessary and any change will be clearly indicated by an approved correction included in the profile.

General Information

Overview

LAWS11063 Torts B builds upon the knowledge and skills acquired by you in Torts A (LAWS11063) and covers the remainder of the topics, concepts and principles in Australian tort law. You will gain an understanding of civil wrongs as developed by the common law yet increasingly supplemented by legislation. The unit has a three-part structure. The first part examines the tort of negligence at common law and as amended by legislation Australia-wide in 2002-2003. The second part of the unit examines the tort of defamation including modifications by the Defamation Act 2005 (Qld), defences and remedies. Finally, the unit considers the protection available in tort from unfair business practices and defective goods and services, with a brief consideration of the Australian Consumer Law as a form of additional or alternative statutory protection in regards to these practices. This unit together with LAWS11063 Torts A meets the LPAB requirements for torts.

Details

Career Level: *Undergraduate*

Unit Level: *Level 1*

Credit Points: 6

Student Contribution Band: 10

Fraction of Full-Time Student Load: 0.125

Pre-requisites or Co-requisites

Prerequisite: LAWS11063

Important note: Students enrolled in a subsequent unit who failed their pre-requisite unit, should drop the subsequent unit before the census date or within 10 working days of Fail grade notification. Students who do not drop the unit in this timeframe cannot later drop the unit without academic and financial liability. See details in the [Assessment Policy and Procedure \(Higher Education Coursework\)](#).

Offerings For Term 2 - 2020

- Online

Attendance Requirements

All on-campus students are expected to attend scheduled classes - in some units, these classes are identified as a mandatory (pass/fail) component and attendance is compulsory. International students, on a student visa, must maintain a full time study load and meet both attendance and academic progress requirements in each study period (satisfactory attendance for International students is defined as maintaining at least an 80% attendance record).

Website

[This unit has a website, within the Moodle system, which is available two weeks before the start of term. It is important that you visit your Moodle site throughout the term. Please visit Moodle for more information.](#)

Class and Assessment Overview

Recommended Student Time Commitment

Each 6-credit Undergraduate unit at CQUniversity requires an overall time commitment of an average of 12.5 hours of study per week, making a total of 150 hours for the unit.

Class Timetable

[Regional Campuses](#)

Bundaberg, Cairns, Emerald, Gladstone, Mackay, Rockhampton, Townsville

[Metropolitan Campuses](#)

Adelaide, Brisbane, Melbourne, Perth, Sydney

Assessment Overview

1. **Presentation**

Weighting: 30%

2. **Portfolio**

Weighting: 20%

3. **Take Home Exam**

Weighting: 50%

Assessment Grading

This is a graded unit: your overall grade will be calculated from the marks or grades for each assessment task, based on the relative weightings shown in the table above. You must obtain an overall mark for the unit of at least 50%, or an overall grade of 'pass' in order to pass the unit. If any 'pass/fail' tasks are shown in the table above they must also be completed successfully ('pass' grade). You must also meet any minimum mark requirements specified for a particular assessment task, as detailed in the 'assessment task' section (note that in some instances, the minimum mark for a task may be greater than 50%). Consult the [University's Grades and Results Policy](#) for more details of interim results and final grades.

CQUniversity Policies

All University policies are available on the [CQUniversity Policy site](#).

You may wish to view these policies:

- Grades and Results Policy
- Assessment Policy and Procedure (Higher Education Coursework)
- Review of Grade Procedure
- Student Academic Integrity Policy and Procedure
- Monitoring Academic Progress (MAP) Policy and Procedure – Domestic Students
- Monitoring Academic Progress (MAP) Policy and Procedure – International Students
- Student Refund and Credit Balance Policy and Procedure
- Student Feedback – Compliments and Complaints Policy and Procedure
- Information and Communications Technology Acceptable Use Policy and Procedure

This list is not an exhaustive list of all University policies. The full list of University policies are available on the [CQUniversity Policy site](#).

Previous Student Feedback

Feedback, Recommendations and Responses

Every unit is reviewed for enhancement each year. At the most recent review, the following staff and student feedback items were identified and recommendations were made.

Feedback from Unit evaluations, student reflections and informal feedback.

Feedback

Generally positive feedback on the quality, content and structure of unit materials.

Recommendation

Continue with current unit materials, with any legal updates as required.

Feedback from Unit evaluations, informal feedback and student reflections.

Feedback

Generally positive feedback on the assessment tasks. Some resistance to the requirement of group activity in the online learning space.

Recommendation

Continue with assessment tasks as approved by the Law Discipline Committee. Continue with providing detailed task sheets and dedicated assessment zoom session setting out expectations for this particular unit. Continue providing students with information and relevance of group work to professional endeavours and accreditation requirements.

Feedback from Unit evaluations, informal feedback and student reflections.

Feedback

Generally positive feedback on Unit Coordinator's teaching methods, knowledge and manner.

Recommendation

Continue with current approach by unit coordinator which focuses on engagement and support.

Feedback from Unit evaluations, informal feedback

Feedback

Generally positive feedback on the quality and value of Zoom sessions in this unit. Some feedback requesting any cancelled zoom sessions to be re-scheduled.

Recommendation

Continue with weekly Zoom sessions during teaching weeks. Ensure that any unexpectedly cancelled zooms are rescheduled.

Unit Learning Outcomes

On successful completion of this unit, you will be able to:

1. Understand concepts, principles and doctrines relevant to negligence, defamation, unfair business practices and defective goods and services in the leading cases and statute
2. Evaluate the effectiveness and fairness of the applicable rules, as adhered to in practice, by critical application of the tort theory surveyed in LAWS11063 Torts A
3. Research, interpret and apply legal principles to the analysis of tort disputes to identify obligations, rights and remedies
4. Demonstrate skills in teamwork, communication, critical legal thinking, reflection and reasoning.

Alignment of Learning Outcomes, Assessment and Graduate Attributes



Alignment of Assessment Tasks to Learning Outcomes

Assessment Tasks	Learning Outcomes			
	1	2	3	4
1 - Presentation - 30%	•		•	•
2 - Portfolio - 20%		•	•	•
3 - Take Home Exam - 50%	•	•	•	•

Alignment of Graduate Attributes to Learning Outcomes

Graduate Attributes	Learning Outcomes			
	1	2	3	4
1 - Communication	•	•	•	•
2 - Problem Solving		•	•	•
3 - Critical Thinking	•	•	•	•
4 - Information Literacy	•	•	•	•
5 - Team Work				•
6 - Information Technology Competence	•		•	•
7 - Cross Cultural Competence	•		•	•
8 - Ethical practice				•
9 - Social Innovation				
10 - Aboriginal and Torres Strait Islander Cultures				

Alignment of Assessment Tasks to Graduate Attributes

Assessment Tasks	Graduate Attributes									
	1	2	3	4	5	6	7	8	9	10
1 - Presentation - 30%	•	•	•	•	•	•	•			
2 - Portfolio - 20%	•		•	•		•		•		
3 - Take Home Exam - 50%	•	•	•	•						

Textbooks and Resources

Textbooks

LAWS11064

Prescribed

Focus Torts

Edition: 8th (2018)

Authors: Martin Davies and Ian Malkin

LexisNexis Butterworths

Chatswood, NSW, Australia

ISBN: 978-0-40934-496-7

Binding: Paperback

Additional Textbook Information

If you prefer to study with a paper copy, they are available at the CQUni Bookshop here: <http://bookshop.cqu.edu.au> (search on the Unit code). eBooks are available at the publisher's website.

[View textbooks at the CQUniversity Bookshop](#)

IT Resources

You will need access to the following IT resources:

- CQUniversity Student Email
- Internet
- Unit Website (Moodle)
- Microphone
- Microsoft Powerpoint
- Microsoft Word
- Webcam

Referencing Style

All submissions for this unit must use the referencing style: [Australian Guide to Legal Citation, 4th ed](#)
For further information, see the Assessment Tasks.

Teaching Contacts

Susan Bird Unit Coordinator

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Constance Lee Unit Coordinator

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Schedule

Week 1 - 13 Jul 2020

Module/Topic	Chapter	Events and Submissions/Topic
Introduction to Tort B and Tort A Refresh	Ch 1 - Davies and Malkin D Ipp (Justice), 'The Politics, Purpose and Reform of the Law of Negligence (2007) 81 <i>Australian Law Journal</i> 609.	Tutorial 1. A link to tutorials is found on the Moodle site for this unit. Make sure your webcam and microphone are working. You will need both of these to complete your Assignment. These will also help you participate effectively in the weekly Online Discussion sessions.

Week 2 - 20 Jul 2020		
Module/Topic	Chapter	Events and Submissions/Topic
Negligence: Overview and Duty of Care	Chs 2 and 5 - Davies and Malkin	Tutorial 2
Week 3 - 27 Jul 2020		
Module/Topic	Chapter	Events and Submissions/Topic
Negligence: Standard of Care and Breach of Duty	Ch 3 - Davies and Malkin	Tutorial 3
Week 4 - 03 Aug 2020		
Module/Topic	Chapter	Events and Submissions/Topic
Negligence: Causation and Remoteness of Damage	Ch 4 - Davies and Malkin	Tutorial 4
Week 5 - 10 Aug 2020		
Module/Topic	Chapter	Events and Submissions/Topic
Special Negligence Cases: Psychiatric Injury	Ch 9 - Davies and Malkin	Tutorial 5
Vacation Week - 17 Aug 2020		
Module/Topic	Chapter	Events and Submissions/Topic
No topic set for this week		no tutorial
Week 6 - 24 Aug 2020		
Module/Topic	Chapter	Events and Submissions/Topic
Special Negligence Cases: Economic Loss	Ch 8 - Davies and Malkin 'Pure Economic Loss', Section [8.197] onwards of Ch 8 - Sappideen, Vines and Watson, <i>Torts Commentary and Materials</i> (12th ed, 2016).	Tutorial 6
Week 7 - 31 Aug 2020		
Module/Topic	Chapter	Events and Submissions/Topic
Special Negligence Cases: Omissions, Public Body Liability	Chs 6 and 7 - Davies and Malkin	Tutorial 7 Presentation and Written Assessment Due: Week 7 Friday (4 Sept 2020) 10:00 pm AEST
Week 8 - 07 Sep 2020		
Module/Topic	Chapter	Events and Submissions/Topic
Negligence: Defences and Remedies	Chs 10 and 11 - Davies and Malkin	Tutorial 8
Week 9 - 14 Sep 2020		
Module/Topic	Chapter	Events and Submissions/Topic
Defamation	Ch 20 - Davies and Malkin	Tutorial 9
Week 10 - 21 Sep 2020		
Module/Topic	Chapter	Events and Submissions/Topic
Unfair Business Practices	Ch 24 - Stickley, <i>Australian Torts Law</i> (LexisNexis Butterworths, 3rd ed, 2016) **please note you can omit the sections on the torts of conspiracy, intimidation and injurious falsehood <i>Fenty (Rihanna) v Arcadia Group Brands Ltd (Topshop)</i> [2015] EWCA Civ 3 <i>LED Technologies v Roadvision</i> [2012] FCAFC 3 **focus only on the claim in tort, not the intellectual property claim	Tutorial 10

Week 11 - 28 Sep 2020

Module/Topic	Chapter	Events and Submissions/Topic
Product Liability	Loveday, Cook and McKie, 'Australia' in Varner and Pratt (eds) <i>The Product Regulation and Liability Review</i> (3rd ed, March 2016). Section [8.50]- [8.65] of Ch 8, Sappideen, Vines and Watson, <i>Torts Commentary and Materials</i> (12th ed, 2016).	Tutorial 11 Learning Diary Due: Week 11 Friday (2 Oct 2020) 10:00 pm AEST

Week 12 - 05 Oct 2020

Module/Topic	Chapter	Events and Submissions/Topic
Unit Review	n/a	Revision

Review/Exam Week - 12 Oct 2020

Module/Topic	Chapter	Events and Submissions/Topic
		Take home paper during exam week, date TBA

Exam Week - 19 Oct 2020

Module/Topic	Chapter	Events and Submissions/Topic
		Take home paper during exam week, date TBA

Assessment Tasks

1 Presentation and Written Assessment

Assessment Type

Presentation

Task Description

Opening Submissions

Students are required to present opening oral submissions based on a short written outline of argument produced in pairs. This assignment will assess knowledge and understanding of the relevant law, communication skills and teamwork skills.

For this assignment, TWO components must be completed:

Part A requires coordination with your partner to write the outline of arguments and ensure content of oral submissions do not overlap.

Part B requires you to produce a video recording of your oral submissions to court based on the written submission. Students have the option to choose their partner for this assignment, but failure to do so by end of Week 4 will result in the Unit Coordinator allocating partners. If you find a partner yourself, you must let the unit coordinator know by email before COB Friday of week 4.

Part A: Written Submission

Each partnership, working together as Senior and Junior Counsel, must prepare a short written outline of arguments for the court (no longer than 2 pages).

Part B: Recorded Oral Presentation

Part B requires Senior and Junior Counsel to each make an oral presentation of 4-6 minutes, speaking to their allocated part of the written submission (approximately one half of the written submissions). The oral submissions must be recorded, uploaded to YouTube and the link submitted for marking on the written outline. The submissions can be recorded together or separately using programs such as Zoom (highly recommended). If recording together, it is up to each pair to work out a suitable and convenient time to record. While a courtroom setting is not required, students should make the effort to present themselves professionally for the video, and to deliver their submissions effectively. Full details of the assignment task, rationale, due date and marking criteria will be made available on the unit Moodle site after the term commences. Please ensure that you read all of the information on the Assignment page and Task Sheet.

This is a group assignment where students work in pairs. Students will receive an individual grade based on their performance in Parts A and B.

Assessment Due Date

Week 7 Friday (4 Sept 2020) 10:00 pm AEST

Via Assessment link on Moodle

Return Date to Students

Week 9 Friday (18 Sept 2020)

Moodle and Gradebook

Weighting

30%

Assessment Criteria

These criteria are a general guide only as to the standard expected at the various levels. It is not necessarily the case that all criteria will be met at a particular standard, as there may be superior performance on one of the criteria and not so satisfactory performance on another. A more detailed criteria sheet for both Part A and Part B is provided in the Assignment Task Sheet.

High Distinction standard

- the assignment is very well written/spoken and clearly expressed
- there is a demonstrated appreciation and understanding of the issues
- the assignment is well structured and logically organised
- demonstrated mastery of referencing system
- there is evidence of a comprehensive analysis of the issues.

Distinction standard

- the assignment is well written/spoken and expressed
- the assignment is structured and logical
- the issues have been reasonably well identified and appreciated
- there is correct use of referencing
- issues have been analysed

Credit standard

- the assignment is generally well written/spoken and expressed
- the assignment is structured and sequential
- referencing is satisfactory
- issues are identified and addressed
- there has been an attempt to analyse some of the issues

Pass standard

- the assignment is able to be followed and understood
- the assignment could perhaps be better organised and structured
- the referencing may need improvement
- issues may need to be identified and addressed in more depth
- analysis when present may be incorrect

Fail standard

- the assignment is sometimes significantly short of the required length
- the expression is poor and difficult to understand
- the assignment is poorly organised
- there has been a failure to address the issues in the question
- referencing is generally inadequate

Referencing Style

- [Australian Guide to Legal Citation, 4th ed](#)

Submission

Online

Learning Outcomes Assessed

- Understand concepts, principles and doctrines relevant to negligence, defamation, unfair business practices and defective goods and services in the leading cases and statute
- Research, interpret and apply legal principles to the analysis of tort disputes to identify obligations, rights and

remedies

- Demonstrate skills in teamwork, communication, critical legal thinking, reflection and reasoning.

Graduate Attributes

- Communication
- Problem Solving
- Critical Thinking
- Information Literacy
- Team Work
- Information Technology Competence
- Cross Cultural Competence

2 Learning Diary

Assessment Type

Portfolio

Task Description

Assessment Type

Portfolio

Task Description

This task requires students to produce a Learning Diary incorporating a series of short 'reflection notes' produced throughout the term documenting their learning experiences in the unit. It encourages students to review and consolidate learning, to evaluate their performance, and to plan future learning based on past learning experience. As a reflective exercise it should be commenced at the start of term and students are encouraged to make brief notes each week on learning methods, experiences and development of understanding/knowledge. These notes can form the submitted learning diary. The assessment task sheet will outline particular prompts and activities that must be included in the submitted diary.

Students are encouraged to publish their brief notes/thoughts on the Weekly Reflections and Check-In forum on the Torts B Moodle site. Publishing your diary notes on the forum is not an assessable component of the task but will provide an opportunity to track your progress over the unit and work on your communication, collaboration and self-management skills. The sharing of experiences in the unit will also allow you to compare your experiences with those of your colleagues.

The task is not intended to be an overly time consuming exercise if completed regularly. However, you may find it a challenging task as it encourages you to become an active learner who, rather than simply memorise or summarise material, thinks deeply about 'how', 'why' and 'what' you're learning.

The submitted learning diary should be no less than 1000 words, but for those who really embrace the task, the word count may be higher. The focus should be on providing quality reflections on your 'thinking and doing' in the unit, rather than on producing a certain quantity of words. In your diary, you are also free to incorporate diagrams or pictures to represent the key ideas along with written prose. Alternatively, you may wish to present all or some of your learning diary in video format.

Full details of the assignment task, rationale and due date will be provided on the unit Moodle site.

Assessment Due Date

Week 11 Friday (2 Oct 2020) 10:00 pm AEST

Online, via Moodle

Return Date to Students

Review/Exam Week Friday (16 Oct 2020)

Online, via Moodle

Weighting

20%

Assessment Criteria

Marks will be given for quality of reflections, presentation and completeness. These criteria are a general guide as to the standard expected at the various levels. Please see the assignment task sheet for more detailed marking criteria.

High Distinction:

The learning diary

- shows deep learning on the topics and the "big picture";
- proficiently demonstrates reflection and incorporates personal touch and applications;
- considers concepts and topics from various perspectives (eg. different contexts, areas of law, disciplines etc);
- demonstrates creative solutions and critical thinking skills;

- is well-focused; with arguments or perspectives explained very well;
- demonstrates clear steps in the developmental learning process.

Distinction:

The learning diary

- shows wider learning and reflection;
- makes connections between topics, and personal context and previous experiences; demonstrated attempt to analyse experiences and issues from a number of different perspectives is coherent and focused with arguments or perspectives clearly stated;
- demonstrates steps in the author's learning process.

Credit:

The learning diary:

- shows learning of the topics;
- makes some connections between topics, and personal context and previous experiences; provides some personal perspectives and reflection on these;
- some analysis of experiences and issues present, but tends to be from a limited number of perspectives; is organised, but not deep enough to be very insightful about the author's learning process.

Pass:

The learning diary:

- shows some reflection;
- minimal evidence of using multiple perspectives in analysing concepts/topics or ideas;
- demonstrates consideration of events, concepts or topics but using a relatively descriptive style of language; shows some misunderstanding of central concepts;
- is largely a descriptive "report" with author's development gained from the learning process hardly observable.

Fail:

The learning diary:

- shows grave misunderstanding of topics;
- does not show any original thinking or perspectives and is chaotic in organisation and presentation of ideas
- entries are mere descriptions of events or theoretical knowledge rather than showing a sequence of learning steps
little or no effort put in the work.

Referencing Style

- [Australian Guide to Legal Citation, 4th ed](#)

Submission

Online

Submission Instructions

Moodle

Learning Outcomes Assessed

- Evaluate the effectiveness and fairness of the applicable rules, as adhered to in practice, by critical application of the tort theory surveyed in LAWS11063 Torts A
- Research, interpret and apply legal principles to the analysis of tort disputes to identify obligations, rights and remedies
- Demonstrate skills in teamwork, communication, critical legal thinking, reflection and reasoning.

Graduate Attributes

- Communication
- Critical Thinking
- Information Literacy
- Information Technology Competence

- Ethical practice

3 Take Home Paper

Assessment Type

Take Home Exam

Task Description

Complete a take home paper during 'exam week'.

This paper will be similar to exam papers set in this unit in the past, but will be accessed and submitted via Moodle rather than an invigilated setting.

You will have 24 hours to complete the paper once released.

Due date and time to be announced.

Assessment Due Date

Return Date to Students

Weighting

50%

Assessment Criteria

This paper will be assessed on:

- Issue spotting; i.e. ability to spot the appropriate areas of tort law;
- Explaining the law; i.e. demonstrate an understanding of the legal principles involved;
- Application of law; i.e. ability to apply cases and principles to unique scenarios;
- Conclusion; i.e. ability to sum up persuasively; and
- Writing style and referencing; i.e. ability to express ideas clearly and succinctly, and reference appropriately.

Please see detailed marking rubric on Moodle.

Referencing Style

- [Australian Guide to Legal Citation, 4th ed](#)

Submission

Online

Submission Instructions

via link on Moodle

Learning Outcomes Assessed

- Understand concepts, principles and doctrines relevant to negligence, defamation, unfair business practices and defective goods and services in the leading cases and statute
- Evaluate the effectiveness and fairness of the applicable rules, as adhered to in practice, by critical application of the tort theory surveyed in LAWS11063 Torts A
- Research, interpret and apply legal principles to the analysis of tort disputes to identify obligations, rights and remedies
- Demonstrate skills in teamwork, communication, critical legal thinking, reflection and reasoning.

Graduate Attributes

- Communication
- Problem Solving
- Critical Thinking
- Information Literacy

Academic Integrity Statement

As a CQUniversity student you are expected to act honestly in all aspects of your academic work.

Any assessable work undertaken or submitted for review or assessment must be your own work. Assessable work is any type of work you do to meet the assessment requirements in the unit, including draft work submitted for review and feedback and final work to be assessed.

When you use the ideas, words or data of others in your assessment, you must thoroughly and clearly acknowledge the source of this information by using the correct referencing style for your unit. Using others' work without proper acknowledgement may be considered a form of intellectual dishonesty.

Participating honestly, respectfully, responsibly, and fairly in your university study ensures the CQUniversity qualification you earn will be valued as a true indication of your individual academic achievement and will continue to receive the respect and recognition it deserves.

As a student, you are responsible for reading and following CQUniversity's policies, including the [Student Academic Integrity Policy and Procedure](#). This policy sets out CQUniversity's expectations of you to act with integrity, examples of academic integrity breaches to avoid, the processes used to address alleged breaches of academic integrity, and potential penalties.

What is a breach of academic integrity?

A breach of academic integrity includes but is not limited to plagiarism, self-plagiarism, collusion, cheating, contract cheating, and academic misconduct. The Student Academic Integrity Policy and Procedure defines what these terms mean and gives examples.

Why is academic integrity important?

A breach of academic integrity may result in one or more penalties, including suspension or even expulsion from the University. It can also have negative implications for student visas and future enrolment at CQUniversity or elsewhere. Students who engage in contract cheating also risk being blackmailed by contract cheating services.

Where can I get assistance?

For academic advice and guidance, the [Academic Learning Centre \(ALC\)](#) can support you in becoming confident in completing assessments with integrity and of high standard.

What can you do to act with integrity?



Be Honest

If your assessment task is done by someone else, it would be dishonest of you to claim it as your own



Seek Help

If you are not sure about how to cite or reference in essays, reports etc, then seek help from your lecturer, the library or the Academic Learning Centre (ALC)



Produce Original Work

Originality comes from your ability to read widely, think critically, and apply your gained knowledge to address a question or problem