

LAWS11066 Contracts

Term 1 - 2021

Profile information current as at 20/04/2024 08:02 pm

All details in this unit profile for LAWS11066 have been officially approved by CQUniversity 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

This unit is designed to provide you with knowledge of the fundamental principles of the law of Contract in Australia. Along with the law of Torts, this unit will provide you with a solid foundation in many of the civil law issues faced in legal practice. The unit first canvasses the theoretical underpinnings of contract law, before examining the principles of a valid and enforceable contract, including intention to create legal relations, capacity and consideration. You will then investigate and reflect on the contents, construction and interpretation of a contract and the doctrine of privity. The unit then moves on to consider contracts with a vitiating element such as mistake, misrepresentation, duress, undue influence, unconscionable contracts, and illegal and void contracts. Finally the unit examines the ways in which a contract may be assigned, discharged, terminated, promissory estoppel, and the remedies available for non-performance of a contract. This unit meets the Legal Practitioners Admissions Board requirements for Contracts.

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

Co-requisite: LAWS11057 Introduction to Law

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 1 - 2021

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. Online Quiz(zes)

Weighting: 20%

2. Written Assessment

Weighting: 30%

3. Reflective Practice Assignment

Weighting: 10% 4. **Take Home Exam** Weighting: 40%

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 <u>University's Grades and Results Policy</u> 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.

Unit Learning Outcomes

4 - Information Literacy

6 - Information Technology Competence

7 - Cross Cultural Competence

5 - Team Work

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

- 1. Discuss and reflect on general theories of Contract law that guide the analysis of contract principles, and understand their operation in context
- 2. Analyse a contract to determine whether the elements of contract formation are present
- 3. Analyse and interpret the express and implied provisions of a contract to determine its objective meaning
- 4. Explain the legal concepts and consequences of vitiating factors in contract law, and available remedies
- 5. Explain how contracts are assigned, discharged or terminated, and available remedies
- 6. Research and apply legal principles from statute and case law to the analysis of contractual disputes to demonstrate skills in communication, critical legal thinking, and reasoning.

This unit satisfies the Priestley 11 requirements for Contracts as approved by the Legal Practitioners Admissions Board.

Alignment of Learning Outcomes, Assessment a	and Gra	aduat	e A	ttrik	oute	!S		
N/A Level Introductory Level Graduate Level Profession		dvanced evel	l					
Alignment of Assessment Tasks to Learning Out	tcomes	5						
Assessment Tasks Learning Outcomes								
	1 2 3 4 5 6							
1 - Written Assessment - 30%		•	•					•
2 - Take Home Exam - 40%	•	•	•		•	•		•
3 - Online Quiz(zes) - 20%	•				•	•		
4 - Reflective Practice Assignment - 10%								
Alignment of Graduate Attributes to Learning Outcomes								
Graduate Attributes Learning Outcomes								
			1	2	3	4	5	6
1 - Communication			•	•	•	•	•	•
2 - Problem Solving				•	•	•	•	•
3 - Critical Thinking			•	•	•	•	•	•

Graduate Attributes					Learning Outcomes					
					1	2	3	4	5	6
8 - Ethical practice								•		
9 - Social Innovation										•
10 - Aboriginal and Torres Strait Islander Cultures	}									
lignment of Assessment Tasks to Gra	duate Attri	but	es							
lignment of Assessment Tasks to Grad		but aduat		ribut	es					
-				ribut 4		6	7	8	9	10
-	Gra	aduat	e Att			6	7	8	9	10
Assessment Tasks 1 - Written Assessment - 30%	Gra	aduat 2	e Att	4			7		9	10
Assessment Tasks	Gra	aduat 2	a Att	4		•	7	•	9	100

Textbooks and Resources

Textbooks

LAWS11066

Prescribed

An Introduction to the Law of Contract

Edition: 10th edn (2020) Authors: Stephen Graw Thomson Reuters Pyrmont , NSW , Australia ISBN: 9780455244921 Binding: Paperback

Additional Textbook Information

The text may be purchased as an ebook if the student wishes. Paper copies can be purchased at the CQUni Bookshop here: http://bookshop.cqu.edu.au (search on the Unit code)

View textbooks at the CQUniversity Bookshop

IT Resources

You will need access to the following IT resources:

- CQUniversity Student Email
- Internet
- Unit Website (Moodle)

Referencing Style

All submissions for this unit must use the referencing style: <u>Australian Guide to Legal Citation, 4th ed</u> For further information, see the Assessment Tasks.

Teaching Contacts

AJ George Unit Coordinator a.m.george@cqu.edu.au

Schedule

Week 1 - 08 Mar 2021		
Module/Topic	Chapter	Events and Submissions/Topic
 Theories of Contract Law Legal Research and the Doctrine of Precedent Skills Building 	 Theories of Contract Law - set resource: Jeannie Paterson, Andrew Roberts and Arlen Duke, Principles of Contract Law (Lawbook Co, 4th edition 2012), Chapters 1 and 2 (on Moodle, under 'Week 1' tile). Basic Legal knowledge - prescribed text: Stephen Graw, An Introduction to the Law of Contract (Lawbook Co, Thomson Reuters, 10th edition 2020), Chapters 1 and 2 ('Text'). Skills building - resources under the 'Skills Building' tile on Moodle. 	 Complete the skills building tasks for week 1 (under Skills Building Tile on Moodle) Complete the tutorial work for week 1 (in study guide, also in Moodle discussion forum under Week 1 tile)
Week 2 - 15 Mar 2021		
Module/Topic	Chapter	Events and Submissions/Topic
Intention to Create Legal RelationsSkills Building	 Legal Knowledge - Text, chapter 5 'Intention to be bound'. Skills Building - resources under the 'Skills Building' tile on Moodle for week 2. 	 Complete the skills building tasks for week 2 (under Skills Building Tile on Moodle) Complete the tutorial work for week 2 (in study guide, also in Moodle discussion forum under Week 2 tile)
Week 3 - 22 Mar 2021		
Module/Topic	Chapter	Events and Submissions/Topic
Capacity to Contract	• Text, chapter 7 , 'Capacity to Contract'.	 Complete the tutorial work for week 3 (in study guide, also in Moodle discussion forum under Week 3 tile) Start work on your written assessment (30%)
Week 4 - 29 Mar 2021		
Module/Topic	Chapter	Events and Submissions/Topic
Offer and Acceptance	 Text: Chapter 3, 'The Offer', Chapter 4, 'Acceptance', Chapter 17, 'Contracting Electronically', but only paragraphs 17.1-17.5. Lindy Willmott, Sharon Christensen, Des Butler and Bill Dixon, Contract Law (Oxford Publishing, 5th ed, 2018) pages 76-81. This text is available as an eBook in the CQU library, click HERE or HERE. 	 Complete the tutorial work for week 4 (in study guide, also in Moodle discussion forum under Week 4 tile) Continue work on your written assessment (30%) Revise for your first quiz (10%), which is due next week
Week 5 - 05 Apr 2021		
Module/Topic	Chapter	Events and Submissions/Topic

Consideration and Estoppel	• Text, chapter 6 , 'Consideration'.	 Complete the tutorial work for week 5 (in study guide, also in Moodle discussion forum under Week 5 tile) Continue work on your written assessment (30%) First Quiz due Week 5, Friday 9 April 2021, 9:00PM Queensland time.
Vacation Week - 12 Apr 2021		
Module/Topic	Chapter	Events and Submissions/Topic
Vacation week	Vacation week	 Continue work on your written assessment (30%)
Week 6 - 19 Apr 2021		
Module/Topic	Chapter	Events and Submissions/Topic
 Doctrine of Privity, and (Start) Content & Construction of Contracts 	 Text, chapter 8, 'Privity of Contract'. *Note: this week's readings are light, so I strongly recommend making a start on next week's readings, which are a heavier load. If at all possible, try to: read the study guide for next week; watch at least some of the week 7 videos; and read half of Graw Chapter 9, 'Contents of a Contract'. 	 Complete the tutorial work for week 6 (in study guide, also in Moodle discussion forum under Week 6 tile) Continue work on your written assessment (30%)
Week 7 - 26 Apr 2021		
Module/Topic	Chapter	Events and Submissions/Topic
Content & Construction of Contracts	• Text: • Chapter 9, 'Contents of a Contract'; and • Chapter 10, 'Exempting, Excluding and Limiting Terms'.* *10.530-580 are optional only. • Case law: Associated Newspapers Ltd v Bancks (1951) 83 CLR 322. • Strongly recommended: Study guide 7A, the Australian Consumer Law (on Moodle).	 Complete the tutorial work for week 7 (in study guide, also in Moodle discussion forum under Week 7 tile) Continue work on your written assessment (30%), which is due next week
Week 8 - 03 May 2021		
Module/Topic	Chapter	Events and Submissions/Topic
Illegal and Void Contracts; andThe Doctrine of Mistake.	 Text: Chapter 14, 'Illegal and void contracts'; and Chapter 11, 'Mistake'. 	Complete the tutorial work for week 8 (in study guide, also in Moodle discussion forum under Week 8 tile) Written assessment Due: Week 8 Tuesday (4 May 2021) 6:00 pm AEST
Week 9 - 10 May 2021		
Module/Topic	Chapter	Events and Submissions/Topic
 Misrepresentation; and Misleading or Deceptive Conduct.	 Text, chapter 12, 'Misrepresentation'; and John Carter, Carter on Contract (Lexis Advance Research, 2021), chapter 21, 'Legislative Prohibition of Misleading or Deceptive Conduct'. (You may need to use your CQU Library logon). 	 Complete the tutorial work for week 9 (in study guide, also in Moodle discussion forum under Week 9 tile). Revise for your second quiz (10%), which is due next week

Week 10 - 17 May 2021		
Module/Topic	Chapter	Events and Submissions/Topic
The doctrines of: • Duress, • Undue Influence, • Unconscionable Conduct.	• Text, chapter 13 , 'Duress, Undue Influence and Unconscionability'.	 Complete the tutorial work for week 10 (in study guide, also in Moodle discussion forum under Week 10 tile). Start work on your reflection activity (10%) Second Quiz due Week 10, Friday 21 May 2021, 9:00PM Queensland time.
Week 11 - 24 May 2021		
Module/Topic	Chapter	Events and Submissions/Topic
Discharging a contract	• Text, chapter 15 , 'Discharging a Contract'.	 Complete the tutorial work for week 11 (in study guide, also in Moodle discussion forum under Week 11 tile). Start revision for the final takehome exam Continue work on your reflection activity (10%), which is due next week
Week 12 - 31 May 2021		
Module/Topic	Chapter	Events and Submissions/Topic
• Remedies	• Text, chapter 16 , 'Remedies'.	 Complete the tutorial work for week 12 (in study guide, also in Moodle discussion forum under Week 12 tile). Continue revision for the final take-home exam
		Learning Reflection Due: Week 12 Tuesday (1 June 2021) 6:00 pm AEST
Review/Exam Week - 07 Jun 2021		
Module/Topic	Chapter	Events and Submissions/Topic
Revision for final take-home exam	Revision for final take-home exam	Revision for final take-home exam
Exam Week - 14 Jun 2021		
Module/Topic	Chapter	Events and Submissions/Topic
Revision for final take-home exam	Revision for final take-home exam	Revision for final take-home exam

Assessment Tasks

1 Two (2) Online Quizzes

Assessment Type

Online Quiz(zes)

Task Description

The first quiz is designed to give students an early additional opportunity to assess their progress in this subject. The quiz will consist of ten questions worth a mark each.

The second quiz is designed to give students an additional opportunity to assess their progress in this subject. The quiz will consist of ten questions worth a mark each.

Number of Quizzes

2

Frequency of Quizzes

Other

Assessment Due Date

The first Quiz will be due Friday Week 5 - 9 April 2021, 9:00 PM Queensland time. The second Quiz will be due Friday Week 10 - 21 May 2021, 9:00 PM Queensland time.

Return Date to Students

The quiz results will be released once each quiz has closed.

Weighting

20%

Assessment Criteria

The assessment criteria for this assignment is primarily factual, emphasising the student's ability to understand key concepts and identify the appropriate information to answer key questions.

Referencing Style

• Australian Guide to Legal Citation, 4th ed

Submission

Online

Submission Instructions

Complete and submit the quizzes on Moodle.

Learning Outcomes Assessed

- Discuss and reflect on general theories of Contract law that guide the analysis of contract principles, and understand their operation in context
- Explain the legal concepts and consequences of vitiating factors in contract law, and available remedies
- Explain how contracts are assigned, discharged or terminated, and available remedies

Graduate Attributes

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

2 Written assessment

Assessment Type

Written Assessment

Task Description

This assessment involves answering a problem-based question. The answer, which must cite appropriate legal principles and case law, consists of 1,750 words (including footnotes). All submissions must include appropriate legal footnotes that are compliant with Australian Guide to Legal Referencing 4th edition.

The answer(s) must be submitted in Moodle in a Word file. The file must be saved and submitted in the following format: [Last Name]_[First Name]_[Student No.].doc. An example would be: Smyth_Kathryine_S99999.doc. The submission of a PDF is not permitted.

Assessment Due Date

Week 8 Tuesday (4 May 2021) 6:00 pm AEST Submit through link on Moodle site.

Return Date to Students

Two weeks from submission date.

Weighting

30%

Assessment Criteria

This assessment will be graded according to the following marking criteria, which are a general guide as to the standard expected at the various levels. A marking rubric will be provided in the Assignment Task sheet.

Criteria Excellent Good Poor

Basic goals

Identification of primary Identification of all major Identification of most issues. Identification of major issues. Identification of some major issues.

Demonstrated understanding of the subject matter	Excellent understanding of the subject matter.	Good understanding of the subject matter.	Lacks understanding of the subject matter.
Structured argument	Superbly structured arguments.	Well-structured argument.	Poorly structured argument.
Higher order goal:			
Analytical ability	High level of analysis.	Some analytical errors or omissions.	Numerous analytical errors or omissions.
Skills:			
Demonstrated clear and concise written expression	Clear and concise written expression.	Some unclear or verbose written expression.	Numerous examples of unclear or verbose written expression.
Spelling and grammar	No identifiable spelling or grammatical issues.	Minor spelling or grammatical issues.	Numerous spelling or grammatical issues.
Plain English drafting	No Plain English drafting errors.	Some Plain English drafting errors.	Numerous Plain English drafting errors.
Referencing	No or very few referencing errors. Excellent level of compliance with AGLC4 citation style as well as grammar and punctuation. Shows a mastery of legal citation and referencing requirements.	Some referencing errors. Reasonable level of compliance with AGLC4 citation style as well as grammar and punctuation. Shows at least a basic understanding of legal citation and referencing requirements.	Numerous referencing errors. Fails to comply with AGLC4 citation style and/or significant level of grammar, punctuation errors. Shows little understanding of legal citation and referencing requirements.

Referencing Style

• Australian Guide to Legal Citation, 4th ed

Submission

Online

Submission Instructions

Submit through link on Moodle site.

Learning Outcomes Assessed

- Analyse a contract to determine whether the elements of contract formation are present
- Analyse and interpret the express and implied provisions of a contract to determine its objective meaning
- Research and apply legal principles from statute and case law to the analysis of contractual disputes to demonstrate skills in communication, critical legal thinking, and reasoning.

Graduate Attributes

- Communication
- Problem Solving
- Critical Thinking
- Information Literacy
- Information Technology Competence
- Ethical practice

3 Learning Reflection

Assessment Type

Reflective Practice Assignment

Task Description

Students are to reflect on a contribution to the Moodle discussion board, or Zoom tutorial/s. These are short pieces which are evidence of the graduate learning outcomes of Communications Skills and Team Work. Total word count is 150-300 words.

The tutorial participation should refer to a post/posts on the Moodle discussion board or issues raised in the tutorial by the student. A reflection on the contribution is to be submitted to Moodle in a Word file. The file must be saved and submitted in the following format: [Last Name]_[First Name]_[Student No.].doc. An example would be: Smyth Kathryine S99999.doc.

Assessment Due Date

Week 12 Tuesday (1 June 2021) 6:00 pm AEST Submit through link on Moodle site.

Return Date to Students

Two weeks from submission date.

Weighting

10%

Assessment Criteria

Through this assessment you are able to showcase your contributions to either the Zoom tutorials, or the Moodle discussion board. It will be assessed on your writing skills, your interaction/communication with others (if any), and how successfully you reflect on your own learning in the subject.

You will not be marked on whether your responses to the tutorial problems were right or wrong. It is more important here to show that you are willing to contribute, and/or how you assist others.

Referencing Style

· Australian Guide to Legal Citation, 4th ed

Submission

Online

Submission Instructions

Submit through link on Moodle site.

Learning Outcomes Assessed

• Discuss and reflect on general theories of Contract law that guide the analysis of contract principles, and understand their operation in context

Graduate Attributes

- Communication
- Critical Thinking
- Information Literacy
- Information Technology Competence
- Ethical practice
- Social Innovation

4 Take Home Exam

Assessment Type

Take Home Exam

Task Description

This assessment involves completing a take home exam paper of 6 hours' duration.

The paper will include two parts, Part A and Part B.

Part A of the take home paper will involve short-answer questions.

Part B of the take home paper will involve a contract law problem scenario and will require you to provide advice. A detailed instructions sheet will be provided closer to the take home exam date.

Assessment Due Date

In Exam Week, details to be arranged

Return Date to Students

Grades released at certification of grades.

Weighting

40%

Assessment Criteria

The assessment criteria for the short-answer questions will be primarily factually based.

The assessment criteria for the problem scenario will be as follows:

Criteria	Excellent	Good	Poor
Basic goals:			
Identification of primary issues	Identification of all major issues.	Identification of most major issues.	Identification of some major issues.
Demonstrated understanding of the subject matter	Excellent demonstrated understanding of the subject matter.	Good understanding of the subject matter.	Lacks understanding of the subject matter.
Structured argument	Superbly structured arguments.	Well-structured argument.	Poorly structured argument.
Higher order goal:			
Analytical ability	Demonstrated high level of analysis.	Some analytical errors or omissions.	Numerous analytical errors or omissions.
Skills:			
Demonstrated clear and concise written expression	Clear and concise written expression.	Some unclear or verbose written expression.	Numerous examples of unclear or verbose written expression.
Spelling and grammar	No identifiable spelling or grammatical issues.	Minor spelling or grammatical issues.	Numerous spelling or grammatical issues.
Plain English drafting	No Plain English drafting errors.	Some Plain English drafting errors.	Numerous Plain English drafting errors.
Referencing	No or very few referencing errors. Excellent level of compliance with AGLC4 citation style as well as grammar and punctuation. Shows a mastery of legal citation and referencing requirements.	Some referencing errors. Reasonable level of compliance with AGLC4 citation style as well as grammar and punctuation. Shows at least a basic understanding of legal citation and referencing requirements.	Numerous referencing errors. Fails to comply with AGLC4 citation style and/or significant level of grammar, punctuation errors. Shows little understanding of legal citation and referencing requirements.

Referencing Style

• Australian Guide to Legal Citation, 4th ed

Submission

Online

Submission Instructions

Submit through link on Moodle site.

Learning Outcomes Assessed

- Discuss and reflect on general theories of Contract law that guide the analysis of contract principles, and understand their operation in context
- Analyse a contract to determine whether the elements of contract formation are present
- Analyse and interpret the express and implied provisions of a contract to determine its objective meaning

- Explain the legal concepts and consequences of vitiating factors in contract law, and available remedies
- Explain how contracts are assigned, discharged or terminated, and available remedies
- Research and apply legal principles from statute and case law to the analysis of contractual disputes to demonstrate skills in communication, critical legal thinking, and reasoning.

Graduate Attributes

- Communication
- Problem Solving
- Critical Thinking
- Information Literacy
- Information Technology Competence
- Ethical practice

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 <u>Academic Learning Centre (ALC)</u> 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