



# LAWS11069 Torts

## Term 1 - 2021

Profile information current as at 06/05/2024 04:52 am

All details in this unit profile for LAWS11069 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 introduces you to the law of Torts in Australia as one of the main categories in the law of civil obligations. Along with Contract law, this unit will provide you with a solid foundation in many of the civil law issues faced in legal practice. You will gain an understanding of civil wrongs as developed by the common law yet increasingly supplemented by legislation. This unit will commence with an overview of tort law, its development and aims. You will also study the torts of negligence, trespass, nuisance and defamation, including available defences. Forms of concurrent liability are also considered along with remedies in tort and alternative statutory compensation schemes. Finally, the unit will consider the protection available in tort from unfair business practices. Tort law is constantly evolving and often raises unique and complex social and moral questions. The unit will develop your ability to think critically about the relationship of law to social, economic and political conditions. This unit meets the Legal Practitioners Admissions Board 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

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. **Written Assessment**

Weighting: 20%

#### 2. **Written Assessment**

Weighting: 30%

#### 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](#).

## Unit Learning Outcomes

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

1. Explain the essential elements of tort obligations and the development of tort law in response to changing social, economic and political conditions
2. Explain the principles of tort law at common law and as supplemented by the Civil Liability Act 2003 (Qld) and other legislation
3. Apply relevant legal principles and exercise legal reasoning to determine obligations, rights and remedies in tort disputes
4. Demonstrate written and oral communication skills in response to a legal scenario
5. Demonstrate skills in self reflection.

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

## Alignment of Learning Outcomes, Assessment and Graduate Attributes



### Alignment of Assessment Tasks to Learning Outcomes

Assessment Tasks	Learning Outcomes				
	1	2	3	4	5
<b>1 - Written Assessment - 30%</b>		•	•	•	
<b>2 - Written Assessment - 20%</b>	•				•
<b>3 - Take Home Exam - 50%</b>	•	•	•	•	

### Alignment of Graduate Attributes to Learning Outcomes

Graduate Attributes	Learning Outcomes				
	1	2	3	4	5
<b>1 - Communication</b>	•	•	•	•	•
<b>2 - Problem Solving</b>			•	•	
<b>3 - Critical Thinking</b>	•	•	•		•
<b>4 - Information Literacy</b>			•	•	
<b>5 - Team Work</b>					
<b>6 - Information Technology Competence</b>				•	
<b>7 - Cross Cultural Competence</b>					
<b>8 - Ethical practice</b>					

Graduate Attributes	Learning Outcomes				
	1	2	3	4	5
<b>9 - Social Innovation</b>					
<b>10 - Aboriginal and Torres Strait Islander Cultures</b>					

## Alignment of Assessment Tasks to Graduate Attributes

Assessment Tasks	Graduate Attributes									
	1	2	3	4	5	6	7	8	9	10
<b>1 - Written Assessment - 30%</b>	•	•	•	•		•				
<b>2 - Written Assessment - 20%</b>	•		•							
<b>3 - Take Home Exam - 50%</b>	•	•	•							

## Textbooks and Resources

### Textbooks

LAWS11069

#### Prescribed

#### Focus Torts

Edition: 9th (2021)

Authors: Martin Davies and Ian Malkin

LexisNexis Butterworths

Chatswood , NSW , Australia

ISBN: 9780409351460

Binding: Paperback

[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: [Australian Guide to Legal Citation, 4th ed](#)  
For further information, see the Assessment Tasks.

## Teaching Contacts

**Manjo Oyson** Unit Coordinator

[m.oyson@cqu.edu.au](mailto:m.oyson@cqu.edu.au)

## Schedule

### Week 1 - 08 Mar 2021

Module/Topic	Chapter	Events and Submissions/Topic
Introduction to Torts	Martin Davies and Ian Malkin, <i>Focus Torts</i> (9th edition, 2021) <b>Ch. 1</b> OR Martin Davies and Ian Malkin, <i>Focus Torts</i> (8th edition, 2018) <b>Ch. 1</b>	

### Week 2 - 15 Mar 2021

Module/Topic	Chapter	Events and Submissions/Topic
Negligence: Overview and Duty of Care	Martin Davies and Ian Malkin, <i>Focus Torts</i> (9th edition, 2021) <b>Chs. 2 and 5</b> OR Martin Davies and Ian Malkin, <i>Focus Torts</i> (8th edition, 2018) <b>Chs. 2 and 5</b>	

### Week 3 - 22 Mar 2021

Module/Topic	Chapter	Events and Submissions/Topic
Negligence: Standard of Care	Martin Davies and Ian Malkin, <i>Focus Torts</i> (9th edition, 2021) <b>Ch. 3</b> OR Martin Davies and Ian Malkin, <i>Focus Torts</i> (8th edition, 2018) <b>Ch. 3</b>	<b>Online Quizzes</b> Due: Week 3 Monday (22 Mar 2021) 11:00 am AEST

### Week 4 - 29 Mar 2021

Module/Topic	Chapter	Events and Submissions/Topic
Negligence: Causation	Martin Davies and Ian Malkin, <i>Focus Torts</i> (9th edition, 2021) <b>Ch. 4</b> OR Martin Davies and Ian Malkin, <i>Focus Torts</i> (8th edition, 2018) <b>Ch. 4</b>	

### Week 5 - 05 Apr 2021

Module/Topic	Chapter	Events and Submissions/Topic
Special Negligence Cases: Duty to Act and Liability of Public Authorities	Martin Davies and Ian Malkin, <i>Focus Torts</i> (9th edition, 2021) <b>Chs. 6 and 7</b> OR Martin Davies and Ian Malkin, <i>Focus Torts</i> (8th edition, 2018) <b>Chs. 6 and 7</b>	

### Vacation Week - 12 Apr 2021

Module/Topic	Chapter	Events and Submissions/Topic
Vacation Week		<b>Case-Type Assessment</b> Due: Vacation Week Friday (16 Apr 2021) 6:00 pm AEST

### Week 6 - 19 Apr 2021

Module/Topic	Chapter	Events and Submissions/Topic
Negligence: Defence	Martin Davies and Ian Malkin, <i>Focus Torts</i> (9th edition, 2021) <b>Ch. 10</b> OR Martin Davies and Ian Malkin, <i>Focus Torts</i> (8th edition, 2018) <b>Ch. 10</b>	

### Week 7 - 26 Apr 2021

Module/Topic	Chapter	Events and Submissions/Topic
Assessment of Damages for Personal Injuries	Martin Davies and Ian Malkin, <i>Focus Torts</i> (9th edition, 2021) <b>Ch. 12</b> OR Martin Davies and Ian Malkin, <i>Focus Torts</i> (8th edition, 2018) <b>Ch. 12</b>	

### Week 8 - 03 May 2021

Module/Topic	Chapter	Events and Submissions/Topic
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Trespass to the Person

Martin Davies and Ian Malkin, *Focus Torts* (9th edition, 2021) **Ch. 16** OR  
Martin Davies and Ian Malkin, *Focus Torts* (8th edition, 2018) **Ch. 16**

#### Week 9 - 10 May 2021

Module/Topic	Chapter	Events and Submissions/Topic
Nuisance	Martin Davies and Ian Malkin, <i>Focus Torts</i> (9th edition, 2021) <b>Ch. 15</b> OR Martin Davies and Ian Malkin, <i>Focus Torts</i> (8th edition, 2018) <b>Ch. 15</b>	

#### Week 10 - 17 May 2021

Module/Topic	Chapter	Events and Submissions/Topic
Loss Distribution Mechanisms: Vicarious Liability, etc.	Martin Davies and Ian Malkin, <i>Focus Torts</i> (9th edition, 2021) <b>Ch. 14</b> OR Martin Davies and Ian Malkin, <i>Focus Torts</i> (8th edition, 2018) <b>Ch. 14</b>	

#### Week 11 - 24 May 2021

Module/Topic	Chapter	Events and Submissions/Topic
Defamation and Unfair Business Practices	Martin Davies and Ian Malkin, <i>Focus Torts</i> (9th edition, 2021) <b>Ch. 20 (Defamation)</b> OR Martin Davies and Ian Malkin, <i>Focus Torts</i> (8th edition, 2018) <b>Ch. 20 (Defamation)</b> AND Amanda Stickley, <i>Australian Torts Law</i> (4th edition, 2016) Ch. 24 (pp. 613-631 only)	

#### Week 12 - 31 May 2021

Module/Topic	Chapter	Events and Submissions/Topic
Review Week		

#### Review/Exam Week - 07 Jun 2021

Module/Topic	Chapter	Events and Submissions/Topic
Review/Exam Week		

#### Exam Week - 14 Jun 2021

Module/Topic	Chapter	Events and Submissions/Topic
Exam Week		<b>TAKE HOME EXAM</b> Due: Exam Week Monday (14 June 2021) 11:45 pm AEST

## Assessment Tasks

### 1 Online Quizzes

#### Assessment Type

Written Assessment

#### Task Description

For this individual assessment, there will be a weekly online multiple-choice quiz throughout the Term corresponding to the respective topics of weeks 2 to 11, comprising a total of ten (10) weekly quizzes. Each weekly quiz involves two multiple-choice questions (case-type or conceptual).

Each weekly online quiz, which comprises 2% of the final grade, shall be opened and made visible to students on Monday of each week at about 11 a.m. (Qld time). The first quiz corresponding to the week 2 topic shall be opened and made visible on the Monday of week 2 (15 March 2021). The second quiz corresponding to the week 3 topic shall then be opened and made visible on 22 March 2021 (Monday), et seq.

Students have seven calendar days (or until Monday at 11 am, QLD time) to answer each weekly online quiz.

After the lapse of the seven-day period, students shall lose the opportunity to answer the quiz for that particular week. Given that students have one week to do a quiz, there will be no extension whatsoever to do a quiz nor can a special quiz be arranged under any circumstance.

The answer to a quiz shall be made visible immediately at the end of the seven-day period to do a quiz.

There will be no online quiz during the mid-term vacation week.

Students are given two attempts to arrive at the correct answer. Please note that while students are given two attempts to arrive at the correct answer, the answer to a quiz will only be made visible once the quiz closes. The second attempt merely gives a student an opportunity to revise a previous quiz answer in light, for example, of new knowledge acquired from the weekly tutorial (which discusses the quiz), further reading of the textbook or study guide, or watching a lecture video.

**Assessment Due Date**

Week 3 Monday (22 Mar 2021) 11:00 am AEST

Students have seven calendar days (or until Monday at 11 am, QLD time) to answer each weekly online quiz.

**Return Date to Students**

Week 3 Monday (22 Mar 2021)

**Weighting**

20%

**Assessment Criteria**

Each answer shall be assessed as to whether it is correct or incorrect according to: the correct identification of the legal issues and rules/legal principles, correct analysis and application of the rules and legal principles to the legal issues and the facts, and the conclusion.

**Referencing Style**

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

**Submission**

Online

**Learning Outcomes Assessed**

- Explain the essential elements of tort obligations and the development of tort law in response to changing social, economic and political conditions
- Demonstrate skills in self reflection.

**Graduate Attributes**

- Communication
- Critical Thinking

## 2 Case-Type Assessment

**Assessment Type**

Written Assessment

**Task Description**

This individual written assessment involves answering three case-type questions that will cover any of the topics up to week 5. The questions will be released on 9 April (Friday) at 6 pm (Qld time) and answers are due on 16 April (Friday) at 8:00 pm (Qld time). The total word count for all the answers, including footnotes, should not exceed 1,500 words. There is no allowance beyond the word-count limit. That part of the answer that exceeds the 1,500-word count limit will not be marked.

**Assessment Due Date**

Vacation Week Friday (16 Apr 2021) 6:00 pm AEST

**Return Date to Students**

Week 8 Friday (7 May 2021)

**Weighting**

30%

**Assessment Criteria**

This assessment will be assessed according to the following criteria: correct and thorough identification of the legal issue(s) (10%) and rules/legal principles (30%); correct and thorough analysis and

application of the rules and legal principles to the legal issue(s) and the facts (40%); well thought-out conclusion (10%); and quality of the language usage and observance of proper structure, format, and instructions (10%). A detailed marking rubric is available on the Moodle site.

#### **Referencing Style**

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

#### **Submission**

Online

#### **Submission Instructions**

The answers must be saved in MS Word (not as a PDF) in the following format: LastName\_FirstName.docx.

#### **Learning Outcomes Assessed**

- Explain the principles of tort law at common law and as supplemented by the Civil Liability Act 2003 (Qld) and other legislation
- Apply relevant legal principles and exercise legal reasoning to determine obligations, rights and remedies in tort disputes
- Demonstrate written and oral communication skills in response to a legal scenario

#### **Graduate Attributes**

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

## **3 TAKE HOME EXAM**

#### **Assessment Type**

Take Home Exam

#### **Task Description**

This take home exam involves answering four case-type questions. Students are given six hours to complete the take home exam. Answer must be submitted on Moodle. The schedule of the take home exam will be announced, in coordination with all other Term 1 unit coordinators, towards the end of Term 1.

#### **Assessment Due Date**

Exam Week Monday (14 June 2021) 11:45 pm AEST

The schedule of the take home exam will be announced, in coordination with all other Term 1 unit coordinators, towards the end of Term 1.

#### **Return Date to Students**

The assessment will be returned to students after the Certification of Grades.

#### **Weighting**

50%

#### **Assessment Criteria**

This assessment will be assessed according to the following criteria: correct and thorough identification of the legal issue(s) (10%) and rules/legal principles (30%); correct and thorough analysis and application of the rules and legal principles to the legal issue(s) and the facts (40%); well thought-out conclusion (10%); and quality of the language usage and observance of proper structure, format, and instructions (10%). A detailed marking rubric is available on the Moodle site.

#### **Referencing Style**

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

#### **Submission**

Online

#### **Submission Instructions**

The answers must be saved in MS Word (not as a PDF) in the following format: LastName\_FirstName.docx.



### Learning Outcomes Assessed

- Explain the essential elements of tort obligations and the development of tort law in response to changing social, economic and political conditions
- Explain the principles of tort law at common law and as supplemented by the Civil Liability Act 2003 (Qld) and other legislation
- Apply relevant legal principles and exercise legal reasoning to determine obligations, rights and remedies in tort disputes
- Demonstrate written and oral communication skills in response to a legal scenario

### Graduate Attributes

- Communication
- Problem Solving
- Critical Thinking

## 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