



# **LAWS12071 Australian Employment Law**

## **Term 1 - 2017**

Profile information current as at 06/05/2024 05:19 am

All details in this unit profile for LAWS12071 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

The issues surrounding the regulation of employment in Australia represents one of the last significant areas of policy difference between the major political parties in Australia. Consequently, both parties have instituted major legislative reform in this area in the last 10 years resulting in the coalition's "Work Choices" in the introduction by the Australian Labor Party of the Fair Work Act in 1990. The purpose of this unit is to allow students an overview of the common law and legislation which regulates the employment relationship within Australia. You will consider different approaches to the issues around the regulation of employment from the protective view through to economic rationalism and the libertarian approach. The unit allows you to consider issues around the constitutional framework for employment law, the creation of the employment contract, employment conditions including enterprise agreements and occupational health and safety as well as termination of employment and issues around collective-bargaining.

### Details

Career Level: *Undergraduate*

Unit Level: *Level 2*

Credit Points: 6

Student Contribution Band: 10

Fraction of Full-Time Student Load: 0.125

### Pre-requisites or Co-requisites

There are no requisites for this unit.

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 - 2017

- Distance

### 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: 25%

#### 2. **Presentation and Written Assessment**

Weighting: 25%

#### 3. **Examination**

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 Student feedback

##### Feedback

Assignments well done but additional individual more detailed feedback requested

##### Recommendation

Request marking assistance for large course numbers

##### Action

Marking assistance meant a quick turn around for assignments and more feedback.

#### Feedback from Student feedback

##### Feedback

Course materials well received but some students wished to read ahead of the group

##### Recommendation

Make materials available in advance in a course reading planner.

##### Action

Done, the second time the unit was offered meant additional materials also available.

## Unit Learning Outcomes

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

1. Apply Australian employment law, as encapsulated in legislation and common law, to practical issues.
2. Research, analyse and evaluate primary and secondary sources of employment law in Australia.
3. Interpret legal principles in the analysis of employment law disputes to identify obligations, rights and remedies and to provide solutions to these problems.
4. Use skills in team work, communication, critical legal thinking 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 - Written Assessment - 25%	●	●	●	●
2 - Presentation and Written Assessment - 25%	●	●	●	●
3 - Examination - 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 - Written Assessment - 25%	•	•	•	•		•				
2 - Presentation and Written Assessment - 25%	•	•	•	•	•	•				
3 - Examination - 50%	•	•	•	•						

## Textbooks and Resources

### Textbooks

LAWS12071

#### Prescribed

#### Stewarts Guide to Employment Law

Edition: Fifth (2015)

Authors: Andrew Stewart

Federation Press

Sydney , NSW , Australia

ISBN: 9781862879935

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)
- Web camera and microphone to join on line sessions

## Referencing Style

All submissions for this unit must use the referencing style: [Australian Guide to Legal Citation, 3rd ed](#)  
For further information, see the Assessment Tasks.

## Teaching Contacts

**Wayne Jones** Unit Coordinator

[w.jones@cqu.edu.au](mailto:w.jones@cqu.edu.au)

## Schedule

### Week 1 - 06 Mar 2017

Module/Topic	Chapter	Events and Submissions/Topic
Introduction to Employment Law - Development and Coverage in Australia.	Chapters 1 & 2 <i>Stewart's Guide to Employment Law</i>	

### Week 2 - 13 Mar 2017

Module/Topic	Chapter	Events and Submissions/Topic
Who is an Employee? Special Types of Employment.	Chapters 3 & 4 <i>Stewart's Guide to Employment Law</i>	

### Week 3 - 20 Mar 2017

Module/Topic	Chapter	Events and Submissions/Topic
Creating an Employment Relationship Terms of an Employment Contract.	Chapters 5 & 6 <i>Stewart's Guide to Employment Law</i>	

### Week 4 - 27 Mar 2017

Module/Topic	Chapter	Events and Submissions/Topic
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Minimum Standards: The NES and Awards

Chapter 7 *Stewart's Guide to Employment Law*

#### Week 5 - 03 Apr 2017

Module/Topic	Chapter	Events and Submissions/Topic
Enterprise Agreements	Chapter 8 <i>Stewart's Guide to Employment Law</i>	<b>Written Memorandum of Advice</b> Due: Week 5 Friday (7 Apr 2017) 5:00 pm AEST

#### Vacation Week - 10 Apr 2017

Module/Topic	Chapter	Events and Submissions/Topic
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#### Week 6 - 17 Apr 2017

Module/Topic	Chapter	Events and Submissions/Topic
Dispute Resolution and Enforcement of Employment Laws	Chapter 9 <i>Stewart's Guide to Employment Law</i>	

#### Week 7 - 24 Apr 2017

Module/Topic	Chapter	Events and Submissions/Topic
Remuneration Working Hours and Leave	Chapter 10 & 11 <i>Stewart's Guide to Employment Law</i>	

#### Week 8 - 01 May 2017

Module/Topic	Chapter	Events and Submissions/Topic
Control, Performance Management and Discipline - Loyalty, Confidentiality and Privacy	Chapters 12 & 13 <i>Stewart's Guide to Employment Law</i>	

#### Week 9 - 08 May 2017

Module/Topic	Chapter	Events and Submissions/Topic
Discrimination and Victimisation	Chapter 14 <i>Stewart's Guide to Employment Law</i>	

#### Week 10 - 15 May 2017

Module/Topic	Chapter	Events and Submissions/Topic
Termination of Employment Contracts	Chapter 16 <i>Stewart's Guide to Employment Law</i>	<b>Presentation and Submission to a Tribunal</b> Due: Week 10 Friday (19 May 2017) 5:00 pm AEST

#### Week 11 - 22 May 2017

Module/Topic	Chapter	Events and Submissions/Topic
Remedies for Wrongful or Unfair Termination	Chapter 17 <i>Stewart's Guide to Employment Law</i>	

#### Week 12 - 29 May 2017

Module/Topic	Chapter	Events and Submissions/Topic
Review week	Review all readings Revision materials and suggestions for review will be supplied.	

#### Review/Exam Week - 05 Jun 2017

Module/Topic	Chapter	Events and Submissions/Topic
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#### Exam Week - 12 Jun 2017

Module/Topic	Chapter	Events and Submissions/Topic
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## Assessment Tasks

# 1 Written Memorandum of Advice

## Assessment Type

Written Assessment

## Task Description

Provide a written memorandum of advice on an employment law problem based on material from the first half of the unit regarding the employment relationship.

An important part of this exercise is to write concisely and to the point. For this reason do not repeat the question. Use headings and sub headings to keep the reader engaged and you on track. Provide a conclusion supported by good logical argument. Present your answers professionally, assuming the role of a lawyer writing to a business client. Upload your advice on Moodle in word format. The expected word limit 2000 words.

## Assessment Due Date

Week 5 Friday (7 Apr 2017) 5:00 pm AEST

## Return Date to Students

Week 7 Friday (28 Apr 2017)

## Weighting

25%

## Assessment Criteria

- Identified and discussed relevant facts.
- Identified and discussed relevant legal issues.
- Relevant cases and legislation applied.
- Logical analysis of the issues and law lead to a well argued conclusion.
- All of the required elements of the task completed professionally and the opinion is concise and well presented.

## Referencing Style

- [Australian Guide to Legal Citation, 3rd ed](#)

## Submission

Online

## Submission Instructions

The assessment is due on a Friday evening by 05:00PM. If you are late with your assessment you will lose 5% per day (or part) for late submission.

## Learning Outcomes Assessed

- Apply Australian employment law, as encapsulated in legislation and common law, to practical issues.
- Research, analyse and evaluate primary and secondary sources of employment law in Australia.
- Interpret legal principles in the analysis of employment law disputes to identify obligations, rights and remedies and to provide solutions to these problems.
- Use skills in team work, communication, critical legal thinking and reasoning.

## Graduate Attributes

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

# 2 Presentation and Submission to a Tribunal

## Assessment Type

Presentation and Written Assessment

## Task Description

You have appeared before a Tribunal on behalf of a client with an employment law problem. The evidence has all been heard and the facts are now established. It is time to make a strong closing submission. Before you make your submission you must research the legal issues and prepare your arguments.

In this assignment, some of you will appear for the employer, some for the employee. Your client will be allocated by the unit coordinator on Moodle when the assessment scenario is released.

You are permitted to appear before the tribunal from your home office (assume your client is with you). Record your

presentation to the Tribunal including announcing your appearance, provide a brief introduction and overview and then walk the Tribunal through your arguments before arguing a conclusion in favour of your client.

In line with usual good practice you must provide a concise written outline of your submissions to the Tribunal. The written submissions should provide a concise outline of your clients view of the relevant facts, the legal issues, the most relevant law and then your conclusion (your argument). The purpose of the outline is to enable the Tribunal to easily follow your presentation and be persuaded by your argument.

Your opponent will also be doing the same so you should anticipate their arguments and meet the oppositions argument in your presentation and outline.

Written submissions must be concise and less than 1500 words. Assume this is a Practice Direction from the Tribunal which also suggests headings and subheadings for the Tribunal to follow the document. The written outline should match the course of your presentation.

Dot points for facts, law and arguments are permitted. Citations for cases and full extracts from legislation are not required, just go to the point you are making and assume the Tribunal has been supplied with the case and the legislation and they have it in front of them.

Presentation time maximum of 15 minutes. Dress appropriately and present in a professional manner.

### **Assessment Due Date**

Week 10 Friday (19 May 2017) 5:00 pm AEST

### **Return Date to Students**

Week 12 Friday (2 June 2017)

### **Weighting**

25%

### **Assessment Criteria**

- Identified the relevant facts
- Identified and clearly outlined the legal issues
- Identified and demonstrated understanding of relevant legislation and case law.
- Applied the law to the facts to mount a concise, clear and well supported argument.
- Presentation to Tribunal and the case outline were both professional.

### **Referencing Style**

- [Australian Guide to Legal Citation, 3rd ed](#)

### **Submission**

Online

### **Submission Instructions**

Documents must be in word format to be marked. Video of your presentation to be uploaded to You Tube with a direct link from your document.

### **Learning Outcomes Assessed**

- Apply Australian employment law, as encapsulated in legislation and common law, to practical issues.
- Research, analyse and evaluate primary and secondary sources of employment law in Australia.
- Interpret legal principles in the analysis of employment law disputes to identify obligations, rights and remedies and to provide solutions to these problems.
- Use skills in team work, communication, critical legal thinking and reasoning.

### **Graduate Attributes**

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

## **Examination**

### **Outline**

Complete an invigilated examination.

### **Date**

During the examination period at a CQUniversity examination centre.



**Weighting**

50%

**Length**

120 minutes

**Exam Conditions**

Open Book.

**Materials**

No calculators permitted

Law dictionaries, Business and Law dictionaries (discipline specific dictionaries) are authorised.

## 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