



# **LAWS12078 Equity and Trusts**

## **Term 1 - 2021**

Profile information current as at 29/04/2024 05:45 pm

All details in this unit profile for LAWS12078 have been officially approved by CQUUniversity 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

In this unit you will examine the jurisdiction of Equity, including Trusts as a key equitable institution. The unit has four parts. In the first part you will address: the history of Equity and its relationship with the common law; equitable rights and interests; equitable assignment; fiduciary obligations and the equitable obligation of confidence. In the second part you will focus on the law of Trusts, including various types of trusts; the manner and form of trust creation and variation; the duties, rights and powers of trustees; consequences of breach of trust; beneficiary rights and remedies; resulting and constructive trusts. In the third part you will address equitable doctrines related to unconscionability; undue influence, unconscionable transactions and estoppel in equity. In the fourth part you will consider equitable remedies including declarations, specific performance, injunctions, and monetary remedies. This unit meets the Legal Practitioners Admissions Board requirements for Equity, including Trusts.

#### 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

Pre-requisite: 24 credit points of law units

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 discussion forum**

Weighting: 10%

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

Weighting: 40%

#### 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 principles of Equity and Trusts and examine their relationship to broader legal principles
2. Identify relevant equitable doctrines and apply them to problem-based scenarios
3. Analyse and evaluate the role played by equity and trusts in common law jurisdictions
4. Research, critically analyse and evaluate cases and secondary material with reference to equitable doctrines and remedies
5. Examine and evaluate different theoretical arguments relevant to equitable doctrines and remedies.

This unit satisfies the Priestley 11 requirements for Equity, which also includes Trusts 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 |
| 1 - Online discussion forum - 10% | •                 |   | • |   | • |
| 2 - Written Assessment - 40%      |                   | • | • | • |   |
| 3 - Take Home Exam - 50%          | •                 | • |   | • | • |

### Alignment of Graduate Attributes to Learning Outcomes

| Graduate Attributes                   | Learning Outcomes |   |   |   |   |
|---------------------------------------|-------------------|---|---|---|---|
|                                       | 1                 | 2 | 3 | 4 | 5 |
| 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                 |                   |   |   |   |   |

| Graduate Attributes                                 |   |   | Learning Outcomes |   |   |  |  |  |  |  |
|---|---|---|-------------------|---|---|--|--|--|--|--|
|   | 1 | 2 | 3                 | 4 | 5 |  |  |  |  |  |
| 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 - Online discussion forum - 10% | •                   | • | • |   |   |   |   |   |   |    |
| 2 - Written Assessment - 40%      | •                   | • | • |   |   |   |   | • |   |    |
| 3 - Take Home Exam - 50%          | •                   | • | • |   |   |   |   | • |   |    |

## Textbooks and Resources

### Textbooks

LAWS12078

#### Prescribed

#### Principles of Australian Equity and Trusts

4th edition (2019)

Authors: Peter Radan and Cameron Stewart

Lexis Nexis Australia

Melbourne , VIC , Australia

Binding: Paperback

#### Additional Textbook Information

If students have Peter Radan and Cameron Stewart, *Principles of Australian Equity and Trusts* (LexisNexis, 3rd ed, 2016 ) and wish to use it, they may do so.

[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

**Alexandra McEwan** Unit Coordinator

[a.mcewan@cqu.edu.au](mailto:a.mcewan@cqu.edu.au)

## Schedule

### Week 1 - 08 Mar 2021

| Module/Topic  | Chapter  | Events and Submissions/Topic                        |
|---|--|---|
| The Nature of Equity: History and Interaction with the Common Law | Chapters 1, 2 and 3<br>Readings are set out in weekly study guides | Zoom session Thursday 11th March at 7pm (Qld time). |

### Week 2 - 15 Mar 2021

| Module/Topic   | Chapter  | Events and Submissions/Topic                        |
|--|--|---|
| Equitable interests, equitable assignment, and equitable priority disputes | Chapters 4, 5 and 8<br>Readings are set out in weekly study guides | Zoom session Thursday 18th March at 7pm (Qld time). |

### Week 3 - 22 Mar 2021

| Module/Topic  | Chapter  | Events and Submissions/Topic                        |
|---|--|---|
| Fiduciary relationships and obligations; Confidential Information | Chapters 9 and 10<br>Readings are set out in weekly study guides | Zoom session Thursday 25th March at 7pm (Qld time). |

### Week 4 - 29 Mar 2021

| Module/Topic                                     | Chapter   | Events and Submissions/Topic                     |
|--|---|--|
| The Trust: introduction, creation and variation. | Chapters 20, 21 and 22<br>Readings are set out in weekly study guides | Zoom session Thursday 1 April at 7pm (Qld time). |

### Week 5 - 05 Apr 2021

| Module/Topic | Chapter   | Events and Submissions/Topic  |
|--------------|---|---|
|              |   | Zoom session Thursday 8th April at 7pm (Qld time).                              |
| The Trustee  | Chapters 26 and 27<br>Readings are set out in weekly study guides | Discussion Forum assessment due 11.59 pm Friday 9th April 2021 (Qld time)       |
|              |   | Discussion Forum Assessment<br>Due: Week 5 Friday (9 Apr 2021)<br>11:59 am AEST |

### Vacation Week - 12 Apr 2021

| Module/Topic | Chapter | Events and Submissions/Topic |
|--------------|---------|------------------------------|
|--------------|---------|------------------------------|

### Week 6 - 19 Apr 2021

| Module/Topic                                     | Chapter   | Events and Submissions/Topic                        |
|--|---|---|
| Breach of trust, beneficiary rights and remedies | Chapters 26 and 27<br>Readings are set out in weekly study guides | Zoom session Thursday 22nd April at 7pm (Qld time). |

### Week 7 - 26 Apr 2021

| Module/Topic | Chapter | Events and Submissions/Topic |
|--------------|---------|------------------------------|
|--------------|---------|------------------------------|

|  |   |   |
|--|---|---|
| Resulting trusts and constructive trusts                 | Chapters 25, 35 and 36                      | Zoom session Thursday 29th April at 7pm (Qld time).               |
|  | Readings are set out in weekly study guides | Assignment due Friday 30th April 2021 at 11.59 pm (Qld time).     |
|  |   | Written Assessment Due: Week 7 Friday (30 Apr 2021) 11:59 pm AEST |
| <b>Week 8 - 03 May 2021</b>                              |   |   |
| Module/Topic   | Chapter                                     | Events and Submissions/Topic                                      |
|  | Chapters 11 and 13                          |   |
| Undue Influence; Unconscionable Transactions             | Readings are set out in weekly study guides | Zoom session Thursday 6th May at 7pm (Qld time).                  |
| <b>Week 9 - 10 May 2021</b>                              |   |   |
| Module/Topic   | Chapter                                     | Events and Submissions/Topic                                      |
|  | Chapter 14                                  |   |
| Equitable Estoppel                                       | Readings are set out in weekly study guides | Zoom session Thursday 13th May at 7pm (Qld time).                 |
| <b>Week 10 - 17 May 2021</b>                             |   |   |
| Module/Topic   | Chapter                                     | Events and Submissions/Topic                                      |
|  | Chapters 28 and 29                          |   |
| Equitable Remedies 1: Declarations; Specific Performance | Readings are set out in weekly study guides | Zoom session Thursday 20th May at 7pm (Qld time).                 |
| <b>Week 11 - 24 May 2021</b>                             |   |   |
| Module/Topic   | Chapter                                     | Events and Submissions/Topic                                      |
|  | Chapters 30, 32 and 38                      |   |
| Equitable Remedies 2: Injunctions, Monetary Remedies     | Readings are set out in weekly study guides | Zoom session Thursday 27th May at 7pm (Qld time).                 |
| <b>Week 12 - 31 May 2021</b>                             |   |   |
| Module/Topic   | Chapter                                     | Events and Submissions/Topic                                      |
| Revision   | Nil   | Zoom session Thursday 3rd June at 7pm (Qld time).                 |
| <b>Review/Exam Week - 07 Jun 2021</b>                    |   |   |
| Module/Topic   | Chapter                                     | Events and Submissions/Topic                                      |
| <b>Exam Week - 14 Jun 2021</b>                           |   |   |
| Module/Topic   | Chapter                                     | Events and Submissions/Topic                                      |

## Term Specific Information

### My contact details are:

Email: [a.mcewan@cqu.edu.au](mailto:a.mcewan@cqu.edu.au)

Telephone: 03 9616 0620

**Consultation Hours:** I am generally available for consultation on Tuesdays and Thursdays from 10am to 12 noon (Eastern Standard Time). You are welcome to contact me on my landline number and leave a message. If I do not answer your call within 24 hours, please send me an email.

The best way to contact me is by email. I check my emails regularly and will get back to you to make a time to talk. I am located on the Melbourne Campus. If you live in or visit Melbourne, you are welcome to contact me to arrange a time to meet me in person. I am also available at other times (by phone or in person) subject to prior arrangement.

## Assessment Tasks

### 1 Discussion Forum Assessment

#### Assessment Type

Online discussion forum

#### Task Description

This assessment requires students to make two posts to assessment discussion forums set up on Moodle specifically for this purpose. Students will choose from a selection of questions and topics based on unit content from weeks one, two, and three.

Each student will be required to enter one post in two forums.

Post One: Each student will make an original post responding to one of the set questions or topics.

Post Two: Each student will make a post responding to another student's original post.

The word limit for each post is 200 words. There is a word minimum of 150 words for each post.

Each post is worth 5 marks with a total of 10 marks.

The assignment is worth 10% of the total unit mark.

Posts will be assessed according to assessment criteria focusing on accuracy of information, quality of argument, critical reflection, acknowledgement of sources, and communication skills.

Students must reference their work in accordance with the Australian Guide to Legal Citation (AGLC) 4th Edition and adhere to standards of academic integrity.

#### Assessment Due Date

Week 5 Friday (9 Apr 2021) 11:59 am AEST

#### Return Date to Students

Week 6 Friday (23 Apr 2021)

Posts will be marked as they are entered, with marking finalised by Friday 23rd April 2021.

#### Weighting

10%

#### Assessment Criteria

Posts will be marked according to assessment criteria focusing on:

- accuracy of information
- quality of argument
- critical reflection
- acknowledgement of sources
- communication skills including adhering to word counts

#### Referencing Style

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

#### Submission

No submission method provided.

### **Learning Outcomes Assessed**

- Explain the principles of Equity and Trusts and examine their relationship to broader legal principles
- Analyse and evaluate the role played by equity and trusts in common law jurisdictions
- Examine and evaluate different theoretical arguments relevant to equitable doctrines and remedies.

### **Graduate Attributes**

- Communication
- Problem Solving
- Critical Thinking

## **2 Written Assessment**

### **Assessment Type**

Written Assessment

### **Task Description**

Students will be required answer two questions. The first question will be a problem-based scenario. The second question will be essay style.

The total word count will be 1500 words: 1000 words for the problem-based scenario question and 500 words for the essay style question.

Students must state the word count on the first page. Headings and sub-headings form part of the word count.

Footnotes do not form part of the word count.

Students will be required to refer to relevant case law and statute, apply legal reasoning and critical thinking skills, and engage in research to support arguments. Students must reference their work in accordance with the Australian Guide to Legal Citation (AGLC) 4th Edition and adhere to standards of academic integrity. Further details of the assignment will be uploaded to Moodle and discussed during the Zoom session in week one.

### **Assessment Due Date**

Week 7 Friday (30 Apr 2021) 11:59 pm AEST

### **Return Date to Students**

Week 10 Friday (21 May 2021)

### **Weighting**

40%

### **Assessment Criteria**

The written assessment task will be marked according to the following criteria:

- Understanding of factual basis and relevant law
- Presented in a logical structure
- Exploration of legal issues; Legal problem solving
- Written expression and AGLC referencing

### **Referencing Style**

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

### **Submission**

No submission method provided.

### **Learning Outcomes Assessed**

- Identify relevant equitable doctrines and apply them to problem-based scenarios
- Analyse and evaluate the role played by equity and trusts in common law jurisdictions
- Research, critically analyse and evaluate cases and secondary material with reference to equitable doctrines and remedies

### **Graduate Attributes**

- Communication
- Problem Solving
- Critical Thinking
- Ethical practice

## **3 Take Home Exam**



**Assessment Type**

Take Home Exam

**Task Description**

The take home exam will be conducted during the Term 1 2021 exam period. The date is to be confirmed.

The task comprises two problem questions and one essay question. All questions are compulsory. The word limit for the take home exam is 2000 words.

The exam is 6 hours duration only.

Submissions after the deadline has passed will not be accepted.

Failure to submit by the deadline will result in a mark of zero for this assessment as the paper will not be marked.

Extensions are not available for the take home exam.

Exam conditions apply to the take home exam.

Answers must be the student's own work. Students must not work with, assist, receive assistance from, copy from, discuss or share work with other students.

Students must not plagiarise. Students must indicate where text is a direct quote, and acknowledge the source of the work or idea.

Students must provide references for all sources relied upon in their take home exam answers.

The student's answer must be submitted as a Word document.

Students must submit their answer to the take home exam via the unit Moodle page in the usual manner.

**Assessment Due Date**

The take home exam will take place during the Term 1 2021 exam period. The date and time of the take home exam is to be confirmed.

**Return Date to Students****Weighting**

50%

**Assessment Criteria**

The take-home exam will be assessed according to the following criteria:

- Understanding of factual basis and relevant law
- Presented in a logical structure
- Exploration of legal issues; Legal problem solving
- Written expression, acknowledgement of sources and academic integrity

**Referencing Style**

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

**Submission**

No submission method provided.

**Submission Instructions**

Answer must be submitted as a Word document, using the following naming convention: SURNAME\_First Name\_[unit name] Take Home.

**Learning Outcomes Assessed**

- Explain the principles of Equity and Trusts and examine their relationship to broader legal principles
- Identify relevant equitable doctrines and apply them to problem-based scenarios
- Research, critically analyse and evaluate cases and secondary material with reference to equitable doctrines and remedies
- Examine and evaluate different theoretical arguments relevant to equitable doctrines and remedies.

**Graduate Attributes**

- Communication
- Problem Solving
- Critical Thinking
- 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 [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