



# LAWS12078 *Equity and Trusts*

## Term 1 - 2023

Profile information current as at 25/04/2024 11:42 am

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 - 2023

- 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](#).

## 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 External Review

##### Feedback

Feedback from Assessment 2 suggests that more prescriptive task instructions could direct students to the style or form of advice sought for this task, eg. legal memorandum or letter of advice, which might provide more uniformity in approach, a better structure to student answers and assess the skill of professional communication in a practical manner.

##### Recommendation

I will integrate this change into Assessment Two.

## 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	•	•	•	•	•

Graduate Attributes	Learning Outcomes				
	1	2	3	4	5
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 - 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

Edition: 5th (2022)

Authors: Peter Radan and Cameron Stewart

Lexis Nexis

Sydney , NSW , Australia

ISBN: 9780409352993

Binding: Paperback

#### Additional Textbook Information

The prescribed textbook can be accessed online at the CQUniversity Library website. Access may be limited.

If you would prefer your own copy, purchase either paper or eBook versions 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: [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 - 06 Mar 2023

Module/Topic	Chapter	Events and Submissions/Topic
The Nature of Equity: History and Interaction with the Common Law	See weekly study guide	Zoom session Thursday 8-9pm (Qld time)

### Week 2 - 13 Mar 2023

Module/Topic	Chapter	Events and Submissions/Topic
Equitable interests and equitable assignment.	See weekly study guide	Zoom session Thursday 8-9pm (Qld)

### Week 3 - 20 Mar 2023

Module/Topic	Chapter	Events and Submissions/Topic
Fiduciary relationships and obligations	See weekly study guide	Zoom session Thursday 8-9pm (Qld)

### Week 4 - 27 Mar 2023

Module/Topic	Chapter	Events and Submissions/Topic
The Trust: introduction, creation and variation	See weekly study guide	Zoom session Thursday 8-9pm (Qld) <b>Online discussion forum</b> Due: Week 4 Friday (31 Mar 2023) 11:59 pm AEST

#### Week 5 - 03 Apr 2023

Module/Topic	Chapter	Events and Submissions/Topic
The Trustee	See weekly study guide	Zoom session Thursday 8-9pm (Qld time)

#### Vacation Week - 10 Apr 2023

Module/Topic	Chapter	Events and Submissions/Topic
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#### Week 6 - 17 Apr 2023

Module/Topic	Chapter	Events and Submissions/Topic
Breach of trust, beneficiary rights and remedies	See weekly study guide	Zoom session Thursday 8-9pm (Qld)

#### Week 7 - 24 Apr 2023

Module/Topic	Chapter	Events and Submissions/Topic
Resulting trusts and constructive trusts	See weekly study guide	Zoom session Thursday 8-9pm (Qld) <b>Written Assessment</b> Due: Week 7 Friday (28 Apr 2023) 11:59 pm AEST

#### Week 8 - 01 May 2023

Module/Topic	Chapter	Events and Submissions/Topic
Undue Influence; Unconscionable Transactions	See weekly study guide	Zoom session Thursday 8-9pm (Qld)

#### Week 9 - 08 May 2023

Module/Topic	Chapter	Events and Submissions/Topic
Equitable Estoppel	See weekly study guide	Zoom session Thursday 8-9pm (Qld)

#### Week 10 - 15 May 2023

Module/Topic	Chapter	Events and Submissions/Topic
Equitable Remedies 1: Declarations; Specific Performance	See weekly study guide	Zoom session Thursday 8-9pm (Qld)

#### Week 11 - 22 May 2023

Module/Topic	Chapter	Events and Submissions/Topic
Equitable Remedies 2: Injunctions, Monetary Remedies	See weekly study guide	Zoom session Thursday 8-9pm (Qld)

#### Week 12 - 29 May 2023

Module/Topic	Chapter	Events and Submissions/Topic
Revision	Nil	Zoom session revision two hour workshop Thursday: Time TBA

#### Review/Exam Week - 05 Jun 2023

Module/Topic	Chapter	Events and Submissions/Topic
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#### Exam Week - 12 Jun 2023

Module/Topic	Chapter	Events and Submissions/Topic
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## Term Specific Information

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

Consultation Hours: I am generally available for consultation on Tuesdays and Thursdays from 10am to 12 noon (Eastern Standard Time). The best way to contact me is by email. I check my emails regularly and will get back to you to arrange a time to talk.

## Assessment Tasks

### 1 Online discussion forum

#### Assessment Type

Online discussion forum

#### Task Description

The online discussion forum assessment is worth 10% of the total unit mark.

For this assessment you will make two posts to assessment discussion forums set up on Moodle specifically for this purpose.

You will be required to enter one post in two forums, i.e., two posts in total. You will choose from a selection of questions and topics based on unit content from weeks one, two, and three.

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

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

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

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

Posts will be assessed according to assessment criteria that will be uploaded to Moodle. After making the two posts, you must submit your two posts in a single Word document via the usual Moodle assignment submission process. In the Word document:

1. Note the discussion forum number and title for each post;
2. Use headings 'original post' and 'reply post'; and
3. Include the word count and your other details, i.e., student name, study ID number, and name of the assignment.

For students who complete the task on the discussion forum, though fail to submit their assignment in a Word document, a late penalty will be applied until the forum posts are submitted via Moodle in a Word document in accordance with the task instructions.

#### Assessment Due Date

Week 4 Friday (31 Mar 2023) 11:59 pm AEST

#### Return Date to Students

Estimated return date is two weeks from the due date.

#### Weighting

10%

#### Assessment Criteria

Each post will be marked according to assessment criteria focusing on:

- accuracy of information;
- quality of argument;
- critical reflection;
- acknowledgement of sources, and communication skills.

The assessment criteria sheet will be uploaded to Moodle at the beginning of term.

#### Referencing Style

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

#### Submission

Online

#### Submission Instructions

Submit in a Word document, using the following naming convention: SURNAME\_First Name\_LAWS12078DForum

## 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

This assessment is worth 40% of the total unit mark.

You will be required to answer one problem question and a short essay question.

The total word count for the written assessment will be 2000 words. You 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. You will be required to refer to relevant case law and statute, apply legal reasoning and critical thinking skills, and engage in research to support your arguments. You must reference your work in accordance with the Australian Guide to Legal Citation (AGLC) 4th Edition and adhere to standards of academic integrity.

The assessment will be marked against a rubric that will be made available on the Moodle page.

### Assessment Due Date

Week 7 Friday (28 Apr 2023) 11:59 pm AEST

### Return Date to Students

Estimated return date is two weeks from the due date.

### 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 and legal analysis; and
- Written expression and AGLC referencing.

The assessment criteria sheet will be uploaded to Moodle at the beginning of term.

### Referencing Style

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

### Submission

Online

### Submission Instructions

Submit to Moodle in a Word document using the following naming convention: SURNAME\_First Name\_LAWS12078WritAssess

## 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 is worth 50% of the total unit mark.

The take home exam will be conducted during the Term 1, 2023 exam period. The date is to be confirmed.

The task comprises two problem questions and one short answer question.

All questions are compulsory.

The exam is 4 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 (Note that this does not include Accessibility adjustments).

Exam conditions apply to all take home exams. Your answers must be your own work. You must not work with, assist, receive assistance from, copy from, discuss, or share work with other students. You must not plagiarise.

You must indicate where text is a direct quote, and acknowledge the source of the work or idea. You must provide references for all sources relied upon in your take home exam answers.

Your answer must be submitted as a Word document. You must submit your completed take home exam via the unit Moodle page in the usual manner. Further details regarding the take home paper will be provided via Moodle.

### Assessment Due Date

The take home paper will take place during the 2023 Term 1 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;
- Structure and sequencing of answer;
- Exploration of legal issues and legal problem solving; and
- Written expression, acknowledgement of sources and academic integrity

### Referencing Style

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

### Submission

Online

### Submission Instructions

Your answer must be submitted as a Word document using the following naming convention: SURNAME\_First Name\_Equity and Trusts 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