



# LAWS20058 Australian Commercial Law

## Term 2 - 2021

Profile information current as at 02/10/2022 02:24 pm

All details in this unit profile for LAWS20058 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

This unit will provide you with an introduction to the law of contract and commercial law as they operate within the parameters of Australia's common law based legal system. Topics include the origins of Australia's present legal system and the current legal environment in which contract and commercial law operate to regulate commercial transacting between firms as well as individuals using concepts, doctrines, principles, legislation and case law. It explains the key functions and processes of the legal system. A particular study is made of the nature, terms, validity, operation and discharge of contracts, the process of litigation and alternate dispute resolution methods of corporate and non-corporate business structures. Commercial Law topics studied include Agency, the Sale of Goods, Australian Consumer Law, Real and Personal Property, Torts, Securities and Bankruptcy. If you have successfully completed the unit LAWS20028 you should not enrol in this unit.

#### Details

Career Level: *Postgraduate*

Unit Level: *Level 8*

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 2 - 2021

- Brisbane
- Melbourne
- Online
- Sydney

#### 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 Postgraduate 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: 40%

#### 2. **Take Home Exam**

Weighting: 60%

### 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, self-reflection.

**Feedback**

Students are mostly accounting or business students and may be international. Law subjects are difficult for them and students struggle to answer legal questions.

**Recommendation**

Workshops, which are already well received, can focus more on the basic concepts and the skills required for answering law questions.

#### Feedback from Student feedback, self-reflection.

**Feedback**

Students have difficulty facing legal assessment tasks.

**Recommendation**

The assessment items can be supported more with discussions both in class and in support materials.

## Unit Learning Outcomes

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

1. delineate the structure, institutions, key functions and processes of the Australian legal system in which contracts and commercial transactions are devised and undertaken
2. demonstrate a sound comprehension of the main concepts, doctrines, principles, legislation and case law in the contract and commercial law topics covered
3. recognise the types of legal problems likely to be contained in commonly encountered business transactions
4. employ legal skills and critical reasoning to identify and analyse the variable and discrete configuration of obligations, rights and remedies attaching to parties across a range of contracts and business transactions
5. make informed judgements as to the likely legal outcomes of standard types of business transactions, coupled with the potential for managing them in a proactive, risk-avoiding and value maximising manner

## 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 - Written Assessment - 40%	•	•	•	•	•
2 - Take Home Exam - 60%	•	•	•	•	•

### Alignment of Graduate Attributes to Learning Outcomes

Graduate Attributes	Learning Outcomes				
	1	2	3	4	5
1 - Knowledge	○	○	○	○	○
2 - Communication	○	○	○		
3 - Cognitive, technical and creative skills	○	○		○	○
4 - Research	○	○			
5 - Self-management					
6 - Ethical and Professional Responsibility					
7 - Leadership					
8 - 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
1 - Written Assessment - 40%	○	○	○	○				
2 - Take Home Exam - 60%	○		○					

## Textbooks and Resources

### Textbooks

LAWS20058

#### Prescribed

##### **Australian Commercial Law**

Edition: 32nd (2019)

Authors: Clive Turner and John Trone

Lawbook Co: Thomson Reuters

Pymont, NSW, Australia

Binding: eBook

#### **Additional Textbook Information**

Both paper and eBook versions 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)
- Zoom Capacity (webcam and microphone)

## Referencing Style

**All submissions for this unit must use the referencing styles below:**

- [American Psychological Association 7th Edition \(APA 7th edition\)](#)
- [Australian Guide to Legal Citation, 4th ed](#)

For further information, see the Assessment Tasks.

## Teaching Contacts

**Matt Nichol** Unit Coordinator

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## Schedule

### **Week 1 - Legal Systems I: What is Law? - 12 Jul 2021**

Module/Topic	Chapter	Events and Submissions/Topic
Principles and Features of Law and Overview of Commercial Law	Clive Turner and John Trone, <i>Australian Commercial Law</i> (32nd ed 2019: Thomson Reuters-Lawbook Co), Chapter 1	

### **Week 2 - Legal Systems II: The Australian Legal System - 19 Jul 2021**

Module/Topic	Chapter	Events and Submissions/Topic
Features of the Australian Legal System	Clive Turner and John Trone, <i>Australian Commercial Law</i> (32nd ed 2019: Thomson Reuters-Lawbook Co), Chapter 1 (pp. 3-27)	

**Week 3 - Legal Systems III: Dispute Resolution - 26 Jul 2021**

Module/Topic	Chapter	Events and Submissions/Topic
Litigation, Alternative Dispute Resolution, Bankruptcy, Remedies and Enforcement	Clive Turner and John Trone, <i>Australian Commercial Law</i> (32nd ed 2019: Thomson Reuters-Lawbook Co), Chapters 1 (pp. 28-31) and 32	

**Week 4 - Contract Law I: What is a Contract? - 02 Aug 2021**

Module/Topic	Chapter	Events and Submissions/Topic
Elements of Forming a Contract: Offer, Acceptance, Consideration, Intention and Capacity	Clive Turner and John Trone, <i>Australian Commercial Law</i> (32nd ed 2019: Thomson Reuters-Lawbook Co), Chapters 2, 3, 4, 5 and 6	

**Week 5 - Contract Law II: Contractual Obligations - 09 Aug 2021**

Module/Topic	Chapter	Events and Submissions/Topic
Terms of a Contract and Classification of Terms	Clive Turner and John Trone, <i>Australian Commercial Law</i> (32nd ed 2019: Thomson Reuters-Lawbook Co), Chapters 9 and 10	

**Vacation Week - 16 Aug 2021**

Module/Topic	Chapter	Events and Submissions/Topic

**Week 6 - Contract Law III: Discharge and Remedies - 23 Aug 2021**

Module/Topic	Chapter	Events and Submissions/Topic
Methods of Discharging a Contract and Remedies for Breach of Contract	Clive Turner and John Trone, <i>Australian Commercial Law</i> (32nd ed 2019: Thomson Reuters-Lawbook Co), Chapters 11 and 12	

**Week 7 - Contract Law IV: Unenforceable Contracts - 30 Aug 2021**

Module/Topic	Chapter	Events and Submissions/Topic
Legality of a Contract, Genuine Consent and Misleading and Deceptive Conduct	Clive Turner and John Trone, <i>Australian Commercial Law</i> (32nd ed 2019: Thomson Reuters-Lawbook Co), Chapters 7, 8 and 17 (pp. 287-299)	<b>Individual Assignment</b> Due: Week 7 Friday (3 Sept 2021) 5:00 pm AEST

**Week 8 - Contract Law V: Contract Terms and Statutory Provisions - 06 Sep 2021**

Module/Topic	Chapter	Events and Submissions/Topic
Contractual Terms, Australian Consumer Law and Sale of Goods Acts	Clive Turner and John Trone, <i>Australian Commercial Law</i> (32nd ed 2019: Thomson Reuters-Lawbook Co), Chapters 15 and 17 (pp. 299-307)	

**Week 9 - Property Law and Securities - 13 Sep 2021**

Module/Topic	Chapter	Events and Submissions/Topic
Native Title, Personal Property, Real Property and Securities	Clive Turner and John Trone, <i>Australian Commercial Law</i> (32nd ed 2019: Thomson Reuters-Lawbook Co), Chapters 14 and 29	

**Week 10 - Law of Torts - 20 Sep 2021**

Module/Topic	Chapter	Events and Submissions/Topic
Overview of Torts and the Tort of Negligence	Clive Turner and John Trone, <i>Australian Commercial Law</i> (32nd ed 2019: Thomson Reuters-Lawbook Co), Chapter 28	

**Week 11 - Agency - 27 Sep 2021**

Module/Topic	Chapter	Events and Submissions/Topic

Rules of Agency and Liability of Parties  
Clive Turner and John Trone,  
*Australian Commercial Law* (32nd ed  
2019: Thomson Reuters-Lawbook Co),  
Chapter 13

#### **Week 12 - Business Structures - 04 Oct 2021**

<b>Module/Topic</b>	<b>Chapter</b>	<b>Events and Submissions/Topic</b>
Sole Traders, Partnerships, Joint Ventures, Corporations and Trusts	Clive Turner and John Trone, <i>Australian Commercial Law</i> (32nd ed 2019: Thomson Reuters-Lawbook Co), Chapters 26, 27 and 30	

#### **Review/Exam Week - 11 Oct 2021**

<b>Module/Topic</b>	<b>Chapter</b>	<b>Events and Submissions/Topic</b>
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#### **Review\Exam week - 18 Oct 2021**

<b>Module/Topic</b>	<b>Chapter</b>	<b>Events and Submissions/Topic</b>
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## Assessment Tasks

### 1 Individual Assignment

#### **Assessment Type**

Written Assessment

#### **Task Description**

The assignment involves a problem solving exercise where students must demonstrate research, analytical and writing skills. Students are required to examine a factual scenario and then apply relevant laws to a number of questions.

#### **Assessment Due Date**

Week 7 Friday (3 Sept 2021) 5:00 pm AEST

The assignment must be submitted as an MS Word document via Moodle. Assignments submitted after the due date without an approved online extension will incur a penalty of 5% of the total marks available per day in accordance with the relevant CQU policy.

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

Week 9 Friday (17 Sept 2021)

Feedback and results will be provided to students by Moodle.

#### **Weighting**

40%

#### **Assessment Criteria**

The assignment will be assessed according to the following criteria:

1. Problem solving: students must demonstrate problem solving skills by identifying and applying relevant legal rules and principles.
2. Critical thinking: students must demonstrate critical thinking by analysing, applying and evaluating facts and law in a problem solving context.
3. Information literacy: students must demonstrate information literacy by identifying, understanding and applying legal rules and principles.
4. Writing and presentation: students must submit answers with a clear writing style that uses appropriate grammar and expression. Ideas and arguments must be presented using a logical structure and order.
5. Referencing: students must appropriately cite relevant references when using legislation, cases and secondary materials (for example books or journal articles).

A detailed marking rubric is available on Moodle.

## Referencing Style

- [American Psychological Association 7th Edition \(APA 7th edition\)](#)
- [Australian Guide to Legal Citation, 4th ed](#)

## Submission

Online

## Submission Instructions

Students must submit their assignment as a Word document (.doc or .docx) in Moodle

## Learning Outcomes Assessed

- delineate the structure, institutions, key functions and processes of the Australian legal system in which contracts and commercial transactions are devised and undertaken
- demonstrate a sound comprehension of the main concepts, doctrines, principles, legislation and case law in the contract and commercial law topics covered
- recognise the types of legal problems likely to be contained in commonly encountered business transactions
- employ legal skills and critical reasoning to identify and analyse the variable and discrete configuration of obligations, rights and remedies attaching to parties across a range of contracts and business transactions
- make informed judgements as to the likely legal outcomes of standard types of business transactions, coupled with the potential for managing them in a proactive, risk-avoiding and value maximising manner

## Graduate Attributes

- Knowledge
- Communication
- Cognitive, technical and creative skills
- Research

## 2 Take Home Paper

### Assessment Type

Take Home Exam

### Task Description

The take-home paper will consist of a number of legal problem and short answer questions testing your knowledge and understanding of relevant cases, legislation and legal principles. It is an individual assessment and no collaboration is permitted. The take-home paper will be released on Moodle. Students will have 24 hours to complete and submit their answers via Moodle. Extensions of time are not permitted for a take-home paper and the submission link will be disabled on expiry of the deadline.

### Assessment Due Date

The release date for the take-home paper will be set by the School and will be during the examination period. You will be informed of the date during the term.

### Return Date to Students

Results of the take home paper will only be released when grades are certified.

### Weighting

60%

### Assessment Criteria

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

1. Problem solving: students must demonstrate problem solving skills by identifying and applying relevant legal rules and principles.
2. Critical thinking: students must demonstrate critical thinking by analysing, applying and evaluating facts and law in a problem solving context.
3. Information literacy: students must demonstrate information literacy by identifying, understanding and applying legal rules and principles.
4. Writing and presentation: students must submit answers with a clear writing style that uses appropriate grammar and expression. Ideas and arguments must be presented using a logical structure and order.
5. Referencing: students must appropriately cite relevant references when using legislation and cases.



A detailed marking rubric is available on Moodle.

### **Referencing Style**

- [American Psychological Association 7th Edition \(APA 7th edition\)](#)
- [Australian Guide to Legal Citation, 4th ed](#)

### **Submission**

Online

### **Submission Instructions**

Students must submit their answers to the take home paper as a single MS Word document via the submission link on Moodle.

### **Learning Outcomes Assessed**

- delineate the structure, institutions, key functions and processes of the Australian legal system in which contracts and commercial transactions are devised and undertaken
- demonstrate a sound comprehension of the main concepts, doctrines, principles, legislation and case law in the contract and commercial law topics covered
- recognise the types of legal problems likely to be contained in commonly encountered business transactions
- employ legal skills and critical reasoning to identify and analyse the variable and discrete configuration of obligations, rights and remedies attaching to parties across a range of contracts and business transactions
- make informed judgements as to the likely legal outcomes of standard types of business transactions, coupled with the potential for managing them in a proactive, risk-avoiding and value maximising manner

### **Graduate Attributes**

- Knowledge
- Cognitive, technical and creative skills

## 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