



ACCG851 BUSINESS LAW
UNIT OUTLINE—TRIMESTER 1, 2009

STUDENTS IN THIS UNIT ARE REQUIRED TO READ THIS UNIT OUTLINE CAREFULLY AT THE START OF THE TRIMESTER. IT CONTAINS IMPORTANT INFORMATION ABOUT THE UNIT. IF ANYTHING IS UNCLEAR PLEASE SPEAK WITH YOUR LECTURER.

Unit Description

All commercial activity is regulated by a complex legal regime. This unit of study examines the Australian legal system as it pertains to the government of business activity, and includes an introductory study of the following broad areas:

- ◆ An introduction to law
- ◆ Historical context of Australian law, common law and statute law
- ◆ Statutory interpretation
- ◆ Australian legal system, civil/criminal law, court personnel, hierarchies, state and federal systems
- ◆ Business entities, including sole traders, partnerships, companies, trusts, associations
- ◆ Contract law
- ◆ Torts, particularly negligence
- ◆ Agency
- ◆ Bankruptcy
- ◆ Consumer protection and the Trade Practices Act

In addition to introducing the above areas, the unit aims to develop a range of generic skills in:

- ◆ Legal research, writing, and presentation
- ◆ Communication and interpersonal skills
- ◆ Group work and cooperation
- ◆ Problem-solving, analysis, and logical argumentation
- ◆ Legal issue resolution
- ◆ Understanding of different viewpoints and perspectives
- ◆ Appreciation of the broad ethical, socioeconomic and political contexts of business law

Teaching and Learning Strategy

Class contact will consist of a single, three-hour seminar session each week, incorporating lecture and tutorial style components. Approximately two-thirds of the time each week will be devoted to lecture and other presentations (including audio-visual material, if appropriate); the other one-third of the time will be spent in tutorial or discussion mode. The course is designed to foster a useful learning pedagogy, therefore group work and general discussions may impact on the time-frame outlined in the Syllabus. Individual lecturers may also choose to emphasise some areas of the weekly reading over others.

Each class will centre on the assigned reading material. Seminar activities will be based on materials contained in the text or on other material to be introduced in lectures on a week-by-week basis, including questions identified by the lecturer and /or problem based case studies. Specific questions for discussion in seminars will be advised during class. Questions and case studies in the text book may not always be utilised, although students are strongly advised to at least consider these materials on a weekly basis. Copies of overheads which may be used by the lecturer are provided. The ultimate authority for weekly material presented is the relevant chapter of the textbook.

Teaching Staff and Classes

Students must attend the seminar time for which they are enrolled, as indicated in the following table. The seminars are not interchangeable, as each class may work at a different pace. If on the odd occasion you are unable to make your allotted class, you may attend a substitute seminar but please speak with the lecturer prior to commencement of the class.

CLASS	CLASS DAY AND TIME	CLASS LOCATION	LECTURERS
1	Tuesday 9:00 - 12:00 am	C4A315	Chip Van Dyk
2	Tuesday 12:00 – 3:00 pm	C4A315	Chip Van Dyk
3	Thursday 3:00 pm – 6:00 pm	C5A304	Gordon Floyd
4	Thursday 6:00 – 9:00 pm	C5A304	Gordon Floyd
5	Friday 12:00 – 3:00 pm	C5A304	Gordon Floyd

Lecturer contact details

Gordon Floyd

Chip Van Dyk (Unit Coordinator)

Prescribed text

Andy Gibson and Douglas Fraser, *Business Law*, Fourth edition, Pearson Education Australia, 2009.

The text has an online component, “activebook”, which requires a student access key code. This code is specific to Course Compass, the website where the online material for this course can be accessed. Online material is not accessible without a Course Compass code.

The activebook is an online interactive version of the textbook, with chapter warm-up quizzes, concept checks within the chapter, hyperlinks to cases referenced and interactive essay questions. Students should use this feature for each assigned chapter in addition to reading and highlighting each chapter, and then taking notes on the most important sections of each chapter.

Solutions to tutorial assignments, class announcements and instructor emphasis on various concepts may also be included on the activebook site specific to this class. Instructions for accessing this material will be provided in class.

Other useful parallel material may be found in the current editions of:

- ◆ Gillies, Business Law, Federation Press
- ◆ Latimer, Australian Business Law, CCH.
- ◆ Pentony, Lennard, Graw & Parker, Understanding Business Law, Butterworths.
- ◆ Terry & Guigni, Business Society and the Law, Harcourt Brace.
- ◆ Vermeesch & Lindgren Business Law of Australia, Butterworths.

Assessment

The compulsory assessment for the unit will consist of the following components:

• Mid-trimester Examination	50%
• Final Examination	50%
<i>Total</i>	100%

• *Mid- trimester and Final Examinations*

The compulsory mid-trimester examination will be held after the completion of Week 6. It will be a three hour examination (plus reading time). Students will be permitted to bring one (1) A4-sized piece of paper with course materials into the exam room. The exam will cover material from the first 6 weeks of the course. It may consist of short answer, essay, and problem-based questions. More information will be available closer to the exam date

The compulsory final examination will be held during the official examination period after the completion of Week 12. The examination will be three hours in duration (plus reading time). Students may bring a single piece of A4 paper into the exam room containing course notes. The exam may consist of short answer, essay, and problem-based questions, covering material considered throughout the final six weeks of the course. Further details will be provided closer to the exam date.

As students are allowed to bring course-related materials into the exam room, the emphasis of the exams is not on memorized knowledge, but on comprehension of substantive course concepts. The exam will also evaluate students’ critical analysis skills, and their ability to express their arguments logically and coherently.

Examination Rules and Procedures: University exam rules and procedures apply. Please familiarise yourself with these: <http://www.accg.mq.edu.au/ss/macc/examinations>. Take special notice that electronic dictionaries are not allowed. Paper translation or English

dictionaries are allowed, however, dictionaries containing business or law content are not permitted.

- ☒ Cheating is a serious academic offense. Penalties include, but are not limited to, failure, and exclusion from the University.

The Mid-Trimester Examination period in T1 2009 is from 28 February to 7 March. Final exams are from 14 April to 20 April.

You are expected to present yourself for examination at the time and place designated in the University Examination Timetable. The timetable will be available in Draft form approximately eight weeks before the commencement of the examinations and in Final form approximately four weeks before the commencement of the examinations.

<http://www.timetables.mq.edu.au/exam>

The only exception to not sitting an examination at the designated time is because of documented illness or unavoidable disruption. In these circumstances you may wish to consider applying for Special Consideration. Information about unavoidable disruption and the special consideration process is available at <http://www.reg.mq.edu.au/Forms/APSCon.pdf>

If a Supplementary Examination is granted as a result of the Special Consideration process the examination will be scheduled after the conclusion of the official examination period. (Individual Divisions may wish to signal when the Division's Supplementaries are normally scheduled.)

You are advised that it is Macquarie University policy not to set early examinations for individuals or groups of students. All students are expected to ensure that they are available until the end of the teaching semester, that is the final day of the official examination period.

Preparation and materials provided

- ☺ **Regular attendance at seminars** is an expectation of the course. Weekly reading is to be done prior to class. It is suggested that students take notes as they read, as a memory aide. Students should also summarise key cases as they progress through weekly readings. Students often ask how much time they should spend on this subject. There is no hard and fast rule, however you need to read *and* summarise/take notes in order to really understand the material. If this is your first introduction to matters legal and/or you are from overseas or a non-English speaking background then clearly a quick read will not be enough. Somewhere in the order of 6–10 hours outside of class time per week is probably required.
- ☺ **Weekly seminar overheads** are provided. These summarise key points in the area of law under consideration and are a **guide only**. They are based on the material from the textbook. It is suggested that students use these as an indication as to required content, and that you supplement them with your own notes, taken from both the textbook, and from lectures each week. Individual lecturers may diverge from the overheads as they choose the manner in which they treat key concepts for each topic, however, it should be noted that the textbook provides the consistent core content for each topic. Questions in the weekly tutorial outline are suggestions only and your lecturer retains discretion as to whether any or all are used.
- ☺ **Support services** are available for international students. If you experience study-related difficulties, do not hesitate to contact the International Office or the Master of Accounting office. In addition, the Unit Coordinator, Chip Van Dyk, may be contacted regarding course-related questions. There is also an on-campus counselling service. Your individual

lecturer should be consulted if the matter relates to weekly material or to organise a consultation to discuss progress or problems in understanding lecture/textbook material.

Macquarie University provides a range of Academic Student Support Services. Details of these services can be accessed at <http://www.student.mq.edu.au>.

- ☺ Students should remember that this is a post graduate qualification where the ability to organise and independently study is an accepted part of academic life. All students entering this program have completed a prior degree (across a range of academic disciplines) and are therefore expected to possess analytical and study skills superior to those of an undergraduate student.
- ☺ Students should be aware that the University takes *plagiarism* very seriously. The University defines plagiarism in its rules: “Plagiarism involves using the work of another person and presenting it as one’s own”. Plagiarism is a serious breach of the University’s rules and carries significant penalties. You must read the University’s practices and procedures on plagiarism.

The policies and procedures explain what plagiarism is, how to avoid it, the procedures that will be taken in cases of suspected plagiarism, and the penalties if you are found guilty. Penalties may include a deduction of marks, failure in the unit, and/or referral to the University Discipline Committee.

The issue of plagiarism will be very important as you write up your research project. Do not use the words of another person or even their ideas without referencing the source. Paraphrasing is fine but you must still appropriately cite the source of the idea. For a fuller explanation and examples see the source below.

A further note of caution: in a recent Supreme Court of Qld Appeal Case (Liveri, Re 2006 QCA 152 (12 May)) a law student applied for admission to practice upon completion of her studies. The legal Practices Admission Board opposed her registration for practice on the grounds that she had engaged in plagiarism whilst a student at James Cook University. A key factor was the dishonesty and lack of remorse the student demonstrated bringing into question whether she was a “fit and proper person” to act as a legal practitioner. So for those of you who intend to seek professional registration remember fitness to hold office/registration is often an important consideration. This case may set a precedent for other professional bodies when considering applications from students who have been guilty of plagiarism.

The case referred to above is accessible via —
<http://www.austlii.edu.au/au/cases/qld/QCA/2006/152.html>

The University policy on plagiarism and examples of plagiarism, scaled from the mildest to the most serious offences is available at: <http://www.student.mq.edu.au/plagiarism>

- ☺ Applications for *Special Consideration* in the case of illness, accident, or unavoidable disruption must be made on the appropriate form and be accompanied by supporting evidence and documentation. Further information is available from the administrative staff in the Postgraduate Accounting Program office on Level 2 of building C4A.

See <http://www.reg.mq.edu.au/Forms/APSCons.pdf> for further details.

University Policy on Grading

Academic Senate has a set of guidelines on the distribution of grades across the range from fail to high distinction. Your final result will include one of these grades plus a standardised numerical grade (SNG).

On occasion your raw mark for a unit (i.e. the total of your marks for each assessment item) may not be the same as the SNG which you receive. Under the Senate guidelines, results may be scaled to ensure that there is a degree of comparability across the university, so that units with the same past performances of their students should achieve similar results.

It is important that you realise that the policy does not require that a minimum number of students are to be failed in any unit. In fact, it does something like the opposite, in requiring examiners to explain their actions if more than 20% of students fail in a unit.

These are the official descriptions of the various grades, as published by the University:

- ☺ *HD High Distinction* (SNG 85–100)—performance that meets all unit objectives in such an exceptional way and with such marked excellence that it deserves the highest level of recognition
- ☺ *D Distinction* (SNG 75–84)—performance that clearly deserves a very high level of recognition as an excellent achievement in the unit
- ☺ *Cr Credit* (SNG 65–74)—performance that is substantially better than would normally be expected of competent students in the unit
- ☺ *P Pass* (SNG 50–64)—performance that satisfies unit objectives
- ☺ *PC Conceded Pass* (SNG 45–49)—performance that meets unit objectives only marginally
- ☹ *F Fail* (SNG 0–44)—failure to complete the unit satisfactorily.

Syllabus

Week	Week commencing (Monday)	Topics
1	January 19	Legal Framework (Part A). Legal foundations; major sources of law; levels of government and separation of powers; the Constitution and Commonwealth jurisdiction. (G&F Chs 1-2)
2	January 26	The Legal System (Part B). The courts: state and federal, legal personnel and trial participants; the adversary system and case law; standard/burden of proof; government tribunals, Ombudsman and related bodies; statute law, case law and precedent; statutory interpretation. (G&F Chs 3-4)
3,4,5	February 2 February 9 February 16	Contract Law. Key elements of a contract; vitiating elements; terms; discharge; remedies. (G&F Chs 12-21) Note: Your lecturer will indicate which of these chapters should be prioritised
6	February 23	Agency. (G&F Ch 27)
<p>Mid Trimester Examination: February 28 (50% of final assessment) Attendance is compulsory. All students must attend this examination. Location and time TBA.</p>		
7	March 2	The law of torts. Key elements of negligence; defences; professional liability for negligent misstatement. (G&F Chs 7-9)
8	March 9	
9	March 16	Companies and Choosing a Business Entity (G&F 28, 30)
10	March 23	Bankruptcy and debt recovery. (G&F Ch 33)
11	March 30	Consumer protection and Sale of Goods. (G&F Ch 22-24)
12	April 6*	
<i>Note: G&F = the Gibson and Fraser textbook</i>		
<p>Final Examination period: April 14 - April 20 <i>*Friday 10 April is a Public Holiday. Students with class scheduled on this date should attend one of the other 4 lectures earlier in this week.</i></p>		

Schedule of Tutorial Questions and Discussion Guide

Week	Topics	Tutorial Tasks
1	How to study Law The Legal System (Part A)	Chapter 1: Review Questions 13,14,15 Chapter 2: Review Questions 17,18,19
2	The Legal System (Part B)	Chapter 3: Review Questions 24,27 Chapter 4: Review Questions 8,10 Problem-based Question: Jacques and the Firearms Offences Act (Included in this Outline)
3	Contract Law (Note: Your lecturer will advise of precise timing of the progress through the chapters)	Chapter 12: Review Questions 2,3 Chapter 13: Review Questions 10,14 Chapter 14: Review Questions 8,9,10
4		Chapter 15: Review Questions 5,7 Chapter 16: Review Questions 4,9,10 Chapter 17: Review Questions 4,5,16,17 PLUS Problem-based Question: Choi and the Nursery (Included in this Outline)
5		Chapter 18: none Chapter 19: Review Questions 2,5,10,11 Chapter 20: Review Questions 5,6 Chapter 21: Review Questions 2,4,10,11
6		Chapter 27: Review Questions 3,7,12,13, CT#1-3, plus short problem question (included in this outline)
7	The law of torts: Negligence	Chapter 7: Review Questions 1,3,4 and Problem- based Question: The Smouldering Stump (Included in this Outline)
8		Chapter 8: Review Questions 7,8,17 Chapter 9: Review Questions 3,8,10,14
9	Companies and Choosing Business Entities	Chapter 28: Review Questions 6,7 - PLUS Problem Question: Wagon Wheels (Included in this Outline) Chapter 30: Review Questions CT#1
10	Bankruptcy and debt recovery	Chapter 33: Review Questions 1,2,10 plus short problem question (included in this outline)
11	Consumer protection and Sale of Goods	Chapter 22: none Ch 23: Review Questions 6,8; CT#1
12		Chapter 24: Review Questions 5,8,9 plus Problem based question: Jo Ng and Frances Ng and the market garden case. (included in this outline)

The above cited Review Questions are to be used as a guide only. Your lecturer will use his/her discretion in determining how these are treated. Some may be set for homework whilst others may be tackled in class. Some may not be covered at all however it is advisable as a method of independent study that you at least consider these questions to help you focus your reading on a weekly basis. Do not expect that written answers to these will be provided. At this level of study it is an expectation that you should be able to take your own notes from a class discussion or from the textbook. These notes will form an important study resource for the final exam.

THE LAW SEQUENCE

You are now commencing the law sequence in the Macquarie Postgraduate Diploma in Accounting and Master of Accounting program. There are 3 law units in these programs:

ACCG851 Business Law	ACCG854 Company and Associations Law	ACCG857 Taxation Law
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Carrying on any type of business requires an understanding of applicable law. Advising individuals or

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understanding of the others.

- ◆ Business Law introduces students to the general framework and structure of law in Australia. It provides an outline of the historical context of the Australian legal system and describes key features of the system at both State and Federal levels. The unit examines the difference between criminal and civil law and outlines court personnel, the hierarchy of courts, common law, statute law, and statutory interpretation.

It is important that students understand the frameworks and key concepts that underpin the manner in which the legal system deals with many of the substantive legal issues covered later in the unit and in subsequent units (ACCG854 & ACCG857). For many students, this unit will provide new but important foundational knowledge that will underpin understanding of the way law interacts with and impacts on the regulation of accounting and business entities.

Building on the foundational knowledge in the first two weeks, the remainder of the unit introduces students to particular areas of law including: introduction to business entities (sole traders, partnerships, companies, trusts, associations); contract law; torts (particularly negligence), agency, bankruptcy, and consumer protection and the Trade Practices Act.

Material and concepts covered in the first three weeks of the course are essential to successfully undertaking both the remainder of ACCG851 and the later law subjects ACCG854 and ACCG857.

- ◆ Company and Associations Law deals with the structure and function of business entities such as partnerships and particularly, companies. Students will consider how companies are formed, the position and responsibilities of management and the issues relevant to insolvency, restructuring and liquidation.
- ◆ Taxation Law examines the various principles relating to assessable income and deductions. The unit focuses on the Income Tax Assessment Act (1936 and 1997), enabling students to familiarise themselves with the use of the legislation. Students learn how to calculate tax payable and how to deal with Capital Gains, Fringe Benefits, and Goods & Services taxes.

Although you will not be legal practitioners upon the completion of your course you will nonetheless be prepared to become accounting professionals in a highly, and increasingly, legally regulated and litigious environment. You may be relied upon for accurate business advice, and the overall effect of these three law units should greatly assist in your ability to recognise and deal with legal issues. In addition, your knowledge base should also alert you to situations where the legal regime/issues are so complex that the most responsible and professional course of action to undertake is to seek further advice, either from an organisation's "in-house" lawyers or other specialist legal practitioners.

Remember your studies. You will be accountable for professional advice you give (or fail to give)!

On this page are just some examples of how each of the units relate to each other and to various aspects of professional practice.

