

LAWS6120: Torts I

Newcastle City Precinct
Semester 1 – 2024



OVERVIEW

Course Description	Torts I (together with Torts II) examines the rules of law by which liability for civil wrongs is imposed. Tort law examines a wide range of topics that are closely relevant to fundamental human rights, including bodily integrity and property rights. Tort law also provides an important mechanism to engage with the use of public power (such as the action for false imprisonment) and address potential corruption issues (such as in the action for misfeasance in public office). Both common law and statutory schemes are considered, including defences, remedies and the assessment of damages, with a view to promoting the rule of law.
Requisites	Students must be active in one of the following programs: the Juris Doctor/Grad Dip Legal Practice program [12334], the Juris Doctor program [50016], or the Master of Laws [12333].
Skills focus	This course will focus on assisting students to develop the following skills: Note taking Structural and writing skills Problem solving
Assumed Knowledge	Students should be undertaking LAWS6000 Legal System and Method I at the same time as, or prior to, undertaking LAWS6120.
Contact Hours	Newcastle City Precinct Seminar Face to Face on Campus 2 hour(s) per Week for Full Term Workshop Face to Face on Campus 2 hour(s) per Week for Full Term
Unit Weighting Workload	10 Students are required to spend on average 120-140 hours of effort (contact and non-contact) including assessments per 10 unit course.

COURSE OUTLINE

www.newcastle.edu.au

CONTACTS

**Course Coordinator,
Seminar &
Workshop Teacher**

Newcastle City Precinct

Associate Professor Neil Foster
Neil.Foster@newcastle.edu.au
(02) 4921 7430

Consultation: Students who would like to meet should contact me via email, and I will arrange a time and book a meeting room or arrange a Zoom session.

School Office

Newcastle School of Law and Justice

5th Floor
NU Space
409 Hunter Street
Newcastle
Law-School@newcastle.edu.au
+61 2 4921 8666

SYLLABUS

Course Content

This course (together with *Torts II* as part of the full first year course of study) will introduce students to the rules and processes of law which impose liability for civil wrongs including:

1. Historical Background and Contemporary Issues*
2. Intentional Torts*
3. Negligence
4. Strict Liability Torts, including Liability for Animals and Breach of Statutory Duty*
5. Vicarious Liability and Non-Delegable Duty*
6. Remedies and Assessment of Damages
7. Overview of Non-Tortious Compensation Schemes
8. Remedies
9. Assessment of Damages
10. Parties

(Items marked with an asterisk * are those covered in detail in *Torts I*.)

**Course Learning
Outcomes**

On successful completion of this course, students will be able to:

1. Integrate an advanced understanding of legal process and methods, with substantive areas of the law of tort.
2. Analyse critically, reflect on, and synthesise information on the role of tort law in the civil justice system and contemporary Australian society.
3. Identify legal principles and employ legal techniques and approaches to resolve complex practical problems in the area of tort law.
4. Critically read, analyse, and reflect on case law and statutes, learning within a collaborative environment and develop appropriate notes in relation to those sources.
5. Research primary and secondary legal materials in a timely and accurate fashion, so as to access recent developments in the area as well as the foundational doctrines.
6. Present a clear and reflective analysis of complex competing policy considerations.
7. Structure and present a coherent and persuasive argument using legal data, both orally and in writing, in accordance with legal professional practice.
8. Orally present and defend arguments in interactive dialogue with the teacher and peers in a style consistent with professional client consultations, mediation, negotiation and court appearances.

Course Materials

Prescribed texts

Students will be expected to own and use the following two prescribed textbooks, which between them cover the course material for both *Torts I* and *Torts II* (ie there will be no new prescribed texts in semester 2)

- Luntz, H, Hambly, D, Burns, K, Dietrich, J, Foster, N, Grant, G & Harder, S *Torts: Cases, Legislation and Commentary* (9th ed), Sydney: LexisNexis Butterworths, 2021
- Foster, N *Torts: Cases and Commentary Supplement- Defamation and Wrongful Interference with Goods* (2nd ed), Sydney: LexisNexis Butterworths, 2019

Students will also be expected to download further materials from the course website as instructed. These readings and materials from the prescribed texts, as well as other online material, will form the basis of discussion in seminars and workshops.

Recommended texts/readings

For further reading, the following books may be consulted in the Library (those marked with an asterisk * are highly recommended; those marked with a pound “£” are UK texts and hence statutory references are less relevant, but are generally helpful on the common law):

- Barker, K, Cane, P, Lunney, M, & Trindade, F *The Law of Torts in Australia* (5th ed), South Melbourne: Oxford University Press, 2012 *
- Clarke, A; Devereux, J; Day, J; Greenway, M *Torts: Principles, Skills & Application*, Chatswood: LexisNexis Butterworths, 2019
- Davies, M; Malkin, I & Voon, T *Focus: Torts* (10th ed), Sydney: LexisNexis Butterworths, 2024*
- Davis, J; Rizzi, M & Offer, K *Connecting with Tort Law* (2nd ed) South Melbourne: Oxford University Press, 2020
- George, P *Defamation Law in Australia* (4th ed), Chatswood: LexisNexis Australia, 2023)*
- Goodhand, C and O'Brien, P *Intentional Tort Litigation in Australia: Assault, False Imprisonment, Malicious Prosecution and Related Claims* Sydney: Federation Press, 2015*
- Jones, M & Dugdale, AM (eds) *Clerk & Lindsell on Torts* (20th ed), London: Sweet & Maxwell, 2010 [& annual supplements] £ {Later editions available}
- Kyriakakis, J et al *Contemporary Australian Tort Law*, Port Melbourne: Cambridge University Press, 2020
- Luntz, H & Harder, S *Assessment of Damages for Personal Injury and Death* (5th ed), Sydney: LexisNexis Butterworths, 2021*
- Madden, B & McIlwraith *Australian Medical Liability* (2nd ed) Australia: LexisNexis Butterworths, 2013
- McDonald, B, Anderson, R S & Rolph, D *Cases on Torts* (6th ed), Sydney: Federation Press, 2017 *¹
- Mendelson, D with Erbacher, S *The New Law of Torts*, (3rd ed) South Melbourne: Oxford University Press, 2014 (with separate *New Law of Torts Case Book* 3rd ed, 2014)
- Murphy, J & Witting, C *Street on Torts* (13th ed) Oxford: OUP, 2012 £* {Later editions available}
- Richards, B & De Zwart, M, *Tort Law Principles* (2nd ed) Pyrmont: Lawbook Co, 2017
- Rolph, D, Varuhas, J, Crossley, P & Douglas, M *Balkin and Davis Law of Torts* (6th ed), Sydney: LexisNexis Butterworths, 2021 *
- Sappideen, C, Vines, P & Eldridge, J *Torts: Commentary and Materials* (13th ed) Pyrmont: Lawbook Co, 2021
- Sappideen, C; Vines, P; Eldridge, J; Giliker, P; Handford, P and McDonald, B (eds) *Fleming's The Law of Torts* (11th ed), Sydney: Lawbook Co, 2024*

¹ There are occasional supplementary case notes to this book made available online. See <http://www.federationpress.com.au/bookstore/book.asp?isbn=9781760021412> .

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- Shircore, M *Torts* (Thomson Reuters Lawbriefs series) Lawbook Co, 2015
 - Stewart, P & Stuhmcke, A *Australian Principles of Tort Law* (5th ed) Annandale: Federation Press, 2022
 - Stevens, R *Torts and Rights*, Oxford: OUP, 2007 £*
 - Stickley, A *Australian Torts Law* (4th ed) Sydney: LexisNexis Butterworths, 2016*
 - Villa, D *Annotated Civil Liability Act 2002* (NSW) (3rd ed) Sydney: Lawbook Co, 2018* {excellent resource for semester 2 *Torts II* material on negligence}
 - Withnall Howe, S, Walsh, G & Rooney, P *Torts (LexisNexis Study Guide)* (3rd ed) Sydney: LexisNexis Butterworths, 2015

COMPULSORY REQUIREMENTS

Compulsory Assessment Requirement- Attendance

Assessment Type	Attendance at workshops
Description	Attendance requirement
Weighting	Irrespective of a student's mark, if a student has failed to satisfactorily complete this compulsory course requirement then a zero mark and fail grade (FF) will be recorded on their transcript, even if they have achieved overall marks greater than 50% in the course
Due Date	Each week that workshops are offered
Submission Method	Presence
Assessment Criteria	<ul style="list-style-type: none"><input type="checkbox"/> Attendance at all workshops will be monitored by the keeping of a roll; the roll will be recorded electronically, and students will be able to monitor their attendance records on Canvas• In order to satisfy this requirement, students must be present at a minimum of 80% of scheduled workshop classes, unless they are able to demonstrate that their absence falls within the Adverse Circumstances policy;• Unless this requirement is met, despite marks awarded in other assessment items, the student will receive a zero mark and a fail grade (FF) for the course
Return Method	N/A
Feedback Provided	N/A

NOTE

The 80% requirement will be “rounded down” to assist students- this means students will only need to attend a minimum of **9 classes out of 12** to satisfy the requirement. Students who claim that relevant adverse circumstances have impacted their attendance should provide suitable evidence to their workshop teacher, who will determine on a case-by-case basis how this should be accounted for. If a student is unable to attend their enrolled class but attends another offering of that class (ie an equivalent workshop) in the same week, and speaks to the workshop teacher so that their attendance is recorded in the relevant roll, they will be deemed to have met the attendance requirement for that week.

Unless recognition of adverse circumstances has been granted, it will **not be possible to “re-attempt”** the requirement of attendance and participation, except (as already noted) with the permission of the class teacher where there are other alternative classes being offered during the week of the relevant absence.

Where a public holiday, unexpected absence of the class teacher or some other unforeseen event occurs meaning that the class is cancelled, this may be accounted for by requiring students to view a recording of the relevant material, or by some other arrangement which will be announced at the time.

Please note that meeting the attendance rule each week requires meaningful attendance for the full one hour and fifty minutes of each class. Partial attendance will not meet the attendance requirement for a given class unless prior approval has been given by the Course Coordinator or Lecturer. (To be clear, simply being present for purposes of the roll call does not on its own satisfy the attendance requirement. As such, even if you have been present for the roll call, if you leave early without permission your attendance may not count for that week.)

Please note that if you miss more than 3 classes (even for reasons that fall within the University's adverse circumstances policy) you may be required to complete additional assessment items to ensure that you have completed the required volume of learning for this course.

While for logistical reasons only attendance at **workshops** will be recorded for the purposes of meeting the compulsory attendance requirement, attendance at seminars is also **expected**.

Note that the 80% figure has been chosen to allow some accommodation of unforeseen circumstances which do not otherwise fall within the University “adverse circumstances” policy. Students would be wise to plan to attend all classes so that, if necessary, they can take advantage of the 20% leeway.

Important note: the attendance requirement **cannot** be taken over the whole year but will be assessed over each semester separately. As a result, you will need to be diligent to monitor your attendance to ensure that you pass this component by completely meeting the minimum 80% requirement in **this semester**.

SCHEDULE

Week	Week Begins	Topic	Notes, Assessment Due
1	26 Feb	A. Introduction	
2	4 Mar	B. Intentional Torts 1(a) - (d): Personal Harm- Trespass, Trespass to Person: Assault, Battery, False Imprisonment	
3	11 Mar	B. Intentional Torts 1(e) - (g): Personal Harm- Malicious Prosecution, Emotional Distress, Privacy	Online quiz: 10% - due Friday March 15 ; Weekly submission of case analyses starts in week 3 for those allocated to specific weeks
4	18 Mar	B. Intentional Torts 2: Rights in Land- Trespass to Land, Nuisance, Defences	Case analysis due Thursday 11 am for those allocated to week 4
5	25 Mar	B. Intentional Torts 3: Rights in Goods- Trespass to Goods, Conversion, Detinue	Case analysis due Thursday 11 am for those allocated to week 5 NOTE: Good Friday holiday March 29- alternative arrangements for Friday classes will be announced in due course
6	1 April	B. Intentional Torts 4: Economic Torts	Case analysis due Thursday 11 am for those allocated to week 6
7	8 April	B. Intentional Torts 5: Reputation- Defamation	Case analysis due Thursday 11 am for those allocated to week 7
Mid-Semester Break: 15 Apr – 26 Apr (includes Anzac Day holiday April 25)			
8	29 April	B. Intentional Torts 6, 7: Misfeasance in Public Office, Defences to Intentional Torts	Mid-semester assignment due 11.59pm Friday May 3
9	6 May	C. Strict Liability 1: Vicarious Liability	
10	13 May	C. Strict Liability 2: Non-delegable duty	
11	20 May	C. Strict Liability 3: Breach of Statutory Duty	
12	27 May	C. Strict Liability 4,5,6: Rylands v Fletcher, Public Nuisance, Animals	
13	3 June	No seminars or workshops in week 13	

Notes on teaching in Torts I

Classes in *Torts I* will be conducted in “blended learning” mode. Broadly, this refers to a combination of content delivery in class, discussion and other active learning in class, and preparation for, and follow-up from, classes through reading from the prescribed texts and viewing online materials. In effect this means that students will need to be **active and engaged** in learning from the start of the course. The large seminars will mostly be where the substantive content is learned, discussed and explored, and smaller workshops will provide further opportunities for mastery of content, along with deep learning and development of vital legal skills such as reading and understanding cases, legal writing, problem solving and oral and written communication skills. All these things require student attendance at seminars and workshops, which are **not optional** but an essential part of learning in this course. For this reason, students should note that attendance at workshops will be recorded and will constitute a “**compulsory course requirement**”. Details of this have been spelled out above. (For logistical reasons, attendance will not be marked at the seminars. But the material presented in the seminar is an essential part of the learning for the course, and attendance at one of the two seminars is expected.)

Each workshop session will, among other skills development exercises, include analysis and discussion of specific cases and problems that relate to the material being covered in seminars the **previous** week. The “lag” between seminar content and workshop content is a deliberate feature of the teaching in the course, so that anyone who has a case analysis or problem question to hand in, will have had at least 6 days to work on their answer after the relevant seminar. (The exception, of course, will be in week 1, but the workshops in week 1 will cover general introductory material that does not require further detailed input prior to the workshop.) It is expected that, after week 1, **all** students will have read the allocated case extract *and* considered the problem question, and the class teacher will be able to ask **anyone** in the class to offer their views on these, whether or not that person is handing in a written answer that week.

ASSESSMENTS

This course has 4 assessments. Each assessment is described in more detail in the sections below.

	Assessment Name	Due Date	Involvement	Weighting	Learning Outcomes
1	Online Torts quiz	Friday March 15	Individual	10%	1
2	Essay on a policy issue relating to intentional torts	Friday, May 3 (end of week 8)	Individual	30%	1, 2, 3, 4, 5, 6, 7
3	Workshop - written answers to 1 week's case questions	Written answers- due by 11 am Thursday of the relevant week allocated to individual students. Students to be prepared to also engage in discussion each week.	Individual	10%	1, 2, 3, 4, 5, 6
4	Final Examination	In formal University exam period	Individual	50%	1, 2, 3, 4, 5

* This course has a compulsory requirement. See material above on the compulsory attendance requirement.

FINAL COURSE GRADES

To ensure that grades are fair both within and between courses and cohorts, Newcastle School of Law and Justice has a rigorous policy of moderating and reviewing assessment. The School Assessment Board (SAB) reviews all final grades before they are released to students, and the SAB process may result in the overall marks of a class being moved up or down by a specific amount, thus impacting individual marks. This is consistent with grading practices in other Law Schools across the country and important to ensure the integrity of assessment. This means that the final grade you are awarded may not be the sum of marks you have received in all assessments.

Late Submissions

The mark for an assessment item submitted after the designated time on the due date, without an approved extension of time, will be reduced by 10% of the possible maximum mark for that assessment item for each day or part day that the assessment item is late. Note: this applies equally to week and weekend days.

Assessment 1 - Online Torts quiz

Assessment Type	Quiz
Description	Five short multiple-choice questions testing understanding of material covered in seminars in weeks 1 and 2.
Weighting	10%
Due Date	11:59pm Friday, March 15 (test will be available online from 5:00 am Friday March 15)
Submission Method	Online
Assessment Criteria	Students will need to demonstrate a precise understanding of concepts and be able to organise their time to do the online exam on the day in question, unless clear adverse circumstances arise under University Policy.
Return Method	Online
Feedback Provided	Online - Response to be recorded online and feedback provided after quiz has closed. The results of the quiz will be available on Canvas. Where mistakes have been made there will be a brief explanation of the reason why the answer was wrong. The seminar teacher will also discuss the results of the quiz briefly in class in week 4.

Assessment 2 - Essay on a policy issue relating to intentional torts

Assessment Type	Essay
Description	This assignment is designed to allow students to analyse critically, reflect on and synthesise information on the role of tort law in the civil justice system and contemporary Australian society. Students identify legal principles and employ legal techniques, critical analysis of and approaches to the resolution of complex practical problems in the area of tort law. The criteria for clear presentation in written communication of legal information in an appropriate format are also applied.

Weighting	30%
Due Date	Student papers will be due at 11:59pm on Friday 3 May (end of week 8).
Submission Method	Written papers must be submitted in electronic form through the relevant Assignment portal in Canvas.
Assessment Criteria	Criteria against which the essay will be marked are: <ul style="list-style-type: none">• Does the essay exhibit developed knowledge and critical understanding of the topic?• Does it demonstrate advanced skills in research and clear analysis of cases/legislation and secondary literature?• Does it provide evidence of careful critique and evaluation of suggestions for change?• Does the essay have a clear structure?• Is the analysis and argument logically developed?• Does it clearly identify legal or policy reasons for each major proposition?• Are statutes and cases correctly cited in accordance with appropriate legal conventions?• Is it grammatically correct?• Is it well written? (Are words used appropriately and are sentences well constructed?)• Is it appropriately concise?• Are references used appropriately?
Return Method	Papers will usually be marked electronically and the comments and marks available to view in Canvas.
Feedback Provided	Feedback on the essay should usually be available within 3 weeks of submission.
Further Information	<ul style="list-style-type: none">• Written answers are to be a maximum of 2000 words, standard margins, 12 point Times New Roman. (Note: word limits do not include footnotes, but footnotes must only be used for referencing, not to develop the argument of your paper.) Note that in accordance with University policy, there is a 10% leeway allowed in the word limits.• The essay topic will be released in week 1

Assessment 3 - Workshop: Case analysis

Assessment Type	Written case analysis paper
Description	<ul style="list-style-type: none">• Discussion of the cases will take the form of addressing particular case-analysis questions that will be provided in a separate document on the Course Canvas site, to assist in getting to the key features of each case.• From weeks 3-7, students will be allocated to hand in a written presentation of the <i>case analysis</i> for a particular week (worth 20%). (Problem questions for weeks 8-12 will not be handed in- JD students will submit a research essay noted above.)• However, discussion of case and problem questions will not be led solely by the students who have prepared written answers. Instead, as noted, all students should be prepared to answer questions and be involved in the discussion, for every workshop. <p>Students are responsible for ensuring that they have been allocated a week to hand in their written case analysis, and for handing in the written material. The case analysis is to be submitted by 11 am Thursday of the week when that case is to be discussed- if this is not done then, in the absence of a legitimate reason, the marks will be lost.</p>
Weighting	10%
Due Date	Student papers will be due, for the case analysis, by 11 am on Thursday of the week when that case will be discussed.
Submission Method	Written papers must be submitted in electronic form through the relevant Canvas portal. Students must ensure that electronic submissions clearly identify the author by name and student number, the course code, the name of their workshop teacher and the relevant week in which it is submitted. The version of the paper online at 11 am on Thursday is the one which will be regarded as the final submission.
Assessment Criteria	The workshop case discussions are designed to assess and develop student abilities in the area of analysis of case law. The case analysis papers should reveal careful reading of the case extract and the relevant questions, and appropriate answers to the questions.
Return Method	Papers will usually be marked electronically and the comments and marks available to view in Canvas.
Feedback Provided	Feedback on the written paper should usually be available within 3 weeks of submission.
Further Information	Written answers are to be a maximum of 1000 words for the case analysis , standard margins, 12 point Times New Roman. (Note: word limits do not include footnotes, but footnotes must only be used for referencing, not to develop the argument of your paper.) Note that in accordance

with University policy, there is a 10% leeway allowed in the word limits.

Assessment 4 – Final Open Book Examination

Assessment Type	Final end of semester exam
Description	This will be an open book exam conducted in the examination period and scheduled, if possible, through the University central administration. Notes and books may be brought into the examination room. The exam will assess familiarity with the content of the course and aspects of application of the principles taught in the course to particular fact situations. Students are of course responsible for arranging to be present for the allocated examination dates when they are published according to University procedures.
Weighting	50%
Due Date	In the formal University examination period (unless otherwise notified on the course Canvas site).
Submission Method	Sitting the exam.
Assessment Criteria	The exam will be designed to assess familiarity with the content of the course and appropriate competence in analysis of the body of law considered this semester, and ability to apply that law to specific fact situations. It is likely to be a mix of multiple-choice questions and problem questions requiring discursive answers that demonstrate skills in applying the law to facts.
Return Method	N/A- exam papers are not returned to students at the end of semester.
Feedback Provided	N/A

ACADEMIC INTEGRITY

All students must complete the online University Academic Integrity Module (AIM) prior to the end of your first term of study. This is available as a course in your “Dashboard” in Canvas. If you have not completed the module by this time, a hold will be placed on your results and you will not be able to enrol for the next term. This module provides you with a self-paced online quiz to assist you to understand the principles and processes of academic integrity.

Turnitin (built into Canvas)

Turnitin is text matching software that is used by the University to assist you with writing and referencing, and to aid in the detection of intentional plagiarism. In cases of alleged plagiarism or collusion, Turnitin reports may be used as relevant evidence. Assessment items submitted to Canvas may automatically be submitted to Turnitin. All written work submitted in this course **will** be so submitted.

You may submit an assignment for Turnitin self-checking at any time prior to the due date.

- ▶ To submit an assignment simply log on to Canvas, go the “Assignments” area, and you will see a number of links to assignments. Click on the one you want to submit to. Once you have read the instructions, clicking on “Start Assignment” here will allow you to submit. **Please make sure to submit your case analysis or essay to the correct portal- there will be a separate portal for each week’s submissions and you will be allocated to specific weeks.**
- ▶ You will see a Turnitin “Originality Report”. (In the Grades area of Canvas, this is linked after submission on the far right of the line where the assignment appears.) You can submit drafts of assignments and view the originality report generated by Turnitin before you submit the final. You may find this helpful if you are in any doubt as to whether your material might be regarded as having been copied. **Note however** that Turnitin requires you to allow 24 hours between each subsequent submission (that is, after your first submission), so you need to leave enough time for this final checking.

If you require assistance with Turnitin, please contact: ithelp@newcastle.edu.au

If you are unsure of how to correct your work after submitting to Turnitin, refer to the Academic Integrity Module or to the Study Skills area: <http://www.newcastle.edu.au/current-students/learning/study-skills>

Use of Artificial Intelligence tools (such as ChatGPT)

In this course (and in Torts II) you are **not** permitted to use generative AI (such as ChatGPT) in preparation of your written answers to assessment items. The purpose of our assessment items is for you to develop the skill to write original and correct answers to legal questions, not for you to practice use of AI (which in any case often “makes stuff up” which is completely wrong). University policy states that work submitted for assessment must be your own original work. Misuse of these AI tools (in Torts, this means **any** use of these AI tools) may therefore be considered a breach of the University's Student Conduct Rule and could result in disciplinary action.

Artificial Intelligence detection software may be used to review any written work you submit. If you have used AI, you may be engaging in academic misconduct and be subject to penalties.

Unlike Turnitin’s text matching functionality, results from AI detection software are not visible to students.

ADDITIONAL INFORMATION

Wellness Contacts

There are a variety of pressures on law students, and being able to perform well academically under pressure, without excessive stress will contribute to enhanced outcomes in wellbeing and academic results. Reach out to support services and learn ways to maintain your mental health, deal with stress and common issues like perfectionism, procrastination, and anxiety.

To access UON support:

<https://www.newcastle.edu.au/current-students/support/personal>

Ph: 4921 6622 or email: counselling@newcastle.edu.au

For support outside of office hours call the University Crisis Support Line on 1300 653 007 or for chat sms 0488 884 165.

For immediate support contact Lifeline 24/7 on 13 14 11 or <https://www.lifeline.org.au/>

Communication Methods

Communication methods used in this course include: Classes (seminars and workshops); Canvas announcements and Discussion Board; official University emails.

Course Evaluation

Each year feedback is sought from students and other stakeholders about the courses offered in the University for the purposes of identifying areas of excellence and potential improvement.

Oral Interviews

As part of the evaluation process of any assessment item in this course an oral examination (viva) may be conducted. The purpose of the oral examination is to verify the authorship of the material submitted in response to the assessment task. The oral examination will be conducted in accordance with the principles set out in the [Oral Examination \(viva\) Procedure](#). In cases where the oral examination reveals the assessment item may not be the student's own work the case will be dealt with under the [Student Conduct Rule](#).

Academic Misconduct

All students are required to meet the academic integrity standards of the University. These standards reinforce the importance of integrity and honesty in an academic environment. Academic Integrity policies apply to all students of the University in all modes of study and in all locations. For the Student Academic Integrity Policy, refer to <https://policies.newcastle.edu.au/document/view-current.php?id=35>.

Adverse Circumstances

If adverse circumstances have caused you to miss a compulsory workshop class, you can simply email your workshop teacher to let them know the situation rather than using the online system. For issues other than attendance, follow the process outlined below.

The University acknowledges the right of students to seek consideration for the impact of allowable adverse circumstances that may affect their performance in assessment item(s). Applications for special consideration due to adverse circumstances may be made using the online Adverse Circumstances system where:

1. the assessment item is a major assessment item; or
2. the assessment item is a minor assessment item and the Course Co-ordinator has specified in the Course Outline that students may apply the online Adverse Circumstances system;
3. you are requesting a change of placement.

Before applying you must refer to the Adverse Circumstance Affecting Assessment Items Procedure available at:

<https://policies.newcastle.edu.au/document/view-current.php?id=236>

Important Policy Information

The 'HELP for Students' tab in UoNline contains important information that all students should be familiar with, including various systems, policies and procedures.

This course outline was approved by the Head of School. No alteration of this course outline is permitted without Head of School approval. If a change is approved, students will be notified and an amended course outline will be provided in the same manner as the original.

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APPENDIX 1- Topics to be covered in *Torts I & II* 2024

SEMESTER 1 (TORTS I)

A. INTRODUCTION TO TORTS

B. INTENTIONAL TORTS: Liability for Intentional Interference with Rights²

1. Rights of Personal Integrity

- a. Trespass and “Action on the Case” - General Principles
- b. Trespass to the Person
- c. Battery & Assault
- d. False Imprisonment
- e. Malicious Prosecution
- f. Emotional Distress
- g. Breach of Privacy?

2. Rights in Land

- a. Trespass to Land
- b. “Private” Nuisance
- c. Defences to Land torts based on Statutory Authority

3. Rights in Goods

- a. Trespass to Goods
- b. Conversion and Detinue

4. “Economic” rights- the “Economic Torts”

- a. General Issues- Mapping the Landscape of Economic Torts
- b. Interference with Contract
- c. Causing Harm by Unlawful Means, Intimidation
- d. Conspiracy

5. Rights to Reputation- Defamation

6. Misfeasance in Public Office

7. General Defences to Intentional Torts

² Some tort actions imposing liability for interference with economic rights have had to be omitted from this course due to pressure of time. These are dealt with more appropriately in other courses. The tort of Passing-Off closely relates to Intellectual Property, and the tort of Deceit is best considered in connection with Contract

C. STRICT LIABILITY FOR DAMAGE (NO INTENTION REQUIRED)³

1. Liability for actions of employees- Vicarious Liability
2. Liability for actions of contractors- Non-delegable duty
3. Breach of Statutory Duty
4. The former action under *Rylands v Fletcher*
5. “Public” Nuisance
6. Liability for Harm Caused by Animals

SEMESTER 2 (TORTS II)

D. NEGLIGENCE, GENERAL DEFENCES AND DAMAGES

1. Compensation for Injury – the Context
2. History of Negligence as a Tort
 - a. The Common Law
 - b. Statutory Adjustments to the Common Law- Introduction
 - (i) Workplace Injuries
 - (ii) Motor Accidents
 - (iii) The *Civil Liability Act 2002*
3. Duty of Care
 - a. General Issues in establishing a Duty of Care
 - b. Personal Bodily Injury & Property Damage
 - c. Psychological Injury (“Nervous Shock”)
 - d. Economic Loss
 - e. Duty of care under the *Civil Liability Act 2002*
 - f. Special Cases of Duty
4. Breach of Duty
 - a. General Issues at Common Law

³ The “strict product liability” provisions of the *Australian Consumer Law* are another example of strict liability, but they are better considered in a course on consumer protection or commercial law.

b. Under the *Civil Liability Act 2002*

5. Causation and Remoteness

- a. Causation- Common Law and CLA
- b. Remoteness- Common Law and CLA

6. General Defences to Negligence

- a. Contributory Negligence
- b. Former Defence of “Common Employment”
- c. Voluntary Assumption of Risk
- c. Illegality as a Defence
- d. Exclusion Clauses
- e. Other Defences under the CLA

7. Concurrent Liability and Joint Tortfeasors

- a. Contribution between Joint Tortfeasors
- b. Proportionate Liability

8. Remedies and Assessment of Damages

- a. Remedies in Tort Generally
- b. Assessment of Damages
 - (i) Heads of Damage at Common Law
 - (ii) Limits on Damages under Legislative Schemes
- c. Limitation Periods
- d. Wrongful Death

E. NON-TORTIOUS COMPENSATION SCHEMES (OVERVIEW)

- a. No-fault Compensation schemes generally and proposals for reform
- b. Non-Tortious Compensation schemes in NSW
 - (i) Victims’ Compensation
 - (ii) Workers’ Compensation