

LAWS6140: Contracts I

Newcastle City Precinct
Semester 1 - 2024



THE UNIVERSITY OF
NEWCASTLE
AUSTRALIA

OVERVIEW

Course Description	This course is one of two courses (Contracts I and II) that together provide an integrated understanding of the concepts, doctrines and theories underpinning contract law. The topics covered in this course include the law relating to the formation of contract, an introduction to the equitable concept of estoppel and contract excuses (i.e. vitiating factors that might prevent the contract from being enforced). The course will also focus on the development of skills in the areas of note taking, problem solving and referencing. These skills will complement and reinforce your understanding of the course content areas and will build your graduate skills portfolio.
Skills Focus	This course will focus on assisting students to develop the following skills: Note Taking Problem Solving Referencing
Requisites	This course is only available to students enrolled in the Bachelor of Laws (Honours) and associated combined degree programs.
Assumed Knowledge	Successful completion of LAWS1010, LAWS1011, LAWS1020, LAWS1021, LAWS2030.
Contact Hours	Newcastle City Precinct Online Activity Online 1 hour(s) per Week for Full Term Seminar 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

CONTACTS

Course Coordinator

Newcastle City Precinct

Consultation:

Dr Eliezer Sanchez-Lasaballett (Weeks 1-4)

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(02) 4913 8282

Consultation: by appointment via email

Dr Yucong Wang (Weeks 5-9)

Yucong.Wang@newcastle.edu.au

(02) 4921 8666

Consultation: by appointment via email

Dr Kevin Sobel-Read (Weeks 10-12)

Kevin.Sobel-Read@newcastle.edu.au

(02) 4921 6613

Consultation: by appointment (my schedule tends to vary, but just email and we'll find a time to chat)

Teaching Staff

Other teaching staff will be advised on the course Canvas site.

School Office

Newcastle Law School

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Newcastle 2300

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SYLLABUS

Course Content

This course examines the general law of contract (both 'common law' and legislation) relating to:

1. Formation
2. Estoppel
3. Contract excuses

Course Learning Outcomes

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

1. Analyse and critically evaluate modern Australian contract law, including the transactional and policy frameworks within which it operates.
2. Create notes by reading and synthesising cases and use those notes to resolve legal problems.
3. Draft reasoned and supported legal and factual arguments relating to contract disputes, including critical judgments about their likely resolution.
4. Express contracts concepts and problem-solving clearly using relevant and accurate referencing.

Course Materials**Required Casebook: (Essential for this course)**

- M P Ellinghaus, *Australian Cases on Contract 2009 Edition* (distributed by [Lexis Nexis](#) and available to order at [Booktopia](#) and [The School Locker](#). Or you may be able to source a second-hand copy.
 - Additional edited cases in the reading guide that are not in the casebook will be made available on Canvas in the relevant weekly folder.
 - Some additional readings will be made available via Course readings on Canvas.

Other textbooks: (We do not refer to a textbook other than the casebook – however some students like to have a broader overview of the topic and so may wish to also obtain a textbook on Contracts)

- N C Seddon & R Bigwood, [Cheshire & Fifoot's Law of Contract](#), 12th Australian edition (LexisNexis 2017).
- J Gooley, P Radan, I Vickovich, [Principles of Australian Contract Law](#), 6th edition (LexisNexis 2021).
- L Willmott, S Christensen, D Butler, B Dixon, [Contract Law](#), 5th edition (Oxford University Press 2018).
- A Robertson and J Paterson, [Principles of Contract Law](#), 6th edition (Thomson Reuters 2020).
- JW Carter, [Contract Law in Australia](#), 8th edition (JW Carter Publishing 2022)
- JW Carter, [Carter's Guide to Australian Contract Law](#), 4th edition (JW Carter Publishing 2022).

COMPULSORY REQUIREMENTS

In order to pass this course, each student must complete ALL of the following compulsory requirements:

Contact Hour Requirements:

- There is a compulsory attendance requirement in this course. Attendance at all classes (seminars and workshops) will be monitored, and records will be maintained by the Course Coordinator. In order to satisfy the "Attendance" requirement, students must be present at a minimum of 80% of scheduled classes as spelled out in the course outline, 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 CF grade for the course.
- **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 you are agreeing that your attendance will not count for that week.)
- **Note also** that if you miss more than two (2) classes for reasons that fall within the Adverse Circumstances, you may be required to complete additional assessment items to ensure that you have met the required volume of learning for this course.

SCHEDULE

Week	Week Begins	Topic	Learning Activity (compulsory & recommended reading)	Assessment Due
1	26 Feb	Agreement	<ul style="list-style-type: none"> • <i>Australian Woollen Mills Pty Ltd v Commonwealth</i> (1954) 92 CLR 424 • <i>Crown v Clarke</i> (1927) 40 CLR 227 • <i>Mobil Oil v Wellcome</i> (1998) 81 FCR 475 [477]-[508] • <i>Brambles Holdings v Bathurst City Council</i> [2001] NSWCA 61: exclude paras [20]-[46], [93] and [2]. <p>Recommended: <i>Cavallari v Premier Refrigeration Co Pty Ltd</i> (1952) 85 CLR 20; <i>MacRobertson Miller Airline Services v Commissioner of State Taxation</i> (1975) 133 CLR 125; <i>Empirnall Holdings Pty Ltd v Machon Paull Partners Pty Ltd</i> (1988) 14 NSWLR 523; <i>Reese Bros Plastics Ltd v Hamon-Sobelco Australia Pty Ltd</i> (1988) NSWCA.</p>	
2	4 Mar	Intention	<ul style="list-style-type: none"> • <i>Masters v Cameron</i> (1954) 91 CLR 353 • <i>Ermogenous v Greek Orthodox Community of SA Inc</i> [2002] HCA 8 • <i>Helmos Enterprises Pty Ltd v Jaylor Pty Ltd</i> (2005) NSWCA 235 <p>Recommended: <i>Banque Brussels Lambert v Australian National Industries</i> (1989) 21 NSWLR 502; <i>Laidlaw v Hillier Hewitt Elsley Pty Ltd</i> [2009] NSWCA 44; <i>Ashton v Pratt</i> [2015] NSWCA 12</p>	
3	11 Mar	Certainty	<ul style="list-style-type: none"> • <i>Upper Hunter CDC v Australian Chilling & Freezing Co Ltd</i> (1968) 118 CLR 429 • <i>Biotechnology Australia Pty Ltd v Pace</i> (1988) 15 NSWLR 130 • <i>United Group Rail Services Limited v Rail Corporation New South</i> [2009] NSWCA 177 <p>Recommended: <i>Placer Development Ltd v Commonwealth</i> (1969) 121 CLR 353; <i>Whitlock v Brew</i> (1968) 118 CLR 445; <i>Godecke v Kirwan</i> (1973) 129 CLR 629; <i>Meehan v Jones</i> (1982) 149 CLR 571.</p>	
4	18 Mar	Consideration	<ul style="list-style-type: none"> • <i>Beaton v McDivitt</i> (1987) 13 NSWLR 162 • <i>Musumeci v Winadell</i> (1994) 34 NSWLR 723 • <i>Thomas v Hollier</i> (1984) 53 ALR 39 <p>Recommended: <i>Ballantyne v Phillott</i> (1961) 105 CLR 379; <i>Wigan v Edwards</i> (1973) 1 ALR 497; <i>Ipex Software Services Pty Ltd v Hosking</i>; [2000] VSCA 239; <i>Brambles Holdings v Bathurst City Council</i> [2001] NSWCA 61</p>	Note-taking Assignment: In-class MCQ test (25%)
5	25 Mar	Frustration	<ul style="list-style-type: none"> • <i>Taylor v Caldwell</i> (1863) QB 122 ER 309 • <i>Krell v Henry</i> [1903] 2 KB 740 • <i>Codelfa Construction Pty Ltd v State Rail Authority of NSW</i> (1982) 149 CLR 337 (Just read Brennan [394]-[400], [407]-[409], Mason [356]-[364], Aicken [376]-[381]) • <i>Brisbane City Council v Group Projects Pty Ltd</i> (1979) 145 CLR 143 • <i>Frustrated Contracts Act 1978</i> (NSW): Skim read this Act to begin with, then carefully read and become familiar with ss 6, 10-15. <p>Recommended: <i>oOh! Media Roadside Pty Ltd (formerly Power Panels Pty Ltd) v Diamond Wheels Pty Ltd & Anor</i> [2011] VSCA 116</p>	

6	1 Apr	Mistake	<ul style="list-style-type: none"> • <i>Taylor v Johnson</i> (1983) 151 CLR 422 • <i>McRae v Commonwealth Disposals Commission</i> (1951) 84 CLR 377 (just read [395]–[410]) • <i>Svanosio v McNamara</i> (1956) 96 CLR 186 • <i>Australia Estates Pty Ltd v Cairns City Council</i> [2005] QCA 328 • <i>Papas v Bianca Investments Pty Ltd</i> [2002] SASC 190 <p>Recommended: <i>Porter v Latec Finance (Qld) Pty Ltd</i> (1964) 111 CLR 177; <i>Petelin v Cullen</i> (1975) 132 CLR 355</p>	
7	8 Apr	Duress and Undue Influence	<ul style="list-style-type: none"> • <i>Hawker Pacific v Helicopter Charter Pty Ltd</i> (1991) 22 NSWLR 298 • <i>Barton v Armstrong</i> [1973] 2 NSWLR 598 (PC) • <i>Crescendo Management Pty Ltd v Westpac Banking Corporation</i> (1988) 19 NSWLR 40 (Just read McHugh's part) • <i>Johnson v Buttress</i> (1936) 56 CLR 116 • <i>Universe Tankships of Monrovia v Int'l Transport Workers Federation</i> [1983] 1 AC 366 <p>Recommended: <i>T A Sundell & Sons Pty Ltd v Emm Yannoulatos (Overseas) Ltd</i> (1956) 56 SR (NSW) 321</p>	
Mid-Term Break				
Mid-Term Break				
8	29 Apr	Unconscionable Conduct	<ul style="list-style-type: none"> • <i>Commercial Bank of Australia v Amadio</i> (1983) 151 CLR 447 • <i>Louth v Diprose</i> (1992) 175 CLR 621 • <i>Australian Competition and Consumer Commission v CG Berbatis Holdings Pty Ltd</i> [2003] HCA 18 	
9	6 May	Referencing + Problem-solving workshop	Information to be provided in Week 8 regarding preparation and goals	Module 2 Quiz: In-class MCQ test (25%)
10	13 May	Estoppel	<ul style="list-style-type: none"> • <i>Waltons Stores (Interstate) Ltd v Maher</i> (1988) • <i>Commonwealth v Verwayen</i> (1988) • <i>Giumelli v Giumelli</i> (1999) 	
11	20 May	Misrepresentation	<ul style="list-style-type: none"> • <i>Krakowski v Eurolynx Properties</i> (1995) 183 CLR 563 • <i>Gould v Vaggelas</i> (1985) 157 CLR 215 • <i>Byers v Dorotea Pty Ltd</i> (1986) 69 ALR 715 	
12	27 May	Misleading and Deceptive Conduct / Unconscionable Conduct under <i>statute</i>	<ul style="list-style-type: none"> • <i>Henjo Investments Pty Ltd v Collins Marrickville Pty Ltd</i> (1988) 79 ALR 83 • <i>Demagogue v Ramensky</i> (1992) 110 ALR 715 • <i>Futuretronics International Pty Ltd v Gadzhis</i> [1992] 2 VR 217 • <i>ACCC v Lux Pty Ltd</i> [2004] FCA 926 • <i>CIT Credit Pty Ltd v Keable</i> [2006] NSWCA 130 	
13	3 Jun		*** no class ***	
Examination Period: Formal Examination (50%)				

ASSESSMENTS

This course has 3 assessments. Each assessment is described in more detail in the sections below.

	Assessment Name	Due Date	Involvement	Weighting	Learning Outcomes
1	Note-taking assignment	Week 4 in class	Individual	25%	1 and 2
2	Module 2 Quiz	Week 9 in class	Individual	25%	1 and 4
3	Formal examination	University examination period	Individual	50%	1 and 3

Assessment 1 – Note-Taking Assignment

Assessment Type	In-Class Multiple Choice Question (MCQ) Test
Description	This task assesses your ability to summarise systematically and apply relevant court cases from the list discussed in weeks 1 to 4 to contract formation problem-based MCQs. This task requires identifying, justifying and applying appropriate case law to address problem-based MCQs while relying on note-taking skills. Unlimited personal notes are allowed in the test.
Weighting	25%
Due Date	Week 4 in class
Submission Method	An MCQ Test in Class on Students' Own Electronic Devices (Laptop, Tablet) via Canvas. If the Electronic Device is an issue, a hard copy test will be provided upon request.
Assessment Criteria	A marking rubric will be provided on Canvas
Return Method	Canvas
Feedback Provided	General comments will be provided. More detailed individual feedback will be provided upon request.

Assessment 2 – Module 2 Quiz

Assessment Type	In-Class Multiple Choice Question (MCQ) Test
Description	This task assesses your ability to identify and solve relevant legal issues based on the course content in weeks 5 to 9. It also tests your knowledge and ability to conduct appropriate legal referencing in compliance with the AGLC 4 th edition. Unlimited personal notes are allowed in the test.
Weighting	25%
Due Date	Week 9 in class
Submission Method	An MCQ Test in Class on Students' Own Electronic Devices (Laptop, Tablet) via Canvas. If the Electronic Device is an issue, a hard copy test will be provided upon request.
Assessment Criteria	More information will be provided in class prior to the Quiz.
Return Method	Canvas
Feedback Provided	General comments will be provided. More detailed individual feedback will be provided upon request.

Assessment 3 – Formal Examination

Assessment Type	Formal examination
Description	The purpose of this activity is to scaffold the development of your legal problem-solving and legal writing skills. The task will involve the resolution of legal problems through the use of a number of directed questions. The goal, in addition to assessing whether you have learned the relevant content, is to assess a combination of problem-solving skills including analysis, issue spotting and legal writing across all the topics covered in this course.
Weighting	50%
Due Date	University examination period
Submission Method	Formal exam.
Assessment Criteria	More information will be provided in class prior to the Exam.
Return Method	N/A

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/>

Grading Scheme

This course is graded as follows:

Range of Marks	Grade	Description
85-100	High Distinction (HD)	Outstanding standard indicating comprehensive knowledge and understanding of the relevant materials; demonstration of an outstanding level of academic achievement; mastery of skills*; and achievement of all assessment objectives.
75-84	Distinction (D)	Excellent standard indicating a very high level of knowledge and understanding of the relevant materials; demonstration of a very high level of academic ability; sound development of skills*; and achievement of all assessment objectives.
65-74	Credit (C)	Good standard indicating a high level of knowledge and understanding of the relevant materials; demonstration of a high level of academic achievement; reasonable development of skills*; and achievement of all learning outcomes.
50-64	Pass (P)	Satisfactory standard indicating an adequate knowledge and understanding of the relevant materials; demonstration of an adequate level of academic achievement; satisfactory development of skills*; and achievement of all learning outcomes.
0-49	Fail (FF)	Failure to satisfactorily achieve learning outcomes. If all compulsory course components are not completed the mark will be zero. A fail grade may also be awarded following disciplinary action.

*Skills are those identified for the purposes of assessment task(s).

To ensure that grades are fair both within and between courses and cohorts, Newcastle Law School has a rigorous policy of moderating and reviewing assessments. 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.

Communication Methods Communication methods used in this course include: Announcements (Canvas), posts on Discussions (Canvas), Email.

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 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 Guidelines](#). 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 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 will 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; or
4. the course has a compulsory attendance requirement.

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>. All applications for Adverse Circumstances must be lodged via the online Adverse Circumstances system, along with supporting documentation.

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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