UNSW Course Outline

JURD7623 Commercial and Charitable Trusts - 2024

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General Course Information

Course Code : JURD7623
Year : 2024
Term : Term 3
Teaching Period : T3
Is a multi-term course? : No
Faculty : Faculty of Law and Justice
Academic Unit : School of Private and Commercial Law
Delivery Mode : In Person
Delivery Format : Standard
Delivery Location : Kensington
Campus : Sydney
Study Level : Postgraduate
Units of Credit : 6

Useful Links

Handbook Class Timetable

Course Details & Outcomes

Course Description

This course builds on Equity and Trusts, the core subject, to provide a deeper and more practical foundation in trusts law for students who may be interested in practicing in the area of commercial law. Topics covered include: judicial review of trustee decision-making, investment

duties of trustees, trading trusts, regulation of superannuation funds and managed investment schemes and current developments in the law relating to charitable trusts.

Main Topics

- Classification of trusts
- Family trusts and unit trusts
- The settlor's Intentions and the three certainties
- Discretionary trusts and powers
- The beneficiary principle
- Charitable trusts
- Non-charitable purpose trusts,
- Gifts to unincorporated associations;
- Resulting trusts
- Public appeal fund surpluses
- Trustees' fiduciary duties
- Protector concept
- Investment powers
- Trusts in commerce, including Quistclose trust and Kayford trust

Course Aims

This course builds on Equity and Trusts, the core subject, to provide a deeper and more practical foundation in trusts law for students who may be interested in practicing in the area of commercial law.

Course Learning Outcomes

Course Learning Outcomes
CLO1 : describe the trust concept (PLO1)
CLO2 : appreciate how the trust functions as a means of wealth planning and also how it may function in a commercial orcharitable setting (PLO 1)
CLO3 : identify legal issues pertinent to trusts, analyse and apply them to provide solutions to practical problems (PLO 5, 7)
CLO4 : evaluate and criticise rules of trust law (PLO 1)
CLO5 : describe how trust principles have developed historically (PLO 3, 9, 11)
CLO6 : conduct legal research on practical issues of trusts law (PLO 6)
CLO7 : understand the social contexts in which trust law operates (PLO 1)
CLO8 : form a value judgment about social reponsibility of using trusts as an avoidance tool, the obligations of those having control of property belonging to others as well as the responsibilities to the wider community through investments (PLO 10, 11, 12)
CLO9 : communicate,both orally and in writing, trusts law principles and reasoning (PLO 9, 10, 11, 12)

Course Learning Outcomes	Assessment Item
CLO1 : describe the trust concept (PLO1)	• Exam (mid-term) • Exam (take-home)
CLO2 : appreciate how the trust functions as a means of wealth planning and also how it may function in a commercial orcharitable setting (PLO 1)	• Exam (mid-term) • Exam (take-home)
CLO3 : identify legal issues pertinent to trusts, analyse and apply them to provide solutions to practical problems (PLO 5, 7)	• Exam (mid-term) • Exam (take-home)
CLO4 : evaluate and criticise rules of trust law (PLO 1)	• Exam (mid-term) • Exam (take-home)
CLO5 : describe how trust principles have developed historically (PLO 3, 9, 11)	• Exam (mid-term) • Exam (take-home)
CLO6 : conduct legal research on practical issues of trusts law (PLO 6)	• Exam (mid-term) • Exam (take-home)
CLO7 : understand the social contexts in which trust law operates (PLO 1)	• Exam (mid-term) • Exam (take-home)
CLO8 : form a value judgment about social reponsibility of using trusts as an avoidance tool, the obligations of those having control of property belonging to others as well as the responsibilities to the wider community through investments (PLO 10, 11, 12)	• Class Participation
CLO9 : communicate,both orally and in writing, trusts law principles and reasoning (PLO 9, 10, 11, 12)	• Class Participation

Learning and Teaching Technologies

Moodle - Learning Management System

Assessments

Assessment Structure

Assessment Item	Weight	Relevant Dates
Class Participation Assessment Format: Individual	10%	Start Date: Ongoing Due Date: Ongoing
Exam (mid-term) Assessment Format: Individual Short Extension: Yes (3 days)	30%	Start Date: 14/10/2024 09:00 AM Due Date: 15/10/2024 09:00 AM
Exam (take-home) Assessment Format: Individual Short Extension: Yes (3 days)	60%	Start Date: 23/11/2024 09:00 AM Due Date: 28/11/2024 09:00 AM

Assessment Details
Class Participation

Assessment Overview

This assessment requires you to prepare for and actively engage in class-based and online activities.

Course Learning Outcomes

- CLO8 : form a value judgment about social reponsibility of using trusts as an avoidance tool, the obligations of those having control of property belonging to others as well as the responsibilities to the wider community through investments (PLO 10, 11, 12)
- CLO9 : communicate,both orally and in writing, trusts law principles and reasoning (PLO 9, 10, 11, 12)

Detailed Assessment Description

Class Participation will be comprised of two components; participation during classes, completion of online tutorials.

Generative AI Permission Level

Not Applicable

Generative AI is not considered to be of assistance to you in completing this assessment. If you do use generative AI in completing this assessment, you should attribute its use.
For more information on Generative AI and permitted use please see here.

Exam (mid-term)

Assessment Overview

This assessment requires you to complete a written examination.

Course Learning Outcomes

- CLO1 : describe the trust concept (PLO1)
- CLO2 : appreciate how the trust functions as a means of wealth planning and also how it may function in a commercial orcharitable setting (PLO 1)
- CLO3 : identify legal issues pertinent to trusts, analyse and apply them to provide solutions to practical problems (PLO 5, 7)
- CLO4 : evaluate and criticise rules of trust law (PLO 1)
- CLO5 : describe how trust principles have developed historically (PLO 3, 9, 11)
- CLO6 : conduct legal research on practical issues of trusts law (PLO 6)
- CLO7 : understand the social contexts in which trust law operates (PLO 1)

<u>Detailed Assessment Description</u>

The exam comprises a series of problem questions designed to test your understanding of and ability to identify and work with the principles of trusts in a realistic situation. In assessing the answers to the examination questions regard will be had for your knowledge of the legal principles, the identification of the relevant issues, problem solving ability and legal writing capability.

<u>Assessment Length</u>

total of 1,500 words

<u>Assignment submission Turnitin type</u>

This assignment is submitted through Turnitin and students can see Turnitin similarity reports.

<u>Generative AI Permission Level</u>

Generative AI Software-based Assessments

This assessment is designed for you to use generative AI as part of the assessed learning outcomes. Please refer to the assessment instructions for more details.
For more information on Generative AI and permitted use please see here.

Students may use generative AI, as well as translation and research tools, to research and write their answer. They are responsible for any errors in what they submit and will score poor marks if their submission contains errors or material that is not relevant to the course, whether or not those shortcomings are the result of using AI or not. They need to be particularly careful not to permit AI to fabricate references that do not exist because that will be viewed particularly poorly.

Exam (take-home)

<u>Assessment Overview</u>

This assessment requires you to complete a take-home written examination.

<u>Course Learning Outcomes</u>

- CLO1 : describe the trust concept (PLO1)
- CLO2 : appreciate how the trust functions as a means of wealth planning and also how it may function in a commercial orchartiable setting (PLO 1)
- CLO3 : identify legal issues pertinent to trusts, analyse and apply them to provide solutions to practical problems (PLO 5, 7)
- CLO4 : evaluate and criticise rules of trust law (PLO 1)
- CLO5 : describe how trust principles have developed historically (PLO 3, 9, 11)
- CLO6 : conduct legal research on practical issues of trusts law (PLO 6)

- CLO7 : understand the social contexts in which trust law operates (PLO 1)

<u>Detailed Assessment Description</u>

The exam comprises a series of problem questions designed to test your understanding of and ability to identify and work with the principles of trusts in a realistic situation, and a short essay.

<u>Assessment Length</u>

A word limit is specified for each question in the exam instructions

<u>Assignment submission Turnitin type</u>

This assignment is submitted through Turnitin and students can see Turnitin similarity reports.

<u>Generative AI Permission Level</u>

Generative AI Software-based Assessments

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General Assessment Information

For further information on generative AI use in the Faculty of Law & Justice, please review the section titled 'Academic Honesty and Plagiarism' under the 'Other Useful Information' tab.

<u>Grading Basis</u>

Standard

Course Schedule

Teaching Week/Module	Activity Type	Content
Week 1 : 9 September - 15 September	Seminar	Introduction + Beneficiaries' interests
Week 2 : 16 September - 22 September	Seminar	Trustee duties revisited
Week 3 : 23 September - 29 September	Seminar	Investment of trust assets
Week 4 : 30 September - 6 October	Seminar	The 'irreducible core'
Week 5 : 7 October - 13 October	Seminar	Mid term revision and practice questions
Week 6 : 14 October - 20 October	Other	Reading week - no class
Week 7 : 21 October - 27 October	Seminar	Commercial and trading trusts
Week 8 : 28 October - 3 November	Seminar	Managed investment schemes
Week 9 : 4 November - 10 November	Seminar	Charitable trusts
Week 10 : 11 November - 17 November	Seminar	Superannuation funds as trusts

Attendance Requirements

Please see information about attendance requirements in **Law & Justice Assessment Procedure and Student Information** located in the Other Useful Information tab in the Academic Information field.

Please be advised there will be no classes on public holidays. If your class falls on a public holiday, alternative arrangements will be made by the course convenor to make up the missed class.

Course Resources

Prescribed Resources

There is no set textbook for this course.

Staff Details

Position	Name	Email	Location	Phone	Availability	Equitable Learning Services Contact	Primary Contact
Convenor	Scott Donald					Yes	Yes

Other Useful Information

Academic Information

Upon your enrolment at UNSW, you share responsibility with us for maintaining a safe,

harmonious and tolerant University environment.

You are required to:

- Comply with the University's conditions of enrolment.
- Act responsibly, ethically, safely and with integrity.
- Observe standards of equity and respect in dealing with every member of the UNSW community.
- Engage in lawful behaviour.
- Use and care for University resources in a responsible and appropriate manner.
- Maintain the University's reputation and good standing.

For more information, visit the UNSW Student Code of Conduct Website.

UNSW Law & Justice Assessment Policy

It is essential that all students undertaking this course read and abide by the UNSW Law & Justice Assessment Policy & Student Information. This document includes information on Class Attendance, Late Work, Word Limits, Marking, Special Consideration, Workload, and Academic Misconduct & Plagiarism. More information can also be found at Assessment & Exam Information.

Information regarding Course Outlines are subject to change and students are advised to check updates. If there is a discrepancy between the information posted here and the handbook or the UNSW Law & Justice website, please contact Student Services via The Nucleus Hub for advice. UNSW Law & Justice reserves the right to discontinue or vary such courses or staff allocations at any time. If your course is not here, please visit Handbook for information.

Academic Honesty and Plagarism

As a student at UNSW you are expected to display academic integrity in your work and interactions. Where a student breaches the UNSW Student Code with respect to academic integrity, the University may take disciplinary action under the Student Misconduct Procedure. To assure academic integrity, you may be required to demonstrate reasoning, research and the process of constructing work submitted for assessment.

To assist you in understanding what academic integrity means, and how to ensure that you do comply with the UNSW Student Code, it is strongly recommended that you complete the Working with Academic Integrity module before submitting your first assessment task. It is a free, online self-paced Moodle module that should take about one hour to complete.

Generative AI

Using generative AI to conduct research or to organise your argument is not prohibited but is not encouraged. We note that the output from generative AI tools is often incorrect and almost always more superficial than is required to achieve a passing grade. Moreover, any substantive errors in the assessment, such as inappropriate references or incorrect statements, will be regarded negatively by the marker, just as they would if not generated by AI. You should limit your use of AI to simple editorial assistance, such as standard editing and referencing functions in word processing software in the creation of your submission. You must not use any functions that generate or paraphrase passages of text, whether based on your own work or not. If your marker or Turnitin identify the wrongful use of generative AI in the text of your assessment submission, including the use of paraphrasing software, your assessment may be referred to the Student Integrity team for investigation. Please go to the link for further information about referencing and acknowledging the use of artificial intelligence tools.

Prohibition on use of translation apps

With limited exceptions for language study, the course of study and assessment in Australian universities must be in English (Higher Education Standard Framework (Threshold Standards) 2021 1.5 6(c)).

In Law & Justice many classes have assessable class participation. This must be in English. **Use of a translation device to assist with contributions to class discussion is not allowed.** Marks for class participation may be reduced where use of translation devices is detected. Similar prohibitions apply to use of any other generative text app that is not specifically permitted by the class teacher. However, use of translation software to assist a student to understand material outside of class, or to assist with preparation for assessment is generally permitted.

Further considerations apply to LLB and JD students. International lawyers who seek to be admitted in NSW must satisfy an English proficiency test. That test is expressed as equivalent to IELTS scores of 7.0 -8.0 across the tests. It is assumed that UNSW graduates are at or above those levels of English proficiency. Use of translation apps can impede the attainment of that level of proficiency. Students should avoid behaviours that put them at risk of breach of legal requirements which can have significant consequences, including potential consequences for your admission as a lawyer.

Submission of Assessment Tasks

Before submitting assessment items all students must read and abide by the [UNSW Law & Justice Assessment Policy & Student Information](#).

Special consideration

Special consideration is primarily intended to provide you with an extra opportunity to demonstrate the level of performance of which you are capable. To apply, and for further information, see Special Consideration on the UNSW [Current Students](#) page.

Feedback

UNSW Law & Justice appreciates the need for students to have feedback on their progress prior to the last date for withdrawal without failure. All courses will therefore provide feedback to students prior to this date, as well as throughout the course. However, students should note that feedback does not take the form only of formal grades and written comments on written assessments. Rather, formative feedback, which helps students to self-assess, to identify misunderstandings, and to identify areas requiring further work, will occur during class and possibly online. For example, where a teacher asks the class a question, all students should think about how they might answer. Even though not all students will necessarily be able to respond orally, everyone can reflect on their tentative answer in light of the teacher's response and subsequent class discussion. If you are struggling to understand what is being asked in class, or if your tentative answers prove incorrect and subsequent discussion does not clear things up, then you should continue to ask questions (of yourself, your peers or your teacher). Similarly, you can get a sense of your ability in a course through peer feedback during group work, your teacher's responses to your in-class contributions, and your own response to in-class problems and examples (whether or not you are called on to relay your answer to the class) and also your online activities and responses by others to those activities. Students enrolled in this course may check their Moodle course page for details on the specific feedback used in this course.

Faculty-specific Information

Additional support for students

- Student support: https://www.student.unsw.edu.au/support
- Academic Skills and Support: https://student.unsw.edu.au/academic-skills
- Student Wellbeing, Health and Safety: https://student.unsw.edu.au/wellbeing

- Equitable Learning Services: https://student.unsw.edu.au/els
- UNSW IT Service Centre: https://www.myit.unsw.edu.au

Course improvement

Student feedback is very important to continual course improvement. This is demonstrated within the Faculty of Law & Justice by the implementation of the UNSW online student survey myExperience, which allows students to evaluate their learning experiences in an anonymous way. myExperience survey reports are produced from each survey. They are released to staff after all student assessment results are finalised and released to students. Course convenors will use the feedback to make ongoing improvements to the course. Students enrolled in this course may check their Moodle course page for details on the actions taken in response to evaluation feedback in Student Survey.

School Contact Information

Please contact Nucleus Student Hub for all enquiries. The Nucleus acts as a central communications hub for UNSW and will distribute your enquiry to the best person to respond.