



UNSW

UNSW Course Outline

LAWS3028 Employment Law - 2024

Published on the 25 Aug 2024

General Course Information

Course Code : LAWS3028

Year : 2024

Term : Term 3

Teaching Period : T3

Is a multi-term course? : No

Faculty : Faculty of Law and Justice

Academic Unit : School of Law, Society and Criminology

Delivery Mode : In Person

Delivery Format : Standard

Delivery Location : Kensington

Campus : Sydney

Study Level : Undergraduate

Units of Credit : 6

Useful Links

[Handbook Class Timetable](#)

Course Details & Outcomes

Course Description

Employment law is and will be relevant to all students throughout their lives, as well as being particularly topical presently. LAWS3028/JURD 7328 - Employment Law will cover the study of individual employment relationships in Australia. To ensure that students find the course relevant, Employment Law will draw on student experiences, case law, and the use of hypotheticals.

Employment Law is one of the elective subjects for law students and is able to be taken without any prior knowledge of the area or pre-requisite courses. It will be an important component of a rounded legal education, as it is the type of law that impacts on the practice of most other types of law.

Main Topics

Students will learn about:

- what distinguishes employee / employer relationships from other relationships in which work is performed;
- formation, duration and termination of the contract of employment;
- terms expressed, implied or otherwise incorporated into the contract of employment;
- the rights and liabilities of employers and employees under contract, legislation, awards and industrial instruments;
- limits on employer prerogative; and
- what remedies are available to employers and employees for breach of employment contracts, regulations or awards.

Course Aims

All students, and indeed all members of our community, are affected by the laws of employment in one way or another. This is an interesting area of study due to the “beneficial” nature of the regulation and the impact that this policy grounding has on the intentions of parties – an employment contract is very different to a contract for the sale of goods, where words on the page are only a small component of what will govern the relationship. One of the aims of this course is that students will be able to critically assess their own working situation, and that of their friends and family, and be able to identify areas of concern.

As a practitioner, an understanding of Employment Law will be a valuable addition to any lawyer’s skill-base. Probably the most important aim of this course is to give enough background to students so that in whatever future career awaits them, the Employment Law aspects of each deal, transaction or matter will be able to be identified. The different areas of professional practice need to know at least some basic items of Employment Law:

Corporate lawyers managing a sale of business need to appreciate the impact of employee entitlements, transferability of instruments, consultation requirements and inherent risk factors existing within the employee base in order to discharge their obligations to the client effectively.

Commercial lawyers need to understand how important compliance with the relevant laws are,

and arrange the actual business of doing business in such a way as to accommodate employer obligations and so reduce the risk of falling foul of the various statutory and common law offences, penalties and causes of action.

Litigators must understand that the duties of an employee and the promises given in that relationship are different to those in any other relationship, and where elements of Employment Law are involved in a contested matter care must be taken to ensure implied terms, duties or legislative restrictions are accounted for properly so that the case is not side-tracked by unexpected complications.

Community service lawyers need to have a general appreciation for the types of rights that are protected so that adequate advice can be provided to clients in a prompt manner. There are strict time limits for access to a number of remedies in this area of law and some causes of action are mutually exclusive, so it is important that decisions can be made on solid grounds and with enough time to file the appropriate applications.

As a member of the community and Australian society, an understanding of the key principles of Employment Law will also help to inform political opinion and assist with clever dinner party conversations. For many students, taking this course will help them to understand more of what the media is getting so worked up about when the leaders of political parties make important policy statements on regulation and reform in this area. Thus the final key aim of this course is to promote understanding and encourage debate, helping students to see the “why” behind the “what”.

Course Learning Outcomes

Course Learning Outcomes
CLO1 : Demonstrate an understanding for the reason Employment Law exists in our society, and how it has developed to its current form (PLOs 1, 3, 4)
CLO2 : Identify and apply relevant statutory instruments to hypothetical fact scenarios (PLOs 4, 5, 9)
CLO3 : Advise a hypothetical client on their contractual position in a hypothetical fact scenario, including through the implication of terms from statute and common law, in a clear and concise manner (PLO 4, 5, 6, 9)
CLO4 : Communicate intelligently, concisely, professionally and critically on Employment Law topics in the broader context of interdisciplinary perspectives to legal issues (PLOs 5, 6, 7, 8, 9)
CLO5 : Conduct independent research on Employment Law topics (PLOs 6, 9, 11, 12)

Course Learning Outcomes	Assessment Item
CLO1 : Demonstrate an understanding for the reason Employment Law exists in our society, and how it has developed to its current form (PLOs 1, 3, 4)	<ul style="list-style-type: none"> • Class Participation • Research Essay • Final Assessment
CLO2 : Identify and apply relevant statutory instruments to hypothetical fact scenarios (PLOs 4, 5, 9)	<ul style="list-style-type: none"> • Research Essay • Final Assessment
CLO3 : Advise a hypothetical client on their contractual position in a hypothetical fact scenario, including through the implication of terms from statute and common law, in a clear and concise manner (PLO 4, 5, 6, 9)	<ul style="list-style-type: none"> • Research Essay • Final Assessment
CLO4 : Communicate intelligently, concisely, professionally and critically on Employment Law topics in the broader context of interdisciplinary perspectives to legal issues (PLOs 5, 6, 7, 8, 9)	<ul style="list-style-type: none"> • Class Participation • Research Essay • Final Assessment
CLO5 : Conduct independent research on Employment Law topics (PLOs 6, 9, 11, 12)	<ul style="list-style-type: none"> • Research Essay • Final Assessment

Learning and Teaching Technologies

Moodle - Learning Management System

Assessments

Assessment Structure

Assessment Item	Weight	Relevant Dates
Class Participation Assessment Format: Individual	10%	Start Date: Not Applicable Due Date: Not Applicable
Research Essay Assessment Format: Individual	40%	Start Date: Week 1 Due Date: Week 5: 07 October - 13 October
Final Assessment Assessment Format: Individual	50%	Start Date: Exam Period Due Date: Exam period

Assessment Details

Class Participation

Assessment Overview

Feedback includes formative feedback, peer feedback in class, online and the use of rubric.

Course Learning Outcomes

- CLO1 : Demonstrate an understanding for the reason Employment Law exists in our society,

- and how it has developed to its current form (PLOs 1, 3, 4)
- CLO4 : Communicate intelligently, concisely, professionally and critically on Employment Law topics in the broader context of interdisciplinary perspectives to legal issues (PLOs 5, 6, 7, 8, 9)

Detailed Assessment Description

Class participation in this course is assessed against students' active contribution to class discussions and activities and students' enabling of a robust seminar-based (student-led) learning environment. Please note that merely attending class is not enough to satisfy the class participation component of the assessment.

Assignment submission Turnitin type

Not Applicable

Generative AI Permission Level

No Assistance

This assessment is designed for you to complete without the use of any generative AI. You are not permitted to use any generative AI tools, software or service to search for or generate information or answers.

For more information on Generative AI and permitted use please see [here](#).

Research Essay

Assessment Overview

Feedback includes formative feedback, peer feedback in class, online and the use of rubric.

Course Learning Outcomes

- CLO1 : Demonstrate an understanding for the reason Employment Law exists in our society, and how it has developed to its current form (PLOs 1, 3, 4)
- CLO2 : Identify and apply relevant statutory instruments to hypothetical fact scenarios (PLOs 4, 5, 9)
- CLO3 : Advise a hypothetical client on their contractual position in a hypothetical fact scenario, including through the implication of terms from statute and common law, in a clear and concise manner (PLO 4, 5, 6, 9)
- CLO4 : Communicate intelligently, concisely, professionally and critically on Employment Law topics in the broader context of interdisciplinary perspectives to legal issues (PLOs 5, 6, 7, 8, 9)
- CLO5 : Conduct independent research on Employment Law topics (PLOs 6, 9, 11, 12)

Detailed Assessment Description

The mid-term assessment for this course is a research essay, requiring students to critically

analyse a topical issue in contemporary employment law.

Assessment Length

To be advised

Assignment submission Turnitin type

This assignment is submitted through Turnitin and students do not see Turnitin similarity reports.

Generative AI Permission Level

Simple Editing Assistance

In completing this assessment, you are permitted to use standard editing and referencing functions in the software you use to complete your assessment. These functions are described below. You must not use any functions that generate or paraphrase passages of text or other media, whether based on your own work or not.

If your Convenor has concerns that your submission contains passages of AI-generated text or media, you may be asked to account for your work. If you are unable to satisfactorily demonstrate your understanding of your submission you may be referred to UNSW Conduct & Integrity Office for investigation for academic misconduct and possible penalties.

For more information on Generative AI and permitted use please see [here](#).

Final Assessment

Assessment Overview

The final assessment is a take home exam.

Feedback includes formative feedback, peer feedback in class, online and the use of rubric.

Course Learning Outcomes

- CLO1 : Demonstrate an understanding for the reason Employment Law exists in our society, and how it has developed to its current form (PLOs 1, 3, 4)
- CLO2 : Identify and apply relevant statutory instruments to hypothetical fact scenarios (PLOs 4, 5, 9)
- CLO3 : Advise a hypothetical client on their contractual position in a hypothetical fact scenario, including through the implication of terms from statute and common law, in a clear and concise manner (PLO 4, 5, 6, 9)
- CLO4 : Communicate intelligently, concisely, professionally and critically on Employment Law topics in the broader context of interdisciplinary perspectives to legal issues (PLOs 5, 6, 7, 8, 9)
- CLO5 : Conduct independent research on Employment Law topics (PLOs 6, 9, 11, 12)

Detailed Assessment Description

The final assessment for this course is a 5-day take home exam during the final examination period. The exam assesses students' problem solving skills.

Assessment Length

To be advised

Assignment submission Turnitin type

This assignment is submitted through Turnitin and students do not see Turnitin similarity reports.

Generative AI Permission Level

Simple Editing Assistance

In completing this assessment, you are permitted to use standard editing and referencing functions in the software you use to complete your assessment. These functions are described below. You must not use any functions that generate or paraphrase passages of text or other media, whether based on your own work or not.

If your Convenor has concerns that your submission contains passages of AI-generated text or media, you may be asked to account for your work. If you are unable to satisfactorily demonstrate your understanding of your submission you may be referred to UNSW Conduct & Integrity Office for investigation for academic misconduct and possible penalties.

For more information on Generative AI and permitted use please see [here](#).

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.

Grading Basis

Standard

Course Schedule

Teaching Week/Module	Activity Type	Content
Week 1 : 9 September - 15 September	Topic	What is employment law for? An introduction to the scope, purpose and history of regulating work
Week 2 : 16 September - 22 September	Topic	When is a worker an 'employee' and why does it matter? Employees, casual employees, independent contractors & others
Week 3 : 23 September - 29 September	Topic	Contract of employment Pt I - Formation and incorporation of express terms
Week 4 : 30 September - 6 October	Topic	Contract of employment Pt II - Terms implied by law
Week 5 : 7 October - 13 October	Topic	The 'statutory safety net': the NES, modern awards and minimum wage setting
Week 6 : 14 October - 20 October	Other	Flexibility week - no classes
Week 7 : 21 October - 27 October	Topic	Bargaining above the safety net - collective bargaining, enterprise agreements and industrial action
Week 8 : 28 October - 3 November	Topic	Termination under common law and the statutory unfair dismissal regime
Week 9 : 4 November - 10 November	Topic	General protections, bullying and sexual harassment
Week 10 : 11 November - 17 November	Topic	Enforcement + Course revision

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

The required textbook for this course is [Andrew Stewart, . You can find the July 2023 supplement to the textbook published by the author here.](#) You can purchase a copy of the textbook from UNSW Bookshop in either [hardcopy](#) or [eBook](#) format. The text is also available [via UNSW Library](#). You **MUST** ensure you have a copy of this text.

You also need an up-to-date version of the *Fair Work Act 2009 (Cth)*. It is recommended you purchase Mark Rinaldi et al, *Fair Work Legislation 2023-2024* (Thomson Reuters, 2023) - available via UNSW Bookshop. Alternatively, the legislation is also available [online](#).

Classes also have additional required readings, these are available via Moodle in the relevant class sections.

Recommended Resources

The following are recommended additional/optional texts:

Joellen Riley Munton, [Labour Law: An Introduction to the Law of Work](#) (Oxford University Press, 2021). Available at UNSW bookshop in both [hard copy](#) and [eBook](#) format. The text is also available [via UNSW Library](#).

Carolyn Sappideen et al, *Macken's Law of Employment* (9th ed, Lawbook Co, 2022). Available at UNSW Bookshop in both [hard copy](#) and [eBook](#) format. The text is also available [via UNSW Library](#).

Andrew Stewart et al, [\(6th ed, Federation Press, 2016\)](#). This text is also available [via UNSW Library](#). (Note: A new edition of this textbook is expected to be published in mid 2024.)

Staff Details

Position	Name	Email	Location	Phone	Availability	Equitable Learning Services Contact	Primary Contact
Convenor	Casey-Lee Hirst		Level 3, Room 323			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 Plagiarism

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.