

Athabasca University
LGST 369 Commercial Law
(Revision C9)
Detailed Syllabus

Textbook

McInnes, M., Kerr, Ian R., and VanDuzer, J. Anthony, (2018). *Managing the Law: The Legal*

Aspects of Doing Business (5th Ed.). Toronto: Pearson (E-text supplied as course study material)

Course Overview

LGST 369: Commercial Law is a three-credit course at Athabasca University. This course is designed to inform business people and those dealing with businesses of the core legal principles, laws, and institutions that govern trade and commerce in Canada. It will help business people to anticipate and, if possible, avoid legal problems, and to know when to seek legal advice. Consumers and customers will learn about their legal rights. This course supports efforts to make the commercial laws of Canada understandable and responsive to the needs of ordinary citizens. Commercial Law will assist everyone to understand and make use of the law in pursuing their legitimate interests.

Course Learning Outcomes

After completing LGST 369 students should be able to:

1. Explain the structure of the Canadian legal system and describe common legal processes.
2. Explain the basic principles of Canadian tort, contract, and property law, and describe the common forms of business organization in Canada.
3. Analyze factual situations and identify legal problems which might arise from them to avoid problems if possible.
4. Analyze legal problems and apply problem solving techniques to identify possible responses and choose from among them.
5. Identify and evaluate potential legal risks and liabilities from a business perspective.
6. Use this knowledge and these skills to assert and protect rights and interests, seeking and instructing professional help when necessary.

Unit 1: The Canadian Legal System, Litigation, and Risk Management (Ch 1 and 2)

After studying this unit you should be able to:

1. List four basic strategies for managing risks.
2. List four areas of public law and three areas of private law. Provide examples that demonstrate how each one of those areas is relevant to business people.
3. Outline one way in which tort and contract law are similar and two ways in which they are different.
4. Describe the Canadian Charter of Rights and Freedoms and provide several examples of how it can help or hurt a business.
5. List the advantages and disadvantages of hiring lawyers and paralegals.
6. Explain the difference between winning a lawsuit and enforcing a judgment.
7. Describe the court hierarchy and explain how it is related to the doctrine of precedent and the rule of law.
8. Identify forms of alternative dispute resolution and explain how they compare to litigation.

Unit 2: Tort Law – Introduction and Intentional Torts (Ch 3 and 4)

After studying this unit you should be able to:

1. Explain the similarities and differences between torts and crimes.
2. Explain the difference between intentional torts, negligence torts, and strict liability torts.
3. Describe the concept of vicarious liability, and explain how it affects business people.
4. Use the concept of risk management to explain how the difference between employees and independent contractors is important to the doctrine of vicarious liability.
5. Outline the types of remedies that are generally available in tort law.
6. Explain the tort of false imprisonment, and describe how a business can protect itself against liability.
7. Describe the tort of trespass to land and explain when a business is entitled to prohibit people from coming onto its premises.
8. Identify and explain four complete defences and two partial defences.

Unit 3: Tort Law – Torts Affecting Business and Negligence (Ch 5 and 6)

After studying this unit you should be able to:

1. Describe the tort of conspiracy, and explain the risks that arise when two or more companies plot together against another business.
2. Outline the elements of the tort of deceit.
3. Describe the nature and function of the concept of a duty of care.
4. Explain the term “reasonable foreseeability,” and explain the ways in which that concept is relevant to the tort of negligence.
5. Explain why the concept of proximity is important to the duty of care, especially in the context of claims for negligent statements.
6. Explain the role of policy under the duty of care concept, especially as it applies to the regulation of professions.
7. Describe the reasonable person, and explain how that person is relevant to the standard of care.
8. Outline the special considerations that arise when a court decides whether a professional has acted carelessly.
9. Outline the nature and function of the “but-for” test.
10. Briefly describe the defence of contributory negligence.

Unit 4: Contract Law – Formation, Consideration, and Privity (Ch 7 and 8)

After studying this unit you should be able to:

1. Identify three essential elements of most contracts.
2. Explain the difference between an offer and an invitation to treat.
3. Explain five ways by which an offer may cease to exist.
4. Explain the effect of a firm offer.
5. Describe the postal rule, and explain when it will apply.
6. Explain the nature of consideration and the role it plays in the formation of contracts.
7. Describe past consideration, and explain why it cannot support a contract.
8. Describe the nature and effect of a seal.
9. Describe the concept of privity of contract, and explain its relationship to the concept of consideration.

Unit 5: Contract Law – Contractual Terms and Defects (Ch 9 and 10)

After studying this unit you should be able to:

1. Identify pre-contractual and contractual statements.
2. Explain the differences between innocent, fraudulent, and negligent misrepresentation.
3. Outline the rules associated with proving the existence of express terms.
4. Summarize and apply the various judicial approaches to interpreting express terms.
5. Identify six types of parties that lack capacity or have limited capacity to contract.
6. Explain the difference between voidable and enforceable contracts with a minor.
7. Explain what it means for a corporation to act beyond its capacity.
8. Outline the types of contracts that must be evidenced in writing, state the basic writing requirements that must be proved, and summarize the legal effect of non-compliance.
9. Explain the difference between undue influence and unconscionable transactions, and identify when a presumption is created in each case.

Unit 6: Contract Law – Discharge, Breach, and Remedies (Ch 11 and 12)

After studying this unit you should be able to:

1. Explain the nature and effect of a discharged contract.
2. Explain the difference between a condition subsequent, a true condition precedent, and a condition precedent.
3. Describe the differences between conditions, warranties, and intermediate terms. Explain the situations in which a contract may be discharged for breach.
4. Describe three different types of breach.
5. Define the term “damages,” and explain why the courts will generally award only damages for a breach of contract.
6. Describe expectation damages, and explain how they are calculated.
7. Explain the nature of reliance damages, and explain how they are different from expectation damages.
8. Describe nominal damages and punitive damages, and explain how they are calculated.
9. Describe specific performance and injunctions, and explain when they are awarded.

Unit 7: Special Contracts – Sale of Goods and Negotiable Instruments (Ch 13 and 14)

After studying this unit you should be able to:

1. Define the term “sale of goods,” and explain when it applies.
2. Outline the rules that determine when property and risk pass under a sale of goods.
3. Summarize the rules that apply when goods are sold on the basis of a sample.
4. Explain the extent to which the *Sale of Goods Act* requires goods to match their description. Explain the difference between merchantability and fitness for an intended purpose.
5. Describe the rules that the *Sale of Goods Act* implies with respect to delivery and payment.
6. Explain how a cheque works by describing the events that occur between (i) the drawer and the payee, (ii) the drawer and the drawee, and (iii) the drawee and the payee.
7. Explain the difference between overdrawn cheques and countermanded cheques.
8. Describe the process of certification, and explain how it affects the rights of the parties to a cheque.
9. Explain how a promissory note operates.
10. Explain how a promissory note operates.

Unit 8: Real Property, Sales, and Mortgages (Ch 15 and 16)

After studying this unit you should be able to:

1. Name three types of estates, and explain how they differ from one another.
2. Explain the difference between co-ownership and joint tenancy, and explain why one is often preferred in the business world.
3. Explain the nature of condominium ownership.
4. Explain the difference between different types of leases on the basis of how long they last.
5. Outline the basic difference between an assignment and a sublease.
6. Define “quiet possession,” and explain two ways in which a landlord can break that type of covenant.
7. Explain the basic differences between a registry system and a land titles system, and indicate which system operates in your jurisdiction.
8. Outline the purpose of an agreement of purchase and sale, and explain the role of the conditions that are frequently contained in that type of agreement.
9. Describe a mortgage, and identify the mortgagor and the mortgagee.

Unit 9: Personal and Intellectual Property (Ch 17 and 18)

After studying this unit you should be able to:

1. Explain the difference between real property and personal property, and between tangible property and intangible property.
2. Describe four ways in which personal property rights can be acquired, and four ways in which they can be brought to an end.
3. Define the term “bailment,” and list the three elements of a bailment.
4. Explain the nature of a lien and a right of sale.
5. Explain the difference between third-party insurance and first-party insurance by giving an example of each.
6. Determine whether a particular creation is protected under copyright legislation.
7. Outline the protection offered under trademark law, and determine whether an action for trademark infringement may succeed.
8. Discuss the patentability of inventions, and identify possible grounds of infringement.
9. Describe the nature of confidential information and the remedies available when confidentiality is breached.

Unit 10: Business Organizations – Agency and Partnerships (Ch 20 and Ch 21)

After studying this unit you should be able to:

1. Explain three ways an agency relationship can be created.
2. Explain the difference between the actual authority of agents to enter into contracts on behalf of their principals and their apparent authority to do so.
3. Describe situations in which an agent’s fiduciary duty to act in the best interests of a principal and their duty of care protect the principal.
4. Describe the special legal requirements imposed on agents working in some areas, like real estate, that are designed to protect people who deal with them.
5. Explain how a sole proprietorship is created and how it operates.
6. Describe the advantages and disadvantages of using a sole proprietorship to carry on business.
7. Identify and apply the factors that determine when a partnership comes into existence.
8. Identify the key elements of a partnership agreement.
9. Explain the difference between general and limited partnerships.

Unit 11: Business Organizations – Corporations (Ch 21 (Topic 21.3) and Ch 22)

After studying this unit you should be able to:

1. Describe the process of incorporating and organizing a corporation.
2. Describe the implications of the separate legal existence of the corporation.
3. Explain the division of power amongst the shareholders, directors, and officers to manage and control the corporation.
4. Describe the basic structure for the governance of corporations.
5. Identify common situations in which the personal interests of directors and officers conflict with the best interests of the corporation.
6. Explain the legal standard of care that management must observe when making business judgments.
7. Identify the liability risks associated with being a director or officer and some strategies that can be used to manage these risks.
8. Explain what is meant by corporate social responsibility and how the law can encourage it.
9. Explain when a corporation will be liable for contracts, crimes, and torts because of the actions of people working on its behalf.

Unit 12: Secured Transactions and Creditors' Rights (Ch 23)

After studying this unit you should be able to:

1. Describe the process of incorporating and organizing a corporation.
2. Describe the implications of the separate legal existence of the corporation.
3. Explain the division of power amongst the shareholders, directors, and officers to manage and control the corporation.
4. Describe the basic structure for the governance of corporations.
5. Identify common situations in which the personal interests of directors and officers conflict with the best interests of the corporation.
6. Explain the legal standard of care that management must observe when making business judgments.
7. Identify the liability risks associated with being a director or officer and some strategies that can be used to manage these risks.
8. Explain what is meant by corporate social responsibility and how the law can encourage it.
9. Explain when a corporation will be liable for contracts, crimes, and torts because of the actions of people working on its behalf.

Unit 13: Employment Law (Ch 26)

After studying this unit you should be able

1. Explain the difference between employees and dependent and independent contractors.
2. Explain the difference between non-competition and non-solicitation covenants.
3. Outline the circumstances in which a business is liable to third parties for the conduct of its employees, and describe three ways in which a business can improve the supervision of its employees.
4. Identify five employer obligations imposed by employment standards legislation.
5. Discuss human rights in the workplace.
6. Explain the basic statutory measures designed to ensure safety in the workplace.
7. Explain the difference between summary dismissal, wrongful dismissal, and constructive dismissal, and define just cause for dismissal as well as the notice periods that must be provided when dismissing an employee without cause.

Assessment

To receive credit for LGST 369 you must complete five written assignments and a final exam, receiving an overall course mark of at least 50% and a mark of at least 50% on the exam.

The weightings for each item of assessment are as follows:

Activity	Credit Weight	Date Due
Assignment 1	10% of final grade	After Unit 3
Assignment 2	10% of final grade	After Unit 6
Assignment 3	10% of final grade	After Unit 8
Assignment 4	10% of final grade	After Unit 9
Assignment 5	10% of final grade	After Unit 13
Final Examination	50% of final grade	After all Units
Total	100% of final grade	

Final Exam

The final examination is worth 50% of your total course mark. **In order to pass this course you must obtain a mark of 50% or higher on the exam.** It is a closed book 3-hour exam written in person on a computer at an authorized testing center or through ProctorU. By arrangement with the University, it may be written anywhere in the world.

Part A of the exam consists of 25 multiple choice and true/false questions covering the whole course (50 marks – 2 marks each).

Some of these questions may involve analysis of fact scenarios similar to the two following:

1. Elise owns and operates a convenience store. Because that store is located near a high school, it loses a great deal of profit to shoplifting. Last week, Elise caught Hakan in the act of stealing a magazine. She physically detained him and called the police. The police arrived and placed Hakan in handcuffs. At that point, Elise calmly and intentionally punched Hakan in the face and said, "I've been waiting a long time for the chance to do that." Elise has a liability insurance policy that she purchased from the Pacific All Risk Insurance Co (PARI).

Which of the following statements is TRUE?

- a) Elise almost certainly committed the tort of false imprisonment.
 - b) PARI will probably be required to pay damages on Elise's behalf with respect to Hakan's claim for false imprisonment.
 - c) If Elise is found liable for the tort of battery, she will probably have to pay the damages herself.
 - d) If Elise is found liable for the tort of battery, the police department will also be held vicariously liable for the same tort.
 - e) none of the above
2. Suneel committed the tort of battery against Jodi. The injuries that she suffered were unexpectedly severe. Suneel can be held fully liable for Jodi's losses even if those losses were not reasonably foreseeable.

TRUE or FALSE?

Part B consists of six questions, each to be answered in a paragraph, that are drawn from the learning objectives listed in the Study Guide for Units 2, 3, 4, 5, 6, 10, and 11 (30 marks – 5 marks each).

Part C requires you to write a short essay of several paragraphs on a topic chosen from Units 4, 5, 6, 10, and 11. Two topics will be given, from which you will choose one. (10 marks)

Part D requires you to prepare a case study analysis of several paragraphs for a case based upon Units 4, 5, 6, 10, and 11. Two cases will be given, from which you will choose one. This question is similar to Assignments 4 and 5. (10 marks)

Suggested Study Schedules

How should you study the course material?

The Study Guide indicates the readings from the text and the learning objectives to be achieved in that unit or section. Do the quiz for the unit after you have completed studying the full unit.

You may wish to experiment with different approaches to the materials to suit your preferred learning style. Try to work through an entire section, or a distinct part of a section, during each study session. As you begin your study session, note the break-points in the material you are planning to study, and determine where you will stop. By setting yourself a suitable breakpoint, you have also set a goal for the session and have provided yourself with a convenient stopping point.

LGST 369 is designed to allow individualized, independent study. You will plan your own study sessions and complete the course work according to your own planned timetable. It is your responsibility to set a pace that will enable you to meet your own learning needs and complete the course within the six-month course contract period.

Planning Your Study

Making progress through this course will require sustained study. During your study sessions, aim to work for periods of about an hour at a time. Then take a break before you start again. The length of your study session should be governed, to the extent possible, by the nature of the study in which you are currently engaged. Plan to finish a study session at a natural break-point.

Distance learning is based on the assumption that students will organize their study sessions in ways that make the most of their individual circumstances and resources, including time.

Students who approach their studies in a systematic and organized manner are more likely to complete the course successfully than those who do not plan a course of action for themselves. Therefore, this manual includes a suggested study schedule to assist you in budgeting your time and monitoring your progress. You should expect to spend approximately six hours per week in completing all of the work required for this course.

Please note that two study schedules for LGST 369 are presented here. Schedule A is designed to accommodate students who wish to complete the course in approximately 16 weeks or four months. Schedule B permits students to take full advantage of the six-month individualized study course contract, which is standard for a three-credit course at Athabasca University. Although your course contract may allow you six months from your start date to complete the course, we suggest that you try to follow a somewhat accelerated schedule. By doing so, you will have time to deal with any unforeseen interruptions to your studies. Feel free to alter this schedule to suit your personal circumstances.

Be sure to call your tutor if you have difficulty with the material, or if you are unable to adhere to the schedule as suggested. If you find yourself falling behind in your course work, contact your tutor immediately. He or she will be able to advise you as to what options are available to you. You may, of course, proceed more quickly than is suggested by these study schedules.

Schedule A – 16 Weeks

Week	Activity
1	<ul style="list-style-type: none"> • Read all information on the course website. • Make initial contact with your tutor. • Begin reading the online Study Guide and study Unit 1. • Do the self-study questions and quiz for this unit.
2	<ul style="list-style-type: none"> • Study Unit 2 and do the self-study questions and quiz.
3	<ul style="list-style-type: none"> • Study Unit 3 and do the self-study questions and quiz. • Complete and submit Assignment 1.
4	<ul style="list-style-type: none"> • Study Unit 4 and do the self-study questions and quiz.
5	<ul style="list-style-type: none"> • Study Units 5 and 6 and do the self-study questions and quiz.
6	<ul style="list-style-type: none"> • Complete and submit Assignment 2.
7	<ul style="list-style-type: none"> • Study Unit 7 and do the self-study questions and quiz.

8	<ul style="list-style-type: none"> • Study Unit 8 and do the self-study questions and quiz. • Complete and submit Assignment 3.
9	<ul style="list-style-type: none"> • Study Unit 9 and do the self-study questions and quiz. • Complete and submit Assignment 4.
10	<ul style="list-style-type: none"> • Study Unit 10 and do the self-study questions and quiz.
11	<ul style="list-style-type: none"> • Study Unit 11 and do the self-study questions and quiz.
12	<ul style="list-style-type: none"> • Study Unit 12 and do the self-study questions and quiz. • Arrange to write the final exam in Week 16.
13	<ul style="list-style-type: none"> • Study Unit 13 and do the self-study questions and quiz.
14	<ul style="list-style-type: none"> • Complete and submit Assignment 5.
15	<ul style="list-style-type: none"> • Study for the exam. • Review the learning objectives and the PowerPoint presentations for each unit. • Contact your tutor if you have any questions.
16	<ul style="list-style-type: none"> • Write the Final Exam.

Congratulations on completing the course!

Schedule B – 23 Weeks

Week	Activity
1	<ul style="list-style-type: none">• Read all information on the course website.• Make initial contact with your tutor.• Begin reading the online Study Guide and study Unit 1.• Do the self-study questions and quiz for this unit.
2	<ul style="list-style-type: none">• Study Unit 2 and do the self-study questions and quiz.
3	<ul style="list-style-type: none">• Study Unit 3 and do the self-study questions and quiz.• Complete and submit Assignment 1.
4	<ul style="list-style-type: none">• Study Unit 4 and do the self-study questions and quiz.
5	<ul style="list-style-type: none">• Study Unit 5 and do the self-study questions and quiz.
6	<ul style="list-style-type: none">• Begin studying Unit 6.
7	<ul style="list-style-type: none">• Complete studying Unit 6 and do the self-study questions and quiz.
8	<ul style="list-style-type: none">• Complete and submit Assignment 2.
9	<ul style="list-style-type: none">• Begin studying Unit 7.
10	<ul style="list-style-type: none">• Complete studying Unit 7 and do the self-study questions and quiz.
11	<ul style="list-style-type: none">• Begin studying Unit 8.

12	<ul style="list-style-type: none"> • Complete studying Unit 8 and do the self-study questions and quiz.
13	<ul style="list-style-type: none"> • Complete and submit Assignment 3.
14	<ul style="list-style-type: none"> • Begin studying Unit 9.
15	<ul style="list-style-type: none"> • Finish studying Unit 9 and do the self-study questions and quiz. • Complete and submit Assignment 4.
16	<ul style="list-style-type: none"> • Study Unit 10 and do the self-study questions and quiz.
17	<ul style="list-style-type: none"> • Study Unit 11 and do the self-study questions and quiz.
18	<ul style="list-style-type: none"> • Study Unit 12 and do the self-study questions and quiz. • Arrange to write the final exam in Week 23.
19	<ul style="list-style-type: none"> • Study Unit 13 and do the self-study questions and quiz.
20	<ul style="list-style-type: none"> • Complete and submit Assignment 5.
21	<ul style="list-style-type: none"> • Begin studying for the exam. • Review the learning objectives and the PowerPoint presentations for each unit.
22	<ul style="list-style-type: none"> • Complete studying for the exam and contact your tutor if you have any questions.
23	<ul style="list-style-type: none"> • Write the Final Exam.

Congratulations on completing the course!