

730-775 Unjust Enrichment in Commercial Law

Credit Points:	12.500
Level:	Graduate/Postgraduate
Dates & Locations:	2008, This subject commences in the following study period/s: Semester 2, - Taught on campus.
Time Commitment:	Contact Hours: 24 - 26 contact hours per subject. Total Time Commitment: The time commitment for this subject depends on the candidate's background and experience.
Prerequisites:	N.A.
Corequisites:	N.A.
Recommended Background Knowledge:	None
Non Allowed Subjects:	None
Core Participation Requirements:	N.A.
Coordinator:	Dr James Edelman
Subject Overview:	<p>Objectives:</p> <p>A candidate who has successfully completed the subject should:</p> <ul style="list-style-type: none"> # Understand the application of unjust enrichment to modern commercial transactions and how a claim in unjust enrichment should be pleaded # Understand the nature and elements of a claim in unjust enrichment, different situations in which unjust enrichment arises and areas of debate in the subject # Understand how unjust enrichment interacts with the law of contract, equity, trusts, insolvency and statute in resolving commercial disputes # Understand available remedies for a claim in unjust enrichment, including the remedy of restitution as well as proprietary remedies such as rescission, resulting trust and equitable lien, as well the operation of the rules of tracing and following. <p>Syllabus:</p> <p>This subject provides an analysis of the law of unjust enrichment in Australian law.</p> <p>Topics include:</p> <ul style="list-style-type: none"> # Background: Overview of the law of unjust enrichment, including the principles on which it is based, its nature and ambit, how it should be pleaded, its role as part of the common law of Australia and its impact on unwinding commercial transactions # Identification of parties: A claim for restitution based on the law of unjust enrichment requires a defendant to have been enriched at the expense of the plaintiff. This topic is concerned with determining the breadth of what constitutes an enrichment and the circumstances in which a plaintiff can establish a connection to that enrichment in the defendant's hands # Reasons for restitution: When is it unjust for a defendant, who receives an enrichment at the expense of the plaintiff, to retain that enrichment? Grounds for restitution include benefits conferred by mistake, failure of consideration, duress, undue influence and instances where the claimant has no intention to benefit the recipient # Defences: Examination of the defences available in the law of unjust enrichment, including change of position, estoppel, passing on, illegality, bona fide purchase and ministerial receipt # The nature of the restitutionary remedy: Understanding when restitution for a claim in unjust enrichment is personal or proprietary in nature; analysis of underlying principles; rules of tracing and following; vindication of proprietary rights.
Assessment:	Take-home examination (100%) (19-22 September)

Prescribed Texts:	Core subject materials will be provided free of charge to all students. Some subjects require further texts to be purchased. Please visit the subject homepage on the Melbourne Law Masters website by following the link at the bottom of this subject entry.
Breadth Options:	This subject is not available as a breadth subject.
Fees Information:	Subject EFTSL, Level, Discipline & Census Date, http://enrolment.unimelb.edu.au/fees
Generic Skills:	Please see the Subject Objectives for this information.
Links to further information:	For the latest information on this subject, please visit: http://www.masters.law.unimelb.edu.au/subject/730775