

## LAWS50023 Legal Method and Reasoning

<b>Credit Points:</b>	12.50
<b>Level:</b>	5 (Graduate/Postgraduate)
<b>Dates &amp; Locations:</b>	2012, Parkville This subject commences in the following study period/s: February, Parkville - Taught on campus.
<b>Time Commitment:</b>	Contact Hours: Taught intensively: 4 hours per day, over a 2 week period. Total Time Commitment: 80-100 hours.
<b>Prerequisites:</b>	None.
<b>Corequisites:</b>	None.
<b>Recommended Background Knowledge:</b>	None.
<b>Non Allowed Subjects:</b>	None.
<b>Core Participation Requirements:</b>	The Melbourne Law School welcomes applications from students with disabilities. It is University and Law School policy to take all reasonable steps to enable the participation of students with disabilities, and reasonable adjustments will be made to enhance a student's participation in the School's programs. The inherent academic requirements for the study in the Melbourne Law School are: The ability to attend classes and actively engage in the analysis of complex materials and debate; The ability to read, analyse and comprehend complex written legal materials and complex interdisciplinary materials; The ability to clearly and independently communicate in writing a knowledge and application of legal principles and interdisciplinary materials and critically evaluate these; The ability to clearly and independently communicate orally a knowledge and application of legal principles and interdisciplinary materials and critically evaluate these; The ability to work independently and as a part of a group; The ability to present orally and in writing legal analysis to a professional standard. Students must possess behavioural and social attributes that enable them to participate in a complex learning environment. Students are required to take responsibility for their own participation and learning. They also contribute to the learning of other students in collaborative learning environments, demonstrating interpersonal skills and an understanding of the needs of other students. Assessment may include the outcomes of tasks completed in collaboration with other students. Students who feel their disability will prevent them from participating in tasks involving these inherent academic requirements are encouraged to contact the Disability Liaison Unit: <a href="http://www.services.unimelb.edu.au/disability/">http://www.services.unimelb.edu.au/disability/</a> .
<b>Coordinator:</b>	Prof Ian Malkin
<b>Contact:</b>	Melbourne Law School Student Centre Email: <a href="mailto:law-studentcentre@unimelb.edu.au">law-studentcentre@unimelb.edu.au</a> (mailto:law-studentcentre@unimelb.edu.au) Tel: +61 3 8344 4475
<b>Subject Overview:</b>	In this foundational subject, students will develop a broad, sophisticated and critical understanding of the core elements of legal method and reasoning in Australia's common law legal system. Students in Legal Method and Reasoning will analyse the principal sources of law and the functions they perform in modern Australian society. The relationship between sources of law will be explored in depth, as will the principal contemporary debates on common law method and the ways in which different sources of law have evolved.  Methodological issues will be considered in substantive context, to give students an understanding of the social role of law. Throughout this intensively taught subject, students will critically interrogate whether or not these sources of law, the institutions from which they are derived and the methodologies employed to develop binding rules and principles of law are in need of reform.

	<p>Students will be taught in highly interactive, discussion-oriented classes. Assessment tasks will be designed to give students detailed, formative feedback on their skills they have acquired in the subject.</p> <p>Legal Method and Reasoning's emphasis is on the contemporary application of the rules and principles governing how the common law and statutory law operate. Moreover, this subject will explore issues in contemporary common law reasoning that are presently unresolved and the subject of contention. Furthermore, given its foundational subject matter, this subject will prepare students for the compulsory subjects they undertake in their first full semester of studies.</p> <p>The principal topics which are canvassed in depth include:</p> <ul style="list-style-type: none"> <li># Analysis of case law as significant, modern examples of common law methodology;</li> <li># Critical exploration of the concept and use of precedent and the emergence of new doctrine;</li> <li># Examination of the progressive evolution of common law doctrine;</li> <li># Analysis of statutes, in practical, contemporary settings;</li> <li># Approaches to statutory interpretation, including comparative approaches to controversial methodologies;</li> <li># The relationship between statutes and case-law and between statutes themselves; and</li> <li># Presumptions in statutory interpretation.</li> </ul>
<b>Objectives:</b>	<p>A student who has successfully completed Legal Method and Reasoning will have the foundations for the development of an advanced, integrated knowledge of the core elements of legal method and reasoning in common law legal systems as well as a critical understanding of the principal sources of law and the functions they perform in modern Australian society. In particular, such a student should be able to:</p> <ul style="list-style-type: none"> <li># Demonstrate an integrated understanding of conceptual issues and debates in modern law, including: <ul style="list-style-type: none"> <li>- How sources of law emerge and are applied; and</li> <li>- The relationship of the common law and legislation.</li> </ul> </li> <li># Demonstrate an appreciation of, and ability to engage in, the complex policy and practical debates surrounding the ways in which common law reasoning operates. This includes an ability to: <ul style="list-style-type: none"> <li>- Extract important features from judgments and reconcile judgments;</li> <li>- Evaluate the development of legal principles; and</li> <li>- Apply legal principles arising from case law to new situations.</li> </ul> </li> <li># Demonstrate an appreciation of, and ability to engage in, the complex policy and practical debates surrounding the ways in which statutory regimes operate, apply and meant to be interpreted. This includes an ability to: <ul style="list-style-type: none"> <li>- Extract important features from statutes; and</li> <li>- Use, interpret and apply statutory provisions to new situations.</li> </ul> </li> <li># Demonstrate a capacity to critically and independently evaluate a range of propositions and arguments about conceptual and policy dimensions of modern legal reasoning.</li> <li># Demonstrate a capacity to critically and independently evaluate responses to issues associated with legal method and reasoning in different jurisdictions.</li> </ul>
<b>Assessment:</b>	<p>Assignment 1: Case Analysis Exercise (1,500 words) due in accordance with the assessment schedule; Assignment 2: Statutory Interpretation Exercise (1,500 words) due in accordance with the assessment schedule; All assessment will be graded as hurdle requirements. Students must pass all assessment tasks to be awarded a pass in the subject.</p>
<b>Prescribed Texts:</b>	<p>Catriona Cook (et al), Laying Down the Law (latest edition); Butterworths Concise Australian Legal Dictionary; Specialist printed materials will also be made available from Melbourne Law School.</p>
<b>Breadth Options:</b>	<p>This subject is not available as a breadth subject.</p>
<b>Fees Information:</b>	<p>Subject EFTSL, Level, Discipline &amp; Census Date, <a href="http://enrolment.unimelb.edu.au/fees">http://enrolment.unimelb.edu.au/fees</a></p>

<b>Generic Skills:</b>	<p>A student who successfully completes Legal Method and Reasoning will have developed and demonstrated:</p> <ul style="list-style-type: none"> <li># Understanding, critical reflection, synthesis and comparison of judicial decisions, statutory provisions, and other primary source materials, concerning modern approaches to legal reasoning;</li> <li># The capacity for close reading and analysis of a range of sources;</li> <li># The capacity to communicate effectively, both orally and in writing;</li> <li># Understanding, critical reflection, synthesis and comparison of academic literature on modern approaches to understanding how sources of law operate, emerge, evolve, and interact;</li> <li># The ability to generate and evaluate proposals for the reform of Australian approaches to legal reasoning, such as those associated with statutory interpretation;</li> <li># Legal analysis and problem-solving skills, on which subsequent subjects will build;</li> <li># An ability to identify and analyse legal issues arising in new fact situations and the ways in which disputes can be resolved;</li> </ul> <p>Students who have successfully completed Legal Method and Reasoning will also have:</p> <ul style="list-style-type: none"> <li># A sound and reliable grasp of fundamental introductory legal research skills, including an ability to find case law and legislation;</li> <li># A sound grounding in legal writing skills, including an ability to concisely and accurately identify and articulate legal principles, and the capacity to evaluate the significance and implications of legal rules and the issues to which they relate and provide accurate advice on legal issues;</li> <li># Demonstrated professionalism in their conduct in classroom activities, in their behavior towards their peers and teachers, and in self-study management; and</li> <li># Demonstrated professionalism in engagement with learning.</li> </ul>
<b>Related Course(s):</b>	Juris Doctor