

LAWS70409 Commercial Conflict of Laws

Credit Points:	12.50
Level:	7 (Graduate/Postgraduate)
Dates & Locations:	This subject is not offered in 2013.
Time Commitment:	Contact Hours: The total class time is between 24 and 26 hours Total Time Commitment: Not available
Prerequisites:	None
Corequisites:	None
Recommended Background Knowledge:	Applicants without legal qualifications should note that subjects are offered in the discipline of law at an advanced graduate level. While every effort will be made to meet the needs of students trained in other fields, concessions will not be made in the general level of instruction or assessment. Most subjects assume the knowledge usually acquired in a degree in law (LLB, JD or equivalent). Applicants should note that admission to some subjects in the Melbourne Law Masters will be dependent upon the individual applicant's educational background and professional experience.
Non Allowed Subjects:	None
Core Participation Requirements:	The Melbourne Law Masters welcomes applications from students with disabilities. The inherent academic requirements for study in the Melbourne Law Masters are: The ability to attend a minimum of 75% of classes and actively engage in the analysis and critique 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 to 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 who feel their disability will inhibit them from meeting these inherent academic requirements are encouraged to contact the Disability Liaison Unit: www.services.unimelb.edu.au/disability/
Contact:	For more information, contact the Melbourne Law Masters office. Email: law-masters@unimelb.edu.au (mailto:law-masters@unimelb.edu.au) Phone: +61 3 8344 6190 Website: www.law.unimelb.edu.au/masters (http://www.law.unimelb.edu.au/masters)
Subject Overview:	<p>With the explosion in international commercial transactions in the past decades there has also come a significant increase in cross-border disputes before Australian and other national courts. The aim of this subject is to examine the key principles governing cross-border litigation in Australia, focusing on the questions of jurisdiction, applicable law and the recognition of foreign judgments. The subject is designed for both practitioners and scholars and will be taught by Professor Richard Garnett, a leading expert on conflict of laws in Australia who regularly advises on cross-border disputes, and Dr Albert Dinelli of the Victorian Bar, who completed his Oxford doctorate in the field.</p> <p>This subject will examine, from an advanced and specialist point of view, litigation of cross-border disputes in a commercial setting. It will consider the key doctrinal principles in the area as well as problems commonly encountered in commercial practice.</p> <p>Principal topics will include:</p> <ul style="list-style-type: none"> # Whether a Victorian/Australian court has jurisdiction to consider a matter # Whether a Victorian/Australian court will decline jurisdiction in a matter by staying its proceedings or whether it may restrain proceedings in a foreign court # Which law should govern the substantive issues (in the areas of tort, contract and equitable obligations) # The effect of foreign judgments and orders in Victoria/Australia.

Objectives:	<p>A student who has successfully completed this subject will:</p> <ul style="list-style-type: none"> # Have acquired expert knowledge in identifying when a particular commercial scenario involves a foreign element which raises conflict of laws issues, and what those issues are; # Have gained a strong capacity to advise on how those issues would be approached by an Australian court; # Have an advanced and high level awareness of the theoretical and policy justifications for the conflict of laws rules that would be applied in such a situation and the commercial ramifications of such; # Have a mastery of the rules that govern the recognition and enforcement of foreign judgments in Australia; # Have a sophisticated understanding of the current state of the law relating to private international law in commercial cases; and # Have an advanced ability to apply the principles learnt to specific case situations and engage in oral and written expression and argument.
Assessment:	Take-home examination (100%) (26–29 July) or 10,000 word research paper on a topic approved by the subject coordinator (100%) (4 September)
Prescribed Texts:	Core subject materials will be provided free of charge to all students. Some subjects require further texts to be purchased. Visit the Melbourne Law Masters website for more information about this subject.
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
Links to further information:	http://www.law.unimelb.edu.au/subject/LAWS70409/2013