

LAWS70438 Standards in Commercial Dealings

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>This subject will explore a fundamental question affecting commercial law, namely: what are the standards of conduct demanded by our legal system in commercial dealings? Topics will include: good faith and fair dealing, unconscionable dealing, fiduciary duties, breach of confidence, estoppel, mistake, remoteness and remedies. The effect of these standards will be considered throughout the life of a transaction; negotiations, performance and termination of the relationship. The subject will address a range of transaction types, including long-term contracts, joint ventures, franchises and service relationships. The subject will also address the flexible use of remedies in responding to breaches of the relevant standards. Common law, equitable doctrines and statute, such as the Australian Consumer Law, will be considered, along with overseas equivalents. Comparisons will be made between Australian approaches and those in other jurisdictions, including New Zealand, Singapore, Canada, India, England and the United States. The subject will identify areas of overlap and also of best practice.</p> <p>The subject will be relevant to transaction lawyers involved in planning and ingratiating deals and in drafting contracts, and lawyers advising corporations and small businesses on their legal duties in the marketplace and commercial litigators.</p> <p>Principal topics will include:</p> <ul style="list-style-type: none"> # The role of standards in commercial dealings # The concept of 'commercial morality' # The standards used to regulate commercial dealings: <ul style="list-style-type: none"> # Good faith and fair dealing

	<ul style="list-style-type: none"> # Unconscionable dealing in equity # Misleading or deceptive and unconscionable conduct under the Australian Consumer Law # Fiduciary duties # Estoppel # Breach of confidence # Mistake # Remoteness # Remedies, including under the Australian Consumer Law.
Objectives:	<p>A student who has successfully completed this subject will:</p> <ul style="list-style-type: none"> # Have a specialised understanding of the legal standards used by courts to regulate commercial dealings in Australia and also in other jurisdictions; # Be able critically to examine and assess the effectiveness of these legal standards; # Have the technical skills independently to examine, research and analyse the application of legal standards of conduct to commercial disputes; # Be able to apply specialized knowledge about the standards used to regulate dealings to inform the negotiation and drafting of contracts; # Have the communication skills clearly to articulate and convey complex legal concepts in order to advise clients about the conduct demanded from them in commercial dealings.
Assessment:	Take-home examination (100%) (28 June–1 July)
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/LAWS70438/2013