

LAWS70112 Remedies in the Construction Context

Credit Points:	12.50
Level:	7 (Graduate/Postgraduate)
Dates & Locations:	This subject is not offered in 2014.
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>Construction projects are notorious for producing difficult legal issues. Whether advising on the content of contracts or methods for mounting or defending claims, practitioners need to be confident in their understanding of a very broad range of legal principles, from those governing the interpretation of contracts through to the intricacies of the remedies available under various causes of action. In turn, construction lawyers need an advanced and detailed knowledge of the case law (both seminal judgments and recent treatments) and legislation that underpin diverse matters, such as implied duties of cooperation and good faith, damages in tort for pure economic loss, liquidated damages, recovery upon a quantum meruit and the grant of interlocutory injunctions. The topics raise various complex issues deriving from recent developments in Australian law.</p> <p>The lecturer, David Bennett QC, brings to the classroom a wealth of experience in the analysis of such issues, gained not only during an extensive practising career but also through his writings (which include the second edition of the seminal <i>Brooking on Building Contracts</i>) and many years of teaching. He also harnesses the specialist expertise of guest lecturers. In previous years offerings, these have included leading academic lawyers, legal practitioners and judges.</p> <p>Principal topics will include:</p> <ul style="list-style-type: none"> # Overview of contractual terms, including aspects of termination of contracts, the implied duty to cooperate and the status of the claimed implied obligation of good faith in contract # Liquidated damages

	<ul style="list-style-type: none"> # Equitable remedies for breach of fiduciary duty # Outline of proportionate liability # Temporary injunctions # Status of recovery in tort for pure economic loss # Remedies under the <i>Australian Consumer Law</i> # Development of quantum meruit claims leading to a consideration of: <ul style="list-style-type: none"> # Quantum meruit under a contract having no agreed price # Restitution claims where there is no contract, or an unenforceable contract, where the contractor claims that the owner has been unjustly enriched.
Learning Outcomes:	<p>A student who has successfully completed this subject should have an understanding of:</p> <ul style="list-style-type: none"> # The interpretation of express contractual terms and recent developments in the law as to implied terms # Remedies relevant to breach of joint venture agreements, including equitable damages, accounts of profits and constructive trusts # The legal principles relevant to the granting of interlocutory relief by way of injunction # The development, and the current state, of the law concerning damages for pure economic loss # Recovery on a quantum meruit basis, based on both a contract without an agreed price and restitution after an unjust enrichment.
Assessment:	Take-home examination (100%) (9 – 12 May) or 10,000 word research paper (100%) (11 June) on a topic approved by the subject coordinator
Prescribed Texts:	Core subject materials will be provided free of charge to all students. Some subjects require further texts to be purchased. Details regarding any prescribed texts will be provided prior to the commencement of the 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:	www.law.unimelb.edu.au/subject/LAWS70112/2014