

LAWS50115 Unjust Enrichment & Restitution Law

Credit Points:	12.5																											
Level:	5 (Graduate/Postgraduate)																											
Dates & Locations:	This subject is not offered in 2015.																											
Time Commitment:	Contact Hours: 36 hours of seminar classes offered intensively, or as 12 weekly 3 hour seminars over the course of a semester. Total Time Commitment: 144 hours.																											
Prerequisites:	<p>Property (LAWS50030) and Trusts (LAWS50033) are concurrent prerequisites. A concurrent prerequisite is a requisite that students must either be undertaking concurrently (in exactly the same study period) with their enrolment in the subject, or have already met (student has undertaken the requisite subject previously).</p> <table border="1"> <thead> <tr> <th>Subject</th> <th>Study Period Commencement:</th> <th>Credit Points:</th> </tr> </thead> <tbody> <tr> <td>LAWS50023 Legal Method and Reasoning</td> <td>February</td> <td>12.50</td> </tr> <tr> <td>LAWS50024 Principles of Public Law</td> <td>Semester 1</td> <td>12.50</td> </tr> <tr> <td>LAWS50025 Torts</td> <td>November, Semester 2</td> <td>12.50</td> </tr> <tr> <td>LAWS50026 Obligations</td> <td>Semester 1</td> <td>12.50</td> </tr> <tr> <td>LAWS50027 Dispute Resolution</td> <td>Semester 1</td> <td>12.50</td> </tr> <tr> <td>LAWS50029 Contracts</td> <td>Semester 2</td> <td>12.50</td> </tr> <tr> <td>LAWS50030 Property</td> <td>Semester 1</td> <td>12.50</td> </tr> <tr> <td>LAWS50033 Trusts</td> <td>Semester 1</td> <td>12.50</td> </tr> </tbody> </table>	Subject	Study Period Commencement:	Credit Points:	LAWS50023 Legal Method and Reasoning	February	12.50	LAWS50024 Principles of Public Law	Semester 1	12.50	LAWS50025 Torts	November, Semester 2	12.50	LAWS50026 Obligations	Semester 1	12.50	LAWS50027 Dispute Resolution	Semester 1	12.50	LAWS50029 Contracts	Semester 2	12.50	LAWS50030 Property	Semester 1	12.50	LAWS50033 Trusts	Semester 1	12.50
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Corequisites:	None																											
Recommended Background Knowledge:	None																											
Non Allowed Subjects:	Unjust Enrichment in Commercial Law (MLM subject).																											
Core Participation Requirements:	<p>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: www.services.unimelb.edu.au/disability/.</p>																											
Contact:	<p>Melbourne Law School Student Centre Email: law-studentcentre@unimelb.edu.au (mailto:law-studentcentre@unimelb.edu.au)</p>																											

	Tel: +61 3 8344 4475
Subject Overview:	<p>This subject introduces students to the capstone private law discipline of unjust enrichment and restitution law. Unjust enrichment constitutes a critically important but largely misunderstood source of private law obligation in Australia. Likewise, restitution as a gain-based remedy is all too often confused with other forms of relief, or omitted from the armoury of applicable remedies out of ignorance. This course will enable students to develop a specialist understanding of the law of unjust enrichment and restitution and in so doing, enable them to obtain an advanced and integrated command of the private law as a whole. Although the primary focus is on the Australian law, the discipline is necessarily comparative, drawing upon the law of many comparative common law and civilian jurisdictions. The subject develops and integrates legal knowledge from across many sub-disciplinary fields (e.g. contracts, torts, property and trusts), engages with a variety of sources of legal obligation (common law, equitable and statutory) and utilises both doctrinal and jurisprudential modes of legal reasoning to build an understanding of the complex interactions that define the law of unjust enrichment and restitution. The course involves a critical examination of the historical and substantive development of a law of unjust enrichment, its development and disintegration under the stewardship of successive Australian High Courts, its role in the private law as the third dominant source of private law obligations, its elements and defences, personal and proprietary remedies and the forensic, theoretical and practical advantages and disadvantages of unjust enrichment and restitution jurisprudence.</p>
Learning Outcomes:	<p>A student who has successfully completed this subject will have:</p> <p>An advanced and integrated understanding of the Australian private law as a whole and in particular:</p> <ul style="list-style-type: none"> # Students will learn how personal and proprietary restitutionary rights arise in unjust enrichment and are affected by defences; # Students will learn to integrate their knowledge of contract, property, torts, trusts and other common law and equitable private law obligations to identify inconsistencies in the law of unjust enrichment and restitution; # Students will learn to 'feed back' their knowledge of unjust enrichment and restitution law into their foundational private law subjects, to develop a deep and incisive understanding of the full range of the private law; and # Students will develop an integrated mental map of the private law that will enable them to analyse diverse and complex legal scenarios within unjust enrichment and restitution law, but also to appreciate alternative analysis available throughout the private law; <p>An advanced capacity to compare and critically analyse the legal framework applicable to unjust enrichment and restitution law across Australian and overseas jurisdictions, as relevant, and to consider recommendations for judicial and legislative reform of aspects of the Australian approaches in light of those comparisons;</p> <p>A sophisticated appreciation of, and ability to engage in, the complex theoretical, policy-based and practical debates taking place domestically and internationally in relation to unjust enrichment law, including:</p> <ul style="list-style-type: none"> # The balance to be struck between 'top down' and 'bottom up' modes of legal reasoning in unjust enrichment and restitution law and the private law as a whole; # The roles of intermediate courts and appellate courts in developing unjust enrichment and restitution law and the private law as a whole; # The interactions between and balances to be struck between unjust enrichment and other sources of legal rights, such as contract; and # The role, ramifications and limitations of restitution as a gains-based remedy and its distinction from other forms of relief; <p>Specialised skills in self-directed legal research and in the autonomous and creative production of legal writing that is thoroughly researched, tightly edited and that develops arguments in a highly structured, supported and referenced way, with a high degree of original content;</p> <p>Sophisticated communication skills that enable them to link, integrate and convey complex legal principles, theories and frameworks concerning unjust enrichment law and its relationship to the private law as a whole to expert and non-expert legal audiences.</p>
Assessment:	<p>Case Note (30%): Students will be required to identify a relevant case, handed down over the preceding year, on which to prepare and submit a 1,500 word case note. The case may have been decided in Australia or overseas, but must relate to the law of unjust enrichment and restitution, due in accordance with the assessment schedule. AND Take-home exam</p>

	(70%): Students complete a take-home exam of approximately 4,500 words. The exam will be comprised of three essay-style questions of equal weighting, due in accordance with the assessment schedule.
Prescribed Texts:	J Edelman and E Bant, Unjust Enrichment in Australia (latest edition); Specialist printed materials will also be made available from Melbourne Law School.
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:	<p>On completion of the subject, students should have developed their skills in the following areas:</p> <ul style="list-style-type: none"> # Cognitive skills demonstrating mastery of the law of unjust enrichment and restitution in Australia and its relationship to the private law as a whole; # Specialist understanding, interpretation, critical reflection, synthesis and comparison of case law relating to unjust enrichment and restitution law from the various Australian jurisdictions and overseas; # Specialist understanding, analysing, comparing and reflecting critically on scholarly commentary from the various Australian jurisdictions and overseas; # Generating and evaluating original proposals for judicial or legislative reform of Australian unjust enrichment and restitution law having regard to interstate and international experience; # Expert cognitive skills in conducting original research of, reflecting on and synthesising primary case law from the various Australian and comparator jurisdictions; and # Expert technical skills in interpreting and transmitting knowledge and ideas to specialist and non-specialist legal audiences.
Notes:	This subject has a quota of 60 students. Details on quota subject selection (http://www.law.unimelb.edu.au/jd/current-students/enrolments/quota-subject-selection/) are available on the JD website.