

# LAWS50098 Law Reform

| <b>Credit Points:</b>                    | 12.5  |                |                            |                |                                      |          |       |                                    |            |       |                 |                      |       |                       |            |       |                              |            |       |                     |            |       |                    |            |       |
|--|---|----------------|----------------------------|----------------|--------------------------------------|----------|-------|------------------------------------|------------|-------|-----------------|----------------------|-------|-----------------------|------------|-------|------------------------------|------------|-------|---------------------|------------|-------|--------------------|------------|-------|
| <b>Level:</b>                            | 5 (Graduate/Postgraduate)   |                |                            |                |                                      |          |       |                                    |            |       |                 |                      |       |                       |            |       |                              |            |       |                     |            |       |                    |            |       |
| <b>Dates &amp; Locations:</b>            | This subject is not offered in 2016. This subject has a quota of 60 students. Details on quota subject selection are available on the JD website.   |                |                            |                |                                      |          |       |                                    |            |       |                 |                      |       |                       |            |       |                              |            |       |                     |            |       |                    |            |       |
| <b>Time Commitment:</b>                  | Contact Hours: 24 hours of seminar classes offered intensively, or as 12 weekly 2 hour seminars over the course of a semester. Total Time Commitment: 96 hours.   |                |                            |                |                                      |          |       |                                    |            |       |                 |                      |       |                       |            |       |                              |            |       |                     |            |       |                    |            |       |
| <b>Prerequisites:</b>                    | <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> </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 |
| 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          |                            |                |                                      |          |       |                                    |            |       |                 |                      |       |                       |            |       |                              |            |       |                     |            |       |                    |            |       |
| <b>Corequisites:</b>                     | None  |                |                            |                |                                      |          |       |                                    |            |       |                 |                      |       |                       |            |       |                              |            |       |                     |            |       |                    |            |       |
| <b>Recommended Background Knowledge:</b> | None  |                |                            |                |                                      |          |       |                                    |            |       |                 |                      |       |                       |            |       |                              |            |       |                     |            |       |                    |            |       |
| <b>Non Allowed Subjects:</b>             | None  |                |                            |                |                                      |          |       |                                    |            |       |                 |                      |       |                       |            |       |                              |            |       |                     |            |       |                    |            |       |
| <b>Core Participation Requirements:</b>  | <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: <a href="http://www.services.unimelb.edu.au/disability/">www.services.unimelb.edu.au/disability/</a>.</p> |                |                            |                |                                      |          |       |                                    |            |       |                 |                      |       |                       |            |       |                              |            |       |                     |            |       |                    |            |       |
| <b>Contact:</b>                          | <p>Email: <a href="mailto:law-aso@unimelb.edu.au">law-aso@unimelb.edu.au</a> (<a href="mailto:law-aso@unimelb.edu.au">mailto:law-aso@unimelb.edu.au</a>)<br/> Phone: +61 3 8344 4475<br/> Website: <a href="http://www.law.unimelb.edu.au/jd">www.law.unimelb.edu.au/jd</a> (<a href="http://www.law.unimelb.edu.au/jd">http://www.law.unimelb.edu.au/jd</a>)</p>   |                |                            |                |                                      |          |       |                                    |            |       |                 |                      |       |                       |            |       |                              |            |       |                     |            |       |                    |            |       |
| <b>Subject Overview:</b>                 | <p>This subject in particular builds upon a wide range of subjects including Torts, Obligations and Contract, where changes in the law form part of the substantive law program, to go behind the scenes of the law-reform process. The subject will be historical and comparative and will consider theories and practices of law reform as well as the translation of reform initiatives into new law, generally in the form of new legislation. A particular aspect will be case studies</p>   |                |                            |                |                                      |          |       |                                    |            |       |                 |                      |       |                       |            |       |                              |            |       |                     |            |       |                    |            |       |

|                                  |   |
|----------------------------------|---|
|                                  | <p>focusing on the success (or alternatively failure) of selected law reform initiatives in Australia and other jurisdictions. Students will be encouraged to develop their own case studies in class contributions and research essays.</p> <p>Topics addressed will include:</p> <ul style="list-style-type: none"> <li># Defining law reform - law reform versus harmonisation, restatement, clarification;</li> <li># History and philosophy of law reform - 19th century utilitarian law reform movement; 20th century developments including legal realism, socio-legal studies, law and economics; and recent trends including new rights discourses, 'multiculturalism', debates about top-down versus bottom-up reasoning and role of legal theory versus legal pragmatism;</li> <li># Institutional aspects: ad hoc law reform, government agencies, specialist law reform committees and law reform commissions; influence of international and regional standards; state/territory versus federal initiatives and constitutional constraints - theory of competitive federalism; is there a best practice or are multiple models of law reform possible?;</li> <li># Challenges of legal knowledge - use of 'experts' versus generalist law reformers; crossing boundaries of private and public law; law in economic, social and cultural context;</li> <li># Beyond purely 'legal' research - empirical research, consultation, lobbying;</li> <li># Finding solutions - challenges of legal transplants (can laws be transplanted from other jurisdictions?), new solutions to new/old problems, the importance of legal creativity;</li> <li># Understanding legislation and the legislative process versus courts and judicial processes.</li> </ul> <p>A number of case studies will be covered in the subject, and may include:</p> <ul style="list-style-type: none"> <li># 19th century modernisation of intellectual property statutes in Britain; contemporary significance of the modernisation for Anglo-Australian jurisdictions; the US compared;</li> <li># Post-War 'codification' of commercial law in the US, especially the Uniform Commercial Code and American Law Institute's Restatements on Contracts, Torts and Unfair Competition; contemporary relevance and exportability;</li> <li># Post-War consumer protection and product liability reform in Europe, Australia and New Zealand; and more recent recalibrations;</li> <li># Contemporary privacy and publicity law reform efforts in the UK, Hong Kong and Australia; influence of bills of rights here; challenges and prognosis; and/or</li> <li># US restitution law reform under the aegis of the American Law Institute's Restatement 3rd 2010; comparison with the Australian High Court's revisionist approach.</li> </ul> |
| <p><b>Learning Outcomes:</b></p> | <p>A student who has successfully completed this subject will have an advanced and integrated understanding of, and be able to critically analyse and reflect on:</p> <ul style="list-style-type: none"> <li># Law reform as (ideally) a systematic and continuing project of improving law;</li> <li># Historical and current law reform processes in Australia and comparable jurisdictions;</li> <li># The interrelationship of new 'law' with the broader economic, social and cultural as well as political context;</li> <li># Relevant legal theories and the functions of critical analysis; and</li> <li># The importance of highly-developed legal research, writing and oral presentation skills.</li> </ul>   |
| <p><b>Assessment:</b></p>        | <p>Independent research essay (90%): students will be required to submit a 6,000 word research paper on a topic settled with lecturer(s) and based around the themes and material covered in the subject, or a specific case study combining the knowledge and skills acquired in the subject. Preparation of the essay will require students to critically analyse, reflect on and synthesise the concepts and theories studied, due in accordance with the assessment schedule; Class participation (10%): the mark for class participation will be based on active contribution to class discussions, and an in-class presentation.</p>  |
| <p><b>Prescribed Texts:</b></p>  | <p>Specialist printed materials will be made available from Melbourne Law School.</p>   |
| <p><b>Breadth Options:</b></p>   | <p>This subject is not available as a breadth subject.</p>  |
| <p><b>Fees Information:</b></p>  | <p>Subject EFTSL, Level, Discipline &amp; Census Date, <a href="http://enrolment.unimelb.edu.au/fees">http://enrolment.unimelb.edu.au/fees</a></p>  |
| <p><b>Generic Skills:</b></p>    | <p>On completion of the subject students should have developed and demonstrated their cognitive, technical, creative and professional-legal skills in relation to:</p> <ul style="list-style-type: none"> <li># The mastery of theoretical knowledge and critical reflection in the context of theoretical and professional debates about law reform;</li> </ul>  |

|                           |  |
|---------------------------|--|
|                           | <ul style="list-style-type: none"><li># The synthesis and analysis of information, concepts and theories relating to law reform and the application of this knowledge in specific subject-areas;</li><li># The use of the above knowledge to solve practical problems with creativity and initiative, demonstrated in classroom discussion of practical problems and in their independent research essays; and</li><li># The technical research and oral and written communication skills to explain and justify their reasoning and conclusions to specialist audiences in the context of scholarly writing and/or professional advice in assessment tasks.</li></ul> |
| <b>Related Course(s):</b> | Juris Doctor   |