

LAWS70112 Remedies in the Construction Context

Credit Points:	12.5																		
Level:	7 (Graduate/Postgraduate)																		
Dates & Locations:	2016, Parkville This subject commences in the following study period/s: April, Parkville - Taught on campus. This subject has a quota of 30 students. Please refer to the Melbourne Law Masters website for further information about the management of subject quotas and waitlists.																		
Time Commitment:	Contact Hours: 24-26 hours Total Time Commitment: 136-150 hours The pre-teaching period commences four weeks before the subject commencement date. From this time, students are expected to access and review the Reading Guide that will be available from the LMS subject page and the subject materials provided by the subject coordinator, which will be available from Melbourne Law School. Refer to the Reading Guide for confirmation of which resources need to be read and what other preparation is required before the teaching period commences.																		
Prerequisites:	<p>Melbourne Law Masters Students: None</p> <p>JD Students: Successful completion of all the below subjects:</p> <table border="1"> <thead> <tr> <th>Subject</th> <th>Study Period Commencement:</th> <th>Credit Points:</th> </tr> </thead> <tbody> <tr> <td>LAWS50026 Obligations</td> <td>Semester 1</td> <td>12.5</td> </tr> <tr> <td>LAWS50029 Contracts</td> <td>Semester 2</td> <td>12.5</td> </tr> <tr> <td>LAWS50025 Torts</td> <td>November, Semester 2</td> <td>12.5</td> </tr> <tr> <td>LAWS50036 Remedies</td> <td>Semester 2</td> <td>12.5</td> </tr> <tr> <td>LAWS50084 Construction Law</td> <td>Semester 1</td> <td>12.5</td> </tr> </tbody> </table>	Subject	Study Period Commencement:	Credit Points:	LAWS50026 Obligations	Semester 1	12.5	LAWS50029 Contracts	Semester 2	12.5	LAWS50025 Torts	November, Semester 2	12.5	LAWS50036 Remedies	Semester 2	12.5	LAWS50084 Construction Law	Semester 1	12.5
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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 Student Equity and Disability Support.																		
Coordinator:	Mr David Bennett																		
Contact:	Lecturers																		

	<p>Mr David Bennett QC (http://www.law.unimelb.edu.au/staff/David%20Bennett%20QC) (Coordinator)</p> <p>Mr Wayne Jovic (http://www.law.unimelb.edu.au/staff/Wayne%20Jovic)</p> <p>Email: law-masters@unimelb.edu.au (mailto:law-masters@unimelb.edu.au)</p> <p>Phone: +61 3 8344 6190</p> <p>Website: www.law.unimelb.edu.au/masters (http://www.law.unimelb.edu.au/masters)</p>
Subject Overview:	<p>Construction projects produce 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 the remedies available under various causes of action. In turn, construction lawyers need a sound knowledge of the case law (both seminal judgments and recent consideration) and legislation that underpin diverse matters, such as damages in tort for pure economic loss, penalties (including liquidated damages), recovery upon a quantum meruit, remedies under the <i>Australian Consumer Law</i> and the grant of interlocutory injunctions.</p> <p>The lecturers bring a depth of experience to the classroom. Their experience in the analysis of such issues was gained not only during extensive practising careers but also through their writings (which include David's second edition of the seminal <i>Brooking on Building Contracts</i>) and many years of teaching. They also harness the specialist expertise of guest lecturers. In previous teaching of the subject, these have included leading academic lawyers, legal practitioners and judges.</p> <p>Principal topics include:</p> <ul style="list-style-type: none"> # Penalties (including liquidated damages) # Equitable remedies for breach of fiduciary duty # Proportionate liability # Temporary injunctions # 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 will:</p> <ul style="list-style-type: none"> # Have an advanced and integrated understanding of the role and function of legal remedies in relation to construction projects # Have enhanced their expert and specialised cognitive and technical skills required to practise as a professional engaged with legal remedies arising from construction projects # Be familiar with, be able to critically reflect on, and be confident in working across, the interaction between the technical, commercial and legal aspects of remedies in construction procurement and disputes # Be able to demonstrate the analytical and communication skills required to independently investigate, examine and synthesise existing and emerging legal issues relating to remedies in the construction context.
Assessment:	<p>Take-home examination (5,000-6,000 words as specified in the subject reading guide) (100%) (27 - 30 May) or 10,000 word research paper (100%) (20 July) on a topic approved by the subject coordinator A minimum of 75% attendance is a hurdle requirement.</p>
Prescribed Texts:	<p>Specialist printed materials will be made available free of charge from the Melbourne Law School prior to the pre-teaching period.</p>
Breadth Options:	<p>This subject is not available as a breadth subject.</p>
Fees Information:	<p>Subject EFTSL, Level, Discipline & Census Date, http://enrolment.unimelb.edu.au/fees</p>
Links to further information:	<p>www.law.unimelb.edu.au/subject/LAWS70112/2016</p>
Related Course(s):	<p>Graduate Diploma in Construction Law Graduate Diploma in Legal Studies</p>

Juris Doctor
Master of Commercial Law
Master of Construction Law
Master of Laws