

# LAWS70135 Bargaining at Work

<b>Credit Points:</b>	12.5									
<b>Level:</b>	7 (Graduate/Postgraduate)									
<b>Dates &amp; Locations:</b>	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.									
<b>Time Commitment:</b>	Contact Hours: 24-26 hours Total Time Commitment: 136-150 hours The pre-teaching period commences four weeks before the scheduled subject start 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.									
<b>Prerequisites:</b>	<p><b>Melbourne Law Masters Students:</b> None</p> <p><b>JD Students:</b> 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>LAWS50029 Contracts</td> <td>Semester 2</td> <td>12.5</td> </tr> <tr> <td>LAWS50036 Remedies</td> <td>Semester 2</td> <td>12.5</td> </tr> </tbody> </table>	Subject	Study Period Commencement:	Credit Points:	LAWS50029 Contracts	Semester 2	12.5	LAWS50036 Remedies	Semester 2	12.5
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<b>Corequisites:</b>	None									
<b>Recommended Background Knowledge:</b>	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.									
<b>Non Allowed Subjects:</b>	None									
<b>Core Participation Requirements:</b>	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.									
<b>Coordinator:</b>	Prof Andrew Stewart									
<b>Contact:</b>	<p><b>Lecturers</b></p> <p><b>Professor Andrew Stewart</b> (<a href="http://www.law.unimelb.edu.au/staff/Andrew%20Stewart">http://www.law.unimelb.edu.au/staff/Andrew%20Stewart</a>) (Coordinator)</p> <p>Email: <a href="mailto:law-masters@unimelb.edu.au">law-masters@unimelb.edu.au</a> (<a href="mailto:law-masters@unimelb.edu.au">mailto:law-masters@unimelb.edu.au</a>) Phone: +61 3 8344 6190 Website: <a href="http://www.law.unimelb.edu.au/masters">www.law.unimelb.edu.au/masters</a> (<a href="http://www.law.unimelb.edu.au/masters">http://www.law.unimelb.edu.au/masters</a>)</p>									

<b>Subject Overview:</b>	<p>This subject investigates the legal regulation of workplace bargaining in Australia. With the requirement that bargaining be conducted in 'good faith' under the <i>Fair Work Act 2009</i> (Cth), this has become one of the most contested areas of federal labour regulation. The subject is informed by the historical, political and economic factors that have shaped the development of the law, as well as relevant international legal principles. While the focus of the subject is on the system regulating workplace bargaining under the <i>Fair Work Act</i>, other relevant areas of law are analysed, including the common law regulation of strikes and industrial action and the contract of employment. The special regulation of bargaining and industrial action in the building and construction industry is also examined.</p> <p>Principal topics include:</p> <ul style="list-style-type: none"> <li># The historical development of the law relating to workplace bargaining</li> <li># Relevant international legal principles and Australia's obligations in this respect</li> <li># Common law regulation of strikes and industrial action</li> <li># The system regulating workplace bargaining under the <i>Fair Work Act 2009</i> (Cth), including the conduct of bargaining and the taking of protected industrial action, and the role of trade unions</li> <li># The form, function and content of registered workplace agreements</li> <li># The relationship of workplace agreements to other means of regulating working conditions, including the contract of employment</li> <li># The 'general protections' under the <i>Fair Work Act</i> for freedom of association and the exercise of 'workplace rights' in relation to bargaining</li> <li># Special regulation of bargaining and industrial action in the building and construction industry.</li> </ul>
<b>Learning Outcomes:</b>	<p>A student who has successfully completed this subject will:</p> <ul style="list-style-type: none"> <li># Have an advanced and integrated understanding of the legal principles of Australian employment and labour relations law promoting the setting of working conditions through both collective and individual negotiations at the workplace, including recent developments in this field of law and practice</li> <li># Be able to critically examine, analyse, interpret and assess the effectiveness of these legal rules</li> <li># Be an engaged participant in debate regarding emerging and contemporary issues in the field, such as the role of trade unions and the special regulation of bargaining and industrial action in the building and construction industry</li> <li># Have a sophisticated appreciation of the factors and processes driving parliamentary revision of the relevant legal frameworks</li> <li># Have an advanced understanding of situations in which issues of bargaining may arise in work relationships and management practices</li> <li># Have a detailed understanding of the relevant legal frameworks in an international context</li> <li># Have the cognitive and technical skills to generate critical and creative ideas relating to workplace bargaining, and to critically evaluate existing legal theories, principles and concepts with creativity and autonomy</li> <li># Have the cognitive and technical skills to independently examine, research and analyse existing and emerging legal issues relating to workplace bargaining</li> <li># Have the communication skills to clearly articulate and convey complex information regarding the legal regulation of bargaining at work to relevant specialist and non-specialist audiences</li> <li># Be able to demonstrate autonomy, expert judgment and responsibility as a practitioner and learner in the field of bargaining at work.</li> </ul>
<b>Assessment:</b>	<p>4,000 word answer to a take-home examination comprising a hypothetical problem (5,000-6,000 words as specified in the subject reading guide) (50%) (2 - 6 June) 4,000 word research paper (50%) (6 June) on a topic approved by the subject coordinator A minimum of 75% attendance is a hurdle requirement.</p>
<b>Prescribed Texts:</b>	<p>Specialist printed materials will be made available free of charge from the Melbourne Law School prior to the pre-teaching period. There is a choice of prescribed text: Creighton and Stewart, <i>Labour Law</i>, Federation Press, 6th ed, 2016, OR Stewart, <i>Stewart's Guide to Employment Law</i>, Federation Press, 5th ed, 2015.</p>
<b>Breadth Options:</b>	<p>This subject is not available as a breadth subject.</p>

<b>Fees Information:</b>	Subject EFTSL, Level, Discipline & Census Date, <a href="http://enrolment.unimelb.edu.au/fees">http://enrolment.unimelb.edu.au/fees</a>
<b>Links to further information:</b>	<a href="http://www.law.unimelb.edu.au/subject/LAWS70135/2016">www.law.unimelb.edu.au/subject/LAWS70135/2016</a>
<b>Related Course(s):</b>	Graduate Diploma in Construction Law Graduate Diploma in Employment and Labour Relations Law Graduate Diploma in Legal Studies Juris Doctor Master of Commercial Law Master of Construction Law Master of Employment and Labour Relations Law Master of Laws