

LAWS70404 Statutes in the 21st Century

Credit Points:	12.5
Level:	7 (Graduate/Postgraduate)
Dates & Locations:	2016, Parkville This subject commences in the following study period/s: Semester 1, 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:	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 Student Equity and Disability Support.
Coordinator:	Mr Kenneth Hayne
Contact:	Lecturers <u>The Hon. Mr Kenneth Hayne AC</u> (http://www.law.unimelb.edu.au/staff/Kenneth%20Hayne) (Coordinator) <u>The Hon. Justice Michelle Gordon</u> (http://www.law.unimelb.edu.au/staff/Michelle%20Gordon) 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:	In the first half of the 20th century most civil actions were for causes of action not much affected by statute: trespass, negligence, libel and slander, breach of contract and the various forms of equitable suit. Most criminal prosecutions were for offences created by statute but whose elements were treated as identified largely by judge-made law. There were great codifying acts; intellectual property acts, facultative acts, and regulatory statutes, but judge-made law was of

	<p>central and dominating importance. The second half of the 20th century saw the statutory cause of action emerge to prominence, the enactment of laws permitting modification of privately-made agreements, the creation of new rights and obligations and novel forms of criminal offence. Statute became the central and dominating form of regulation of rights and obligations. The proper construction and application of statutes always has been, but now more than ever is, an essential legal skill. This subject seeks to develop and refine those skills.</p> <p>Principal topics include:</p> <ul style="list-style-type: none"> # Construction—a text-based activity but involving more than a dictionary in one hand and the text in the other # The importance of the constitutional framework and other basic assumptions # The search for meaning and the metaphor of intention # The place of Interpretation legislation, including rights Acts # The canons of construction, their use and abuse ('canons to the right of them; canons to the left of them; on into the valley of death') # Ambiguity and its resolution, including the use of extrinsic materials # Inconsistencies, repeals, amendment, consolidation and retrospectivity # The legislative misfire # Special rules for special areas # Rules and regulations—power to make, construction and use in construing the legislation # Overarching theories and descriptions of the construction process.
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 features of statutes and their process of enactment, the interpretation of statutes and the principles governing their interpretation and the proper approach to issues arising in the application of statutes in practice in the 21st century # Be able to critically examine, analyse, interpret and assess the effectiveness of these principles # Be an engaged participant in debate regarding approaches to statutory construction # Have a sophisticated appreciation of the factors and processes involved in statutory construction and application # Have an advanced understanding of the interaction between issues arising in the application of statutes in the 21st century and the wider legal framework # Have the cognitive and technical skills to generate critical and creative ideas relating the proper approach to issues arising in the application of statutes in practice # Have the cognitive and technical skills to independently examine, research and analyse a statute and its construction # Have the communication skills to clearly articulate and convey complex information regarding interpretation and application of statutes # Be able to demonstrate autonomy, expert judgment and responsibility as a practitioner and learner in the field of statutory interpretation and application in the 21st century.
Assessment:	<p>Two practical exercises (15% each) (30%) Take-home examination (5,000-6,000 words as specified in the subject reading guide) (70%) (17 - 20 June) 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/LAWS70404/2016</p>
Related Course(s):	<p>Graduate Diploma in Construction Law Graduate Diploma in Government Law Graduate Diploma in Legal Studies Master of Commercial Law Master of Construction Law</p>

Master of Laws
Master of Public and International Law