

## LAWS70444 Contract Termination

<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: August, 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 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.
<b>Prerequisites:</b>	An undergraduate or JD degree in law
<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>Contact:</b>	<b>Lecturers</b> <b>Mr John Randall QC</b> ( <a href="http://www.law.unimelb.edu.au/staff/John%20Randall">http://www.law.unimelb.edu.au/staff/John%20Randall</a> ) (Coordinator) 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> )
<b>Subject Overview:</b>	Contract is central to the legal regulation of most commercial and economic activity, and underlies many specialist areas of legal practice. As market costs and values move, many contracts become increasingly valuable to one party and burdensome to the other. One party's ability to terminate, or successfully to resist the termination of, a commercial contract is frequently a matter of considerable financial importance. The complex interaction between common law termination rights and rights to terminate expressly conferred by clauses in the contract in question is seldom properly understood, as many of the cases from which this course is taught illustrate. The lecturer, who has been a practising QC since 1995 and a Deputy Judge of the English High Court since 2000, brings a wealth of practical experience of commercial legal disputes to this subject.

	<p>This subject is taught from selected cases rather than textbooks. Principal topics include:</p> <ul style="list-style-type: none"> <li># Breach of strict conditions, including what makes a promissory term a strict condition</li> <li># Non-fulfilment of conditions precedent, and linked implied promissory obligations</li> <li># Breaches of intermediate terms, and what makes them sufficiently serious to found a termination</li> <li># Repudiation/Renunciation, and when they will be inferred</li> <li># Anticipatory Breach and its consequences</li> <li># Breach of time obligations, and the use and consequences of Notices to Perform/Complete</li> <li># Express Termination Clauses—the different principles concerning their operation, and ‘compare and contrast’ the principles concerning termination at common law</li> <li># Limits on an aggrieved party’s right to terminate through: <ul style="list-style-type: none"> <li># Election/affirmation</li> <li># Estoppel</li> <li># Absence of readiness, willingness and ability to perform on his/her own part</li> </ul> </li> <li># Remedies accompanying effective or attempted terminations, including: <ul style="list-style-type: none"> <li># Principles of quantifying expectation damages at common law</li> <li># Limited rights to damages on termination pursuant to an express clause</li> <li># Contractual rights to remuneration accrued due prior to the termination</li> <li># Exceptional limitation on the recoverability of contractual remuneration.</li> </ul> </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 concerning the termination of contracts both at common law and pursuant to express termination clauses, and the complex interaction between them, including recent developments in this field</li> <li># Be able critically to examine, analyse, interpret and assess the operation and effectiveness of these principles</li> <li># Be an engaged participant in debate regarding the operation and effectiveness of these principles, both in terms of the legal structures of which they form part and commercially</li> <li># Have a sophisticated appreciation of the legal and commercial factors which have driven the development of the law of contract in this field</li> <li># Have an advanced understanding of the sort of situations in which the differing bases for and consequences of contract termination may make an important commercial difference to the parties affected</li> <li># Have a detailed understanding of respects in which Australian law in this field differs from that in other leading Commonwealth and common law jurisdictions</li> <li># Have the cognitive and technical skills independently to examine, research and analyse more complicated appellate decisions in the field of contract termination, and the existing and emerging legal issues in that field</li> <li># Have the cognitive and technical skills to generate critical and creative ideas relating to contract termination both at common law and pursuant to express termination clauses, and critically to evaluate existing legal principles and concepts with creativity and autonomy</li> <li># Have the communication skills clearly to articulate and convey complex information regarding contract termination 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 contract termination</li> <li># Have developed a heightened understanding of the role of the law of contract in facilitating the effective functioning and regulation of commercial activity in a market economy and, more generally, contemporary Australian society.</li> </ul>
<b>Assessment:</b>	<p>Class participation, including case presentations (20%) Take-home examination (5,000-6,000 words as specified in the subject reading guide) (80%) (7 - 10 October) 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.</p>
<b>Breadth Options:</b>	<p>This subject is not available as a breadth subject.</p>
<b>Fees Information:</b>	<p>Subject EFTSL, Level, Discipline &amp; Census Date, <a href="http://enrolment.unimelb.edu.au/fees">http://enrolment.unimelb.edu.au/fees</a></p>

<b>Links to further information:</b>	<a href="http://www.law.unimelb.edu.au/subject/LAWS70444/2016">www.law.unimelb.edu.au/subject/LAWS70444/2016</a>
<b>Related Course(s):</b>	Graduate Diploma in Construction Law Graduate Diploma in Legal Studies Master of Commercial Law Master of Construction Law Master of Laws Master of Private Law