

## LAWS90025 Liability Insurance Law

<b>Credit Points:</b>	12.5
<b>Level:</b>	9 (Graduate/Postgraduate)
<b>Dates &amp; Locations:</b>	2016, Parkville This subject commences in the following study period/s: May, 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>	None
<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>	Mr John Tesarsch
<b>Contact:</b>	<b>Lecturers</b> <b>Mr John Tesarsch</b> ( <a href="http://www.law.unimelb.edu.au/staff/John%20Tesarsch">http://www.law.unimelb.edu.au/staff/John%20Tesarsch</a> ) (Coordinator) <b>Mr Tony Horan</b> ( <a href="http://www.law.unimelb.edu.au/staff/Tony%20Horan">http://www.law.unimelb.edu.au/staff/Tony%20Horan</a> ) 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>	Insurance is a cornerstone of effective risk transfer. It is often critical to the viability of commercial enterprises and transactions. However, insurance contracts and arrangements have become increasingly complex, and specialised knowledge is required to understand their operation and limitations. This subject will provide an in-depth understanding of liability insurance, which indemnifies insureds against liability to third parties, and comprises a large part of the insurance market. It will examine the roles and obligations of participants in the insurance industry, different types of liability insurance, key principles of the common law regarding insurance, and legislative intervention, especially the <i>Insurance Contracts Act 1984</i>

	<p>(Cth), including recent amendments to that Act. The lecturers are barristers specialising in insurance law, who for many years have represented and advised both Australian and overseas insurers.</p> <p>Principal topics include:</p> <ul style="list-style-type: none"> <li># The structure and operation of contracts of liability insurance, and the main forms of liability insurance, including professional indemnity insurance, public and products liability insurance, and directors' and officers' insurance</li> <li># The operation of the insurance industry and the roles of various insurance industry participants, such as underwriters (including Lloyds syndicates), excess insurers, co-insurers, reinsurers, captives, underwriting agents, claims officers, lawyers, insurance brokers and loss adjusters</li> <li># An overview of the legislative and regulatory framework for the Australian insurance industry</li> <li># The construction of insuring clauses and extensions</li> <li># The construction of exclusion clauses and conditions, including cross-liability, severability and non-imputation clauses</li> <li># The operation and effect of the <i>Insurance Contracts Act 1984</i> (Cth) and its interplay with the laws of contract, equity and tort, and with the <i>Australian Consumer Law</i>, on matters including: <ul style="list-style-type: none"> <li># The duty of utmost good faith</li> <li># Misrepresentation and non-disclosure</li> <li># Notification of claims and circumstances</li> <li># Section 54 of the <i>Insurance Contracts Act 1984</i> (Cth), and remedies for breach of insurance contracts</li> <li># Cancellation of insurance contracts</li> <li># Rights of third party beneficiaries</li> <li># Subrogation</li> </ul> </li> <li># Double insurance</li> <li># An analysis of issues requiring further legislative reform.</li> </ul>
<p><b>Learning Outcomes:</b></p>	<p>A student who has successfully completed this subject will:</p> <ul style="list-style-type: none"> <li># Have advanced technical skills required to analyse liability insurance contracts, including insuring clauses, extensions, exclusions and conditions found in those contracts</li> <li># Have a sophisticated understanding of the key common law and equitable principles affecting liability insurance contracts, including subrogation, double insurance, waiver, estoppel and election</li> <li># Have specialised knowledge of various forms of liability insurance contracts such as professional indemnity insurance, public and products liability insurance, and directors' and officers' insurance</li> <li># Have specialised knowledge of the roles played by various insurance industry participants, such as underwriters (including Lloyds syndicates), excess insurers, co-insurers, reinsurers, captives, underwriting agents, claims officers, lawyers, insurance brokers and loss adjusters</li> <li># Have a detailed understanding of the operation of the <i>Insurance Contracts Act 1984</i> (Cth) and its interface with the common law and equity, in particular regarding the duty of utmost good faith, misrepresentation and non-disclosure, rights of third party beneficiaries, notification of claims and claim circumstances, and subrogation</li> <li># Be able to critically assess the effectiveness of the <i>Insurance Contracts Act 1984</i> (Cth) and the common law, and to articulate arguments regarding the need for legislative reform for specialist audiences.</li> </ul>
<p><b>Assessment:</b></p>	<p>Take-home examination (5,000-6,000 words as specified in the subject reading guide) (100%) (17 - 20 June) or 10,000 word research paper (100%) (3 August) on a topic approved by the subject coordinator A minimum of 75% attendance is a hurdle requirement.</p>
<p><b>Prescribed Texts:</b></p>	<p>Specialist printed materials will be made available free of charge from the Melbourne Law School prior to the pre-teaching period.</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>

<b>Links to further information:</b>	<a href="http://www.law.unimelb.edu.au/subject/LAWS90025/2016">www.law.unimelb.edu.au/subject/LAWS90025/2016</a>
<b>Related Course(s):</b>	Graduate Diploma in Banking and Finance Law Graduate Diploma in Construction Law Graduate Diploma in Corporations and Securities Law Graduate Diploma in Legal Studies Master of Banking and Finance Law Master of Commercial Law Master of Construction Law Master of Laws