

LAWS90027 Precontractual Liability

Credit Points:	12.5
Level:	9 (Graduate/Postgraduate)
Dates & Locations:	2016, Parkville This subject commences in the following study period/s: July, 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:	This subject is not recommended for students who have not completed an undergraduate law degree. It requires students to analyse and engage closely with complex legal texts and doctrines. 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:	Prof Andrew Robertson
Contact:	Lecturers Professor Andrew Robertson (http://www.law.unimelb.edu.au/staff/Andrew%20Robertson) (Coordinator) Professor Ben McFarlane (http://www.law.unimelb.edu.au/staff/Ben%20McFarlane) 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:	A considerable amount of litigation is concerned with legal responsibility for things said and done during contract negotiations, whether or not those negotiations result in a formal contract. Liability can arise from promises, representations and non-disclosure, and can arise by way of unintended contracts, the addition of unintended contract terms, through different forms of

	<p>estoppel, under statute, in tort or in restitution. All of the relevant causes of action are at various points complex and uncertain. This subject will involve an advanced study of the circumstances in which those causes of action arise, their remedial consequences and the relations and distinctions between them. It will focus particularly on recent developments in Australian and English law. The lecturers have written extensively on the topics covered by the subject, and their published work has been widely cited and discussed by the courts in Australia and the UK.</p> <p>Principal topics include:</p> <ul style="list-style-type: none"> # Preliminary agreements and 'subject to contract' clauses # The incorporation of contract terms, the parol evidence rule and 'entire agreement' or merger clauses # Pre-contractual promissory estoppel, proprietary estoppel and estoppel by convention # Pre-contractual misleading or deceptive conduct # Pre-contractual liability in tort # Liability in restitution where contracts fail to materialise.
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 law relating to pre-contractual liability # Be able to examine, analyse, interpret and assess critically the effectiveness of the relevant legal, equitable and statutory doctrines # Be an engaged participant in debate regarding emerging and contemporary issues in the field # Have a sophisticated appreciation of the issues and considerations driving the development of this area of the law # Have an advanced understanding of the different bases of liability and the distinctions and relationships between them # Have the cognitive and technical skills to generate critical and creative ideas relating to the different bases of liability, and to critically evaluate existing legal theories, principles and concepts with creativity and autonomy # Have the cognitive and technical skills to examine, research and analyse independently the existing and emerging legal issues concerning each of the different bases of pre-contractual liability # Have the communication skills to articulate and convey complex information regarding pre-contractual liability to relevant specialist and non-specialist audiences.
Assessment:	<p>Class participation and case presentation (20%) Take-home examination (5,000-6,000 words as specified in the subject reading guide) (80%) (19 - 22 August) or 8,000 word research paper (80%) (28 September) 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/LAWS90027/2016</p>
Related Course(s):	<p>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</p>