



LAWS827

Law of Obligations III - Remedies

S1 External 2017

Dept of Law

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General Information

Unit convenor and teaching staff

Unit Convenor

Peter Radan

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Contact via peter.radan@mq.edu.au

Room 527, W3A

Tuesdays 1 pm - 2 pm

Credit points

4

Prerequisites

LAWS810

Corequisites

Co-badged status

Unit description

Remedies brings the doctrinal private law areas of tort, contract and equity together, providing an analytical framework for exploring the interrelationship between rights and liabilities analysed in these areas and the remedies that are available to enforce them. Students will comprehensively compare the remedies available in common law (contract and tort) and equity and the effects of statute on these remedial responses. Remedies is organised according to self-help remedies, such as rescission, and judicial remedies, with the latter categorised according to (i) clarification of rights and pre-trial orders; (ii) monetary orders underpinned by the goals of compensation or gains-based recovery; (iii) punishment and (iv) coercion. This unit 'closes the circle,' bringing together the disparate elements of previous doctrinal units, refreshing, consolidating and extending prior study as a bridge into legal practice. Having a coherent understanding of the different remedial possibilities enables a practitioner to start with the client's desired outcome and work back to select the appropriate cause(s) of action. It also serves as a bridge between the identification of private law rights and liabilities and the practicalities of litigation to obtain the appropriate judicial order, a matter developed in subsequent units dealing with the rules of evidence and practice and procedure.

Important Academic Dates

Information about important academic dates including deadlines for withdrawing from units are available at <https://www.mq.edu.au/study/calendar-of-dates>

Learning Outcomes

On successful completion of this unit, you will be able to:

Demonstrate a detailed and thorough knowledge of legal principles relating to the law on remedies

Interpret and transmit knowledge, skills and concepts to specialist and non-specialist audiences

Analyse complex factual situations involving private law remedies law and apply relevant legal principles to solving complex legal problems

Formulate, present and evaluate oral and written arguments on theoretical issues, drawing upon relevant legal authority and policy considerations.

Apply advanced research skills

Assume responsibility for one's own learning by managing one's time effectively so as to complete and submit assessment items on time.

General Assessment Information

Marking rubrics will be made available in iLearn.

Assessment Tasks

Name	Weighting	Hurdle	Due
<u>Assignment No 1</u>	25%	No	10 am, 3 April 2017
<u>Assignment No 2</u>	25%	No	10 am, 15 May 2017
<u>Final Examination (Take Home)</u>	50%	No	3 pm, 12 June 2017

Assignment No 1

Due: **10 am, 3 April 2017**

Weighting: **25%**

Assignment No 1 in this unit is a research paper.

The question for Assignment No 1 will be available on iLearn by the end of Week 1 of the semester.

Assignment No 1 must be a properly referenced formal response with appropriate analysis and argument supported by relevant legal authorities. Assignment No 1 must be typed and must be kept to a maximum 2,500 words (including footnotes, but not the bibliography). The word limit will be strictly applied and work above the word limit will not be marked.

Assignment No 1 must be submitted electronically. Plagiarism software is used in this unit.

In completing Assignment No 1, students must comply with the *Australian Guide to Legal Citation*, compiled by the Melbourne University Law Review. The Guide can be downloaded for free online.

Further instructions and information in relation to Assignment No 1 will be made available on iLearn.

If, for justifiable reasons, a student is unable to submit Assignment No 1 on time, he or she may submit an application for special consideration in accordance with the University's Disruption to Studies Policy. If special consideration is granted the student may be given a different research question to be completed at a time determined by the unit convenor.

Applications for special consideration pursuant to the Disruption to Studies Policy are made electronically via ask.mq.edu.au and should be accompanied by supporting documentation. Students should refer to the Disruption to Studies Policy for complete details and a description of the supporting documentation required.

Any Assignment No 1 that is submitted after the due date will not be graded and will receive a zero mark.

This assessment task relates to the following learning outcomes:

- demonstrate a detailed knowledge of legal principles relating to the law on private law remedies;
- formulate, present and evaluate oral and written arguments on complex private law remedies problems and principles, drawing upon relevant legal authority and policy considerations; and
- assume responsibility for one's own learning by managing one's time effectively so as to complete and submit assessment items on time; and
- apply advanced research skills.

On successful completion you will be able to:

- Formulate, present and evaluate oral and written arguments on theoretical issues, drawing upon relevant legal authority and policy considerations.
- Assume responsibility for one's own learning by managing one's time effectively so as to complete and submit assessment items on time.

Assignment No 2

Due: **10 am, 15 May 2017**

Weighting: **25%**

Assignment No 2 in this unit will require students to answer a problem question or questions.

The problem question or questions for Assignment No 2 will be available on iLearn by the end of Week 4 of the semester.

Assignment No 2 must be a properly referenced formal response with appropriate analysis and argument supported by relevant authoritative cases and commentary. Assignment No 2 must be typed and must be kept to a maximum 2,500 words (excluding footnotes). A bibliography is not required for this assignment. The word limit will be strictly applied and work above the word limit will not be marked.

Assignment No 2 must be submitted electronically. Plagiarism software is used in this unit.

In completing Assignment No 2, students must comply with the *Australian Guide to Legal Citation*, compiled by the Melbourne University Law Review. The Guide can be downloaded for free online.

Further instructions in relation to Assignment No 2 will be posted on iLearn.

If, for justifiable reasons, a student is unable to submit Assignment No 2 on time, he or she may submit an application for special consideration in accordance with the University's Disruption to Studies Policy. If special consideration is granted the student may be given a different research question or questions to be completed at a time determined by the unit convenor.

Applications for special consideration pursuant to the Disruption to Studies Policy are made electronically via ask.mq.edu.au and should be accompanied by supporting documentation. Students should refer to the Disruption to Studies Policy for complete details of the policy and a description of the supporting documentation required.

Any Assignment No 2 that is submitted after the due date will not be graded and will receive a zero mark.

This assessment task relates to the following learning outcomes:

- demonstrate a detailed knowledge of legal principles relating to the law on private law remedies;
- interpret and transmit knowledge, skills and concepts to specialist and non-specialist audiences
- analyse complex factual situations involving private law remedies and apply relevant legal principles to solving legal problems;
- assume responsibility for one's own learning by managing one's time effectively so as to complete and submit assessment items on time; and
- apply advanced research skills.

On successful completion you will be able to:

- Demonstrate a detailed and thorough knowledge of legal principles relating to the law on remedies
- Analyse complex factual situations involving private law remedies law and apply relevant

legal principles to solving complex legal problems

- Formulate, present and evaluate oral and written arguments on theoretical issues, drawing upon relevant legal authority and policy considerations.
- Apply advanced research skills
- Assume responsibility for one's own learning by managing one's time effectively so as to complete and submit assessment items on time.

Final Examination (Take Home)

Due: **3 pm, 12 June 2017**

Weighting: **50%**

The final examination in this unit will be a take home examination.

The final examination will be based on materials covered in the unit, ie all topics and materials covered in the unit.

The final examination will be in the form of a number of problem style questions. All questions will have to be answered.

Students will be able to access the final examination paper on iLearn from 10 pm on Monday, 12 June 2017 and must submit their answers to the final examination paper by 3 pm on Monday 12 June 2017.

A student's answers to the final examination paper's questions cannot exceed 2,500 words. This is an upper word limit and a student need not write 2,500 words if he or she can answer the questions in less than 2,500 words. A bibliography is not required. The word limit will be strictly applied and work above the word limit will not be marked.

The take home examination must be submitted electronically. Plagiarism detection software is used in this unit.

Further instructions and information in relation to the Take Home Examination will be made available on iLearn.

If, for justifiable reasons, a student is unable to do the take home examination at the above time, he or she should submit an application for special consideration in accordance with the University's Disruption to Studies Policy, which, if granted, will, in most cases, enable the student to complete as their supplementary examination, the final examination for this unit when it is next offered.

Any take home examination that is submitted after the stipulated time on the due date will not be graded and will receive a zero mark.

This assessment task relates to the following learning outcomes:

- demonstrate a detailed knowledge of legal principles relating to the private law remedies;
- interpret and transmit knowledge, skills and concepts to specialist and non-specialist audiences

- analyse complex factual situations involving private law remedies
- formulate, present and evaluate oral and written arguments on complex private law remedies problems and principles, drawing upon relevant legal authority and policy considerations; and
- assume responsibility for one's own learning by managing one's time effectively so as to complete and submit assessment items on time.

On successful completion you will be able to:

- Demonstrate a detailed and thorough knowledge of legal principles relating to the law on remedies
- Interpret and transmit knowledge, skills and concepts to specialist and non-specialist audiences
- Analyse complex factual situations involving private law remedies law and apply relevant legal principles to solving complex legal problems
- Formulate, present and evaluate oral and written arguments on theoretical issues, drawing upon relevant legal authority and policy considerations.
- Assume responsibility for one's own learning by managing one's time effectively so as to complete and submit assessment items on time.

Delivery and Resources

DELIVERY OF THE UNIT

Weekly Lectures (Internal and Distance Students)

Weekly lectures in this unit will be pre-recorded and available to students on iLearn. Weekly lectures will commence in Week 1 and go through to Week 12..

Weekly Tutorials (Internal Students)

For internal students, weekly tutorials of 1.5 hours duration will commence in Week 1 and go through to week 12.

Tutorials will consist of questions for discussion. The questions to be discussed each week are available on iLearn.

For tutorial times and classrooms students should consult the MQ Timetable website.

On Campus Sessions (Distance Students)

For distance students, there are three days of on campus sessions. Distance students must attend the first two days of on campus sessions. Attendance at the third day on campus sessions is not compulsory, but is strongly recommended. On campus sessions will run from 9-am to 12 noon and 1 pm to 4 pm on each of the three days.

For the dates and venues for the on campus sessions students should consult the MQ Timetable

website.

RESOURCES

The prescribed materials for this unit are:

1. W Covell, K Lupton & J Forder, *Principles of Remedies*, 6th ed, Lexis Nexis Butterworths, 2015
2. N Witzleb, E Bant, S Degeling & K Barker, *Remedies, Commentary and Materials*, 6th edition, Lawbook Co, 2015
3. Materials that are posted on iLearn

Unit Schedule

TOPICS STUDIED IN THIS UNIT

The topics to be covered in weekly lectures are set out below.

Week	Topic(s)
1	Introduction to Remedies; Rescission
2	Freezing & Search Orders; Declarations
3	Damages for Breach of Contract I
4	Damages for Breach of Contract II; Actions for Fixed Sums in Contract
5	Damages in Torts I
6	Damages in Torts II
7	Equitable Compensation and Damages
8	Specific Performance
9	Injunctions
10	Rectification; Equitable Defences
11	Restitution
12	Remedies Under the Competition & Consumer Act

The required readings for the above topics are set out in detail on iLearn.

Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central](#). Students should be aware of the following policies in particular with regard to Learning and Teaching:

Academic Honesty Policy http://mq.edu.au/policy/docs/academic_honesty/policy.html

Assessment Policy http://mq.edu.au/policy/docs/assessment/policy_2016.html

Grade Appeal Policy <http://mq.edu.au/policy/docs/gradeappeal/policy.html>

Complaint Management Procedure for Students and Members of the Public http://www.mq.edu.au/policy/docs/complaint_management/procedure.html

Disruption to Studies Policy (in effect until Dec 4th, 2017): http://www.mq.edu.au/policy/docs/disruption_studies/policy.html

Special Consideration Policy (in effect from Dec 4th, 2017): <https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policies/special-consideration>

In addition, a number of other policies can be found in the [Learning and Teaching Category](#) of Policy Central.

Student Code of Conduct

Macquarie University students have a responsibility to be familiar with the Student Code of Conduct: https://students.mq.edu.au/support/student_conduct/

Results

Results shown in *iLearn*, or released directly by your Unit Convenor, are not confirmed as they are subject to final approval by the University. Once approved, final results will be sent to your student email address and will be made available in [eStudent](#). For more information visit ask.mq.edu.au.

Student Support

Macquarie University provides a range of support services for students. For details, visit <http://students.mq.edu.au/support/>

Learning Skills

Learning Skills (mq.edu.au/learningskills) provides academic writing resources and study strategies to improve your marks and take control of your study.

- [Workshops](#)
- [StudyWise](#)

- [Academic Integrity Module for Students](#)
- [Ask a Learning Adviser](#)

Student Services and Support

Students with a disability are encouraged to contact the [Disability Service](#) who can provide appropriate help with any issues that arise during their studies.

Student Enquiries

For all student enquiries, visit Student Connect at ask.mq.edu.au

IT Help

For help with University computer systems and technology, visit http://www.mq.edu.au/about_us/offices_and_units/information_technology/help/.

When using the University's IT, you must adhere to the [Acceptable Use of IT Resources Policy](#). The policy applies to all who connect to the MQ network including students.

Graduate Capabilities

PG - Capable of Professional and Personal Judgment and Initiative

Our postgraduates will demonstrate a high standard of discernment and common sense in their professional and personal judgment. They will have the ability to make informed choices and decisions that reflect both the nature of their professional work and their personal perspectives.

This graduate capability is supported by:

Learning outcomes

- Apply advanced research skills
- Assume responsibility for one's own learning by managing one's time effectively so as to complete and submit assessment items on time.

Assessment tasks

- Assignment No 1
- Final Examination (Take Home)

PG - Discipline Knowledge and Skills

Our postgraduates will be able to demonstrate a significantly enhanced depth and breadth of knowledge, scholarly understanding, and specific subject content knowledge in their chosen fields.

This graduate capability is supported by:

Learning outcomes

- Demonstrate a detailed and thorough knowledge of legal principles relating to the law on remedies
- Analyse complex factual situations involving private law remedies law and apply relevant legal principles to solving complex legal problems

Assessment tasks

- Assignment No 1
- Final Examination (Take Home)

PG - Critical, Analytical and Integrative Thinking

Our postgraduates will be capable of utilising and reflecting on prior knowledge and experience, of applying higher level critical thinking skills, and of integrating and synthesising learning and knowledge from a range of sources and environments. A characteristic of this form of thinking is the generation of new, professionally oriented knowledge through personal or group-based critique of practice and theory.

This graduate capability is supported by:

Learning outcomes

- Interpret and transmit knowledge, skills and concepts to specialist and non-specialist audiences
- Analyse complex factual situations involving private law remedies law and apply relevant legal principles to solving complex legal problems

Assessment tasks

- Assignment No 1
- Assignment No 2

PG - Research and Problem Solving Capability

Our postgraduates will be capable of systematic enquiry; able to use research skills to create new knowledge that can be applied to real world issues, or contribute to a field of study or practice to enhance society. They will be capable of creative questioning, problem finding and problem solving.

This graduate capability is supported by:

Learning outcomes

- Demonstrate a detailed and thorough knowledge of legal principles relating to the law on remedies
- Analyse complex factual situations involving private law remedies law and apply relevant

legal principles to solving complex legal problems

- Formulate, present and evaluate oral and written arguments on theoretical issues, drawing upon relevant legal authority and policy considerations.
- Apply advanced research skills

Assessment tasks

- Assignment No 1
- Assignment No 2
- Final Examination (Take Home)

PG - Effective Communication

Our postgraduates will be able to communicate effectively and convey their views to different social, cultural, and professional audiences. They will be able to use a variety of technologically supported media to communicate with empathy using a range of written, spoken or visual formats.

This graduate capability is supported by:

Learning outcomes

- Interpret and transmit knowledge, skills and concepts to specialist and non-specialist audiences
- Formulate, present and evaluate oral and written arguments on theoretical issues, drawing upon relevant legal authority and policy considerations.
- Apply advanced research skills

Assessment tasks

- Assignment No 1
- Assignment No 2
- Final Examination (Take Home)

PG - Engaged and Responsible, Active and Ethical Citizens

Our postgraduates will be ethically aware and capable of confident transformative action in relation to their professional responsibilities and the wider community. They will have a sense of connectedness with others and country and have a sense of mutual obligation. They will be able to appreciate the impact of their professional roles for social justice and inclusion related to national and global issues

This graduate capability is supported by:

Learning outcome

- Assume responsibility for one's own learning by managing one's time effectively so as to

complete and submit assessment items on time.

Assessment task

- Assignment No 2

Changes from Previous Offering

This is the first time that this unit has been offered.