



LAWS5000

Remedies, Reparations and Resolution in Law

Session 1, In person-scheduled-weekday, North Ryde 2023

Macquarie Law School

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General Information

Unit convenor and teaching staff

Convenor, Lecturer and tutor

Michael Nancarrow

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Lecturer and Tutor

Amanda Head

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Credit points

10

Prerequisites

140cp in LAW or LAWS units including ((LAW203 or LAWS2400) and (LAW315 or LAWS3300) and (LAWS217 or LAWS2500 or LAW317))

Corequisites

(LAWS398 or LAWS3200) or LAW456

Co-badged status

Unit description

This unit aims to consolidate students' knowledge and skills and prepare them for life beyond the law school. The unit will examine some of the remedies available in equity, the common law and statute as well as public and international law. It will also examine different mechanisms for the resolution of disputes such as ADR and restorative justice programs. Justice theories will provide the framework for examining the concept of a legal 'remedy' and will assist students to explore the broader issue of how to achieve a just remedial system of law.

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:

ULO1: Explain the principles upon which remedial action can be taken.

ULO2: Critically analyse different types of remedies and how they function in different

contexts.

ULO3: Formulate, present and evaluate a range of arguments that draw on law and policy, theoretical and/or ethical considerations about remedies and their effectiveness.

ULO4: Analyse hypothetical fact situations, identify legal and factual issues involving the law of remedies, apply relevant principles and consider policy/value judgments to solve legal problems.

ULO5: Work independently to produce a sophisticated research project based on some of the broad topics covered in the unit.

ULO6: Identify and propose reforms to create a more just remedial system of law.

General Assessment Information

Students should be aware of and apply the University policy on academic honesty.

Late Assessment Submission Penalty

Unless a Special Consideration request has been submitted and approved, a 5% penalty (of the total possible mark) will be applied each day a written assessment is not submitted, up until the 7th day (including weekends). After the 7th day, a mark of, 0 (zero) will be awarded even if the assessment is submitted. Submission time for all written assessments is set at 11.55pm. A 1-hour grace period is provided to students who experience a technical issue.

This late penalty will apply to non-timed sensitive assessment (incl essays, reports, posters, portfolios, journals, recordings etc). Late submission of time sensitive tasks (such as tests/exams, performance assessments/presentations, scheduled practical assessments/labs etc) will only be addressed by the unit convenor in a Special consideration application. Special Consideration outcome may result in a new question or topic.

No late submissions will be accepted for the exam as it is a timed assessment. If a supplementary final exam is granted, this may include a viva voce component.

All written assessments are submitted electronically. Turnitin plagiarism detection software is used to check all written assessments. Use of Artificial Intelligence software in the writing of any written assessments is not permitted. If this is detected the student will be subject to the University's academic integrity process.

Students should carefully check that they submit the correct file for an assessment as no re-submissions will be accepted after the due date and time, including instances where students upload an incorrect file in error.

Word limits are strictly applied. Work above the word limit will not be marked. There is no +/- 10% leeway. Footnotes are to be used only for referencing. Referencing must conform to the requirements set out in the Australian Guide to Legal Citation.

Assessment Tasks

Name	Weighting	Hurdle	Due
<u>Research Essay</u>	30%	No	6/04/2023
<u>Participation</u>	20%	No	Weekly and Week 13
<u>Hypothetical Problems</u>	50%	No	6/6/2023

Research Essay

Assessment Type ¹: Essay

Indicative Time on Task ²: 25 hours

Due: **6/04/2023**

Weighting: **30%**

Students will prepare a research report on an aspect of the course. The essay question and assessment guidance will be released via iLearn.

On successful completion you will be able to:

- Explain the principles upon which remedial action can be taken.
- Critically analyse different types of remedies and how they function in different contexts.
- Formulate, present and evaluate a range of arguments that draw on law and policy, theoretical and/or ethical considerations about remedies and their effectiveness.
- Work independently to produce a sophisticated research project based on some of the broad topics covered in the unit.
- Identify and propose reforms to create a more just remedial system of law.

Participation

Assessment Type ¹: Participatory task

Indicative Time on Task ²: 12 hours

Due: **Weekly and Week 13**

Weighting: **20%**

Students will be assessed on their informed participation in discussions, role plays, debates and other activities.

On successful completion you will be able to:

- Explain the principles upon which remedial action can be taken.
- Critically analyse different types of remedies and how they function in different contexts.
- Formulate, present and evaluate a range of arguments that draw on law and policy, theoretical and/or ethical considerations about remedies and their effectiveness.
- Analyse hypothetical fact situations, identify legal and factual issues involving the law of remedies, apply relevant principles and consider policy/value judgments to solve legal problems.
- Identify and propose reforms to create a more just remedial system of law.

Hypothetical Problems

Assessment Type ¹: Essay

Indicative Time on Task ²: 30 hours

Due: **6/6/2023**

Weighting: **50%**

Students will advise a client based on the facts of the situation and the law learned in the course. The essay question and assessment guidance will be released via iLearn.

On successful completion you will be able to:

- Explain the principles upon which remedial action can be taken.
- Critically analyse different types of remedies and how they function in different contexts.
- Formulate, present and evaluate a range of arguments that draw on law and policy, theoretical and/or ethical considerations about remedies and their effectiveness.
- Analyse hypothetical fact situations, identify legal and factual issues involving the law of remedies, apply relevant principles and consider policy/value judgments to solve legal problems.

¹ If you need help with your assignment, please contact:

- the academic teaching staff in your unit for guidance in understanding or completing this type of assessment
- the [Writing Centre](#) for academic skills support.

² Indicative time-on-task is an estimate of the time required for completion of the assessment task and is subject to individual variation

Delivery and Resources

For face-to-face students:

There are online/face-to-face lectures each week which begin in Week 1. There is a one-hour face-to-face tutorial beginning in Week 2. Tutorial content will cover the topic from the previous week's lectures. You must prepare your responses in advance. The content and questions for the tutorial can be downloaded from iLearn. Tutorials are assessed for participation.

For online students:

There are online lectures each week which begin in Week 1. There is a one-hour online tutorial beginning in Week 2. Tutorial content will cover the topic from the previous week's lectures. You must prepare your responses in advance. The content and questions for the tutorial can be downloaded from iLearn. Tutorials are assessed for participation.

For face-to-face and online students:

Discussion questions for each tutorial will be available on the iLearn page for the unit. You will find the required reading list in the online unit available at ilearn.mq.edu.au.

The Required Texts are:

Katy Barnett and Sirko Harder, *Remedies in Australian Private Law*, 2nd ed 2018 (version 3, 2020) (Cambridge University Press, 2020)

Katy Barnett, Kenneth Yin and Martin Allcock, *Remedies Cases and Materials in Australian Private Law* (Cambridge University Press, 2023)

Additional readings will be available via iLearn or else they will be linked to a publicly available source. Students will also be required to use a computer for word processing of assignments and have access to the internet for submission of assignments in Turnitin and to interact with iLearn and online research databases and web-based research tools.

Unit Schedule

Topics covered in this unit include:

- Nature of Remedies
- Self-help Remedies
- Alternative Dispute Resolution
- Public Law Remedies
- Reparations for Indigenous Australians and Apologies
- Compensation in Tort, Contract and Equity
- Injunctions and Specific Performance as Equitable Remedies
- Gains based relief
- Proprietary Remedies
- Restitution and Rescission

- Remedies under the *Australian Consumer Law* (Cth) and the *Contracts Review Act* (NSW)
- Enforcement of Remedies

Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central](https://policies.mq.edu.au) (<https://policies.mq.edu.au>). Students should be aware of the following policies in particular with regard to Learning and Teaching:

- [Academic Appeals Policy](#)
- [Academic Integrity Policy](#)
- [Academic Progression Policy](#)
- [Assessment Policy](#)
- [Fitness to Practice Procedure](#)
- [Assessment Procedure](#)
- [Complaints Resolution Procedure for Students and Members of the Public](#)
- [Special Consideration Policy](#)

Students seeking more policy resources can visit [Student Policies](https://students.mq.edu.au/support/study/policies) (<https://students.mq.edu.au/support/study/policies>). It is your one-stop-shop for the key policies you need to know about throughout your undergraduate student journey.

To find other policies relating to Teaching and Learning, visit [Policy Central](https://policies.mq.edu.au) (<https://policies.mq.edu.au>) and use the [search tool](#).

Student Code of Conduct

Macquarie University students have a responsibility to be familiar with the Student Code of Conduct: <https://students.mq.edu.au/admin/other-resources/student-conduct>

Results

Results published on platform other than [eStudent](#), (eg. iLearn, Coursera etc.) 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 or if you are a Global MBA student contact globalmba.support@mq.edu.au

Academic Integrity

At Macquarie, we believe [academic integrity](#) – honesty, respect, trust, responsibility, fairness and courage – is at the core of learning, teaching and research. We recognise that meeting the expectations required to complete your assessments can be challenging. So, we offer you a range of resources and services to help you reach your potential, including free [online writing and maths support](#), [academic skills development](#) and [wellbeing consultations](#).

Student Support

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

The Writing Centre

[The Writing Centre](#) provides resources to develop your English language proficiency, academic writing, and communication skills.

- [Workshops](#)
- [Chat with a WriteWISE peer writing leader](#)
- [Access StudyWISE](#)
- [Upload an assignment to Studiosity](#)
- [Complete the Academic Integrity Module](#)

The Library provides online and face to face support to help you find and use relevant information resources.

- [Subject and Research Guides](#)
- [Ask a Librarian](#)

Student Services and Support

Macquarie University offers a range of [Student Support Services](#) including:

- [IT Support](#)
- [Accessibility and disability support](#) with study
- Mental health [support](#)
- [Safety support](#) to respond to bullying, harassment, sexual harassment and sexual assault
- [Social support including information about finances, tenancy and legal issues](#)
- [Student Advocacy](#) provides independent advice on MQ policies, procedures, and processes

Student Enquiries

Got a question? Ask us via [AskMQ](#), or contact [Service Connect](#).

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.

Changes from Previous Offering

A new textbook and accompanying cases and materials book (2023) has been prescribed. A refreshed order of topics has also been developed.

However, the unit content largely follows the pattern of the previous offering of the unit.