



# LAWS8027

## Law of Obligations III - Remedies

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

*Macquarie Law School*

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#### **Disclaimer**

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## General Information

### Unit convenor and teaching staff

Convenor

Dr Amanda Head

Contact via via ilearn

6 First Walk, room 518

Consultation: Tuesday 12-1pm (from week 4 onwards)

### Credit points

10

### Prerequisites

(LAWS803 or LAWS8030) and (LAWS806 or LAWS8006) and (LAWS8040 or LAWS804)

### 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:

**ULO1:** Demonstrate a detailed and thorough knowledge of legal principles relating to the law on remedies.

**ULO2:** With reference to a range of common law, equitable and statutory remedies, identify and propose reforms for a more just remedial system of law.

**ULO3:** Analyse complex factual situations involving different types of remedies and apply relevant legal principles to solving complex legal problems.

**ULO4:** Formulate, present and evaluate oral and written arguments on theoretical issues, drawing upon relevant legal authorities and policy considerations.

## **General Assessment Information**

All assessments are submitted electronically. Turnitin plagiarism detection software is used to check all written assessments.

Students should carefully check that they submit the correct file for an assessment as re-submissions will not 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. Footnotes are to be used only for referencing. Unless otherwise advised, referencing must conform to the requirements set out in the Australian Guide to Legal Citation 4th edition.

Marking of all assessments is moderated through a process of blind marking and the use of detailed marking rubrics.

### **Late penalty policy**

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.

### **Special Consideration**

Students should submit applications for Special Consideration electronically via [ask.mq.edu.au](http://ask.mq.edu.au), along with the supporting documentation. Before submitting their applications, students should refer to the Special Consideration policy (link provided under 'Policies and Procedures' below).

## Assessment Tasks

Name	Weighting	Hurdle	Due
<a href="#">Participation in-class</a>	20%	No	ongoing
<a href="#">Research Essay</a>	30%	No	06/04/2023, 11:55pm
<a href="#">Hypothetical Problems</a>	50%	No	06/06/2023, 2.15pm-5.30pm

### Participation in-class

Assessment Type <sup>1</sup>: Participatory task

Indicative Time on Task <sup>2</sup>: 12 hours

Due: **ongoing**

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:

- Demonstrate a detailed and thorough knowledge of legal principles relating to the law on remedies.
- With reference to a range of common law, equitable and statutory remedies, identify and propose reforms for a more just remedial system of law.
- Analyse complex factual situations involving different types of remedies 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 authorities and policy considerations.

### Research Essay

Assessment Type <sup>1</sup>: Essay

Indicative Time on Task <sup>2</sup>: 25 hours

Due: **06/04/2023, 11:55pm**

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:

- Demonstrate a detailed and thorough knowledge of legal principles relating to the law on remedies.
- Formulate, present and evaluate oral and written arguments on theoretical issues, drawing upon relevant legal authorities and policy considerations.

## Hypothetical Problems

Assessment Type <sup>1</sup>: Essay

Indicative Time on Task <sup>2</sup>: 30 hours

Due: **06/06/2023, 2.15pm-5.30pm**

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:

- Demonstrate a detailed and thorough knowledge of legal principles relating to the law on remedies.
- With reference to a range of common law, equitable and statutory remedies, identify and propose reforms for a more just remedial system of law.
- Analyse complex factual situations involving different types of remedies 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 authorities and policy considerations.

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<sup>1</sup> 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.

<sup>2</sup> 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

**Delivery and Resources** There are online lectures each week which begin in Week 1. For face-to-face students, there are one-hour face-to-face tutorials beginning in Week 2. For online students, there are two-hour bi-weekly online tutorials beginning in Week 2 or 3. Tutorial content will cover the topics from the previous lectures as detailed on the iLearn page. Discussion questions for each tutorial will be available on the iLearn page for the unit. You must prepare your responses in advance. Tutorials are assessed for participation.

### The Required Texts are:

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

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

- Nature of Remedies
- Self-help Remedies
- Alternative Dispute Resolution
- Public Law Remedies
- Reparations for Indigenous Australians and Apologies
- 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](https://ask.mq.edu.au) or if you are a Global MBA student contact [globalmba.support@mq.edu.au](mailto: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/](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 has been prescribed:

Katy Barnett and Sirko Harder, *Remedies in Australian Private Law* (Cambridge University Press, 2nd ed, 2018); and Katy Barnett, Kenneth Yin and Martin Allcock, *Remedies Cases and Materials in Australian Private Law* (Cambridge University Press, 2023).

Although the content is largely unchanged, the order of delivery of the content has changed to more closely align with the new texts.