



# LAWS827

## Law of Obligations III - Remedies

S1 Day 2018

*Dept of Law*

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## General Information

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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 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

Detailed marking rubrics will be made available in iLearn.

## Assessment Tasks

Name	Weighting	Hurdle	Due
<u>Assignment No 1</u>	25%	No	10 am, 9 April 2018
<u>Assignment No 2</u>	25%	No	10 am, 14 May 2018
<u>Final Examination (Take Home)</u>	50%	No	3 pm, 18 June 2018

### Assignment No 1

Due: **10 am, 9 April 2018**

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. A bibliography is required for this assignment. 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 in Turnitin. 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 Special Consideration 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 Special Consideration Policy are made electronically via [ask.mq.edu.au](http://ask.mq.edu.au) and should be accompanied by supporting documentation. Students should refer to the Special Consideration Policy for complete details and a description of the supporting documentation required.

Any Assignment No 1 that is submitted after the due date and time without a special consideration application will attract a 2% per day penalty. Any Assignment No 1 that is submitted beyond the 7 days of the due date and time 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 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, 14 May 2018**

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 in Turnitin. 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 Special Consideration 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 Special Consideration Policy are made electronically via [ask.mq.edu.au](http://ask.mq.edu.au) and should be accompanied by supporting documentation. Students should refer to the Special Consideration 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 and time without an approved special consideration application will attract a 2% per day penalty. Any Assignment No 2 that is submitted beyond 7 days of the due date and time 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 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 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, 18 June 2018**

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 am on Monday, 18 June 2018 and must submit their answers to the final examination paper by 3 pm on Monday 18 June 2018.

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 in Turnitin. 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 Special Consideration 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.

This is a timed assessment. According to Special Consideration Policy and timed assessment 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 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 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. As no assessment item is directly associated with attendance or participation in tutorials, attendance at tutorials is not compulsory. However, it is highly recommended.

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. As no assessment item is directly associated with attendance or participation at the on campus sessions, attendance at the on campus sessions is not compulsory. However, it is highly recommended.

At the first days of on campus sessions tutorial questions for Weeks 1-7 will be the basis for discussions. At the third day of on campy sessions, tutorial questions for Weeks 8 -12 will be the basis for discussions. The tutorial questions are available on iLearn.

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**

#### **Prescribed Materials**

1. N Witzleb, E Bant, S Degeling & K Barker, *Remedies, Commentary and Materials*, 6th edition, Lawbook Co, 2015
2. Materials that are posted on iLearn



## Reference Materials

1. W Covell, K Lupton & J Forder, *Principles of Remedies*, 6th ed, Lexis Nexis Butterworths, 2015
2. D Wright, *Remedies*, 2nd ed, Federation Press, 2014

# 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 I
12	Restitution II

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](https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central) (<https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central>). 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](#)
- [Grade Appeal Policy](#)
- [Complaint Management Procedure for Students and Members of the Public](#)
- [Special Consideration Policy](#) (**Note:** *The Special Consideration Policy is effective from 4 December 2017 and replaces the Disruption to Studies Policy.*)

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

If you would like to see all the policies relevant to Learning and Teaching visit [Policy Central](https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central) (<https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/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/study/getting-started/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](https://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](https://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](http://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/](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 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 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 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**

The topic of Remedies under the Competition and Consumer Act has been deleted from the content covered by this unit.