



# LAWS827

## Law of Obligations III - Remedies

S1 Day 2019

*Macquarie Law School*

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#### **Disclaimer**

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## General Information

Unit convenor and teaching staff

Convenor and Tutor

Doron Goldbarsht

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6 First Walk (W3A) 514

TBA on iLearn

Credit points

4

Prerequisites

LAWS803 and 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:

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 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 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

### All Students

Task	Task Name	%	Due Date
1	Class Participation	20	10% on-line and 10% in-class (tutorials)
2	Essay (Submit through Turnitin)	30	Release Date: 25/2/2019, 17:00. Due Date: 19/4/2019, 17:00.
3	Hypothetical Problem (Submit through Turnitin)	50	Release Date: 27/5/2019, 17:00. Due Date: 7/6/2019, 17:00.
	<b>Total:</b>	<b>100%</b>	

### Special Consideration

Unless a Special Consideration request has been submitted and approved, (a) a penalty for lateness will apply – two (2) marks out of 100 will be deducted per day for assignments submitted after the due date – and (b) no assignment will be accepted more than seven (7) days (incl. weekends) after the original submission deadline.

### Class Attendance and Participation

Attendance at the tutorials is compulsory. Students who miss a tutorial can apply for special consideration through Ask.mq.edu.au. It is advisable that you apply for special consideration if your circumstances meet the policy. If a student misses more than 2 tutorials due to special consideration they should contact the unit convenor and other arrangements will be made to make up for the missed tutorials.

## Early non-compulsory assessment

In Week 3 (2nd tutorial) tutors will give students informal feedback on class participation.

## Submission of Written Assignments

The written assignments are to be submitted electronically by way of Turnitin on the iLearn page. Plagiarism detection software is used in this unit.

## Word Limits

Where there is a specified word limit it will be strictly applied and work above the word limit will not be assessed.

## Moderation

Detailed marking rubrics will be made available on iLearn for all assessments. If there are other markers assisting the convenor then a process of 'blind marking' to establish a common marking standard will be adopted and all Fail papers will be double marked.

## Style

All written assignments should comply with the latest edition of the AGLC.

# Assessment Tasks

Name	Weighting	Hurdle	Due
<u>Class Participation</u>	20%	No	Ongoing
<u>Research Essay</u>	30%	No	19/4/2019 17:00
<u>Hypothetical Problems</u>	50%	No	7/6/2019 17:00

## Class Participation

Due: **Ongoing**

Weighting: **20%**

### Participation in-class:

This individual component is worth 10% of student's grade and it will be based on attendance at tutorials and an assessment by the tutor of student individual contribution to the class discussion and tutorial presentation.

If students are unable to attend a tutorial due to a serious and unavoidable disruption, they should submit a Disruption to Studies application online by visiting [ask.mq.edu.au](https://ask.mq.edu.au).

### Participation on-line (Q&A postings):

This individual component is worth 10% of student's grade. Starting in Week 2, a forum will be open for Q&A posting on iLearn. In this forum, students will post 2 times in total during the semester: 1) Post a question that has occurred as a result of listening to the weekly lectures, or

from the material covered in tutorials. 2) Along with the question students will post an answer to the question, based on research into the weekly readings/resources and a justification for the answer.

Student question, answer and justification together should be no more than 150 words for each Q&A. Content over 150 words will not be marked.

Assessment guideline for in-class and on-line participation 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.
- Interpret and transmit knowledge, skills and concepts to specialist and non-specialist audiences.
- 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 authority and policy considerations.

## Research Essay

Due: **19/4/2019 17:00**

Weighting: **30%**

### Essay

**Release Date:** 25 Feb 2019, 17:00.

Students to complete a research essay based on some of the broad topics covered in the unit. The emphasis is on independent research and analysis and critique.

Essays must be submitted in double line spaced text, 12 point font, Times New Roman. The word limit is 2,000 words, excluding footnotes. Footnotes should only be used for references, with no further discussion. Content over 2,000 words will not be marked. A bibliography should not be provided.

The essay must comply with the latest edition of the *Australian Guide to Legal Citation*.

All work, in WORD format, is to be submitted via Turnitin on iLearn.

The essay question and assessment guidance will be released via iLearn.

See also General Assessment Information tab in this unit guide.

On successful completion you will be able to:

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- 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.

## Hypothetical Problems

Due: **7/6/2019 17:00**

Weighting: **50%**

### Hypothetical Problem

**Release Date:** 27 May 2019, 17:00.

Hypothetical problems based on materials covered in Lectures 1-12.

#### *Format and Word Count:*

The assignment must be submitted in a double line spaced text, 12 point font (use Times New Roman). The word limit is 2,500 words, excluding footnotes. Footnotes should only be used for references, with no further discussion. Content over 2,500 words will not be marked. A bibliography should not be provided. Submissions must be a word document.

The essay must comply with the latest edition of the *Australian Guide to Legal Citation*.

Once the Hypothetical Problem is released to students the Unit Convenor/Tutors will not be in a position to answer any questions about it.

See also General Assessment Information tab in this unit guide.

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 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 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.

## Delivery and Resources

The unit will examine some other areas where remedies available, and also examine different mechanisms for the resolution of disputes. 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.

Lectures commence in Week 1.

Lectures will be pre-recorded (see iLearn for instructions).

Weekly tutorials begin in Week 2 and finish in Week 13. Discussion questions for each tutorial will be available on the iLearn page for the unit.

The Required Text is: Covell & Lupton *Principles of Remedies*, 7th edition (LexisNexis, 2018). It is available from the Macquarie University Co-op Bookshop. 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

For Tutorial times see <https://timetables.mq.edu.au/2019/>

Laws555 S1 2019, Lecture Schedule			
Week	Dates weeks starting	Lecture	Lecturer
1	25-Feb	Intro	<a href="#">Dr Francesca Dominello</a>
2	4-Mar	Torts	<a href="#">Ms Caitriona McCabe</a>
3	11-Mar	Torts	Ms Caitriona McCabe
4	18-Mar	Contracts	<a href="#">Mr Ilija Vickovich</a>
5	25-Mar	Contracts	Mr Ilija Vickovich

6	1-Apr	Equity	<a href="#">Ms Teresa Somes</a>
7	8-Apr	Equity	Ms Teresa Somes
Break	15-Apr ; 22-Apr (OCS 23-24 April)		
8	29-Apr	Equity	Ms Teresa Somes
9	6-May	Restorative Justice	<a href="#">Dr Lise Barry</a>
10	13-May	Statue	<a href="#">Dr Baskaran Balasingham</a>
11	20-May	Alternative (Appropriate) Dispute Resolution	<a href="#">Dr Therese MacDermott</a>
12	27-May	International Law	Dr Francesca Dominello
13	3-Jun	No Lecture	

## 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 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](mailto:ask.mq.edu.au) or if you are a Global MBA student contact [globalmba.support@mq.edu.au](mailto:globalmba.support@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](http://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](mailto:ask.mq.edu.au)

If you are a Global MBA student contact [globalmba.support@mq.edu.au](mailto:globalmba.support@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

- Research Essay
- Hypothetical Problems

### 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 different types of remedies and apply relevant legal principles to solving complex legal problems.

#### Assessment tasks

- Class Participation
- Research Essay
- Hypothetical Problems

### 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 different types of remedies and apply relevant legal principles to solving complex legal problems.

## **Assessment tasks**

- Class Participation
- Research Essay
- Hypothetical Problems

## **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 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 authority and policy considerations.
- Apply advanced research skills.

## **Assessment tasks**

- Research Essay
- Hypothetical Problems

## **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**

- Class Participation
- Research Essay
- Hypothetical Problems

## **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 tasks**

- Research Essay
- Hypothetical Problems

## **Changes from Previous Offering**

This unit involves a change in Unit Convenor. The assessment scheme has also been changed and on-line participation has been added.

The programme of Lectures and tutorials for 2019 has been changed from that given in 2018, and may be subject to further change due to developments. Students should consult the Unit Schedule and prepare tutorial questions for classes and written assignments according to the new lecture regime.

## Changes since First Published

Date	Description
07/03/2019	There was a typo in one place, in the Unit Guide, regarding the due date for the research essay. The date noted under "General Assessment Information" was 9 April 2019. It should read 19 April 2019 as it does elsewhere.