

LAWS 7068 REMEDIES

Credit Points 10

Legacy Code 201060

Coordinator Sarah Hook ([https://directory.westernsydney.edu.au/search/name/Sarah Hook/](https://directory.westernsydney.edu.au/search/name/Sarah%20Hook/))

Description This subject examines the nature, goals and structure of private law remedies, and is organised around the remedial goals of compensation, perfection, vindication, disgorgement, restitution, and punishment. Both judicial and non-judicial remedies in Australian private law are examined including the principles of the major common law, equitable, restitutionary, and statutory remedies available to wronged parties in a variety of circumstances. Emphasis is on the analysis of practical and theoretical advantages and disadvantages of various remedies in a culturally diverse society. The subject explores how and why different remedial goals are accorded differing priority and are given effect in different ways across different areas of private law thereby deepening the student's understanding of remedies and the nature of each of these substantive fields of private law. The content of this subject elucidates the principles relating to the assessment of all forms of damages under common law and statute as well as the judicial approaches to the grant of injunctions and other non-monetary relief.

School Law

Discipline Law, Not Elsewhere Classified.

Student Contribution Band HECS Band 4 10cp

Level Postgraduate Coursework Level 7 subject

Pre-requisite(s) LAWS 7053 Equity Trusts

Incompatible Subjects LAWS 4014 Remedies

Restrictions

Students must be enrolled in a postgraduate program.

Learning Outcomes

On successful completion of this subject, students should be able to:

1. Critically reflect on common law, equitable, restitutionary, and statutory remedial concepts and their application and effectiveness in contemporary legal practice.
2. Analyse and solve practical problems and theoretical legal issues independently in order to demonstrate a detailed understanding of the suitability of remedies in various practical situations.
3. Collaborate effectively and persuasively on complex legal principles, theories and frameworks governing the award of private law remedies across Australian and overseas jurisdictions.
4. Communicate persuasively and effectively complex knowledge and ideas to expert and non-expert legal audience.
5. Evaluate the impact on Australia's culturally diverse society of the dominant culture's private law remedies.

Subject Content

1. The Nature of Remedies
2. Self-Help Remedies
3. General Principles of Compensation
4. Compensation in Equity
5. Gain-based Awards – Disgorgement and accounting for profits

6. Restitution (the measure of Restitution, Rescission, Unjust Enrichment)
7. Contested Categories
8. Punishment in Private Law (Exemplary Damages)
9. Proprietary Relief
10. Specific Relief – General Principles and Specific Performance
11. Injunctions with reference to applications by First Nations people for protection of traditional lands and cultural artefacts
12. Declaratory Relief with particular reference to applications by First Nations people for standing
13. Enforcement
14. Vindictory damages and Damage in Substitution of Rights
15. Tracing
16. Delivery Up, Cancellation and Rectification
17. Statutory Remedies
18. Defensive Equities

Assessment

The following table summarises the standard assessment tasks for this subject. Please note this is a guide only. Assessment tasks are regularly updated, where there is a difference your Learning Guide takes precedence.

Type	Length	Percent	Threshold	Individual/Group Task
Poster	1 page or equivalent	20	N	Group
Professional Task	3000 words	35	N	Individual
Final Exam	2 hours	45	N	Individual

Prescribed Texts

- Witzleb, Normann et al, Remedies: Commentary and Materials (Thomson Reuters, 7th ed, 2020).

Teaching Periods

Spring (2022)

Parramatta - Victoria Rd

Day

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View timetable (https://classregistration.westernsydney.edu.au/even/timetable/?subject_code=LAWS7068_22-SPR_PS_D#subjects)

Autumn (2023)

Online

Online

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Parramatta - Victoria Rd

On-site

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View timetable (https://classregistration.westernsydney.edu.au/odd/timetable/?subject_code=LAWS7068_23-AUT_PS_1#subjects)

Spring (2023)

Online

Online

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