

Chapter 1 : Other State jurisdictions

The Federal Court of Australia was created by the Federal Court of Australia Act and began to exercise its jurisdiction on 1 February. The Court is a superior court of record and a court of law and equity.

In Australia, superior courts generally: Inferior courts are those beneath superior courts in the appellate hierarchy, and are generally seen to include the Magistrates and District or County Court of each State as well as the Federal Circuit Court. Inferior courts are typically characterised by: Federal courts[edit] These courts among them have jurisdiction over Commonwealth law, that is, law made by the Federal parliament of Australia. High Court of Australia[edit] Main article: The High Court is the highest court in Australia. It was created by section 71 of the Constitution. It also has some original jurisdiction , and has the power of constitutional review. The High Court of Australia is the superior court to all federal courts, and is also the final route of appeal from all state superior courts. Therefore, for most cases, the appellate divisions of the Supreme Courts of each state and territory and the Federal Court are the ultimate appellate courts. Appeals from Australian courts to the Privy Council were initially possible, however the Privy Council Limitation of Appeals Act closed off all appeals to the Privy Council in matters involving federal legislation, [8] and the Privy Council Appeals from the High Court Act closed almost all routes of appeal from the High Court. The Federal Court primarily hears matters relating to corporations, trade practices, industrial relations, bankruptcy, customs, immigration and other areas of federal law. There is an appeal level of the Federal Court the "Full Court" of the Federal Court , which consists of several judges, usually three but occasionally five in very significant cases. It is a superior court of limited jurisdiction and was established in by the Family Law Act by the federal parliament. The Commonwealth has power over marriage and divorce under the Constitution. In the s the states referred many of their powers over children of non-married couples to the Commonwealth, which added this power to the Family Court. Uniquely among the states, Western Australia took up the option of establishing its own Family Court in , and in that state all jurisdiction under the Family Law Act is exercised by the Family Court of Western Australia and not the Family Court of Australia. The Family Court is a specialist family law court, involving parental disputes, matrimonial property, child support and other family-related laws. The principles of stare decisis binding law from higher courts are the same as for the Federal Court. A single judge of the Family Court may hear appeals in family law matters from the Federal Circuit Court of Australia. In other circumstances, decisions of a single Federal or Family Court judge are not strictly binding; however, these will usually be followed by sentencing. Federal Circuit Court of Australia[edit] Main article: Federal Circuit Court of Australia The Federal Circuit Court of Australia formerly known as the Federal Magistrates Court of Australia [21] is an Australian court with jurisdiction over matters broadly relating to family law and child support, administrative law, admiralty law, bankruptcy, copyright, human rights, industrial law, migration, privacy and trade practices. There has been a shift recently towards having most cases held in this court, thereby freeing up workload so the Federal Court of Australia and the Family Court of Australia can hear more complicated cases. This court also hears appeals from various federal tribunals. State and territory courts and tribunals[edit] This section does not cite any sources. Please help improve this section by adding citations to reliable sources. Unsourced material may be challenged and removed. September Learn how and when to remove this template message Each state and territory has a court hierarchy of its own, with the jurisdictions of each court varying from state to state and territory to territory. However, all states and territories have a Supreme Court, which is a superior court of record and is the highest court within that state or territory. These courts also have appeal divisions, known as the Full Court or Court of Appeal of the Supreme Court in civil matters , or the Court of Criminal Appeal in criminal matters. Decisions of the High Court are binding on all Australian courts, including state and territory Supreme Courts. The state and territory courts can sometimes exercise federal jurisdiction i. However, an attempt by the states and the Commonwealth to pass legislation that would cross-vest state judicial powers in the Federal courts was struck down by the High Court in *Re Wakim; Ex parte McNally* , [22] as being unconstitutional. Notwithstanding this failure, however, both state and federal courts can exercise an "accrued jurisdiction,"

which enables them to hear all legal issues arising from a single set of facts. This enables all courts to deal with virtually all issues arising from the facts of a case, provided that the particular court has jurisdiction to hear the principal cause of action. Most of the states have two further levels of courts, which are comparable across the country. The magistrates court or local court handles summary matters and smaller civil matters. In jurisdictions without district or county courts, most of those matters are dealt with by the supreme courts. In Tasmania and the two mainland territories, however, there is only a Magistrates Court below the Supreme Court. In the three external territories that is, territories not directly forming part of the Commonwealth of Australia but administered by the Commonwealth there is a supreme court and a magistrates court or court of petty sessions. The supreme courts are staffed by judges of other courts, usually the Federal Court. Appeals from those courts lie to the full Federal Court. As these territories have very small populations, the courts only sit from time to time as needed. The remaining external territories including Antarctica do not have permanent courts. In the event of a case arising from these territories, the courts of the ACT have jurisdiction. These hear cases relating to lesser State or Territory administrative disputes involving some individual, business or government body. These commonly involve actions by persons bound to act pursuant to some form of devolved legislation ; such as Environmental Regulations or Rental Tenancy Regulations.

Chapter 2 : An introduction to the jurisdiction of the Federal Court of Australia

Federal Jurisdiction in Australia has stood the test of time. aEURO| a aEURO~classic textaEURO (TM) aEURO" a well deserved description. aEURO| Like its predecessors, the third edition makes a careful The book also analyses the tensions that have developed in the dual system of federal courts and state courts exercising federal jurisdiction.

The Court is a superior court of record and a court of law and equity. It sits in all capital cities and elsewhere in Australia from time to time. Objectives The objectives of the Court are to: Decide disputes according to law - promptly, courteously and effectively and, in so doing, to interpret the statutory law and develop the general law of the Commonwealth, so as to fulfil the role of a court exercising the judicial power of the Commonwealth under the Constitution. Provide an effective registry service to the community. Manage the resources allotted by Parliament efficiently. It also has jurisdiction to hear and determine any matter arising under the Constitution through the operation of s 39B of the Judiciary Act This jurisdiction includes cases created by a federal statute, and extends to matters in which a federal issue is properly raised as part of a claim or of a defence and to matters where the subject matter in dispute owes its existence to a federal statute. The Court has jurisdiction under the Judiciary Act to hear applications for judicial review of decisions by officers of the Commonwealth. Many cases also arise under the Administrative Decisions Judicial Review Act ADJR Act which provides for judicial review of most administrative decisions made under Commonwealth enactments on grounds relating to the legality, rather than the merits, of the decision. The Court also hears appeals on questions of law from the Administrative Appeals Tribunal. The Court hears taxation matters on appeal from the Administrative Appeals Tribunal. It also exercises a first instance jurisdiction to hear objections to decisions made by the Commissioner of Taxation. The Court shares first instance jurisdiction with the Supreme Courts of the states and territories in the complex area of intellectual property copyright, patents, trademarks, designs and circuit layouts. All appeals in these cases, including appeals from the Supreme Courts, are to a full Federal Court. The Court has jurisdiction to hear and determine native title determination applications and to be responsible for their mediation, to hear and determine revised native title determination applications, compensation applications, claim registration applications, applications to remove agreements from the Register of Indigenous Land Use Agreements and applications about the transfer of records. A further important area of jurisdiction for the Court derives from the Admiralty Act The Court has concurrent jurisdiction with the Supreme Courts of the states and territories to hear maritime claims under this Act. Ships coming into Australian waters may be arrested for the purpose of providing security for money claimed from ship owners and operators. If security is not provided, a judge may order the sale of the ship to provide funds to pay the claims. The jurisdiction is exercised concurrently with the Supreme Courts of the states and territories. The Court exercises jurisdiction under the Bankruptcy Act It has power to make sequestration bankruptcy orders against persons who have committed acts of bankruptcy and to grant bankruptcy discharges and annulments. These cases often raise important public interest issues involving such matters as mergers, misuse of market power, exclusive dealings or false advertising. Since late , the Court has also had jurisdiction in relation to indictable offences for serious cartel conduct. This jurisdiction falls under the Federal Crime and Related Proceedings NPA together with summary prosecutions and criminal appeals and other related matters. The Court has a substantial and diverse appellate jurisdiction. It hears appeals from decisions of single judges of the Court, and from the Federal Circuit Court FCC in non-family law matters and from other courts exercising certain federal jurisdiction. In recent years, a significant component of its appellate work has involved appeals from the FCC concerning decisions under the Migration Act The Court also exercises general appellate jurisdiction in criminal and civil matters on appeal from the Supreme Court of Norfolk Island.

Chapter 3 : Judiciary of Australia - Wikipedia

The Federal Court of Australia Act deals with the nature, structure, operation and powers of the Federal Court, but not its jurisdiction (with the above exception of s 32). As to the powers of the Federal Court (once a matter is within its jurisdiction), see in particular ss 5(2), 21, 22, 23 and 28 of the Federal Court of Australia Act.

The AFP are responsible for the investigation of federal offences crimes against the Commonwealth and have federal jurisdiction throughout Australia. The boundaries between the two levels of law enforcement are somewhat flexible and both state and federal police co-operate on or transfer cases between each other depending on the specific circumstances. State police can enforce federal, state and local laws, but federal police cannot enforce state or local laws. This makes it quite young as many of the various state police forces were established in the 19th century. They may however detain persons for state or federal crimes or warrants until that person can be presented to a federal or state law enforcement officer with the appropriate powers. Australian Border Force officers have the authority to carry firearms where a supervisor gives approval. In practice only maritime officers and specialist counter terrorism officers carry firearms. Military[edit] Military Police , also known as Service Police, are the law enforcement branches of the services of a military tasked with enforcing, and investigating offences against, military law. In Australia, each service of the Australian Defence Force maintains its own independent police force made up of military personnel from that service. MPs provide everything from general law enforcement duties on military installations to investigations, close personal protection and more. ANZPAA is a non-operational policing agency which provides strategy and policy advice, and secretariat services to the ANZPAA Board on cross-jurisdictional policing initiatives that help enhance community safety and security. It was the body for police education and training in Australia and New Zealand; the council comprising each of the police commissioners from Australia and New Zealand along with the president of the Police Federation of Australia and the president of the New Zealand Police Association. Crime Stoppers programs run in each state and nationally. Crime Stoppers collects information about crime and passes it on to the police ensuring that the community can participate in crime fighting. CrimTrac is an intergovernmental policing agency that supports Australian policing through the provision of forensic and other information and investigative tools between state and federal police departments. This involves general law and order, traffic policing, major crime, anti-terrorism branches, water police, search and rescue and in some states transit police. In some states, local governments employ by-laws officers or rangers to enforce local by-laws or ordinances relating to such matters as parking, dog ownership, retailing, littering or water usage. These local government officers are not considered to be police forces as they generally only have the power to issue fines and do not have the same powers as state police. They may rely upon appointment as a special constable or legislated powers for their authority. Policing agencies[edit] State police also perform certain functions on behalf of the Australian government such as the enforcement of various Commonwealth Acts and regulations in conjunction with the Australian Federal Police and other Commonwealth officers. While ACT policing is under the jurisdiction of the Australian Federal Police , the following policing agencies are regulated by their respective state or territory government and are highly visible:

Chapter 4 : Federal Jurisdiction (LAWS) – The University of Melbourne Handbook

Note: Citations are based on reference standards. However, formatting rules can vary widely between applications and fields of interest or study. The specific requirements or preferences of your reviewing publisher, classroom teacher, institution or organization should be applied.

Original Jurisdiction of the High Court 3. Jurisdiction Between Residents of Different States 4. The Federal Courts 5. Laws Applicable in the Exercise of Federal Jurisdiction 9. Appellate Jurisdiction of the High Court

Yet, we do so at our peril. As Sir Anthony Mason observes in his Foreword p v: The expression conjures up images of constitutional train-wrecks of which *Momcilovic v The Queen* [CLR 1] is a spectacular example. As in other cases, no one, including the judges and counsel in the courts below, realised that the jurisdiction exercised in *Momcilovic* was federal until the case reached the High Court. It demonstrates an astonishing command of case law, commentary and historical developments. The way in which the book has evolved reveals the prescience of its authors, past and present. Lindell is also careful to point quite rightly to aspects of the law that remain uncertain, and provides great insight into how the law may unfold in the future. The golden thread that runs throughout the text is a call for clarity and, wherever possible, fair and efficient solutions to the many problems caused by a dual system of State and federal courts. This edition has been updated by Professor Geoffrey Lindell. Mr Lindell notes that the period since has continued to highlight the importance of federal jurisdiction with several cases reaching the High Court which were only found to involve such jurisdiction once the cases reached that Court. The text underlines the importance of judges and practitioners being aware that the cases in which they participate may involve such jurisdiction. Sir Anthony Mason notes that the fourth edition is more than a mere update as there has been a major reworking of the earlier editions. This is a complex textbook and one which will definitely remain on my book shelf for the day I venture into the treacherous seas of federal jurisdiction. It would be valued by judges, practitioners and students alike. Rahul Bedi, Ethos, ACT Law Society, April

The fourth edition of this text heralds a successful transition from its previous authors, both eminent and venerated scholars, to the next generation. Federal Jurisdiction in Australia has stood the test of time. The book also analyses the tensions that have developed in the dual system of federal courts and state courts exercising federal jurisdiction. Alternative Law Journal, August

Chapter 5 : Holdings : Federal jurisdiction in Australia. | York University Libraries

Federal Jurisdiction in Australia has stood the test of time. a 'classic text' - a well-deserved description. Like its predecessors, the third edition makes a careful and detailed analysis of each of the heads of federal jurisdiction and presents a considered analysis of relevant case law in the interpretation of these heads.

The Federal Court was once a court of limited specific jurisdiction. This is no longer so. This change was a result of the exercise of will of the Commonwealth Parliament. The Federal Court is, and has been since , a court of general federal civil jurisdiction, having jurisdiction whenever a law of the Commonwealth Parliament is part of a dispute. Parliament has, by this provision, conferred jurisdiction on the Federal Court in all non-criminal matters arising under any Commonwealth statute. Thus, if a Commonwealth statute is involved in a dispute in the application, statement of claim, defence, cross-claim, defence to cross-claim or otherwise the Federal Court will have jurisdiction to resolve the whole dispute or controversy. Section 39B 1A c is in the following terms: The original jurisdiction of the Federal Court of Australia also includes jurisdiction in any matter: This provision has conferred jurisdiction already. It is a general conferral of non-criminal federal jurisdiction. To appreciate fully its reach and importance as to which, see below a little explanation of the nature of federal jurisdiction and conferral of it on the Federal Court is necessary. Federal jurisdiction is the authority to exercise the judicial power of the Commonwealth. State or territory jurisdiction is the authority to exercise the judicial power of a State or Territory. The courts in each polity Commonwealth, State or Territory comprise the judicial branch of government in that polity. The Constitution authorises State and Territory courts to be invested with federal jurisdiction, as well as their own State and territory jurisdiction. Apart from the High Court, which occupies a unique position at the apex of the Australian court system, federal courts, including the Federal Court, have no jurisdiction to exercise State judicial power. Federal courts can only exercise federal jurisdiction, that is, they can only exercise the judicial power of the Commonwealth. It is important, however, in whichever court a case is being heard, to understand whether the jurisdiction being exercised is federal or state. Important consequences may flow from the character of the jurisdiction, including choice and application of law. Jurisdiction in the sense being discussed here, is the authority of the court to adjudicate: As can be seen from its wording, s 39B 1A c is based on s 76 ii of the Constitution. The subject matters on which the Commonwealth Parliament has authority to legislate are derived from these and other provisions of the Constitution, especially s 51 of the Constitution which sets out the subject matters in respect of which the Commonwealth Parliament has authority upon which to legislate. Parliament has not conferred the totality of federal jurisdiction in ss 75 and 76 on the Federal Court, though the conferral that has been made is wide and is not limited to the use of s 76 ii. The answer to this question is not complex: Before describing these provisions, and in particular the Judiciary Act, s 39B 1A c in a little more detail, a fundamental underpinning concept must be explained: It is a word central to the operation of ss 75, 76 and 77 of the Constitution. It is used repeatedly in Commonwealth laws concerning federal jurisdiction. It is not the cause or causes of action brought by the plaintiff. A justiciable controversy is identifiable independently of proceedings brought for its determination. It is the whole controversy in respect of which it is the function of the court or courts the one controversy may be fought in different places exercising the judicial power of the Commonwealth to quell. The need for a controversy means that whilst federal courts can make declarations, they do not, and cannot, give advisory opinions. Probably the most helpful self-contained guide is the following passage from the joint reasons for judgment of Gummow and Hayne JJ in *Re Wakim* CLR at []-[]: The central task is to identify the justiciable controversy. In civil proceedings that will ordinarily require close attention to the pleadings if any and to the factual basis of each claim. Considerations of impression and practical judgment are relevant because the question of jurisdiction usually arises before evidence is adduced and often before the pleadings are complete. Necessarily, then, the question will have to be decided on limited information. But the question is not at large. So, too, there is but one matter where different claims are so related that the determination of one is essential to the determination of the other [*Philip Morris* CLR at per Mason J], as, for example, in the case of third party proceedings or where there are alternative claims for the

same damage and the determination of one will either render the other otiose or necessitate its determination. Often, the conclusion that, if proceedings were tried in different courts, there could be conflicting findings made on one or more issues common to the two proceedings will indicate that there is a single matter. By contrast, if the several proceedings could not have been joined in one proceeding, it is difficult to see that they could be said to constitute a single matter. Here, the three proceedings could have been joined in one. The fact that those advising Mr Wakim chose to issue separate proceedings at different times does not mean that the scope of the controversy is limited to the matters raised in the first proceeding. Had the Official Trustee brought a cross-claim against both the solicitors and Mr Darvall immediately after Mr Wakim commenced his proceeding against it and if Mr Wakim had then joined the cross-respondents as respondents to his principal claim, the existence of a single controversy involving several parties would be more apparent than it may be in the present circumstances. But neither the differences in the present procedural history nor the absence of any claim by the Official Trustee against the solicitors and Mr Darvall determines the question whether there is a single controversy. For example, in *Hedge*, as Administrator of Goldfields Medical Fund Inc ALR , orders were sought giving effect to a proposed course of action by an administrator. There was no contradictor as there often is not in uncontested company matters. The character of the statutory function was closely analogous with matters historically accepted as judicial in character and so was a legitimate subject of federal jurisdiction. Also, for a discussion of whether non-justiciability denies the existence of a matter, see *Petrotimor Companhia de Petroleos S*. The need to find a Commonwealth statute Once this wide concept of matter is appreciated to be central to the notion of federal jurisdiction and to be an indispensable tool of analysis in relation to federal jurisdiction, the next question is: What federal jurisdiction has been conferred on the Federal Court by Acts of the Commonwealth Parliament? Intuitively, one would have thought that the answer to this might be found in the Federal Court of Australia Act. The Federal Court of Australia Act deals with the nature, structure, operation and powers of the Federal Court, but not its jurisdiction with the above exception of s As to the powers of the Federal Court once a matter is within its jurisdiction , see in particular ss 5 2 , 21, 22, 23 and 28 of the Federal Court of Australia Act. In this respect, see in particular s 19 1 of the Federal Court of Australia Act which states: The Court has such original jurisdiction as is vested in it by laws made by the Parliament. The early approach from The annual report of the Court, in any given year, lists the individual legislation which gives the Court jurisdiction. The widening of the jurisdictional base: In , an important change was made to the Judiciary Act which affected the practice of Commonwealth administrative law. Parliament enacted s 39B 1 of the Judiciary Act which provided as follows: The enactment of s 39B 1 of the Judiciary Act employed ss 75 v and 77 i of the Constitution. Section 39B 1 mirrors in terms the Constitutional relief available in the High Court under s 75 v of the Constitution. In , acting on the recommendation of the Australian Law Reform Commission, the Parliament enacted the Admiralty Act Cth which conferred on the Federal Court comprehensive Admiralty and maritime jurisdiction using ss 76 iii and 77 i of the Constitution. The conferral of general federal civil and other jurisdiction: Using ss 75 iii in part , 76 i and ii and 77 i of the Constitution, the Parliament provided as follows in s 39B 1A: Section 39B 1A a draws on s 75 iii only to the extent that the Commonwealth seeks relief. Edensor CLR at [45]. Section 39B 1A b makes clear, by specific conferral, that the Federal Court was conferred with jurisdiction to determine Constitutional questions and controversies. The importance and effect of s 39B 1A c is difficult to overstate. Leaving aside criminal matters, the Federal Court is vested with jurisdiction: Section 39B 1A c operates according to its terms as a general conferral of jurisdiction: Section 86 thus became otiose. Questions of statutory construction may arise between an earlier or later Acts and s 39B 1A c. There may be difficult questions where there is already some conferral which can be seen as deliberately circumscribed. Secondly, it is, however, not necessary for the form of relief or the cause of action to owe its nature or existence to a law of the Parliament for a matter to arise under such a law. Even if the cause of action or form of relief is not created or provided for by a law of the Parliament, if a law of the Parliament is relied upon as giving a right sought to be vindicated or as the source of a defence asserted then the matter that is, the controversy in which that right or defence arises is a matter arising under the law: Thirdly, the law of the Parliament need not create a right that is the whole subject matter of vindication or the whole subject matter of the defence. If a question under a

Commonwealth law is to be determined as a step along the way in one way of vindicating the position of someone involved in the controversy, that will create a matter arising under a law of the Parliament: So too federal jurisdiction is attracted if the court finds it necessary to decide whether or not a right or duty based in federal law exists, even if that matter has not been pleaded by the parties. But the converse is not true. If a federal matter is raised on the pleadings federal jurisdiction is exercised, notwithstanding that the court finds it unnecessary to decide the federal question because the case can be disposed of on other grounds. Fourthly, there need not even be a dispute or issue about a right or duty based on a Commonwealth statute in these ways. This is a matter arising under a law of the Parliament. The fight was about contractual and equitable rights and obligations of the parties in respect of that property. There was no issue or debate about the nature of any Commonwealth statutory right or duty. The subject matter was a bundle of rights owing their existence to a law of the Parliament. That was sufficient for the matter to arise under a law the Customs legislation of the Parliament. But it is at least clear that a claim to a right conferred by or under ordinances made by the Governor-General in Council under sec 12 of the Seat of Government Administration Act is a matter arising under an enactment of the Parliament. So, there, Territory ordinances and claims to rights under Territory ordinances arose under the Commonwealth Act providing for those ordinances. Practical examples It is of assistance to give some practical examples of how a matter arises under a law of the Parliament. Actions for debts based on Commonwealth law, for example under taxation, or corporations or bankruptcy legislation clearly arise under the legislation. The debt owes its existence to the operation of Commonwealth law: An action for negligence against a patent attorney for his or her failure to draft a patent with due skill arises under the Patents Act Cth , because the subject matter in dispute owes or would have owed its existence to the Patents Act. Even more so if the defence raises an issue that the claimed invention was obvious or not novel: A claim under an insurance policy for which interest under the Insurance Contracts Act Cth is claimed, or in defence of which the insurer relies on misrepresentation or non-disclosure and invokes the Insurance Contracts Act, arises under that Act. A claim for damages for a breach of a term of a contract implied by Commonwealth law such as the Trade Practices Act Cth is a matter arising under a law of the Parliament. It now is a matter arising under the Trade Practices Act. Where a liquidator was appointed by the Federal Court under the Corporations Act Cth at the suit of ASIC, the claim instituted by the liquidator seeking to get in the assets of the trust to which he was appointed by the Court was within federal jurisdiction, notwithstanding that the third party raised only common law rights to justify its possession: The laws of a State or Territory with respect to:

Chapter 6 : Federation Press - Book: Cowen and Zines's Federal Jurisdiction in Australia

The court is a superior court of limited jurisdiction, but below the High Court of Australia in the hierarchy of federal courts, and was created by the Federal Court of Australia Act in [19] Decisions of the High Court are binding on the Federal Court.

These include Westminster style parliaments, parliamentary sovereignty, responsible government and an independent judiciary. As in the United Kingdom, Australian courts also operate according to the principles and practices of the adversarial system. Nevertheless, the Australian court hierarchy differs from that of the United Kingdom owing to the Federal nature of the Australian state. This article offers a clear and concise introduction to the Australian court hierarchy, including its structure and notable actors to help assist your understanding of which court can hear your matter. The Constitution and the Australian Judiciary All introductions to the Australian court system must necessarily begin with Federation. On 1 January, the Australian Constitution became law. It shares power between the executive, judiciary and the legislature. Chapter three of the Constitution concerns the judiciary. It mandates a judiciary free from political interference. The state remunerates judges and guarantees them tenure in the absence of established misbehaviour or incapacity. While the Constitution only creates the High Court of Australia, it gives parliament power to create other federal courts and to vest state and territory courts with federal power. In Australia, there are two primary jurisdictions: At the time of federation, lawmakers were concerned to safeguard state and territory power vis-a-vis the Commonwealth. For that reason, the Australian constitution gives only certain, delineated powers to the federal government. These areas were considered of national importance e. Plenary powers all the rest remained the province of the states and territories. Australian Court Hierarchy The court hierarchy reflects this history. Within the hierarchy are two distinct yet interrelated spheres: Although separate, they intertwine because an appeal is possible in some circumstances from a state or territory court to a federal court. Similarly, some state courts exercise federal jurisdiction. Federal Courts The federal court system has four courts: It has original jurisdiction in all matters concerning the constitution. It is also the court of final appeal from state and territory courts for criminal and civil cases. Of course, an appeal is not automatic. A party must apply for leave to argue a legal point before the Court. Before, Australians were able to appeal beyond the High Court to the Privy Council in some circumstances. This practice ended with the enactment of the Australia Acts Cth. At that time, the community perceived that the national legal tradition was sufficiently mature, and distinct such that appeal to a British court was no longer appropriate. Today all judicial officers of the Court are addressed as a judge rather than a magistrate. It is a statutorily created court meaning it has no inherent powers other than those parliament gives to it. It is not a superior court of record. Typically, the Court hears less serious matters within the federal jurisdiction including family law and administrative law. There is some overlap between this Court and the Federal Court in that both can hear cases in the same area of law. For example, both courts can review migration decisions. Nonetheless, the circumstances in which a litigant would approach either court are distinct. It usually hears more serious matters within the federal jurisdiction in both its original and appellate jurisdiction. The Court hears matters in areas such as industrial relations, taxation, corporations law, bankruptcy and native title. As mentioned above, the Federal and Federal Circuit Courts can hear matters in the same areas of law. Always seek professional legal advice if you are considering action. Every court has its court rules available on their website to guide litigants together with easy-to-read guides. Family Court The federal government created the Family Court in as part of its wider reforms of family law. It is a specialist court and hears family law matters. It also has the power to hear appeals from the Federal Circuit Court, also in family matters. The court sits in every state and territory except Western Australia. In Western Australia, family matters are heard in a state court. However, it is useful to think of them as a scheme made up of a lower, intermediate and superior courts. However, this schematic is not always correct. For example, the ACT has no intermediate court. Superior Courts Superior Courts typically have original jurisdiction for serious criminal offences such as murder as well as for civil cases with an unlimited monetary value. Criminal trials can include a jury or have only a

presiding judge. These courts also have an appellate jurisdiction from the various lower state courts. These courts are courts of record, and their decisions tend to form a weighted precedent. Intermediate Courts Intermediate courts have original jurisdiction in both a criminal and civil capacity. Their criminal docket usually involves less serious offences, and their civil matters have set monetary values. While jury trials are possible, they tend to be rare. Lower Courts The lower state courts hear the least serious criminal matters and civil matters of low monetary value. They are also the forum for committal hearings for more serious criminal offences known as indictable offences. Children are dealt with separately from adults because issues of culpability and any penalties administered must take account of their age. It can order an inquest so as to establish the cause of death or fire in any situation. It also has the power to commit a suspect to trial for manslaughter, murder or arson. If you have any questions about which court can hear your matter, get in touch with our disputes team on Was this article helpful?

Chapter 7 : Jurisdiction: Australia | Herbert Smith Freehills “ Employment notes

Federal ICAC back on the agenda in federal parliament With the Morrison government losing its lower-house majority, Attorney-General Christian Porter is ready to discuss ways to strengthen the Commonwealth public sector integrity system.

Chapter 8 : Federal Register of Legislation - Australian Government

Note: Section 44 of the Judiciary Act gives the High Court of Australia power to remit a matter to a federal court that has jurisdiction with respect to that matter. (3) The Court has jurisdiction with respect to matters remitted to it under section 44 of the Judiciary Act

Chapter 9 : Latest Australian Federal Government news

The Federal Circuit Court has an identical jurisdiction to that of the Federal Court of Australia in matters arising under the Bankruptcy Act and the Human Rights and Equal Opportunity Commission Act