



The Australian Institute of Judicial Administration Incorporated

# **GUIDE TO UNIFORM PRODUCTION OF JUDGMENTS**

**SECOND EDITION**

**The Honourable Justice L T Olsson  
Supreme Court of South Australia**

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The AIJA is an incorporated association affiliated with the University of Melbourne. Its main functions are the conduct of professional skills courses and seminars for judicial officers and others involved in the administration of the justice system, research into various aspects of judicial administration, and the collection of information on judicial administration. Its members include judges, magistrates, barristers and solicitors, court administrators, academic lawyers and other individuals and bodies interested in improving the operation of the justice system.

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## FOREWORD

In 1992 the AIJA published the first edition of *Guide to Uniform Production of Judgments*. The *Guide* was designed to implement recommendations from the earlier *Lindgren Report* to promote moves towards the production and publication of judgments of Australian courts in as standardised a format as possible. Those recommendations were prompted by recognition that there was a need to achieve a reasonable level of uniformity if the development of efficient, computerised tools to aid the judiciary and counsel in their work was to become a reality.

That need for uniformity is even more important today, given the extraordinary growth in the development and use of judgment databases in Australia that has taken place over the past seven years. Rapid developments in on-line technology have also made it necessary to update certain areas of the *Guide*. In particular, there has been a need to consider issues such as medium neutral citation for electronic judgments.

The second addition of the *Guide* reflects a revision of the initial publication, designed to ensure that it continues to serve as a practical working document that will be of assistance to judicial officers and to court officers involved in the task of judgment production. With that objective in mind, it has been produced in close consultation with courts and tribunals from across the country. The AIJA is very grateful to all heads of jurisdiction, individual judges, court officers and staff, for their ready cooperation and willingness to attempt what has proved to be a substantial degree of compromise to achieve a high degree of national uniformity. The degree of ultimate agreement and acceptance which has been achieved in the mutual interest of all courts has been gratifying.

While it is designed to encourage uniformity, the *Guide* is not intended to be a prescriptive document. It recognises that there is a need to preserve flexibility to allow any court to deal with particular circumstances unique to it. The AIJA would welcome comments and feedback on the publication; it is anxious to ensure that subsequent editions continue to meet the needs of courts, tribunals, the legal profession and the public and keep pace with developments in this important area.

As with the first edition, the report was written for the Institute by the Hon Justice Trevor Olsson of the Supreme Court of South Australia, a Past-President of the AIJA. Justice Olsson has been a major force behind the AIJA's work in this area and the Institute is grateful for his considerable contribution to this project. He was expertly assisted by an experienced Project Advisory Committee, including:

The Hon Justice David Byrne, Chairman of the Consultative Committee of Australian Law Reporting

Ms Sandra Davey, the former Manager of Foundation Law for the Law Foundation of New South Wales

Professor Graham Greenleaf, Faculty of Law, University of New South Wales

His Hon Judge David Harvey, District Court of New Zealand

The Hon Justice George Fryberg, Supreme Court of Queensland

Ms Naida Haxton, Assistant Editor, Council of Law Reporting for New South Wales.

The Institute would like to thank each of them for their valuable advice and guidance in the course of the project.

Thanks are also due to the AIJA Secretariat, in particular, to Mrs Kathy Jarrett and Ms Sarala Fitzgerald for the editing and formatting of the publication.

To assist in promoting the use of the *Guide*, the publication will be made available, free of charge, to all existing and future judicial appointments and to tribunal members.

The Hon Justice Catherine Branson  
President  
Australian Institute of Judicial Administration  
February 1999

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## 1. INTRODUCTION

- 1.1 In January 1992 the AIJA published the first edition of the *Guide to Uniform Production of Judgments* (“the Guide”). This was designed to provide a tool to facilitate the production of judgments of the senior courts in a standard format.
- 1.2 Following the earlier Lindgren report,<sup>1</sup> the AIJA sought, by means of the Guide, to encourage a system of production of unreported judgments which recognised standard protocols (as used in the authorised law reports), in the text of the judgments themselves; and which contained a front sheet, also in a standard form.
- 1.3 This approach was designed to aid the electronic up loading, storage and retrieval of judgment content, so as to promote efficient operation of on-line information systems.
- 1.4 Whilst it was recognised that there would have to be some variations to meet the needs of particular jurisdictions, the Guide recommended a common form judgment cover sheet which, *inter alia*, contained details which identify the proceedings and expanded catchwords to facilitate topic searches.
- 1.5 The Guide spelt out the essential concepts as to how catchwords ought to be constructed. At that time, it suggested that the Australian Digest topic structure be adopted. The rationale for such an approach was that this topic structure had been accepted by the Consultative Council of Australian Law Reporting as the national standard.
- 1.6 Most court systems were content to adopt at least the substance of the AIJA recommendations. They have, in so doing, facilitated:
  - a significant reduction of time between the handing down of judgments and their general publication, particularly by on-line service providers;
  - a broader dissemination of judgments;
  - lower costs of reproduction, distribution and storage; and
  - the ability to search full text and to quote accurately without re-keying text.
- 1.7 However, since 1992 there have been major advances in on-line service technology. It has also been possible, in that period, to assess the efficacy of the protocols originally proposed by the Guide.

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<sup>1</sup> Dr Kevin Lindgren, *Computerised Legal Information Retrieval for the Australian Judiciary*, (AIJA, 1990)

- 1.8 Several problems of a practical nature have been identified since the adoption of the recommendations.
- 1.8.1 First, the topic structure has not proved entirely satisfactory for computer operations. Although the main topic titles are generally found appropriate, many of the sub topic descriptions are too lengthy for convenient use with most computer fields. It is desirable, in the long term, to adopt a sub topic structure which is expressed in more succinct terms, whilst remaining descriptive and helpful.
- 1.8.2 Second, difficulties have arisen in relation to the manner in which pagination is handled in various electronic files. Generally speaking, this cannot be rectified. Pagination varies, depending upon the software used to call up and print the relevant judgment. Saving input in a non-proprietary format (such as Rich Text Format, Plain Text and ASCII) does not overcome this problem.
- 1.8.3 Finally, the recommended approach did not provide a useful method of citing electronically recorded, unpublished judgments, or even the best method of citing reported judgments for electronic purposes. There has been a need to develop a system of judgment citation which is applicable to printed and electronic versions of the same judgment alike. Ideally, that citation method should be capable of expression in a manner which is both medium and vendor neutral. It ought also to facilitate citation of specific locations in the text in an efficient and user friendly manner.
- 1.9 This second edition of the Guide seeks to promote the adoption of a system which addresses all of the above problems. It is based upon an expansion of the excellent system recently pioneered by officers of the High Court of Australia, to whom due recognition is freely accorded.
- 1.10 It also seeks to anticipate possible future developments, whereby judgments can be transmitted electronically from one court to another, and are in a form useful for appeal purposes. This is designed to recognise the ultimate (and inevitable) move towards electronic appeal books and other relevant documentation.

## **2. GENERAL GUIDELINES**

- 2.1 In the guidelines set forth in the first edition of the Guide its aim was stated in these terms -

“[T]he aim... [i]s to provide a basis for the production of individual judgments in a format which will promote the economic and timely electronic up loading, storage and retrieval of their content on both local/jurisdictional and also national bases, to the mutual advantage of all members of the judiciary, the legal profession and other persons and agencies having a potential interest in them.”

That aim remains unchanged.

- 2.2 As in the case of the first edition it is not intended that this Guide be fully prescriptive or all encompassing. Rather, it is intended to constitute a simple, practical document which will promote uniformity. This aim is tempered by the need for flexibility to deal with individual situations and to recognise that busy judges and their staff will not have time to emulate professional law reporters. However, it must be emphasised that the adoption of approaches which are as uniform as possible - achieved by means of consistent use of templates, style guides or macros - will almost certainly save time, both for those who create judgments and those who use them.

### **3. JUDGMENT FORMATS**

- 3.1 It is recommended that all judgments continue to be published with a cover sheet attached to the front of them which, as relevant to the individual circumstances, adopts the sequence and general format set out in Annexure A of this guide. The proposed outline cover sheet will obviously need to be adapted to meet the needs of each particular Court, but it contains all details likely to be required for the purposes of any database and the search mechanisms associated with it. Alternatively, it is important that such details at least be included either at the commencement or the end of each judgment, in the event that a separate cover sheet is not produced.
- 3.2 Central to the cover sheet data is that segment which contains catchwords enabling the document to be up loaded in a form to which search and retrieval techniques can subsequently be applied to find the judgment and relate it to relevant legal topics.
- 3.3 Ideally, in professional reporting terms, a proper headnote of a judgment, which extracts its *ratio decidendi*, should first be prepared. The catchwords ought, subsequently, to be derived directly from this. However, it is recognised that, in busy chambers, it will rarely be feasible to produce both head notes and catchwords. In practice, most catchwords will, accordingly, need to reflect a direct analysis of the full text of the judgment itself as to its *ratio decidendi*.
- 3.4 However, if the cover sheet is to achieve its full potential in promoting the most efficient and helpful research function, the catchwords should, as is contemplated by the pro forma Annexure A, conclude with a “noter up” endorsement of earlier principal authorities applied, distinguished, not followed and/or significantly discussed. (However, it need not necessarily advert to authorities cited in the full text of the judgment that are not of primary importance.)

## 4. CATCHWORDS

### 4.1 *Function*

The function of catchwords is to give a summary classification of the matters dealt with in a case. Catchwords should proceed from law to facts and from the general to the particular. The first catchword will be the title of a general topic of law, as under:

CRIMINAL LAW

The second catchword will be a division of that topic:

CRIMINAL LAW -- LIABILITY AND CAPACITY

CRIMINAL LAW -- PARTICULAR OFFENCES

CRIMINAL LAW -- EVIDENCE

The first two catchwords will be followed by other catchwords which identify particularly the subject matter of the case:

CRIMINAL LAW -- LIABILITY AND CAPACITY -- MENS REA -- STATUTORY OFFENCE -- LIABILITY OF EMPLOYER

CRIMINAL LAW -- PARTICULAR OFFENCES -- SEXUAL OFFENCES -- CORROBORATION OF

CRIMINAL LAW -- EVIDENCE -- CONFESSIONS AND ADMISSIONS -- DISCRETION TO EXCLUDE

The catchwords should be as short and precise as possible, show the questions involved in the decision in the case and, where important to that decision, the actual determination:

CRIMINAL LAW -- LIABILITY AND CAPACITY -- MENS REA -- STATUTORY OFFENCE -- LIABILITY OF EMPLOYER -- WHERE DELEGATION OF RESPONSIBILITY TO SERVANT -- DUTY TO PROTECT EMPLOYEES OF CONTRACTORS

CRIMINAL LAW -- PARTICULAR OFFENCES -- SEXUAL OFFENCES -- CORROBORATION OF -- DIRECTIONS TO A JURY ON -- JURY NO LONGER TO BE WARNED ON UNCORROBORATED EVIDENCE OF FEMALE COMPLAINANT

Often, but not invariably, the catchwords will confine themselves to matters which would usually be found in a fully developed head note and not introduce additional material.

Catchwords should primarily focus on issues of law, having simply identified a broad factual context within which they arise.

## **4.2 General approach**

To promote reasonable uniformity and maximise ease of cross reference and retrieval, the key titles and subtitles used should, wherever feasible, continue to follow the scheme employed in the Australian Digest. The AIJA will, for the longer term, look into the feasibility of developing a purpose designed structure and supporting Thesaurus.

For convenience of use, a summary of the major titles and first subtitles appears in Annexure F. The permission of LBC Information Services (a division of Thomson Professional Information Asia Pacific Pty Ltd) to reproduce this is acknowledged and much appreciated. It is not essential to use these titles exclusively or dogmatically. When they do not appear appropriate different approaches will be needed. There will, at times, be a need to change the phraseology or sub divide the title. For example, it may be convenient to provide for “Sentencing” as a specific sub title of “Criminal Law and Procedure”, including a lower title “Guideline Judgments”.

Subject to that consideration, these simple rules are suggested:

- 4.2.1 Words or phrases authoritatively defined in a case should be included in the catchwords in inverted commas. Double quotes ought consistently to be used, in preference to single quotes.
- 4.2.2 No words or phrases other than those defined should be put into inverted commas. The defined word should be preceded by a phrase such as *definition of or meaning of* so as to permit a search formulation which avoids production of a potentially unworkable number of ‘hits’. Quite apart from providing a more refined search definition the computer would not, for example, normally be able to discriminate between false and ‘false’ appearing in the text being searched.
- 4.2.3 Abbreviations ought not to be used in catchwords. They render computerised searching more difficult and, potentially, unreliable.
- 4.2.4 Try to give some indication of the general principle involved, as earlier illustrated in this Guide.

4.2.5 Catchwords should not be too long - nor too short. Their purpose is to tell the researcher whether there is likely to be anything in the case relevant to the research topic. For this reason it is desirable that they indicate (however shortly) any matter of legal principle for which the case is creative legal authority in respect of its content. If this is done, the researcher can save time by passing over any case where catchwords do not suggest that it may be useful.

To assist automated recognition of references to legislation, adherence to the following catchwords guidelines is recommended:

- where a statute is referred to in the catchwords themselves the year of the Act must be included in every reference to it - a computer program cannot identify which “*Crimes Act*” is intended, but “*Crimes Act 1914*” makes this clear.
- the full name of a statute should be included in each segment in which sections of the Act are cited - mere references to “the Act” cause problems with accurate on line searching.
- if a second statute is referred to, it is necessary to repeat the full name of the first Act before citing sections from it again, otherwise a computer will be unable to determine which statute is intended.

Statutes, regulations and bylaws discussed or applied are set out at the end of the catchwords, in the order Imperial, Commonwealth, State - with references to statutes, regulations and bylaws appearing in that sequence. Not all Acts and sections of Acts mentioned in the judgments need be included, only those which bear on the decision in the case. To promote computer retrieval the name of the Act or any relevant delegated legislation should be stated first, followed by the date, the jurisdiction, and the number of the section or sections referred to as follows:

*Crimes Act 1914* (Cth), s 353A(1)

*Crimes Act 1901* (NSW), s 23

Supreme Court Rules (SA), r 24

It should be noted that sections are referred to in the format - s 52(1).

### **4.3 *Noter up reference***

The catchwords ought to be followed, where appropriate, by a simple noter up reference to prior authorities considered, applied, distinguished, not followed and/or discussed, eg. *Koop v Bebb* (1951) 84 CLR 629 at 643, applied.

It is not desirable to refer to all cases cited in the course of a judgment. The noter up reference should be restricted to those which are of primary importance.

Where possible and relevant, it is helpful to refer to the actual page (or, preferably, a paragraph number where a medium-neutral form of citation has been adopted) of the authority at which the statement of principle is to be found.

Case names should be reproduced in full without abbreviations, except that the abbreviation 'Ltd' is acceptable in relation to a corporate entity.

The "v" between the names should not be followed by a full stop and there should be one blank space either side of it.

The citation (eg. CLR) should not have full stops between letters, nor should spaces be left between them.

A specific page reference (or paragraph number, where a medium-neutral form of citation has been adopted) should simply appear as shown in Annexure B.

(NOTE: Adoption of the approaches suggested above are important aids to computer searching.)

### **4.4 *Separate sets of catchwords***

Catchwords are framed with a view to the eventual indexing of the case.

Where the judgment involves two or more unrelated propositions of law there is a need to evolve separate sets of catchwords, which must be set out in separate, successive blocks.

A similar need arises where different classifications or different subject matters, falling within the same general topic of law are separately developed or dealt with, even though the adoption of that course may involve some repetition.

For example:

PRIVATE INTERNATIONAL LAW -- TORTS -- DEFAMATION --  
LIABILITY UNDER LEX LOCI DELICTI -- MAY BE PLEADED IN  
ADDITION TO DEFENCES AVAILABLE BY LEX FORI.

DEFAMATION -- FAIR COMMENT -- STATUTORY DEFENCES  
-- SCOPE OF DEFENCE -- ONUS OF PROOF.

DEFAMATION -- FAIR COMMENT -- MALICE PLEADED IN  
REPLY -- EXISTENCE OF MALICE NOT CONCLUSIVE ANSWER  
-- MALICE RELEVANT IN DETERMINING FAIRNESS OF  
COMMENT.

DEFAMATION -- FAIR COMMENT -- MALICE PLEADED IN  
REPLY -- COMMENT OF STRANGER -- DISTINGUISHED  
FROM COMMENT BY DEFENDANT, SERVANTS OR AGENTS  
-- DISTINCTION AT COMMON LAW -- NO DISTINCTION IN  
RESPECT OF STATUTORY DEFENCES.

DEFAMATION -- ACTIONS FOR -- PLEADING -- MALICE --  
REPLY -- DEFENCE OF FAIR COMMENT -- LIMITED  
ALLEGATION OF MALICE DESIRABLE -- SUPREME COURT  
RULES, 1970, PT 15 R 13.

#### **4.5** *Style guides*

Generally the Style Guide contained in Annexure B should be adopted in relation to cover sheets, catchwords and the body of the judgment itself.

### **5. PAGINATION OF JUDGMENTS**

- 5.1 As has been pointed out by the High Court, in an explanatory memorandum issued by it, the solution to the pagination problem lies in the incorporation of paragraph numbers within judgment texts. These are simply included in the text of the document and remain constant, regardless of the file format or retrieval software employed. The numbers reproduce as if they were part of the actual text of the judgment and should not, subsequently, be changed by anyone other than the source of the document.
- 5.2 If desired, a decimal system can be employed to indicate subparagraphs (for example 6.1, 6.2 and so on). Bullet points and other symbols should be avoided if possible.
- 5.3 It should be noted that there are, however, some specific aspects which need to be borne in mind.
- 5.4 In the word processing environment, the automatic paragraph numbering function normally reads each separate internal citation of text, from another authority, as a new paragraph, even although, in truth, it is intended as an integral portion of the text paragraph to which it relates. This needs to be overcome by development of an appropriate, corrective macro, the content of which will need to vary, dependent on the word processing program in use.

- 5.5 When Full Bench judgments comprise multiple reasons for decision written by two or more members, there is a need to marry these together as one, composite, continuing document.
- 5.6 In the case of production of multiple reasons of this type it is also imperative that there a single cover sheet, bearing a medium neutral citation designation; and only one set of catchwords.
- 5.7 Where it is desired to refer to a specific numbered paragraph of a judgment, when using a medium neutral citation, that number should be added at the end of the citation in square brackets to indicate that the reference is to a nominated paragraph. This is becoming the accepted protocol for such a reference. Example: “In Smith v Jones [1998] HCA 99 at [17] the High Court said ...”. This will facilitate searching and translation in data formats.
- 5.8 For purposes of computerised presentation utilising existing electronic databases, it is desirable for citations to be retained with the name of the judgment, rather than placed in a footnote. For example, “In Smith v Jones [1998] HCA 99 at [17] the High Court said ...” is preferable to “In Smith v Jones the High Court said ... “ (the citation being shown as a footnote at the bottom of the page), because users of an electronic form of the judgment would have to continually refer to the footnotes to determine whether or not a hypertext link to the case cited was available. As a result many users might, on reading the body of the text of the judgment, be unaware that such links are available to some cases. This is because the hypertext link attaches to the citation itself. On the other hand, where a long list of cases is cited as authority for a particular proposition, these may, more appropriately, be placed in a footnote. However, footnotes are, with technology currently in use, generally, database unfriendly. Endnotes are far preferable.
- 5.9 It should be emphasised that, if these protocols are not observed, the development of a truly effective electronic retrieval system becomes both difficult and uneconomic.

An abbreviated example is set out in Annexure C.

## **6. COURT DESIGNATED (MEDIUM NEUTRAL) CITATIONS**

- 6.1 The recently issued High Court memorandum stresses that the advent of various on-line reference systems has rendered it essential that there be a simple method of citing electronic unpublished judgments. There is a pressing need to provide a system which facilitates a pinpoint citation to specific locations within each judgment. This can, of course, coexist quite comfortably with traditional hard copy citation methods in respect of both reported and unreported judgments.
- 6.2 The method adopted by the High Court displays world leadership in this area. The basic components of it are:

- 6.2.1 The parties.
  - 6.2.2 The year of publication of the judgment.
  - 6.2.3 A unique abbreviation as a court identifier.
  - 6.2.4 A sequential judgment number issued by the particular court.
  - 6.2.5 A pinpoint paragraph reference.
- 6.3 The AIIA recommends the adoption of the High Court format, which may be expressed as:
- (The parties) [the year of the decision] (the Court abbreviation) (the sequential number of the judgment).
- 6.4 The High Court memorandum sets out the following example for citation of the 99th decision published in 1998:
- Smith v Jones* [1998] HCA 99
- 6.5 It is to be noted that all paragraphs should be numbered sequentially commencing with the initial paragraph in the published judgment. Where the judgment consists of reasons published by two or more judges the numbering should not recommence at the beginning of each separate set of reasons, but continue sequentially throughout the whole judgment.
- 6.6 With such a system specific locations within the decision can simply be identified with the additional reference to the applicable paragraph number. Thus, in the case of the above citation, a specific paragraph reference would read:
- Smith v Jones* [1998] HCA 99 at [17]
- The use of square brackets enclosing the paragraph number is a convenient method of distinguishing references to paragraphs from page references.
- 6.7 In situations in which several judgments are published by the same author in the same case at different points in time, the name of the case ought to bear a sequential number as part of that name as follows:
- Brown v Black* (No 2) [1998] NSWSC 1413
- 6.8 Adoption of the foregoing recommended standard approach will greatly enhance the functionality of on-line electronic systems.
- 6.9 It is recommended that the court designators set out in Annexure D be adopted for the purpose of medium neutral citations.
- 6.10 The court designated citation is, effectively, part of the title of the judgment having been allocated by the court at the time of delivering the judgment. It should be retained whenever the decision is cited, including after the decision is reported, whether in a series of official reports or otherwise. (See Annexure B paragraph 8 for recommended

methods of parallel citation where a decision has been reported). If this is not done on-line publishers may not be able to create automated hypertext links between cases or permit effective automated searches.

## **7. TECHNICAL JUDGMENT STRUCTURE AND DOCUMENTATION PREPARATION**

- 7.1 To assist with electronic publishing of judgments, data consistency (including the structure and format of judgment documents) is extremely important. To achieve consistency, it is essential that Courts use a consistent set of word processing templates, macros and styles for the preparation of judgments.
- 7.2 It is therefore strongly recommended that Courts adopt the following protocols in relation to their internal electronic operations:

### *Headings and Titles on Judgment Cover Sheets and Format of Body of Judgment*

- 7.2.1 The use of word processing styles and/or heading levels on judgment cover sheets and in the body of the document will force a consistent look across a judgment and allow for consistent structure. Not all these headings and titles will apply to every judgment. At times, there may be a need to change the phraseology or sub divide the title. The adoption of a consistent format style in the body of the judgment is crucial for the purposes of subsequent marking up. A summary of the major headings and titles to which styles should be applied is included in PART A of Annexure E. This Part also identifies the types of features of a judgment text which are critical in terms of consistent format.

### *Markup of Judgments*

- 7.2.2 Within judgments there are some key items of information that are important identifiers. The use of word processing styles for headings and titles as described in the preceding paragraph goes some way towards assisting with the identification of this key information. However, key items of information can be more easily located within the text of electronic documents if they have also been marked up in some way. This can be achieved by the use of markup “tags” which are hidden within the electronic version of the word processing document.
- 7.2.3 “Tags” can be inserted at the judgment creation stage, during the editing process or immediately prior to publication by using word processing styles, macros and/or shortcut keys. The method used will depend upon the point at which the relevant

information becomes known during the judgment production process. If an individual court elects to embed tags it is desirable that a single person be appointed as a judgment or data editor with overall responsibility for ensuring consistency of style and tagging in the end product. Consistency of format is essential for cost effective translation of tagged text into other electronic formats such as SGML and HTML.

- 7.2.4 A sample of key information items together with suggested “tags” is included in PART B of Annexure E.

*File (Document) Names*

- 7.2.5 Judgments should be saved in a file using a consistent and unique file naming convention within a specific court (eg., the judgment number). Multiple judgments should be combined into a single file. As the names of parties can sometimes be confidential, it is recommended that file names should not reference the names of parties.

**7.3 *Presentation for Printing***

It is strongly suggested that guidelines set out in PART C of Annexure E be adopted, to promote reasonable uniformity.

## ANNEXURE A

### SAMPLE FORMAT OF JUDGMENT COVER SHEET

CITATION: *R v Kakura and Sato* [1998] NSWSC 241  
PARTIES: R v KAKURA, Hiroyuki  
SATO, Tomoyuki  
TITLE OF COURT: COURT OF CRIMINAL APPEAL (NSW)  
COURT OF APPEAL (NSW)  
JURISDICTION: APPEALS from SUPREME COURT  
exercising Federal jurisdiction  
FILE NO/S: CCA No 60490 of 1990  
CCA No 60512 of 1990  
CA No 40587 of 1990  
DELIVERED ON: 15 March 1998  
DELIVERED AT: Sydney  
HEARING DATES: 12 March 1998  
JUDGMENT OF: [Name of Judge/s]

#### CATCHWORDS:

FISH AND FISHERIES -- OFFENCES -- PROCEDURE -- APPEALS  
-- FEDERAL OFFENCE

Plea of guilty before magistrate - committal to Supreme Court for sentence - order for forfeiture of vessel - vessel not owned by convicted persons - whether appeal to Court of Criminal Appeal from "sentence" - forfeiture order not relevantly sentence because not related to property of convicted person.

*Fisheries Act 1952* (Cth), s 13C; *Criminal Appeal Act 1912* (NSW), s 2, "sentence"; *Justices Act 1902* (NSW), s 51A

*Cheatley v The Queen* (1972) 127 CLR 291, considered.

FISH AND FISHERIES -- OFFENCES -- FORFEITURE --  
JURISDICTION TO ORDER

Where “offence arising out of” possession or control of boat - more than temporal or incidental relationship required - scope of power - discussion of relevant considerations

*Fisheries Act 1952 (Cth)*, s 13C

*Armitage v Lancashire and Yorkshire Railway Co* [1902] 2 KB 178; *Dover Navigation Co Ltd v Craig* [1940] AC 190; *Nunan v Cockatoo Docks & Engineering Co Ltd* (1941) 41 SR(NSW) 119; 58 WN(NSW) 140, applied.

*Cheatley v The Queen* (1972) 127 CLR 291, considered.

## REPRESENTATION

Counsel:

Appellants: B C Oslington QC and P M Jacobsen

Respondent: Sir Maurice Byers QC and L S Katz

Solicitors:

Appellants: Michell Sillar McPhee Meyer

Respondent: Commonwealth Director of Public Procutions

Judgment category classification: [as required for reporting/archiving purposes eg CAT A]

Court Computer Code: [as required eg SCCRM/89/200]

Number of paragraphs:

[NOTE: A possible system of categorisation is as under:

- **Category A**

Those of significance and/or recurrent interest by virtue of their discussion/application of legal principle.

- **Category B**

Those which are more routine in nature because they are either essentially decisions on discrete fact situations or are fairly routine examples of the application of well known and understood principles. Such judgments would not normally warrant reporting or uploading into a national database.

- **Category C**

Those which contain data indicating current levels of assessment of damages either generally or in discrete classes of cases. It is to be expected that these will give rise to catchwords containing ALMD like

summaries which would be uploaded but later would periodically be purged from a national database as no longer current.]

In the case of judgments of appellate courts it would also be useful to include a reference to the Judge, Court or Tribunal appealed from.



## ANNEXURE B

### GENERAL STYLE GUIDE

#### 1. DATES AND NUMBERS

Dates should appear as follows: 19 July 1984.

Spell out numbers from one to nine.

Percentages should be expressed as: 10 per cent

Times should be shown as: 7.30 am

Monetary amounts should be shown as: \$1000 \$4 \$32.65

Fractions should be shown as: 1/2

#### 2. ABBREVIATIONS

Section	s 3	s 3 and s 4	s 3, s 4 and s 5
Paragraph	par (a)	par (a) and par (b)	par (a), par (b) and par (c)
Subsection	s 3(2)	s 3(2) and s 3(3)	s 3(2), s 3(3) and s 3(4)
Regulation	reg 4	reg 4 and reg 6	reg 4, reg 5 and reg 6
Order	O 3		
Rule	r 2	r 2 and r 3	r 2, r 3 and r 4
Clause	cl 5	cl 6 and cl 7	cl 15, cl 16 and cl 17
Chapter	ch 1		
Proprietary Limited	Pty Ltd		
Limited	Ltd		
Part	Pt I	Pt I and Pt II	Pt I, Pt II and Pt III
Division	Div		
Schedule	Sch		
Mr			
Ms			
Mrs			
Dr			
Regina, Reg etc	all - R		

#### 3. BOOKS AND JOURNALS

Smith, G Administration Law 2nd ed Oxford University Press, London, 1970

Mason A, "Future Directions in Australian Law" (1987) 13 MULR 149

Rogers, B “The Pitfalls in Occupational Health and Safety Law”  
Journal of Occupational Health and Safety Vol 15 No 4 1998 at 13.

#### 4. LEGISLATION

Prison Act 1903 (SA)

Crimes Act 1990 (Cth) (no comma before date)

Contracts Review Act 1980 (NSW), s 7(1) (Section references after Act)

Supreme Court Rules 1970 (SA), Pt 24, r 12.

#### 5. COURTS

The reference to a court is always lower case except when referring to the Court in which the judgment is produced.

#### 6. CASE CITATION

References to decided authorities in the text of a judgment may be dealt with in a number of ways:

- (a) References in text of the judgment may be set out in full throughout the judgment or in full when first occurring and as a “supra” or “ibid” thereafter, as currently adopted by FCR, FLR, LGRA, ALJR:

*Collins v Repatriation Commission* (1980) 48 FLR 198 at 211 - 212 (when first appears)

*Collins v Repatriation Commission* (supra) at 213 (when next occurs), or

*Collins v Repatriation Commission* at 213.

One advantage of always setting out a citation in full is that it is then possible to search by citation and retrieve all references. If judgments are not cited in full each time they are referred to this may well have a deleterious effect on the performance of search engines and the automated inclusion of hypertext links.

- (b) When a case list is provided (as in NSWLR or FCR) references may be cited in the text:

*R v Smith* (1978) 151 CLR 551 (full reference when first appears)

*Coleman v Buckingham's Ltd* [1963] SR NSW 171; 80 WN (NSW) 593

*R v Smith* at 556 (when appears thereafter - without supra).

*Coleman v Buckingham's Ltd* (or *Coleman* but not *Buckingham's*) at 173; 593

- (c) References in the text of the judgment may be confined to the name of the case followed by a numerical reference in brackets, eg, *R v Smith* (2). The actual citation is then shown at the foot of the page adjacent to the corresponding numeral, as currently adopted in the CLR reports series:

(2) (1978) 151 CLR 551 (full reference when first appears)

(2) (1978) 151 CLR 551 at 572 (when appears thereafter)

NOTES:

- (1) The method to be adopted may well depend on:
- established practices;
  - styling of authorised reports of the Court;
  - computer compatibility and ease of reference.
- (2) The method most compatible with computerised retrieval for on-line use is (a), because of the difficulties in relation to hypertext links caused by the other methods. (See discussion in the Guide, paragraph 5.8.)
- (3) As court designated citations are adopted these also ought to be shown.

**7. PINPOINTING PAGE AND PARAGRAPH: 'HYBRID' OR 'COMBINED' PINPOINT CITATIONS**

- (1) In conventional print citations, a citation can be more specific than a page number, referring to a section based on margin letters, eg *Person v Company* (1998) 152 ALR 34 at 52E.

A print judgment will now have both page and paragraph numbering. It is recommended that, in future, pinpoint citations refer to both page and paragraph numbers.

The conventional print citation will take a reader to the first page of the judgment; it is then necessary to take the reader to both the page and paragraph within the judgment.

To pinpoint only to the paragraph when the reader is using a print copy of the judgment referred to would require a reader to turn through the judgment so as to locate the paragraph, where use of the page number

would have taken them directly to the page. Further, pinpointing only to the paragraph is not helpful when a paragraph spans more than one page.

To pinpoint only to the page when the reader is using a print copy of the judgment referred to will take the reader to a page on which there may be many paragraphs, in which case use of the existing paragraph number emulates the current practice of pinpointing with added margin letters A-G.

To pinpoint only to the page when the reader is using an online copy of the judgment referred to will be of no help to the reader at all, and the pinpoint will fail.

Thus pinpoint citations referring to a print version should be to the page and paragraph number:

EXAMPLE:

*Person v Company* (1998) 152 ALR 34 at 52 [27]

(This pinpoints paragraph 27 on page 52 of the judgment.)

## **8. PARALLEL CITATIONS IN PRINT**

- (1) A judgment with a medium neutral citation may be published in a report and given a print citation. Thus:

*Person v Company* [1998] HCA 25

is later reported as

*Person v Company* (1998) 152 ALR 34

- (2) The medium neutral citation is effectively part of the title of the judgment, having been allocated by the court at the time of delivering the judgment, and appearing at the head of the print reported judgment.
- (3) It is recommended that future citations of the judgment should be to both the medium neutral citation and the print citation. The medium neutral citation is placed first, but not necessarily in italics with the case name and is separated from the print citation by a semicolon.
- (4) To refer only to the print citation means a user with only online access is unable to locate the judgment. Equally, to refer only to medium neutral citation means a user with only print access is unable to locate the judgment.
- (5) Failure to parallel cite the medium neutral citation and the print citation will severely limit a person's ability to conduct an online database search: if the search is for the medium neutral citation, the case will not be found unless it has been recorded with parallel citations.

- (6) Thus parallel citations should be in the following form:

*Person v Company* [1998] HCA 25; (1998) 152 ALR 34

- (7) For a parallel pinpoint citation, the recommended form is:

*Person v Company* [1998] HCA 25 at [27]; (1998) 152 ALR 34  
at 52

## 9. PAGE REFERENCES

*R v Smith* (1978) 151 CLR 556

at 566 - 567 (if quote runs on)

at 566, 559 (if separate quotes)

## 10. QUOTATIONS

Anything over five lines is usually indented within double quotation marks. Stops to be deleted from quotes to accord with overall style.

## 11. RELEVANT STATUTORY/DOCUMENTARY TEXT PROVISIONS

It is recommended that consideration be given, where appropriate, to preceding the actual text of the judgment with a preliminary statement - setting out the text of the relevant statutory or documentary provisions.

## 12. UNDERLINING

Anything to be emphasised should be printed in italics or a different type font and not underlined. Documents with underlining converted to html create a false hypertext link for what is underlined. This can be very confusing.

### NOTES:

- *Do* leave spaces between two page references (eg 556 - 557), otherwise the computer will read the figures as a single continuous string.
- Above all else **BE CONSISTENT**, or the computer may not find all relevant references.



## ANNEXURE C

### SAMPLE PARAGRAPH NUMBERING

(Extract from *South-West Forest Defence Foundation Inc v Executive Director of the Department of Conservation and Land Management and Another* (No 1) [1998] HCA 34)

- 1 GAUDRON, McHUGH, HAYNE AND CALLINAN JJ. The applicants seek special leave to appeal from a decision of the Full Court of the Supreme Court of Western Australia, striking out their statements of claim in three actions. The pleadings that were struck out were long and complex documents in a form which was likely to embarrass the fair trial of the proceedings. The Full Court's decision to strike out the pleadings can be supported on that basis.
- 2 The Full Court granted the applicants leave to replead to a very limited extent only. The applicants chose not to exercise that leave for reasons which it is not necessary to examine.
- 3 As argument developed in this Court, it appeared that there were three aspects to the case which the applicants sought to raise. Essentially, the first was that the first respondent was bound to identify, locate and seek to conserve endangered flora and fauna or, alternatively, to take reasonable steps to do so, before logging in the areas identified in the pleadings. The applicants wish to contend that this obligation arises from two separate sources: first, the *Conservation and Land Management Act 1984* (WA), s 33, in combination with the Forest Management Plan made up under that Act; and secondly, the *Environmental Protection Act 1986* (WA), s 47, in combination with commitments given in relation to a proposal to amend an earlier Forest Management Plan made under the said *Conservation and Land Management Act*.
- 4 The applicants also wish to contend that the first respondent has not taken reasonable steps to identify or to locate or to seek to conserve endangered flora and fauna, and that they are entitled, amongst other relief, to an injunction restraining logging activities which will render it impossible for the first respondent to discharge that duty. This was not the way in which the pleadings were understood in the Full Court. And, on any view, they would need to be recast in order to make that case clear.
- 5 The second aspect of the case asserts a breach of a duty to liaise with the local community. That duty turns upon the terms of commitments given in relation to the proposal to amend the earlier Forest Management Plan, to which reference has already been made. The

meaning and effect of those commitments are not matters which should attract the grant of special leave.

- 6 The third aspect of the case is concerned with the *Wildlife Conservation Act 1950* (WA). The applicants contend that the respondents, their agents and contractors are bound by the flora and fauna protection provisions of that Act and that the proposed logging activities would involve a breach of those provisions. It is clear, however, that the relevant provisions simply proscribe activity undertaken without a licence or without the written consent of the Minister. It is not pleaded that no licence will be granted or no consent given. Moreover, it is difficult to assume that if required, none will be granted or given. In these circumstances, the issues raised with respect to the *Wildlife Conservation Act 1997* raise matters which border on the hypothetical and are not appropriate to attract the grant of special leave.
- 7 The issues raised by the first aspect of the case to which reference has been made are not, however, hypothetical. Moreover, we are not persuaded that the applicants' contentions in respect of this aspect of their case are necessarily beyond argument. That is, we are not to be taken as concluding that a pleading which conformed to the relevant rules of court and which alleged such a case should be struck out before trial. Other considerations may arise with respect to the applicants' claimed declarations.
- 8 And it is to be noted that the Solicitor-General for Western Australia has accepted that the judgment that has been entered in the present action does not preclude the bringing of a fresh proceeding with pleadings which identify the points to be argued with precision and without needless and distracting elaboration. It is clear that the most that the applicants could obtain by way of relief from this Court is the right to replead their case, a case which, as already indicated in part, turns on the legislation to which reference has been made and the particular terms of the Forest Management Plan and the commitments made in the proposal to amend the earlier Forest Management Plan.
- 9 It is said that the Court should rule on the issues that have been debated because the parties are here and the issues have been exposed. It is true that the issues have been exposed, save for that relating to standing upon which the applicants were successful below. However, the special leave procedure is not to be circumvented on that account. Moreover, it is to be remembered that it was said by Chief Justice Brennan, when this matter came before a bench of three in December last year, that the argument would proceed before this Court and it would be left to the Court at the end to say whether or not special leave would be granted or refused and, if granted, whether the appeal would be allowed.

- 10 In the circumstances, a majority of this Court is convinced that this is not an appropriate case for the grant of special leave in the circumstances which have been elaborated.
- 11 KIRBY J. I regret that I do not agree with the conclusion which has been reached by the majority or with the orders which the majority favour.
- 12 The Court has sat to hear a series of questions argued, as earlier stated by Justice Toohey, and as adjunct to applications for special leave. Two and a half days have been set aside for the hearing. Self-evidently, this is much longer than the time ordinarily granted by this Court for special leave hearings. Already argument extending over nearly a day and a half has been heard; although the principal arguments of the respondent have not yet been reached. The applicants have provided full written submissions on all issues, as has the respondent. The application papers which were filed run into hundreds of pages. The parties are from Western Australia. They have accepted an allotment of time for a hearing before the Court in Hobart. One can only imagine the costs that have been involved to all concerned. Clearly, they would run into many thousands of dollars. In my opinion the Court should conclude the hearing and, for that purpose, sit for the balance of the time allocated.
- 13 The question is whether arguable special leave points have been revealed by this stage of the argument. In my view, they have. What is sought is not an advisory opinion from this Court, but orders setting aside the orders of the Full Court of the Supreme Court of Western Australia. Unless the orders of that court are set aside, they will, in effect, terminate the proceedings for relief brought by the applicants. Even if the orders of the Full Court were interlocutory in a technical sense, unless they are set aside by order of this Court, the practicalities are, as it seems to me, that any attempt by the applicants to commence afresh in the courts of Western Australia would be doomed to fail. In my opinion, this Court should accept that reality.”



## ANNEXURE D

### PROPOSED COURT DESIGNATIONS

High Court of Australia	HCA
Federal Court of Australia	FCA
Family Court of Australia	FamCA
Australian Industrial Relations Commission	AIRComm
Industrial Relations Court of Australia	IRCA
Refugee Review Tribunal of Australia	RRTA
Immigration Review Tribunal of Australia	IRTA
Administrative Appeal Tribunal of Australia	AATA
Australian Competition Tribunal	ACompT
Australian Copyright Tribunal	ACopyT
Defence Forces Discipline Appeal Tribunal	ADFDAT
Australian Federal Police Disciplinary Tribunal	AFPDT
National Native Title Tribunal	NNTTA
Supreme Court of Queensland	QSC
Queensland Court of Appeal	QCA
District Court of Queensland	QDC
Queensland Building Tribunal	QBT
Land Appeal Court (Qld)	QLAC
Industrial Court (Qld)	QIC
Medical Assessment Tribunal (Qld)	QMAT
Planning & Environment Court (Qld)	QPEC
Land Court (Qld)	QLC
Queensland Industrial Relations Commission	QIRComm
Anti-Discrimination Tribunal (Qld)	QADT
Supreme Court of New South Wales	NSWSC
New South Wales Court of Appeal	NSWCA
District Court of New South Wales	NSWDC
Residential Tenancies Tribunal of NSW	NSWRTT
New South Wales Industrial Relations Commission	NSWIRComm
Land and Environment Court of NSW	NSWLEC
Compensation Court of NSW	NSWCC
Dust Diseases Tribunal of NSW	NSWDDT

Community Services Appeals Tribunal of NSW	NSWCSAT
New South Wales Administrative Decisions Tribunal	NSWADT
New South Wales Administrative Decisions Tribunal Appeal Panel	NSWADTAP
Supreme Court of the ACT	ACTSC
Supreme Court of Victoria	VSC
Victorian Court of Appeal	VSCA
County Court of Victoria	VCC
Victorian Civil and Administrative Tribunal	VCAT
Supreme Court of Tasmania	TASSC
Resource Management and Planning Appeal Tribunal of Tasmania	TASRMPAT
Supreme Court of South Australia	SASC
District Court of South Australia	SADC
Environment Resources and Development Court of SA	SAERDC
Industrial Relations Court of South Australia	SAIRC
Industrial Relations Commission of South Australia	SAIRComm
Workers Compensation Appeal Tribunal of South Australia	SAWCAT
Supreme Court of the Northern Territory	NTSC
Northern Territory Anti-Discrimination Commission	NTADComm
Supreme Court of Western Australia	WASC
District Court of Western Australia	WADC
Family Court of Western Australia	FamCWA

NOTE:

Where it is desired to maintain separate numbering systems for judgments of appellate courts, it is recommended that, as appropriate, suffixes such as CA, FC, CCA be employed.

Examples:

QSCCCA

FCAFC

NSWSCCCA

# **ANNEXURE E**

## **PART A**

### **Summary of Headings and Titles**

- Case Name/Citation
- Parties
- Court Name
- Jurisdiction
- Case ID (File Number)
- Judgment Date
- Place of Delivery of Judgment
- Hearing Date/s
- Judge/s Name
- Catchwords
- Case References
- Legislation References
- Order
- Judgment Category
- Legal Representatives (solicitors and counsel)
- Number of Paragraphs

### **Summary of Judgment Text Features for Format Purposes**

- Numbered Paragraph
- Unnumbered Paragraph
- Paragraph Heading
- Paragraph Sub-heading
- Quotation
- Quotation within a Quotation
- Block Paragraph
- and so on...

## ANNEXURE E

### PART B

#### Sample of Key Information Items

The table below contains a list of the key concepts and information contained within most judgments. These items of information can be located within the text of documents if they have been marked up in some way. This can be achieved by the use of markup tags of styles. Sometimes, it may also be worth considering the production of a standard data sheet to be attached to every judgment which could contain this key information in a structured format.

Concept	Tag Format or Style Name	Integration Method *
Case Name/Citation	<CaseName> </CaseName> <Citation> </Citation>	Judgment Creation Template
Parties	"<Party name=...,Type=...>"	Judgment Creation Template
Court Name(Division)	<CrtnameDivision=...>	Judgment Creation Template
Jurisdiction	<ProcType> </ProcType>	Judgment Publication Macro
Case Id (File Number)	<CaseId> </CaseId>	Judgment Creation Template
Judgment Date/s	<JmtDate> </JmtDate>	Judgment Publication Macro or Shortcut Key
Place of deliveryof judgment	<CrtnLocation=...>	Judgment Creation Template
Hearing Date/s	<Hdate> </HDate>	Judgment Creation Template
Judge/s Name	"<Judge 1=..., 2=..., 3=..., 4=..., 5=..., 6=..., 7=...>"	Judgment Publication Macro or Shortcut Key
Catchwords	<Catchwords> </Catchwords>	Judgment Publication Macro or Shortcut Key
Case References	<CR> </CR>	Shortcut Key
Legislation References	<LR> </LR>	Shortcut Key
Order	<Order> </Order>	Judgment Publication Macro or Shortcut Key
Judgment Category	<Cat> </Cat>	Judgment Publication Macro
Legal Representatives [Solicitors and Counsel]	"<Solicitors=...,Counsel=...>"	Judgment Creation Template
Paragraphs	<p> </p>	Judgment Publication Macro
Number of Paragraphs	<p> </p>	Judgment Publication Macro

\* The Integration Method most appropriate will depend upon the point at which the relevant information becomes known during the judgment production process. For example, the case number and parties should be known at the

judgment creation time so this information could be tagged at that time through a judgment creation template and associated macro, whereas, catchwords will not be known until immediately prior to publication so a shortcut key could be used to insert that information when appropriate.

# ANNEXURE E

## PART C

### Guidelines for Presentation for Printing

#### 1. PAPER SIZE/TYPE

Judgments should be formatted for printing on A4 paper.

#### 2. FONTS, MARGINS AND SPACING

Any typeface may be used. Proportional fonts for the body of the judgment (other than block quotation) should be no smaller than 10 points and no less than 2cm from left and right margins. Characters may be italicised or bolded where appropriate. Top and bottom margins should be no less than 2cm.

The body of the judgment should be single spaced, with the equivalent space of a single line between paragraphs, and only one space after periods and other final punctuation.

Quotations may appear in the body of the judgment set off with quotation marks or indented and single spaced as a block quotation. A font size smaller than that of the body of the judgment may be used to further distinguish the indented quotation.

Font size 13 and Times New Roman type face are recommended.

#### 3. TABS AND INDENTATION

Tabs and indentation should be kept consistent at all times and as simple as possible. The standard Microsoft tab spacing is suitable, but not essential. Under no circumstances should multiple spaces be used instead of tabs to separate text.

#### 4. NUMBERING OF PARAGRAPHS, AND LINES

All paragraphs in a judgment should be consecutively numbered. Sub-paragraphs, quotations, lists and headings are not considered as paragraphs and therefore should not be numbered in this way.

Once paragraph numbers have been assigned by a court, they should not be altered in any subsequent publication.

Line numbering should not be used.

**5. HEADERS AND FOOTERS**

Judgments may contain either headers or footers or both.

**6. FOOTNOTES AND ENDNOTES**

The standard supports the use of endnotes and footnotes.

**7. DIAGRAMS AND GRAPHICS**

Ideally, scanned images should be placed in a separate file with a hypertext link, although this is not possible with Word documents viewed internally. It is essential for Internet use.

**8. JUSTIFICATION AND HYPHENATION**

Standard left-justification is preferred. Full justification may be used to prepare printed text but should be converted to left-justification before electronic dissemination. Similarly, syllable-based hyphenation should not be used in the electronic file except for printing, if desired.

**9. MAINTENANCE OF INTERNAL COPY**

Courts should maintain a final copy of all decisions, in electronic form, in word processing format. If desktop publishing programs are used for presentation purposes, a final copy should be converted back to the word processing program.



## **ANNEXURE F**

### **KEY TITLES AND FIRST SUB-TITLES**

#### **ABORIGINALS**

- General
- Land Rights
- Reserves
- Relics and Heritage Protection
- Crimes by Aboriginals
- Crimes in Relation to Aboriginals
- Other Matters

#### **ADMINISTRATIVE LAW**

- Distinction between Administrative and Judicial Functions
- Judicial Review Legislation
- Judicial Review at Common Law
- Appeals from Administrative Authorities
- The Ombudsman
- Access to Information
- Prerogative Writs and Orders
- Particular Tribunals or Bodies

#### **ANIMALS**

- Animals Ferae Naturae and Mansuetae Naturae
- Liability of Owners and Keepers in Respect of Injuries by Animals
- Trespass by Animals
- Various Statutory Provisions
- APPEAL AND NEW TRIAL**
- APPEAL-GENERAL PRINCIPLES**
- In General and Right of Appeal
- Interference with Discretion of Court Below
- Interference with Judge's Findings of Fact
- Admission of Fresh Evidence
- Points and Objections not Taken Below
- Excessive or Inadequate Damages

## **NEW TRIAL-IN GENERAL AND PARTICULAR GROUNDS**

In General

Particular Grounds

## **PRACTICE AND PROCEDURE**

[States]

## **ARBITRATION**

The Submission and Reference

The Arbitrators and Umpire

Conduct of Arbitration Proceedings

The Award

Costs

## **ASSOCIATIONS AND CLUBS**

General Matters

Jurisdiction of the Courts

Rights, Duties and Liabilities of Members

Expulsion, Suspension and Disqualification

Officers, Trustees, Servants and Committees

Procedure in Actions By and Against

Friendly Societies

Credit Unions, Industrial, Building, Co-operative and Similar Societies

Racing Clubs and Associations

Incorporated Associations

Miscellaneous Societies and Organisations

## **AVIATION**

Regulation of Air Navigation

Carriage by Air

Airline Services

Offences in Relation to Aviation

Other Cases

## **BAILMENTS**

General

Bailment for Reward

Gratuitous Bailment

Particular Bailments

Remedies

## **BANKING AND FINANCIAL INSTITUTIONS**

Banks

Banker and Customer and Business of Banking Generally

## **BANKRUPTCY**

Generally

Districts, Registrars and Official Receivers

Procedure and Evidence

Proceedings in Connection with Sequestration

Control Over Person and Property of Debtors and Bankrupts

Administration of Property

Discharge of Bankrupt and Annulment of Sequestration Order

Trustees

Administration under Bankruptcy Legislation of Estate of Deceased Persons

Arrangements with Creditors without Sequestration

Offences

## **BILLS OF EXCHANGE**

Form, Definition and Acceptance

Negotiation, Title and Right of Holders

Parties- Capacity, Authority and Liability

Presentment, Dishonour and Consequent Proceedings

Discharge

Cheques

Promissory Notes

Miscellaneous Matters

Procedure

Other Negotiable Instruments

## **CARRIERS**

Carriage of Passengers

Carriage of Goods

Railways

## **CHARITIES**

Charitable Purposes

Non-charitable Purposes

Charitable Gifts and Trusts  
Trustees of Charities  
Administration and Control by Court  
Other Matters

## **CHURCHES AND RELIGIOUS ASSOCIATIONS**

General Matters  
Constitution, Management and Powers  
Church Property and Trusts

## **CITIZENSHIP, IMMIGRATION AND EMIGRATION**

Citizenship and Nationality  
Aliens  
Passports  
Immigration

## **CONSTITUTIONAL LAW**

### **IMPERIAL, COLONIAL, STATE AND COMMONWEALTH CONSTITUTIONAL RELATIONSHIPS**

Generally  
Imperial Legislation  
Extraterritorial Operation of Legislation

### **THE NON-JUDICIAL ORGANS OF GOVERNMENT**

The Crown  
The Legislature

### **CONSTITUTIONAL AMENDMENT**

Commonwealth  
States

### **OPERATION AND EFFECT OF THE COMMONWEALTH CONSTITUTION**

General Matters  
Operation of the Constitution and the Laws of the Commonwealth  
The Trade and Commerce Power  
Freedom of Interstate Trade, Commerce and Intercourse  
The Taxation Power  
Bounties and Aid to Production or Export  
Financial Relationships between Commonwealth and States

Revenue and Appropriation Generally  
The Defence Power  
The External Affairs Power  
Powers as to Naturalisation and Aliens and Immigration and Emigration  
The Power to Acquire Property  
Miscellaneous Powers of the Commonwealth  
Power of Incidental Legislation  
The Executive Government  
Transferred Departments  
Constitutions, Powers and Laws of the States  
Inconsistency of Laws  
Restrictions on Commonwealth and State Legislation  
Full Faith and Credit to State Laws, etc.  
The Seat of Government (Australian Capital Territory)

### **TERRITORIES**

Legislative Powers of Commonwealth Parliament in Relation to Territories  
Courts having Jurisdiction in or over Territories  
Territory Officers  
Application of External Laws  
Particular Territories

### **CONSUMER CREDIT**

Credit Protection  
Hire Purchase

### **CONTRACTS**

#### **GENERAL CONTRACTUAL PRINCIPLES**

Offer and Acceptance  
Parties  
Statute of Frauds, Section 4  
Consideration  
Illegal and Void Contracts  
Construction and Interpretation of Contracts  
Discharge, Breach and Defences to Action for Breach  
Harsh and Unconscionable Contracts and Statutory Remedies

## **PARTICULAR PARTIES**

Vendor and Purchaser  
Principal and Agent  
Partners  
Minors  
Mentally Disabled Persons  
Auctioneers

## **BUILDING, ENGINEERING AND RELATED CONTRACTS**

The Contract  
Performance of Work  
Materials  
Remuneration  
Practice  
Other Matters

## **CONVEYANCING**

### **RELATIONSHIP OF VENDOR AND PURCHASER**

Matters Arising between Contract and Conveyance  
Conveyance  
Breach of Contract  
Position of Parties after Completion  
Sales by the Court  
Vendor and Purchaser Summons: Summary Procedure  
Restrictive Covenants  
Statutory Protection of Purchasers

### **LAND TITLES UNDER THE TORRENS SYSTEM**

General Principles  
Bringing Land under the Act  
Certificates of Title and Crown Grants Generally  
Indefeasibility of Title: Certificate as Evidence  
Protection of Purchasers from Registered proprietor  
Trusts, Equities and Unregistered Instruments and Interests  
Caveats against Dealings  
Instruments generally  
Transfers  
Mortgages, Charges and Encumbrances

Leases  
Easements  
Persons under Disability  
Joint Tenancy and Tenancy in Common  
Transmission and Vesting Orders on Proprietor's Death  
Execution Against Land under Torrens System  
Remedies for Deprivation  
Survey, Deposited Plan, etc.  
Legal Proceedings generally  
Offences

## **CORPORATIONS**

Corporate Character  
Constitution and Legal Capacity  
Formation  
Corporate Finance  
Management and Administration  
Take-over Offers  
Arrangements and Reconstructions  
Voluntary administration  
Receivers, Managers and Controllers  
Official Management  
Winding Up  
Foreign Companies  
Bodies Corporate -- other than Companies and Associations  
Supervision, Regulation and Correction  
Practice and Procedure  
Miscellaneous Cases

## **CRIMINAL LAW**

### **GENERAL MATTERS**

Criminal Liability and Capacity  
Ancillary liability  
Other General Matters

### **PARTICULAR OFFENCES**

Offences Against the Person  
Driving Offences

Property Offences  
Offences against Government  
Offences Relating to the Administration of Justice  
Offences against Peace and Public Order  
Offences Against Decency and Morality  
Drug Offences  
Miscellaneous offences and matters

## **EVIDENCE**

Generally  
Relevance  
Judicial Discretion to admit or exclude Evidence  
Matters relating to Proof  
Confessions and Admissions  
Complaints  
Res Gestae  
Similar Facts  
Dying Declarations  
Depositions  
Evidentiary Matters Relating to Witnesses and Accused Persons  
Miscellaneous Matters

## **JURISDICTION, PRACTICE AND PROCEDURE**

Warrants, Arrests, Search, Seizure and Incidental Powers  
Bail  
Limitation of Time for Prosecution  
Consent of Attorney-General or Other official to Prosecution  
Prosecution  
Jurisdiction  
Adjournment, Stay of Proceedings or Order Restraining Proceedings  
Hearing in Open Court and in Presence of Accused  
Persons entitled to Conduct Prosecution  
Matters Connected with Conduct of Defence  
Information, Indictment or Presentment  
Accused Unfit to Plead or Becoming Incapable During Trial  
Pleas  
Juries

Courses of Evidence, Statements and Addresses

Witnesses

Miscellaneous Powers of Courts and Judges

Interpreters and the Interpreting of Evidence

Exhibits

Summing-Up

Death or absence of Judge During Trial

Verdict

Judgment and Punishment

Miscellaneous Practice Cases

### **APPEAL AND NEW TRIAL AND INQUIRY AFTER CONVICTION**

Appeal and New Trial

Pardon, Commutation of Penalty, Reference on Petition for Pardon and  
Inquiry after Conviction

### **PROBATION, PAROLE RELEASE ON LICENCE AND REMISSIONS**

### **ADMINISTRATION OF PRISONS**

### **FEDERAL AND STATE INVESTIGATIVE AUTHORITIES**

### **DAMAGES**

General Principles

Measure and Remoteness of Damages in Actions for Breach of Contract

Measure and Remoteness of Damages in Actions for Tort

### **DEEDS**

What amounts to a deed

What amounts to a covenant

Form and execution

Delivery

Escrow

Merger

Deeds of Release

Discharge of deeds  
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## **DEFAMATION**

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## **DEFENCE AND WAR**

### **DEFENCE FORCES**

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### **WAR**

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### **WAR EMERGENCY LEGISLATION (FROM 1939)**

### **SPECIAL POWERS IN RELATION TO DEFENCE**

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## **EDUCATION**

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## **EMPLOYMENT LAW**

The Relationship of employer and employee

The contract of service and rights, duties and liabilities as between employer and employee

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## **ENERGY AND RESOURCES**

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## **ENVIRONMENT LAW**

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## **EQUITY**

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## **ESTOPPEL**

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## **EVIDENCE**

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## **EXTRADITION**

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## **FAMILY LAW AND CHILD WELFARE**

### **THE FAMILY LAW ACT 1975 (CTH) AND RELATED LEGISLATION**

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### **MARRIAGE AND ITS EFFECT**

Marriage  
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### **DE FACTO RELATIONSHIPS**

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### **CHILD WELFARE OTHER THAN UNDER FAMILY LAW ACT 1975 AND RELATED ACTS**

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### **FIRE, EXPLOSIVES AND FIREARMS**

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## **GAMING AND WAGERING**

Civil Proceedings in Respect of Wagering Contracts  
Lotteries etc.  
Unlawful Games and related Offences  
Common Gaming Houses and Places  
Using House, Office, Room or Place for purpose of Betting etc.  
Offences in Public Places (including Streets, Racecourses and Sports Grounds)  
Prohibited Publications Relating to Betting  
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## **GIFTS**

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## **GUARANTEE AND INDEMNITY**

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## **HEALTH LAW**

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Disposal of garbage and sewage  
Insanitary and unclean premises  
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### **HIGH COURT AND FEDERAL COURT**

The Federal Judicature Generally  
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### **HIGHWAYS**

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### **INDUSTRIAL LAW**

#### **THE COMMONWEALTH**

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Australian Industrial Relations Commission  
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### **NEW SOUTH WALES**

Interpretation and related matters  
Conditions of employment  
Awards and agreements generally  
Enforcement of condition of employment  
Disputes, industrial action and related matters  
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### **VICTORIA**

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### **SOUTH AUSTRALIA**

Applicability of Industrial legislation and generally  
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## **QUEENSLAND**

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## **WESTERN AUSTRALIA**

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## **OTHER JURISDICTIONS**

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## **INDUSTRIAL SAFETY, HEALTH AND WELFARE**

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## **PARTICULAR INDUSTRIES**

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## **INSURANCE**

- General
- Third Party Liability Insurance
- Insurance of Motor Vehicles Against Damage and Loss
- Fire Insurance
- Marine Insurance
- Fidelity Insurance
- Professional Indemnity Insurance
- Indemnity against industrial and like risks
- Other indemnity insurances
- Life Insurance
- Accident and Sickness Insurance
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- Reinsurance
- Insurance Companies
- Insurance Agents and Brokers

## **INTELLECTUAL PROPERTY**

- Copyright
- Designs
- Patents
- Trade marks and trade names
- Other matters

## **INTEREST**

- Agreements to Pay Interest
- Recoverability of Interest
- Where Equitable Relief or Fiduciary Relationship
- Rate of Interest and Compound Interest

## **INTERPRETATION**

- General Rules of Construction of Instruments
- Admissibility of Extrinsic Evidence in Relation to Instruments

## **JURY**

- The jury in civil proceedings
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## **LANDLORD AND TENANT**

- Distinction Between Lease and Licence
- Agreements for Lease
- Creation of Relationship of Landlord and Tenant
- Commencement of Term or Tenancy
- Duration of Term
- Subject Matter of Lease
- Form and Contents of Lease
- Covenants
- Rent
- Use and Occupation
- Tenancies other than for a Term
- Rights and Liabilities Apart from Covenant
- Assignment, Severance and Underlease
- Concurrent and Future Leases
- Termination of the Tenancy
- Retail and commercial tenancies legislation

## **LIMITATION OF ACTIONS**

- General
- Contracts, Torts and Personal Actions
- Land
- Mortgagees and Charges
- Trusts and Deceased Estates
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## **LIQUOR LAW**

- General
- Licensing
- Penal Provisions
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## **LOCAL GOVERNMENT**

- Regulation and administration
- Powers, functions and duties of councils generally
- Subdivision of land
- Building control
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## **MAGISTRATES**

Jurisdiction and procedure generally

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## **MEDIA LAW**

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## **MEETINGS**

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Public Meetings and Assemblies

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## **MENTAL HEALTH**

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Guardians, Committees, Administrators, Managers and Receivers

Confinement and Restraint of Mentally Ill Persons and Similar Orders

Mental Hospitals and Institutions

Management and administration of property

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Offences Against Mentally Ill Persons

Legal Proceedings By and Against Mentally Ill and other Protected Persons

## **MINING**

### **GENERAL MATTERS**

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Minerals and Rights Thereto

Acquisition of Minerals by The Crown

Mining Leases and Licences Apart from Statute

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## **LEGISLATION RELATING TO MINING FOR MINERALS- MINERS' RIGHTS AND MINING LICENCES, TENURES AND INTERESTS**

Miners' Rights and Business and Similar Licences

Exploration Licences

Mining Tenures and Interests in Respect of Crown Lands

Mining on Private Property and Resumption for Mining Purposes

Dredging leases

## **QUARRIES**

In General

Powers of Local Authorities and Validity of By-laws

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## **STATUTORY REGULATION OF CONDUCT OF MINING OPERATIONS**

Regulation of Industrial Conditions

Qualification and Appointment of Managers, etc.

Regulations as to Safety of Mines and Machinery

Civil Liability Under Statute for Injury or Death

## **MINE SUBSIDENCE LEGISLATION**

## **COURTS EXERCISING JURISDICTION IN MINING MATTERS**

## **MINING (INCLUDING NO-LIABILITY) COMPANIES, MINING PARTNERSHIPS AND JOINT VENTURES**

## **MONEY**

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Exchange on Debts and the Like

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Currency and Exchange Control

## **MORTGAGES**

### **MORTGAGES AND CHARGES GENERALLY**

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Particular Mortgages and Encumbrances  
Priority of Estates, Debts and Encumbrances,  
Estate and Interest of Mortgagor and Mortgagee  
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Remedies of the Mortgagee  
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### **CHATTEL SECURITIES**

Bills of sale -- what documents require registration  
Form and registration of bills of sale  
Bills of sale -- consequences of non-registration and failure to renew  
Bills of sale -- rights and liabilities of parties  
Miscellaneous securities

### **PARTNERSHIP**

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Rights and Duties of Partners Inter Se  
Rights and Duties as Between Partners and Third Parties  
Partnership Property  
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### **PERSONAL PROPERTY**

Definition and Classification  
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Joint Ownership, Ownership in Common, and Joint and Several Liability  
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### **POLICE**

Appointment, Tenure and Conditions of Service  
Rights, Powers and Duties  
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## **POST AND TELECOMMUNICATIONS**

Postal services  
Telephonic and related services  
Structures for postal and telecommunications purposes  
Employees of relevant authorities

## **PRIMARY INDUSTRY**

### **AGRICULTURE**

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Miscellaneous agricultural enactments  
Share-farming and other agreements relating to agriculture  
Agricultural holdings  
Sugar industry

### **FISH**

Territorial and constitutional issues  
Management plans  
Licences  
Shellfish  
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Fish processing, marketing and sale  
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### **STOCK, POULTRY AND FARM PRODUCE**

Travelling stock and stock routes  
Branding, earmarking etc  
Diseased stock, dipping etc  
Cattle grazing on unfenced land, and straying cattle  
Sale of cattle  
Pounds and impounding  
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## **MARKETING AND RELATED LEGISLATION**

### **PRIVATE INTERNATIONAL LAW**

- General Principles
- Domicile
- Jurisdiction
- Service out of Jurisdiction
- Stay of Proceedings
- Choice of Law
- Procedure
- Foreign Judgments- Effect and Enforcement

### **PROCEDURE**

- Courts and judges generally
- Supreme Court procedure
- Inferior courts
- Discovery and interrogatories
- Costs
- Contempt, attachment and sequestration
- Miscellaneous procedural matters

### **PROFESSIONS AND TRADES**

- Accountants and auditors
- Architects
- Auctioneers and agents
- Builders
- Lawyers
- Medical and related professions
- Other professions, trades or callings

### **PUBLIC SERVICE**

- Employees and Servants of the Crown in General
- Appointment under Public Service and Similar Acts
- Classification, Promotion or Transfer
- Remuneration and Salaries
- Tenure of office
- Leave
- Retiring Allowances, Pensions and Superannuation
- Boards, Commissioners and Appeals

Duties and Offences in Relation to Office

## **REAL PROPERTY**

General principles  
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Rating of land  
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Resumption or acquisition of land  
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Strata and related titles and occupancy  
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## **RESTITUTION**

General principles  
Mistake: restitution arising from a plaintiff's mistaken actions  
Restitution arising from unenforceable, incomplete, illegal or void contracts  
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## **SALE OF GOODS**

Definitions and Formalities  
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Transfer of Title by non-owners  
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Rights of Unpaid Seller Against Goods  
Remedies for Breach of Contract  
CIF, FOB, and Other Particular Mercantile Contracts  
Credit Sale Agreements Legislation (including Door-to-Door Sales)

## **SHIPPING AND NAVIGATION**

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Masters and Officers  
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Demurrage  
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Collisions and Limitation of Liability Generally  
Marine Inquiries and Cancellation and Suspension of Certificates  
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#### **SOCIAL WELFARE**

Social security payments  
Other statutory pensions and benefits  
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#### **STATUTES**

##### **ACTS OF PARLIAMENT**

Classification  
Validity of Legislation  
Interpretation  
Operation and Effect of Statutes  
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##### **BY-LAWS AND REGULATIONS**

Nature and Effect  
Making, altering or revoking

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## **SUCCESSION**

### **WILLS, PROBATE AND ADMINISTRATION**

The making of a will  
Probate and letters of administration  
Construction and effect of testamentary dispositions

### **EXECUTORS AND ADMINISTRATORS**

Title and estate of  
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Rights, powers and duties  
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## **FAMILY PROVISION AND MAINTENANCE**

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Principles upon which relief granted  
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## **SUPERANNUATION**

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Public service funds  
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## **TAXES AND DUTIES**

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## **TIME, WEIGHTS AND MEASURES**

### **TIME**

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### **WEIGHTS**

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Sale of or dealing with goods under weight or less than measure

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### **MEASURES**

## **TORTS**

### **THE LAW OF TORTS GENERALLY**

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### **NEGLIGENCE**

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Where Economic or Financial Loss  
Where Nervous Shock or Mental Disorder  
Capacity of Parties  
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Apportionment of Responsibility and Damages  
Miscellaneous Defences  
Liability For Others' Negligence

Proof of Negligence

Statutes, Regulations, etc. -Admissibility and Effect in Actions for Negligence

Road Accident Cases

Level Crossing Cases

Injuries to Passengers

Dangerous and Injurious Things, etc.

Dangerous Premises

Fatal Accidents Legislation

Solatium for Death of Child or Spouse-South Australia and Northern Territory

Miscellaneous Forms of Negligent Conduct

## **NUISANCE**

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Who May Sue For

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Offence of Committing a Nuisance

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## **MALICIOUS PROCEDURE AND FALSE IMPRISONMENT**

Malicious criminal and civil proceedings

Abuse of process

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## **TRESPASS**

Trespass to Land and Rights of Real Property

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## **TROVER AND DETINUE**

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Possession or Right to Possession

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## **MISCELLANEOUS TORTS**

Champerty and maintenance

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## **TRADE AND COMMERCE**

### **TRADE AND COMMERCE GENERALLY**

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Securities industry

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### **TRADE PRACTICES AND RELATED MATTERS**

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Terminology and Interpretation

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### **TRAFFIC LAW**

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Licensing of drivers

Registration and licensing of private vehicles

Regulation of traffic  
Offences  
Public vehicles  
Loads to be carried by vehicles  
Traction engines  
Transport co-ordination and regulation legislation  
Statutory compensation in respect of motor vehicle accidents

## **WORKERS' COMPENSATION**

### **WORKERS' COMPENSATION GENERALLY**

“Injury”

Causal Relation Between Injury and Incapacity or Death

Employment Risks - “Arising Out of and/or in the Course of the Employment”

Serious and Wilful Misconduct

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Diseases

Sufficiency of Evidence and Onus of Proof

### **ENTITLEMENT TO AND LIABILITY FOR COMPENSATION**

Persons Entitled to Compensation

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Contracting Out and Discharge of Claims

### **ALTERNATIVE RIGHTS AGAINST EMPLOYER AND THIRD PARTIES**

Alternative Rights Against Employer for Damages at Common Law or By Statute

Other Alternative Rights Against Employer

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### **PROCEEDINGS TO OBTAIN COMPENSATION**

Preliminary Requirements

Determination of Claims

### **ASSESSMENT AND AMOUNT OF COMPENSATION**

Assessment by Agreement

Amount of Compensation in Case of Death

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Weekly Earnings  
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Adjustment of Benefits and Review of Weekly Payments  
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### **INSURANCE OR LEVY**

### **MISCELLANEOUS MATTERS**

Commonwealth Government Employees Compensation  
Seafarers' Compensation  
Dust Diseases Legislation  
Legislation Relating to Mining  
Legislation Relating to Broken Hill (NSW)  
Bush Fire Fighters Legislation  
Offences  
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