

AN OVERVIEW ON AUSTRALIA'S

# General Legal Knowledge

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Introduction

# Australian Legal System

Australia is a 'constitutional monarchy' with a parliamentary system of government. The Head of State of Australia is Queen Elizabeth II and she is represented in Australia by the Governor General and the State Governors.



LEGISLATURE



EXECUTIVE



JUDICIARY

# Legal System

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## Legislature

Both houses of the federal parliament, the House of Representatives and the Senate, make up the legislature, which is responsible for debating and voting on whether or not to make new laws or change existing laws.

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## Executive

Federal government employees – often referred to as ‘the public service’ – and those members of parliament who are appointed as government ministers make up the executive. The executive is responsible for putting into effect and administering the laws made by the legislature.

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## Judiciary

The judiciary, comprising the High Court and Federal Courts, is responsible for interpreting the laws of the Commonwealth in court decisions and making decisions on whether or not the other two arms are acting within their powers.

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## The Australian Government's

# States & Territories

01

### State Constitution

Each state has its own constitution, for example, in New South Wales the Constitution Act 1902 grants 'power to make laws for the peace, welfare, and good government of New South Wales', subject to the Commonwealth Constitution. Each state has a head of government called the 'Premier' and a head of state, or 'governor'.



The Australian Government's  
**States & Territories**

02

### **Establishment**

The territories were established by Commonwealth statutes: The Northern Territory and the Capital Territory.



The Australian Government's  
**States & Territories**

03

### **The Roles**

The roles of the legislature, executive and judiciary at the state and territory level mirror the federal system.



The Australian Government's

# Voting System

**01** Federal elections - state and territory elections - local government elections.

**02** Voting is compulsory



The Australian Government's

# General Terms

- ▶ In Australia the law applies equally to everyone.
- ▶ Politicians are elected to parliament.
- ▶ Parliament makes laws on behalf of the people.
- ▶ Voting in elections is compulsory for all citizens over 18.
- ▶ Elections are free and fair.
- ▶ The police must follow the law.
- ▶ Judges are independent and must follow the law.
- ▶ Free information about the law is available to everyone.
- ▶ Legal aid commissions in every state and territory give free legal help for people who cannot afford a lawyer. Community legal centres may also be able to provide free legal help



Overview On

# Discrimination

- ▶ **Australia** is a multi-cultural country.
- ▶ **Discrimination** means being treated unfairly or not as well as others because of a characteristic like age, gender, race or marital status.
- ▶ **In Australia**, the law prohibits discrimination against someone on these grounds in certain areas of public life. It shouldn't matter what a person's sex, race, marital status, religion, sexuality or gender identity is or what physical features, disability or political views they have.
- ▶ **It is against the law** to treat a person unfairly or worse than others in anywhere – workspace, school, hotels and hostels, sporting activities, local government, publically funded clubs, community organization, and when a person or business is providing goods and services.
- ▶ **People** who believe that they have been discriminated against can make a complaint to the Human Rights Commission. They can also call legal aid for free information and help.

Overview On

# Domestic Violence

- ▶ **Domestic violence** is one of the most widespread human rights abuses in Australia and globally.
- ▶ **Violence** can be both emotional and physical.
- ▶ **In every state** there are domestic violence services. Anyone who is experiencing family violence can phone the hotline in their state. There are services for men and women. Domestic violence crisis centers can help with information, safety planning, and accommodation to support women who are escaping violence.
- ▶ **In Australia** it is the police's role to make sure you are safe and to help you if you are unsafe or afraid. If you are in danger and need urgent help, phone 000 and ask for the police. You can also go to your local police station.
- ▶ **Always tell the police** if you do not understand or speak English. They will get an interpreter.
- ▶ **You** will not automatically be deported from Australia if you report domestic violence, even if you only have a spouse visa and do not have permanent residence. If you are in this situation, you should talk to a lawyer or migration agent to get more advice.
- ▶ **An Australian court** can make an order to stop threats, violence and emotional abuse in the future. It tells the offender to stay away from you and to stop behaving in certain ways towards you. The order can be worded to suit your situation. You can get help to apply for an order from a court.
- ▶ **It is a criminal offence** to breach (break) an order and the person can be punished by the court. The police must help you if there has been a breach.

The Australian Government's

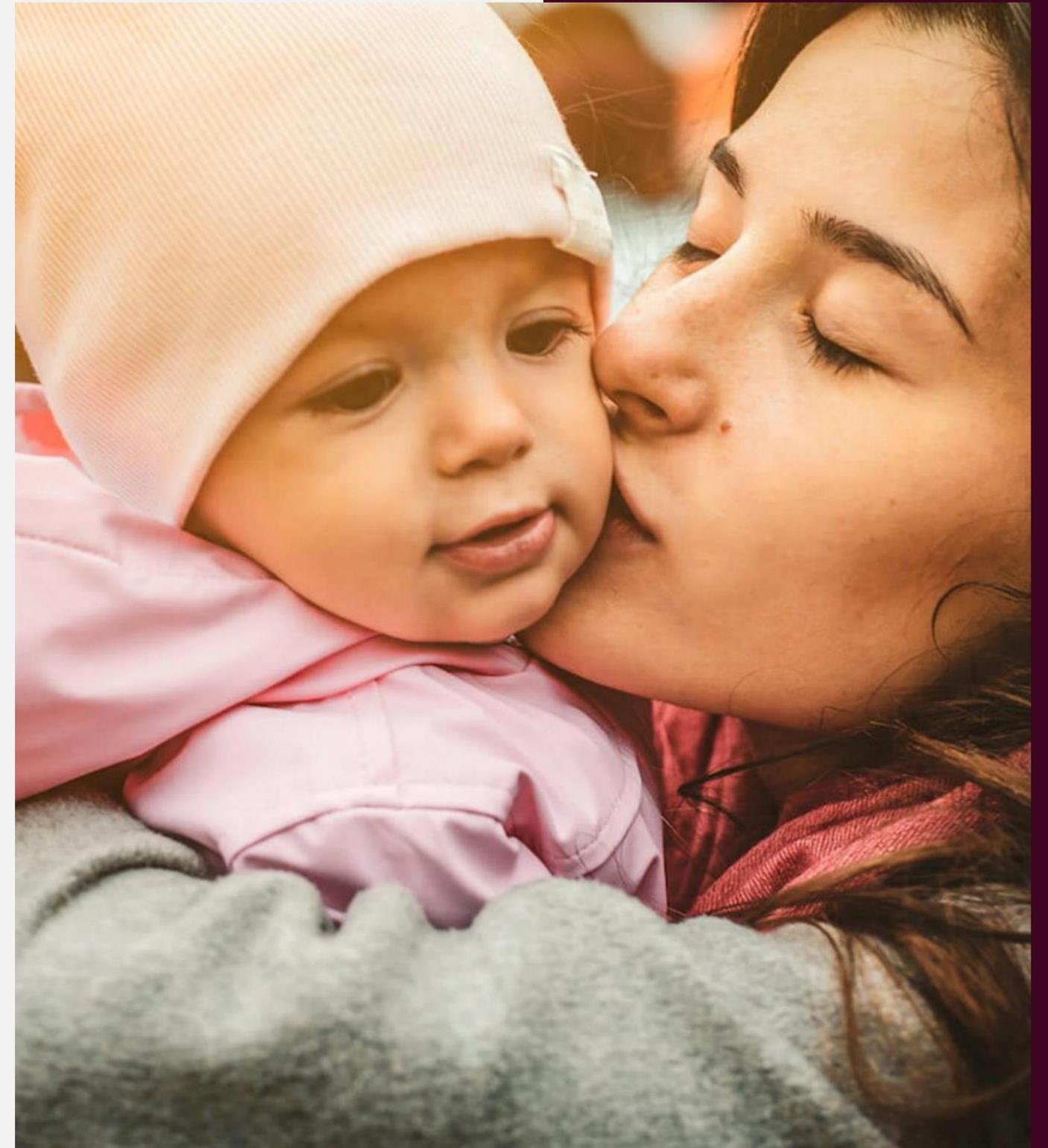
# Family Law

- ▶ **If you are having relationship problems**, there are free services that can help you. Many people get help from their family, professional relationship advisors or community.
- ▶ **The law does not decide** whether you should or should not separate—this is your decision.
- ▶ **If you can't fix your relationship problems** and you decide to separate from your partner or spouse, then you should get legal advice.
- ▶ **It is usually best** if a couple can agree on what to do when separating—for example, about how to divide their assets, their debts, and how much time their children will spend with each parent. A mediator can help spouses negotiate to work out these issues. Each person should get advice from a lawyer as well.
- ▶ **You can agree** on assets, debts and children before getting divorced.
- ▶ **If you can't reach agreement**, then you will have to go to the family law courts. In the family law courts a judge or a federal magistrate will make decisions about what happens to your children.
- ▶ **You can apply for a divorce** after one year of separation. You can apply even if only one person wants to get divorced.

Learn More About

# Child Protection

- 01 The law** says you can't beat your children.
- 02 Parents** do have the right to teach their children how to behave and there are ways of doing that without hitting them. These include being calm, listening and talking to children, setting firm rules with consequences, taking away favorite things, and rewarding good behavior.
- 03 You** should not leave young children alone at home. This can be neglect. Neglect means not looking after children properly.
- 04 The child protection** is a part of government required by law to investigate reports of child abuse or neglect and to see that children are safe and cared for.
- 05 Children** can be removed from the home if they are at risk of immediate or serious harm.



Find Out About  
**Centrelink**

- ▶ **If you get a Centrelink payment** or service, you need to tell Centrelink immediately if your circumstances change in case it affects your payment.
- ▶ **Change in circumstances** includes changes to your income or assets, moving in with your partner, if your rent changes, if your child stops living with you, if you stop studying or go from full-time to part-time, if you leave Australia.
- ▶ **If you don't understand** what is happening with a payment or why you are being asked to give information, then you should ask.
- ▶ **Centrelink checks information** with the Australian Tax Office, Australia's immigration authorities, government departments and other organizations, and checks your income with employers. It also acts on tip-offs from the public. If you are overpaid, you will probably have to repay the money.



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## Centrelink

- ▶ **If you have** deliberately given Centrelink incorrect information, then you may be charged with a criminal offence and have to go to court.
- ▶ **Centrelink** fraud is a serious offence. You could be sent to prison and have to pay the money back.
- ▶ **It is important** to use interpreters to make sure you understand your rights and obligations when dealing with Centrelink. If you don't understand anything you get from Centrelink, you should call them or visit an office. You can ask for a free interpreter.
- ▶ **If you have a problem** with Centrelink and they ask you to go to an interview, you can get free legal advice before you go.
- ▶ **If you have a problem** with Centrelink or you are not happy with a decision, tell them and get a receipt or record of the fact that you talked to them.



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## Centrelink

- ◀ **If you disagree** with a decision that Centrelink makes, you have the right to have the decision reviewed (looked at again). Legal aid or your local Welfare Rights Centre may be able to help with asking for a review or lodging an appeal.



## You Have To Know About **Fines**

- ▼ **There are many rules** about parking your car and it is important to look out for signs about these rules, understand what they mean, and do what they say.
- ▼ **If you get a letter** about a fine, do not ignore it.
- ▼ **There are options** for paying fines. If you get help early, you may have more options. Check the letter to find out who to call if you're having trouble paying.
- ▼ **If you ignore letters** about fines, or ignore the due dates, you may have to pay more or even go to court.
- ▼ **Always call legal aid** if you get a letter saying that you have to go to court because of a fine or fines.



## Always Get To Know The **Police**

- ▼ **It is important** to be polite and stay calm when dealing with the police.
- ▼ **The police** must follow the law. It is the job of police to protect property, keep the peace and make sure people are safe. The law gives police powers – such as the power to arrest – so that they can do this job. But their powers are also limited by law.
- ▼ **The police** are not the military.
- ▼ **Police can ask** for your name and address if they think you have done something wrong. They can also ask for your name and address and for your license if you are driving a motor vehicle. It is against the law to not give your name and address in these circumstances. If you give a false name, fight, or try to run away, you can be charged with an offence.
- ▼ **If you ask**, the police officer must give you their name, rank and police station where they work. You can ask for this in writing. This can help later if you want to make a complaint against the police. If the police refuse to give you their name and address, then you should ask again, stay calm, and consider making a complaint later.
- ▼ **If you are charged** with an offence and you get a summons to go to court, you should get free legal advice before you go to court.
- ▼ **If you get a summons**, you must go to court. You may be able to see a duty lawyer from legal aid at the court.

## Overview On **Renting**

- ▶ **Rent properties** through Real Estate Agents. Choose property online. Inspection is a must.
- ▶ **Rent application.** Approval. Bond payment.  
In the condition report, you should write down the condition of every room. If you have looked after the property and have not damaged anything, then you are entitled to a full refund of your bond.
- ▶ **The landlord** cannot claim some of your bond for normal 'wear and tear'.
- ▶ **Your landlord** has responsibilities when you rent a property, including the responsibility to fix things that are broken. If the property needs repairs (for example, plumbing, roof leaking, broken heater, broken oven, broken locks, door doesn't close properly etc), you should notify the landlord in writing and ask the landlord to fix it. If you can't do this yourself, contact a lawyer to get help.
- ▶ **If the landlord asks** you to pay for any repairs, then keep the receipt so you can get reimbursed.
- ▶ **Tenants** also have responsibilities - to pay the rent on time, keep the property clean and tidy, not intentionally damage the property, and not let other people live in the house without the landlord's permission.

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## Renting

- ▶ **The landlord** cannot kick you out of your house, even if you have done something wrong (like missing some rent payments). The landlord has to fill out paperwork and get a court order to evict you.
- ▶ **You** should always get help if you receive any letter or form from the landlord or estate agent that you don't understand. A tenants' organisation, community legal centre or legal aid may be able to help you, and they can organize an interpreter for you.

Get To Know About

# Driving

- ▼ **It is your responsibility** to know the laws about driving in the place you are living.
- ▼ **There are different rules** in every state about whether you can drive on a foreign driver license and for how long. You should contact the transport department to find out if you are legally allowed to drive.
- ▼ **If you have your learner permit** (your L plates), you can only drive if you are displaying your L plates and you have a fully licensed driver in the car with you.
- ▼ **You must renew your Australian license** before it runs out and tell the transport department if you change your address. It is an offence to drive a vehicle without a valid driver license. In some states, the penalty is an on-the-spot infringement notice. In other states you will have to go to court and may be ordered to pay a fine. In some states, you can be imprisoned for repeated offences.
- ▼ **If you are driving** without a valid license and you have an accident, your insurance may not cover you.
- ▼ Car owners must pay car registration every year.  
**If you are caught driving** a car that is not registered then you will get a fine. It does not matter who owns the car and it does not matter if you did not know the car was not registered.

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## Driving

- ▶ **The penalty** for travelling in a car without a seat belt is usually a fine.
- ▶ **Australian laws** say that children up to the age of seven should be in appropriate child restraints. It is an offence to allow children to travel in a car without a child restraint appropriate for their age and the penalty is a fine.
- ▶ **If you have fines** and have trouble paying them you can get free legal advice.

# Buying Car

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- 01 **Either buy** with cash or apply for loan.
  - 02 **Assess your ability** and if not able to pay rent. Your credit history can be
  - 03 impacted.  
**When you sign a contract** for a pay day or cash loan, you can usually get the
  - 04 money very quickly, but you pay for the loan by paying interest and fees.  
**The interest** and fees for short term or pay day loans can be very expensive – you will usually have to pay back much more than you borrowed. Pay day loans
  - 05 are not a good idea.  
**If you miss one payment** because there is not enough money in your bank
  - 06 account for the direct debit, the loan fees can start to increase. Your bank may also charge you a fee.
  - 07 **Think about** whether you can afford the loan repayments plus your normal living costs such as food, rent, transport, and entertainment.
  - 08 **If you find** that you have trouble with a loan, tell the lender that you are in financial hardship or get some free advice from a financial counsellor.  
**If you are** in financial hardship, you or a financial counsellor may be able to
  - 09 make a payment plan, with the agreement of the lender, to pay the money back in smaller amounts and have more time to pay.  
**Lenders must assess** whether you are able to pay back a loan before they give you a loan. If the lender did not do this, you may be able to make a complaint
  - 09 with the Financial Ombudsman Service or the Credit and Investments Ombudsman. Get help from a financial counsellor to do this.
  - 10 **A financial counsellor** may be able to help someone in financial hardship get
  - 11 access to a Utility Relief Grant. This is a small, one off, government payment that can help with bills. **There are rules** about who is eligible for this grant.  
**Lenders and debt collectors** cannot harass or bully you to make you pay back a loan. This is against the law. Get help from a financial counsellor if you think you are being bullied or harassed.

## Get To Know About **Car Accidents**

- ▼ **Each driver** involved in a crash must stop and give the other driver their name, address and car registration.
- ▼ **In some states**, you may need to contact the police after an accident, even when no-one is injured. Do not admit to being at fault.
- ▼ **When you pay** your car registration, you pay for compulsory third party (CTP) insurance. This is used to compensate people who are injured in car accidents.
- ▼ **It does not pay** for any damage to cars or property.
- ▼ **Third party property** insurance pays for damage to another person's car or property caused in an accident. Third party property insurance does not pay for any damage to your car. Third party property insurance is different from CTP, and you must buy it and pay for it separately from your car registration.
- ▼ **Comprehensive insurance** is more expensive than third party property insurance, but it means the insurer will pay for the damage to the other person's car and to your car if you have an accident.
- ▼ **It is a good idea** to at least have third party property insurance. If you don't have insurance, you will have to pay for any damage to the other person's car yourself. If you have insurance, then the insurance company will pay.

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## Car Accidents

- ▶ **If you have a car accident** and you do not have insurance, you should get free legal advice. A lawyer may negotiate with the other driver and their insurance company on your behalf.
- ▶ **If you get a letter** from an insurance company demanding you pay, speak to a lawyer straight away to get some advice before you talk to the insurance company or pay anything. The lawyer will advise you whether you have to pay, and how much you should pay.
- ▶ **If you are injured** in an accident you may be able to get money to help pay for medical and other costs, and for any wages you lost because you couldn't work. This is called compensation. There are time limits for applying for this money. Find out more by calling a lawyer.

Overview On

# Harassment & Stalking



- ▼ **Harassment** may be an ongoing pattern of behavior, or it may be just a single act.
- ▼ **Harassment** is illegal.
- ▼ **Anti-discrimination** law defines harassment as any form of behavior that
  1. you do not want
  2. offends, humiliates or intimidates you
  3. creates a hostile environment
- ▼ **Anyone can be harassed**, including women or men, and people of any age or race

# Harassment & Stalking

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Depending on the circumstances, any of the following could be harassment if it relates to a person's sex, race, age etc.:

1. material that is displayed in the workplace (for example on a noticeboard), circulated on paper, sent by fax or put in someone's workspace or belongings
2. material put on a computer, sent by email, or put on a website, blog or on social networking
3. verbal abuse or comments
4. offensive jokes
5. offensive gestures
6. Unwanted physical touch
7. ignoring, isolating or segregating a person or group - for example not inviting someone to a work event that everyone else is invited to.
8. initiation ceremonies that involve unwelcome behavior.

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Stalking is a crime. It is an offence under the Crimes (Domestic and Personal Violence) Act 2007. Stalking is defined under this law and includes:

'the following of a person about or the watching or frequenting of the vicinity of, or an approach to a person's place of residence, business or work or any place that a person frequents for the purposes of any social or leisure activity'.

The person being stalked may only realize they are being stalked once they identify a pattern of strange or suspicious incidents occurring, such as:

1. phone calls
  2. text messages
  3. messages left on social media sites such as Facebook and Twitter etc.
  4. notes left on the their car
  5. strange or unwanted gifts left at their home
  6. an awareness that they are being followed
  7. being continually stared at or gestured to by another person.
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For Any Enquiries  
Get in Touch  
With Us

You can contact us through email address or the phone number we have provided below:

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