



Living by the law in Australia

A summary guide to Australian law and legal system

Overview

Australia is a democratic society where a person is innocent until proven guilty.

Our law comes from law passed in Parliament, law made by the authorities (such as rules and regulations) and law that has come about from the courts interpreting the law.

There are three different levels of government in Australia:

- Commonwealth (Federal) Government;
- State or territory governments; and
- Local councils.

Citizens are allowed to hold dual citizenship, however their Australian citizenship can be removed if loyalty to Australia is brought into question.

Principles of the Australian Legal System

The Australian legal system depends on a set of core principles: fairness, transparency, and most importantly, equality before the law.

Equality means that everyone is treated equally by the legal system, whether they are rich or poor, or from other countries.

Giving bribes (for example, money or gifts) to police officers, judges and other government officials in the hope that they will make a decision in your favour is against the law and will not work, often getting you in more trouble! Equality before the law also means that everyone should be able to access justice, whether that is access to the legal system or the law.

There are many methods to gain access:

- Through a lawyer or law firm;
- Those who are unable to afford their own lawyer, help is available through community legal centres, Legal Aid, and LawRight. These are just a few of the organisations available to help.
- Anyone can access information about Federal law at website www.legislation.gov.au or Queensland law at www.qld.legislation.gov.au



Some laws differ between Australia's states and territories, if you move from one state to another you might find that some laws are different.

An Adversarial System

Australia features an 'adversarial' legal system where two parties to a case argue for their case in front of an independent decision maker. The independent decision maker can be a judge, the jury, or another body, such as a tribunal. The decision maker (e.g. the judge) will hear arguments from both sides to the dispute then apply the law to make a decision.

Help is available by calling the National Counselling service on 1800 RESPECT (1800 737 732) and through community support centres. Your information will be kept confidential and the other person will not know you have sought help unless you give permission for them to be contacted.

Consumer Law



The Australian Consumer Law (ACL) provides protection for consumers and businesses in their daily dealings. Most importantly for consumers is a national law that guarantees consumer rights when buying goods and services.

There is an automatic guarantee that products and services you buy will work and do what you expect. If the product or service doesn't meet this guarantee and continue to meet this guarantee for a certain length of time you have the right to ask for a repair, replacement or refund, depending on the item or service and whether the issue is major or minor. Go to www.accc.gov.au/consumers/consumer-rights-guarantees or consumerlaw.gov.au for more information.

Employment Law

Australia's national minimum wage and the National Employment Standards (NES) provide the minimum employment entitlements that are required to be provided to all employees. Any contract you have with an employer cannot exclude these minimum entitlements.



The Fair Work Ombudsman is the point of call for employment related issues. Visit their site at www.fairwork.gov.au.

Due to this system, the decision maker must remain impartial and cannot have a personal interest in the decision.

They cannot prefer one side over the other and can only make their decision based on the law. For example, a judge cannot be the decision maker of a case where one of the parties is their friend, relative, doctor or another person they know.

In court, both parties have the right to present their evidence and tell their side of the events to the decision maker before a decision is made. For example, if you have been charged with an offence by the Police, you have the right to know what they are charging you with (that is, what law you have broken) and be shown the evidence against you so you can defend yourself in court.

Going to court is an expensive and time consuming process, usually reserved as the last option. There are other methods to resolve your dispute before going to court. Help is available at community legal centres, Legal Aid, and LawRight.

Laws in Australia

There are two types of law in Australia - criminal law and civil law.

Criminal law punishes those whose actions are considered unacceptable. For example murder, assault, sexual offences, stealing, and traffic offences are all criminal offences.

Civil law covers private disputes. This includes disputes between two private individuals and a dispute between an individual and an organisation. Examples include disputes between an employee and an employer, between a landlord and tenant, or when purchasing land or property.

It is also illegal to use a hand-held mobile phone while driving, even if you are stopped at a traffic light. Seatbelts must be worn by all people in a moving vehicle, even passengers in the backseat. No arms should be outside the car.

Visit website www.tmr.qld.gov.au/Safety/Queensland-road-rules for more information on traffic and road rules in Queensland.

Family Law

Separation



If a relationship breaks down, difficult issues arise such as the division of property, who the children will live with and how partners will support themselves and their children. It is a stressful time and friends and family or services such as counselling can help you sort out your feelings.

Family Relationship Centres are also available to assist you and your children to cope with the changes. Visit a community support service or website www.familyrelationships.gov.au for more information.

Family violence

When violent, threatening or other behaviour is used by a person to coerce or control a family member, or makes the family member afraid, this is called family violence. Family violence commonly happens when there is violence between adult partners and ex-partners, when children are abused or neglected by an adult, when a child uses violence against their parent, and when violence occurs between siblings.

Many types of behaviour can be family violence, including assault, stalking, intentionally damaging property or injuring a pet, or unreasonably

withholding financial support. There are many other behaviours that can also be family violence; go to www.familycourt.gov.au and click on “Family Violence” for more information.

Age Laws

In Queensland, you are considered a minor if you are under 18 years of age. The only exception is within the criminal justice system, where you will be dealt with as an adult if you are 17 years old or over. If you are under 18, you will not be allowed to buy alcohol and tobacco (cigarettes) or vote. You can obtain a learner driver's licence at 16.

Road Rules

Road and traffic laws are enforced by police, transport inspectors, and local council officers. Rules may be different from other countries so make sure you familiarise yourself with Australia's rules to avoid fines and other penalties such as a licence suspension or a towed car.

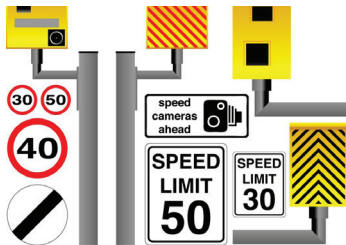
Licence and Registration Requirements

You must hold a valid, current driver's licence to drive in Australia. Overseas drivers visiting Australia who do not have a permanent visa are allowed to use their overseas licence to drive in most Australian states and territories; however, you must carry your overseas licence and an international driving permit or an English translation if the overseas licence is not in English.

If there is a change in your visa or citizenship status, or the overseas licence expires, you must get an Australian issued driver licence. More information for overseas drivers can be found at <http://www.austroads.com.au/drivers-vehicles/overseas-driver-licences/visiting-drivers>.

All vehicles driven in Australia must be registered and have Compulsory Third Party insurance (known as 'CTP insurance'). This protects you from being financially responsible where an accident involving your vehicle injures or kills someone. It does not cover damage to vehicles or other property involved in the accident, so it is strongly recommended for all vehicles to also have an insurance policy to cover this.

Fines and Demerit Points



In Australia, drivers start with zero points and get demerit points added to their record if they commit an offence. The size of the fine and number of demerit points recorded will vary depending on the offence. If you have too many demerit points your licence can be suspended.

For information about demerit point limits, licence suspension periods and fine amounts, go to the following Queensland Government website <https://www.qld.gov.au/transport/safety/fines/demerit>.

Unpaid fines attract penalties so it is important to pay fines on time.

Speed limits are strongly enforced in Australia. Always follow the speed limit signs. Where there is no speed limit sign, the default speed limit is 50km/h in built-up areas. Areas around schools have special "school zones" that operate at certain times during school days to limit the speed to 40km/h. These limits are strictly enforced and police often patrol these areas issuing fines and demerit points to offenders.

Parking and stopping rules apply at all times unless the signed areas states otherwise. Some examples of parking violations is double parking (parking on the road beside another car that is parallel parked at the side of the road) or parking along a length of road marked with a continuous yellow line.

Traffic signals must be obeyed at all times. At intersections with traffic signals, you cannot drive on a red light or red arrow.

Failure to obey incurs heavy fines if caught. For example, a fine of \$378 AUD and three (3) demerit points applies for driving past a red traffic light or arrow. It is also against the law to drive under the influence of alcohol or drugs.

Police officers can stop you to do random breath or saliva tests to check your alcohol levels and to check for illegal drugs.

Need help?

Phone 1800 155 121

Central Queensland
Community Legal
Centre (CQCLC)



The CQCLC is an independent, community-based, non-profit organisation which provides legal help and advocacy for a range of people and groups in the community, especially those who are on low incomes or who would otherwise be disadvantaged in their access to justice.

Acknowledgement



Information in this publication is general information only. If you are unsure about your legal rights you should seek legal advice.

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