

LAW AND ETHICS //21644

//EXAM NOTES

1 SOURCES OF LAW AND REGULATION

Rule of Law

- Everyone is equal before the law.
- Clear and understandable so everyone may know what is illegal/legal.
- Administered and enforced in a consistent manner.
- Prevents arbitrary use of power.

Categories of Law

1 Public (Government, Police force or State enforcing and prosecuting this Law)

- Criminal or Tax

2 Private/Civil (Between 2 people or Businesses)

- Property or Contract

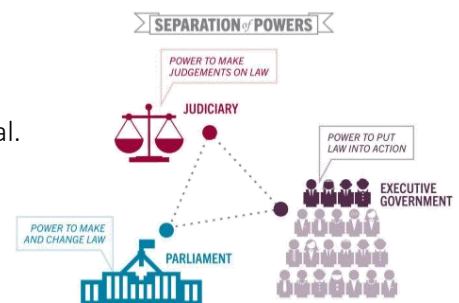
Sources of Law

1 Statutory Law (Made in parliament)

Also known as Legislation, Acts of Parliament and Statutes.

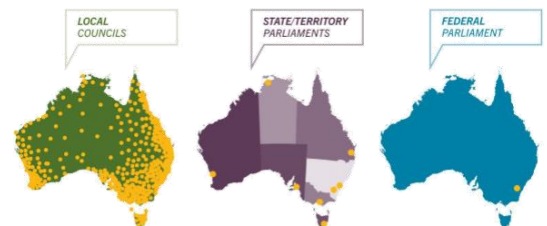
2 Case Law (Made in the Courts by the Judge)

Also known as Common Law, Judge-made law, and precedent



THREE LEVELS of LAW-MAKING

Law-making bodies in Australia



Australian Constitution

- Determines which laws are made by the federal government and which laws are made by the state government since we are a federation of states.
- Provides a separation of powers- legislature, executive and judiciary.
- Determines the types of laws that can be made by Federal Parliament (s51 and s52).
- State constitutions are different.
- Federal Law prevails over State law if there is a conflict or inconsistency (s109).

Law in Action Court Cases

	Criminal Law	Civil Law
Case initiated by	Police or Government Agency	Individual or corporation
Likely source of law	Statutory law	Common law
Parties	State (Crown) v Accused	Plaintiff v Defendant Applicant v Respondent
Onus/burden of Proof	Prosecution	Plaintiff
Standard of Proof	Beyond reasonable doubt	On a balance of probabilities
Decision	Magistrate, Judge, or Judge and Jury	Magistrate, Judge
Outcomes	Jail, fines, good behaviour bond, community service	Damages, specific performance or injunction

Keywords to remember:

- Onus of Proof
- Innocent Until Proven Guilty
- Beyond Reasonable Doubt