

Topic 1 – Issues Concerning Jurisdiction

This topic introduces the jurisdictional limits and statutory framework for the three tiers of civil courts in New South Wales: the **Local Court**, the **District Court**, and the **Supreme Court**. Understanding which court has jurisdiction over a proceeding is fundamental to civil procedure because it determines where an action may be commenced and which procedural rules apply.

Local Court of NSW (Local Court Act 2007)

The Local Court is a statutory court of limited jurisdiction created by the **Local Court Act 2007 (NSW)**. It deals with the bulk of civil disputes in NSW, particularly low-value claims.

- **Jurisdictional limit:** In its **General Division** the court may hear money claims up to **A\$100,000**; in the **Small Claims Division** the limit is **A\$20,000**. For personal-injury claims, the limit is **A\$60,000**.
- **Definition of money claim:** Section 29A defines a “money claim” as recovery of **any debt, demand or damages**, whether liquidated or unliquidated.
- **Conferral of jurisdiction:** Section 30 confers jurisdiction on the Local Court to hear money claims within its jurisdictional limits. The court may also hear other causes of action expressly conferred by statute.
- **Extension of jurisdictional limit:** Under **s 31**, the court’s monetary limit may be increased by **20 %** if the parties sign a memorandum of consent and no objection is raised before trial.
- **Contracts Review Act jurisdiction:** Section 32 grants the court the same power as the Supreme Court to grant relief under the **Contracts Review Act 1980 (NSW)**.
- **Excluded matters:** Section 33 excludes several matters (e.g., wills and probate, defamation, false imprisonment, passing-off, patent/copyright disputes and title to land) from Local Court jurisdiction.
- **Territorial jurisdiction:** Section 34 provides that the Local Court has jurisdiction even if part or all of the cause of action arises outside NSW, provided there is a material connection with NSW – for example, if the defendant is resident in NSW.
- **Company title home unit disputes:** Section 34A deals with disputes relating to company title home units.
- **Small Claims Division:** Sections 35-37 set up a simplified, less formal procedure for claims up to the small-claims limit. Proceedings are usually determined by a magistrate or assessor and appeals are limited.

District Court of NSW (District Court Act 1973)

The District Court is an intermediate court with both criminal and civil jurisdiction. It was created by the **District Court Act 1973 (NSW)**.

- **Civil jurisdiction:** The Court's civil jurisdiction is generally limited to **claims less than A\$1.25 million**. Claims above that threshold must be commenced in the Supreme Court unless transferred down.
- **General jurisdiction:** Section 44 gives the Court jurisdiction over causes of action based on contract, quasi-contract, tort and statute within the monetary limit. Section 46 allows limited injunctive relief; a temporary injunction may be granted under s 140 of the **Civil Procedure Act 2005 (CPA)**.
- **Consent jurisdiction:** Section 51 permits the District Court to hear matters exceeding its normal monetary limit if the parties file a memorandum of consent and do not object within three months. This avoids the need to transfer to the Supreme Court.
- **Equitable and special jurisdictions:** Sections 133 and 134 confer limited equitable jurisdiction (for example, in family-provision claims up to \$250,000) and jurisdiction under the **Frustrated Contracts Act 1978** and **Contracts Review Act 1980**.
- **Action without jury:** Section 76A provides that actions in the District Court are generally tried by judge alone, although juries may be empanelled in some cases.

Supreme Court of NSW (overview)

The Supreme Court is the State's superior court. Its jurisdiction is not limited by a monetary threshold. Proceedings may be commenced in the Supreme Court even if they fall within the monetary jurisdiction of lower courts, but parties risk an adverse costs order if the amount recovered is below prescribed levels. Under **UCPR r 42.34**, a party recovering less than **A\$500,000** in the Supreme Court ordinarily will not be awarded costs. Rule 42.35 creates a similar costs disincentive in the District Court where the judgment is under **A\$40,000**.

Key cases

Although most of the cases listed for Topic 1 relate to the Supreme Court's inherent jurisdiction (considered under Topic 2), a few decisions illustrate jurisdictional limits:

Case	Principle
Port of Melbourne Authority v Anshun Pty Ltd (1981) 147 CLR 589	The High Court held that a party must raise all claims and defences arising from the same transaction in one proceeding; failing to do so may bar later

Case	Principle
	litigation (known as Anshun estoppel). This principle influences joinder and cross-claim rules (UCPR r 6.18).
General Steel Industries Inc v Commissioner for Railways (NSW) (1964) 112 CLR 125	Barwick CJ emphasised that courts should exercise the power to summarily dismiss proceedings sparingly: only when a claim is “so obviously untenable that it cannot possibly succeed”. This informs the test for summary dismissal under UCPR r 13.4 and the court’s inherent jurisdiction to strike out hopeless cases.

Appeals and review

Appeal from the Local Court. Decisions of the Local Court can be reviewed through two avenues. An appeal from the **General Division** lies to the Supreme Court, but only on a **question of law** as of right. Other appeals require **leave of the Supreme Court**. For the **Small Claims Division**, appeals are generally restricted to allegations of lack of jurisdiction or denial of natural justice; otherwise the decision is final. The appeal is