

# Court Hierarchy

## Federal Courts

### High Court

#### **Original Jurisdiction;**

Under the **Commonwealth Constitution s75**, the court has the original jurisdiction that handles matters in foreign affairs, constitutional issues and cases concerning the legislative power of the Federal Parliament.

#### **Appellate Jurisdiction;**

The high court is the final appeal court in Australia. Its appellate jurisdiction stems from **s73 of the Commonwealth Constitution** which provides that the court can hear and determine appeals from:

- a. Any justice/s exercising original jurisdictions of the courts
- b. Any federal court or court exercising federal jurisdiction
- c. The supreme court of any state

Litigants generally need to obtain special leave (the high court will hear an application to appeal and decide whether or not to hear the appeal).

**Judiciary Act 1903 (Cth), Pt V, Div 1; Federal Court of Australia 1976 (Cth) s33**

### Federal Court of Australia

The Court is a superior court of record and a court of law and equity.

It was established under the **Federal Court of Australia Act 1976**. It comprises a Chief Judge and over 30 other judges. It practises:

#### **a) Original Jurisdiction;**

The court enforces federal legislation such as the **Trade Practises Act 1974 (Cth)** and has concurrent jurisdiction over bankruptcy and intellectual property matters.

#### **b) Appellate Jurisdiction;**

The Federal Court hears appeals from decisions of single judges of the Court and from the Federal Magistrates Court in non-family law matters.

The Court also exercises general appellate jurisdiction in criminal and civil matters on appeal from the Supreme Court of Norfolk Island.

The Court hears taxation matters on appeal from the Administrative Appeals Tribunal. It also exercises a first instance jurisdiction to hear objections to decisions made by the Commissioner of Taxation.

The Court shares first instance jurisdiction with the Supreme Courts of the States and Territories in the complex area of intellectual property:

- Copyright
- Patents
- Trademarks
- designs

All appeals in these cases including appeals from the Supreme Courts are to a full Federal Court.

### **Jurisdiction Power:**

- **Judiciary Act 1903 s398(1A)(c):**

This jurisdiction includes causes of action created by federal statute, and extends to matters in which a federal issue is properly raised as part of a claim or of a defence and to matters where the subject matter in dispute owes its existence to a federal statute.

In addition to that, the Court has the jurisdiction under this Act to hear applications for judicial review of decisions by officers of the Commonwealth.

- **Competition and Consumer Act 2010:**

This Act constitutes a significant part of the workload of the Court. The cases arising from this Act often raise important public interest issues involving matters such as

- Mergers
- Misuse of market power
- Exclusive dealing
- False advertising

In late 2009, the Court was given jurisdiction in relation to the new indictable offences of serious cartel conduct.