

Mathematics Level 7

Chapter 2 — Laws and citizens

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The legal system's foundations: courts, justice and the rule of law

Curriculum — VC2HC8K05 · draws on .E01, .E02, .E03 and .E04

Theory

You have met the idea that laws are enforced — that police and courts exist to make sure laws actually do their job. This section looks underneath that machinery and asks: what is the Australian legal system *built on*? It has **principles** — the big ideas it is meant to serve — and **features** — the institutions and rules that put those ideas into practice. We take them in order: the principles, the Australian Constitution, the independent judiciary, the court system, what makes a trial fair, and access to justice.

Part 1 — The principles the system stands on. The legal system is meant to deliver justice. Three words you will meet constantly in this subject are *justice*, *fairness* and *equality*. They are not ordinary words with one fixed meaning: they are **contested terms**, which means reasonable people use different definitions of them, and the definition you pick can change the conclusion you reach.

Defining our terms. The Victorian Curriculum uses the terms *justice*, *fairness* and *equality* but does not define them. This section therefore treats them as follows, and every question here is answerable on these definitions alone. Other definitions exist and are not interchangeable with these.

- **Justice:** people receive what they are owed under the law, and wrongs are put right through the law's processes.
- **Fairness:** legal processes take no sides, and each person gets a real chance to be heard.
- **Equality:** the law applies to everyone the same way, no matter how rich, famous or powerful they are.

Figure 1 sets out the five guiding principles of this section.

Five principles of the Australian legal system

JUSTICE

People get what the law says they are owed, and wrongs are put right through the law's processes.

FAIRNESS

Legal processes take no sides, and each person gets a real chance to be heard.

EQUALITY

The law applies to everyone the same way, no matter how rich or powerful they are.

THE RULE OF LAW

Everyone is under the law — including the government (see Figure 2).

EQUAL ACCESS

Everyone must be able to actually use the law's protections (see Part 6).

Working definitions used in this section — these are contested terms, and other definitions exist.

Five cards naming the principles of the Australian legal system (justice, fairness and equality, plus the rule of law and equal access to the law's protections), each with a short working definition

The biggest of the five is the **rule of law**. The rule of law is also a contested term, so we define it before using it. In this section, *the rule of law* is used in the sense given by A. V. Dicey, *Introduction to the Study of the Law of the Constitution* (1885). Other definitions exist and are not interchangeable with this one. Dicey's version has three elements, shown in Figure 2.

The rule of law — three elements

In the sense given by A. V. Dicey, 1885 (other definitions exist)

No one is above the law

The law applies to the government, its ministers, the police and the richest person in the country — the same as it applies to everyone else.

Punishment only through the courts

A person can be punished only when a court finds they broke a law. No one can be locked up just because someone in power says so.

Rights kept by the courts

People's rights are kept by decisions of the courts, not just by promises.

Source of this definition: A. V. Dicey, *Introduction to the Study of the Law of the Constitution* (1885). Early root: Magna Carta, 1215.

Three cards giving the elements of the rule of law in the sense of Dicey (1885): no one is above the law; people are punished only by a court's decision; rights are protected through the courts

The idea is old. In 1215, Magna Carta — a charter forced on the King of England by his barons — declared that no free person could be punished “except by the lawful judgement of his peers or by the law of the land”. That is the rule of law’s first famous statement: even a king is under the law. Australia’s legal system inherited the idea, and the Australian Constitution builds it in (Part 2).

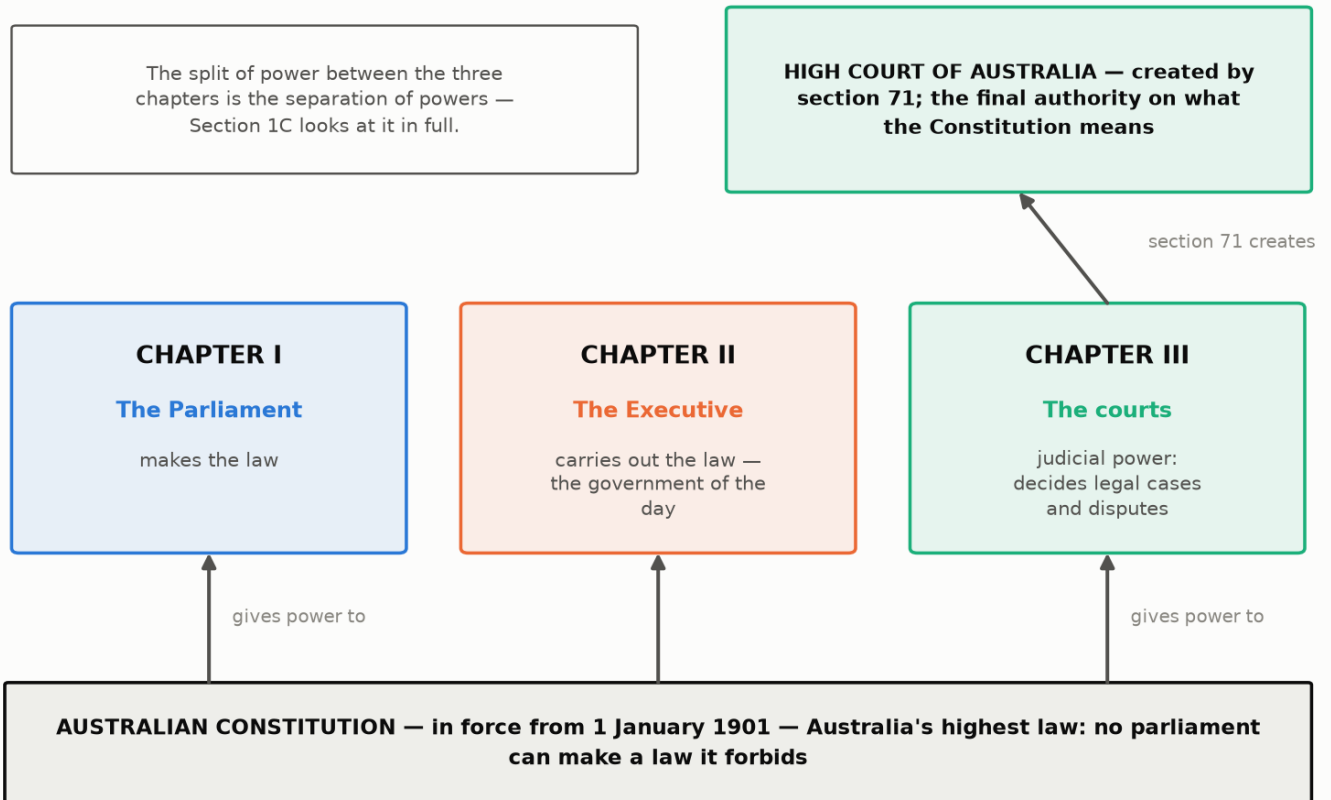
Why do the principles matter? Because a legal system without them is just organised force. The rule of law is what separates a government that locks people up *according to law* from one that locks people up *because it feels like it*. Notice what the principles promise, too: they promise the same process for everyone — not the same result in every case, because cases differ.

The final principle in Figure 1 — **equal access** to the law’s protections — gets a Part of its own at the end (Part 6), because it is the principle most often tested in real life.

Part 2 — The Australian Constitution: the foundation. Every Australian law sits under one document: the **Australian Constitution**, which took effect on 1 January 1901 when the Australian colonies federated. The Constitution is Australia’s highest law. No parliament — Commonwealth or state — can make a law that the Constitution forbids, and if one tries, the courts can declare that law **invalid** (of no effect). Section 1C examines the Constitution in depth; here we take only what the legal system needs from it.

The Constitution splits the Commonwealth’s power between three branches — Chapter I gives law-making power to the Parliament, Chapter II gives executive power to the government of the day, and Chapter III gives **judicial power** (the power to decide legal cases and disputes) to the courts. This split is the **separation of powers**, which Section 1C treats in full. Figure 3 shows where the courts sit.

The Australian Constitution — the foundation of the legal system



A labelled diagram of the Australian Constitution as the foundation of the legal system: Chapter I gives law-making power to Parliament, Chapter II gives executive power to the government, and Chapter III gives judicial power to the courts, with section 71 creating the High Court of Australia

Chapter III matters to us most. **Section 71** of the Constitution creates the **High Court of Australia** — Australia's highest court — and allows the Commonwealth Parliament to create other federal courts. The Parliament did exactly that: the *Judiciary Act 1903* (Commonwealth) set up the High Court, which first sat in Melbourne in 1903 and today has seven judges, including the Chief Justice. Source A at the end of this section is the text of section 71 itself.

The High Court has one job no other court has: it is the final authority on what the Constitution means. When the Commonwealth Parliament passes a law, and someone argues the law goes beyond the powers the Constitution gives the Parliament, the High Court decides — and its decision binds the Parliament. We watch that happen in Worked Example 1.

Part 3 — The independent judiciary. The **judiciary** is the branch of the legal system made up of the people who decide cases: judges in the higher courts and **magistrates** in the Magistrates' Court. **Judicial independence** means they decide cases on the law and the evidence, free from direction by the government, by the media or by anyone else.

Independence is not a perk for judges; it is a protection for you. The rule of law says the courts must check the government. Courts can only do that job if the government cannot pressure, threaten or remove the decision-maker. Figure 4 lists the protections that keep the federal judiciary independent; most of them come from section 72 of the Constitution.

What keeps federal judges independent

Appointed, not elected

Judges are appointed by the Governor-General. They never face voters or parties, so they do not owe their job to any vote.

Hard to remove

Under section 72 of the Constitution, a federal judge can be removed only when both houses of the Parliament agree, and only for proved misbehaviour or incapacity — not over a decision the government dislikes.

Pay cannot go down

Section 72 also says a judge's pay cannot be cut while they hold office — a government cannot punish a judge through their pay.

Retirement at 70

A 1977 referendum set a retirement age of 70 for federal judges, so no government can fill a court with its own picks forever.

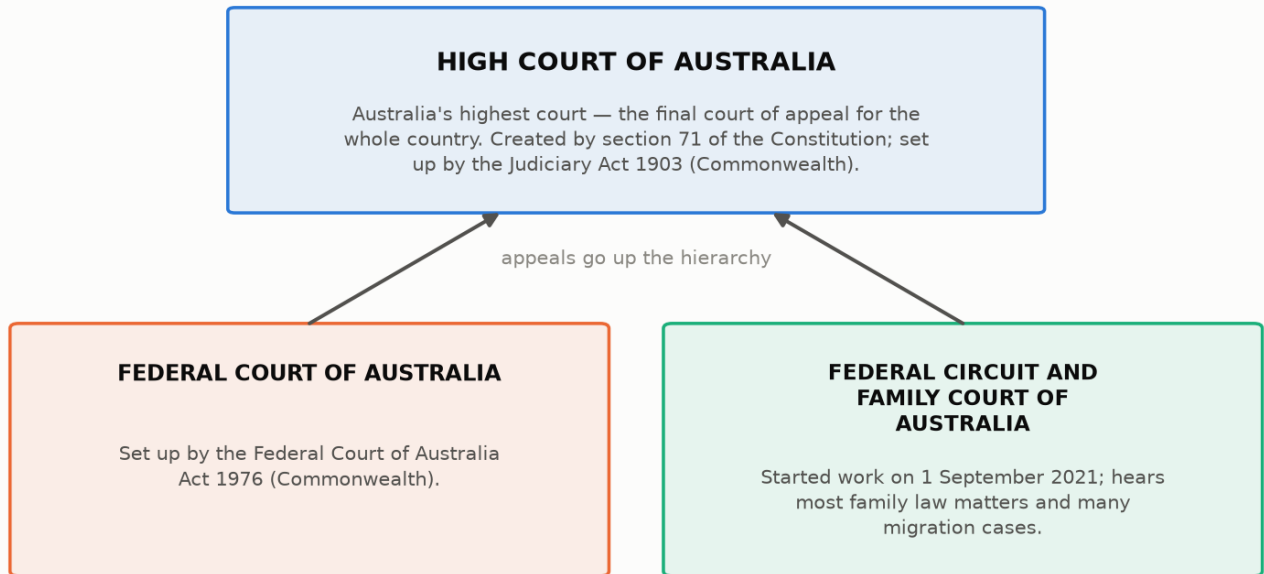
These protections exist so judges can decide cases on the law and the evidence, free from pressure by the government.

Four cards showing what protects the independence of federal judges: they are appointed, not elected; they can be removed only in a hard case under section 72 of the Constitution; their pay cannot be reduced while they serve; and they must retire at 70 since the 1977 referendum

Independence also works in the courtroom. A judge or magistrate who has a personal interest in a case, or who has already made up their mind, must not sit on it. Either side can raise this. The point is simple: the decision must come from the law and the evidence given in court — nothing else.

Part 4 — The court system: two hierarchies. A **hierarchy** is a ranking from lowest to highest. Australia's courts are organised into hierarchies — one federal and one for each state and territory. Figure 5 is the federal hierarchy; Figure 6 is Victoria's.

The federal court hierarchy

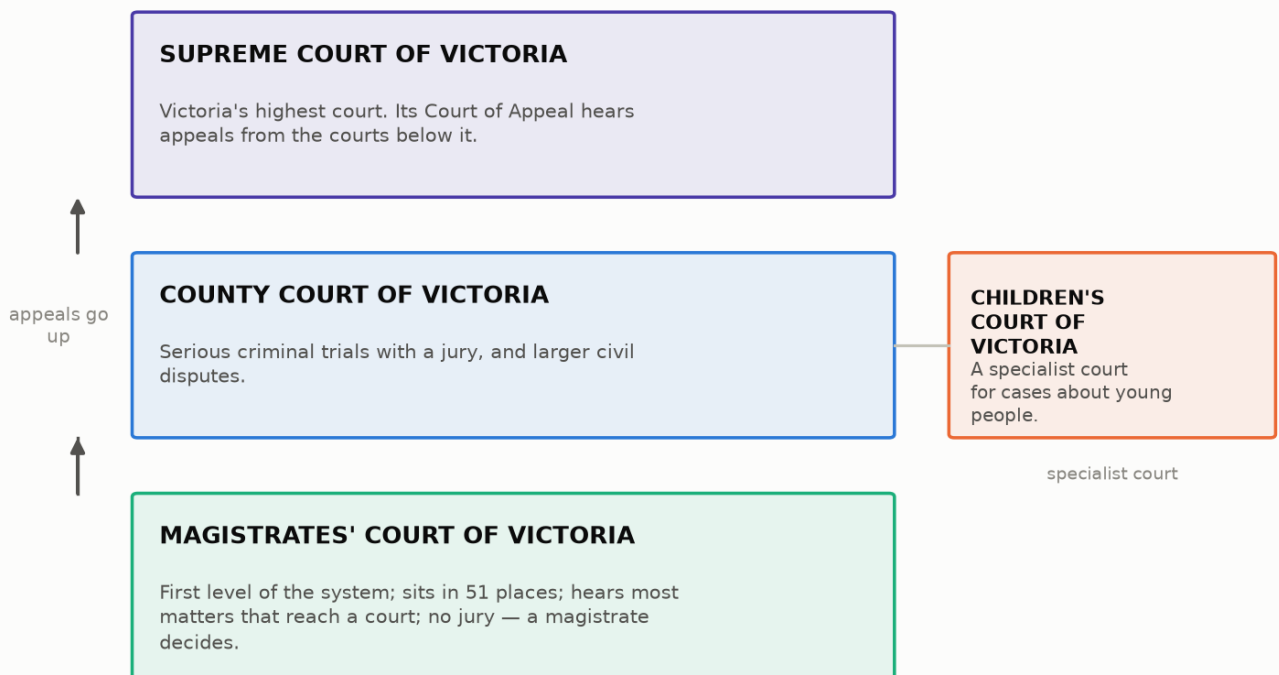


Most federal matters start in the two lower courts; the High Court is the final stop.

The federal court hierarchy as a diagram: the High Court of Australia at the top as the final court of appeal, with the Federal Court of Australia and the Federal Circuit and Family Court of Australia below it

Below the High Court sit the two federal courts the Commonwealth Parliament has created: the **Federal Court of Australia**, created by the *Federal Court of Australia Act 1976* (Commonwealth), and the **Federal Circuit and Family Court of Australia**, created by the *Federal Circuit and Family Court of Australia Act 2021* (Commonwealth), which began work on 1 September 2021. Most federal matters — family law disputes, migration cases and claims under Commonwealth laws — are heard in these two courts, with the High Court as the final stop.

The Victorian court hierarchy



The Magistrates' Court also hears civil disputes up to \$100,000 (Magistrates' Court of Victoria, viewed 26 August 2026).

The Victorian court hierarchy as a diagram: the Supreme Court of Victoria with its Court of Appeal at the top, the County Court of Victoria in the middle, and the Magistrates' Court of Victoria at the base, with the Children's Court of Victoria shown as a specialist court

Why rank courts at all? Three reasons:

1. **Appeals.** A hierarchy gives every losing party somewhere to go. A higher court can review a lower court's decision and correct mistakes. The High Court of Australia sits at the top of every hierarchy: it is the final court of appeal for the whole country.
2. **Specialisation.** Different courts hear different kinds of cases, so decision-makers build experience in the work in front of them.
3. **Workload.** Most cases are heard quickly and locally at the base of the hierarchy, so the higher courts are free for the most serious and difficult ones.

At the top of Victoria's hierarchy is the **Supreme Court of Victoria**, the state's highest court; its **Court of Appeal** hears appeals from the courts below it. The **County Court of Victoria** sits in the middle and hears serious criminal trials (with a jury) and larger civil disputes.

Keep the base of Victoria's hierarchy in mind, because this section keeps coming back to it. The **Magistrates' Court of Victoria** is the first level of the Victorian court system. It sits in 51 locations around Victoria and hears most matters that reach a court. There is no jury there: a magistrate hears the evidence and decides (Magistrates' Court of Victoria, viewed 26 August 2026). Its work includes criminal matters, civil disputes up to the value of \$100,000, family matters and intervention orders. The court runs under its current name by the *Magistrates' Court Act 1989* (Vic). The **Children's Court of Victoria** is a specialist court that hears cases involving young people. Section 2D looks more closely at the difference between criminal and civil cases.

Part 5 — A fair trial. A fair legal system is not only fair on paper; it is fair in the courtroom. **Due process** — defined here as the set of steps the law must follow before a person can be punished or have their rights taken away — is how fairness becomes visible. Figure 7 lists the elements of a fair hearing in Australia.

What makes a trial fair

Independent decision-maker The judge or magistrate takes no side, and no one tells them what to decide.	Know the charge The accused is told exactly what they must answer, before the hearing.	Presumed innocent In a criminal case, the prosecution must prove guilt; the accused does not prove innocence.	Evidence tested in the open Witnesses take an oath or affirmation, and each side can question the other side's witnesses.
Legal representation The right to have a lawyer speak and act for you.	Open court The hearing is open to the public; the decision is not made in secret.	Interpreter if needed Anyone who needs an interpreter can have one.	Right to appeal A higher court can review the decision.

Due process: the steps the law must follow before a person is punished or loses rights.

Eight cards listing what makes a trial fair in Australia: an independent decision-maker, knowing the charge, the presumption of innocence, evidence tested in the open, legal representation, an open court, an interpreter if needed, and the right to appeal

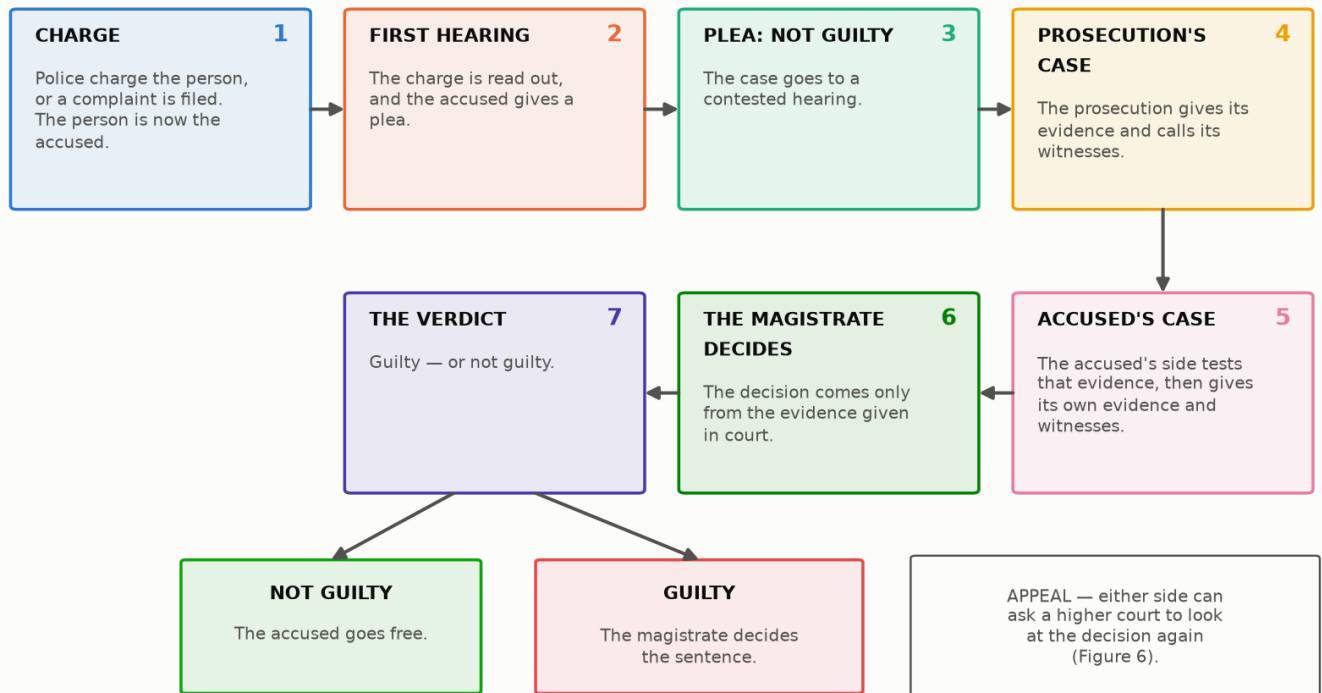
Two elements deserve a closer look.

The presumption of innocence. In a criminal case, the person charged — **the accused** — does not have to prove their innocence. The prosecution (the side bringing the charge) must prove the accused's guilt. If the prosecution cannot do that, the verdict is "not guilty". This protects every citizen: the state has the power to charge people, so the law makes the state do the proving.

Evidence tested in the open. Witnesses tell the court what they saw, heard or know. Each witness takes an oath (a religious promise) or an affirmation (a non-religious promise) to tell the truth, and each side can question the other side's witnesses. This is how the court tests whether evidence can be trusted. Being a witness is one of the direct roles an ordinary citizen can play in the legal system — a jury is another, in the higher courts' serious criminal trials. (There is no jury in the Magistrates' Court of Victoria.)

Figure 8 puts the elements in order by following a contested hearing through the Magistrates' Court of Victoria. A **contested hearing** happens when the accused pleads not guilty and the prosecution must prove the charge.

A contested hearing in the Magistrates' Court of Victoria



A flow chart of a contested hearing in the Magistrates' Court of Victoria in seven steps: charge and first hearing, a plea of not guilty, the prosecution presents its evidence and witnesses, the accused's side tests that evidence and gives its own, the magistrate decides, the verdict, and either a sentence or the accused goes free, with an appeal path to a higher court

Part 6 — Access to justice. The rule of law promises everyone the same protections. But a protection you cannot reach is not much use. Courts cost money, legal words are hard, and not everyone can pay for a lawyer. **Access to justice** means that people can actually use the law — to defend themselves, to make a claim, to get advice — whatever their income. Figure 9 shows the main routes to legal help in Victoria.

Routes to legal help in Victoria

ROUTE	WHAT IT OFFERS	WHO IT IS FOR
Victoria Legal Aid	Free information and advice; grants of legal aid pay for a lawyer when you cannot. Your income and the strength of your case are checked.	People who cannot pay for a lawyer
Community legal centres	Free help with everyday legal problems, close to home.	People in the local community
A private lawyer	A lawyer you pay yourself.	People who can afford to pay
Representing yourself	You run your own case; court staff can show you how to start.	Anyone — but get advice first if you can
Common barriers to access: cost · not knowing your rights · hard legal words · language		

Victoria Legal Aid was set up by the Legal Aid Act 1978 (Vic) and is paid for by the Victorian and Australian governments (Victoria Legal Aid, viewed 26 August 2026).

A table of four routes to legal help in Victoria: Victoria Legal Aid, community legal centres, a private lawyer, and representing yourself, with what each route offers and who it is for, and a row of common barriers such as cost and not knowing your rights

The biggest public player is **Victoria Legal Aid**, created by the *Legal Aid Act 1978* (Vic). It helps people with their legal problems: it gives legal information and advice, and it provides legal representation for those who need it most (Victoria Legal Aid, viewed 26 August 2026). A person who cannot afford a lawyer can apply to Victoria Legal Aid for a **grant of legal aid** — the office pays for the lawyer. Grants are not automatic: the applicant's income is checked, and so is the kind and strength of the case. **Community legal centres** around Victoria also give free help with everyday legal problems. Funding for legal aid comes from the Victorian and Australian governments.

Access is also built into the courts themselves: court staff can explain how to make a claim or apply for help, interpreters are available for people who need them, and people who cannot pay court fees can ask not to pay them.

So the features of the system — an independent judiciary, ranked courts, fair-trial rules and legal aid — all serve the same end: the principles of Figure 1, in real cases, for real people. Worked Example 1 shows the principles checking the most powerful institution in the country, and Worked Example 2 shows them at work in one ordinary hearing.

Worked examples

Example 1 — The rule of law checks the Parliament (scaffolded)

In 1950, the Commonwealth Parliament passed the Communist Party Dissolution Act 1950 (Commonwealth), which banned the Australian Communist Party and seized its property. The Act was challenged in the High Court.

Working	Comment
1. The Communist Party Dissolution Act 1950 (Commonwealth) was passed by the Commonwealth Parliament to ban the Australian Communist Party and take its property.	A parliament has great power — but under the rule of law, a parliament's power has limits.
2. People affected by the Act took the case to the High Court of Australia.	The High Court's job under Chapter III of the Constitution includes deciding whether a Commonwealth law is within the powers the

Working	Comment
3. In April 1951, in <i>Australian Communist Party v Commonwealth</i> [1951] HCA 5, the High Court declared the Act invalid.	Constitution gives the Parliament.
4. The law did not stand, even though the Parliament had passed it and the government of the day wanted it.	The court held that the Parliament did not have the power to make this law. Six of the seven judges agreed; the Chief Justice disagreed.
5. The government accepted the court's decision, and the ban did not take effect.	This is the rule of law's first element in action: no one — not even the Parliament — is above the law.
	Judicial independence only means something if governments obey decisions they dislike.

(Source: *Australian Communist Party v Commonwealth* [1951] HCA 5; (1951) 83 CLR 1.)

Example 2 — A fair hearing in the Magistrates' Court of Victoria (scaffolded)

A shop owner says a person damaged their shop window. Police charge that person with property damage. The person says it was not them. The case is heard in the Magistrates' Court of Victoria.

Working	Comment
1. The accused is told the exact charge before the hearing.	Fair-trial element: the accused knows what they must answer. No one is tried by surprise.
2. The hearing is open to the public, and a magistrate — not the police, not the shop owner — decides the case.	Fair-trial elements: an open court and an independent decision-maker (Figures 7 and 8).
3. The accused does not have to prove their innocence. The prosecution must prove the charge.	Fair-trial element: the presumption of innocence.
4. The prosecution calls a witness who says they saw the damage happen. The witness takes an oath to tell the truth. The accused's lawyer questions the witness.	Fair-trial element: evidence tested in the open. Witnesses give evidence, and the other side can test it.
5. The accused has a lawyer, paid for by a grant of legal aid because the accused cannot afford one.	Access to justice: legal representation through Victoria Legal Aid (Figure 9).
6. The magistrate finds the prosecution has not proved the charge. The verdict is "not guilty", and the accused goes free.	Due process worked: the result came from tested evidence, not from suspicion.
7. If the verdict had gone the other way, the accused could have asked a higher court to review the decision.	The court hierarchy exists so mistakes can be corrected on appeal (Figure 6).

Practice questions

Scaffolded

Q1. Look at Figure 1. Match each situation to the principle it most threatens — *fairness*, *access*, *equality* or the *rule of law*: (a) a judge is told by a minister how to decide a case; (b) a famous person is charged but is never brought to court, while others are; (c) a court always lets one side speak for longer than the other; (d) a person cannot afford the legal help they need.

Q2. Figure 2 gives the three elements of the rule of law. Which element does each action break? (a) A minister orders police to lock up a critic for a week without any charge. (b) The government says it will ignore a High Court decision it dislikes.

Q3. Using Figure 3: (a) Name the chapter of the Constitution that gives judicial power to the courts. (b) Name the court that section 71 creates. (c) In one sentence, say what happens if the Commonwealth Parliament passes a law the Constitution does not allow.

Q4. Using Figures 5 and 6: (a) Put these courts in order from lowest to highest: the Supreme Court of Victoria, the Magistrates' Court of Victoria, the County Court of Victoria. (b) Name the court at the top of the federal hierarchy. (c) A person loses a case in the Magistrates' Court of Victoria. Give one reason the court system lets them appeal.

Q5. Figure 7 lists what makes a trial fair. Name the element described in each case: (a) “The court does not make you prove you did not do it.” (b) “Anyone can come in and watch the hearing.” (c) “The person deciding has no stake in who wins.”

Q6. Using Figure 9, name the best first route to legal help for each person: (a) a person with a legal question who has no money at all; (b) a person who can afford to pay for their own lawyer; (c) a person charged with a crime who wants to know whether they can get a lawyer paid for by legal aid.

Unscaffolded

Q7. Explain, in two or three sentences, why judicial independence matters for the rule of law. Your answer must connect an element of judicial independence (Figure 4) to an element of the rule of law (Figure 2).

Q8. After a court rules against the government, a radio caller says: “Judges are not elected. Why should they be able to overrule a government the people chose?” (a) Give the strongest case you can for the caller’s side. (b) Now give the strongest case against it, using the rule of law. (c) Which case do you find stronger, and why? Marks are given for the reasoning, not for the side you take.

Q9. “Equality means the law treats everyone the same way — so two people found guilty of the same offence should get the same sentence.” Use the definition of *equality* from this section to decide what is right and what is wrong in this claim.

Q10. Give two ways legal aid helps make the promise of “equal access to the law’s protections” real. For each way, name who benefits and how.

Source task — reading Source A

Source A is the text of section 71 of the Australian Constitution, the provision that creates the High Court of Australia. Read it, then answer the questions.

Source A — Section 71 of the Australian Constitution

“

The judicial power of the Commonwealth shall be vested in a Federal Supreme Court, to be called the High Court of Australia, and in such other federal courts as the Parliament creates, and in such other courts as it invests with federal jurisdiction.

In short words: the power to decide legal cases belongs to the courts — and this section creates the High Court of Australia.

Australian Constitution, section 71 (in force from 1 January 1901).

Source A: the text of section 71 of the Australian Constitution, which vests the judicial power of the Commonwealth in the High Court of Australia and in other federal courts created by the Parliament

S1. According to Source A: (a) What court does section 71 name and create? (b) Who has the power to create other federal courts?

S2. Section 71 puts the Commonwealth’s judicial power in the courts — not in the Parliament and not in the government. In one sentence, why does that placement matter for citizens?

S3. Connect Source A to Part 3: explain how section 71 supports the independence of the judiciary.

Answers

Q1. (a) The rule of law (and judicial independence). (b) Equality. (c) Fairness. (d) Access. **Q2.** (a) The second element: people are punished only when a court finds them guilty of breaking a law. (b) The first element: no one, including the government, is above the law. **Q3.** (a) Chapter III. (b) The High Court of Australia. (c) The courts can declare the law invalid — it has no effect. **Q4.** (a) Magistrates' Court of Victoria, County Court of Victoria, Supreme Court of Victoria. (b) The High Court of Australia. (c) Any one of: so mistakes can be found and corrected; so a higher court can check the decision; so the losing party has somewhere to go. **Q5.** (a) The presumption of innocence. (b) An open court. (c) An independent decision-maker. **Q6.** (a) A community legal centre (or Victoria Legal Aid). (b) A private lawyer. (c) Victoria Legal Aid — apply for a grant of legal aid. **Q7.** See full solution. **Q8.** See full solution. **Q9.** See full solution. **Q10.** See full solution. **S1.** (a) The High Court of Australia. (b) The Commonwealth Parliament. **S2.** See full solution. **S3.** See full solution.

Full solutions

Q7. Step 1 — Pick one protection of judicial independence from Figure 4, for example that federal judges cannot be removed just because the government dislikes a decision. Step 2 — Connect it to an element of the rule of law from Figure 2: the courts must be able to hold the government to the law, and no one is above the law. Step 3 — Join them: if the government could remove judges over decisions, the courts could not check the government, and the government would be above the law. The protection exists so the check is real.

Q8. Step 1 — Strongest case for the caller: judges are not elected, while the government is chosen by voters, so it can look strange when unelected judges overturn what the elected side does. Step 2 — Strongest case against, from the rule of law: the Constitution is a law the people approved at referendum, and it limits every parliament; the government is under the law, not over it; someone must decide what the Constitution allows, and that someone must be free of the government, or the government would judge its own power. Step 3 — Your choice earns marks for reasons, not for the side: a strong answer says which principle (majority rule, or law above government) it weighs more heavily, and why.

Q9. Step 1 — The claim gets one thing right: our definition says the law applies to everyone the same way — the same rules, the same process, no special treatment for the rich or powerful. Step 2 — It gets one thing wrong: equal treatment in the process does not force identical outcomes. Two people may have done the same offence, but the cases can differ — one has no record and the other has many; the damage caused differs; the circumstances differ. Step 3 — So equality means the same law and the same fair process applied to both, with the sentence fitted to each case. Treating different cases as if they were the same is not equality; it is the opposite of looking at the facts.

Q10. Step 1 — Way 1: grants of legal aid pay for a lawyer when the person cannot. Who benefits: people on low incomes who are charged or have a dispute. How it helps: they get real legal representation, so money does not decide who gets heard (Figure 9). Step 2 — Way 2: free information and advice from Victoria Legal Aid or a community legal centre. Who benefits: people who do not even know what rights they have. How it helps: a person who knows their rights can use them — take a claim to court, answer a charge, or ask for a review. Step 3 — Join back to the principle: both ways close the gap between having rights on paper and being able to use them, which is what “equal access to the law’s protections” means.

S2. Step 1 — Read the opening words of Source A: the Commonwealth’s judicial power is placed in courts. Step 2 — That means neither the Parliament nor the government can decide legal cases for itself — it cannot be judge in its own cause. Step 3 — For citizens, that is a protection: when you are in a dispute with the government itself, an independent court — not the government — decides.

S3. Step 1 — Section 71 gives judicial power to courts and creates the High Court by name. Step 2 — Because the High Court exists by the Constitution, not by a minister’s choice, the government cannot abolish it or pack it to get the decisions it wants. Step 3 — That is independence by design: the courts stand apart from the other branches so they can hold them to the law (Figures 3 and 4).

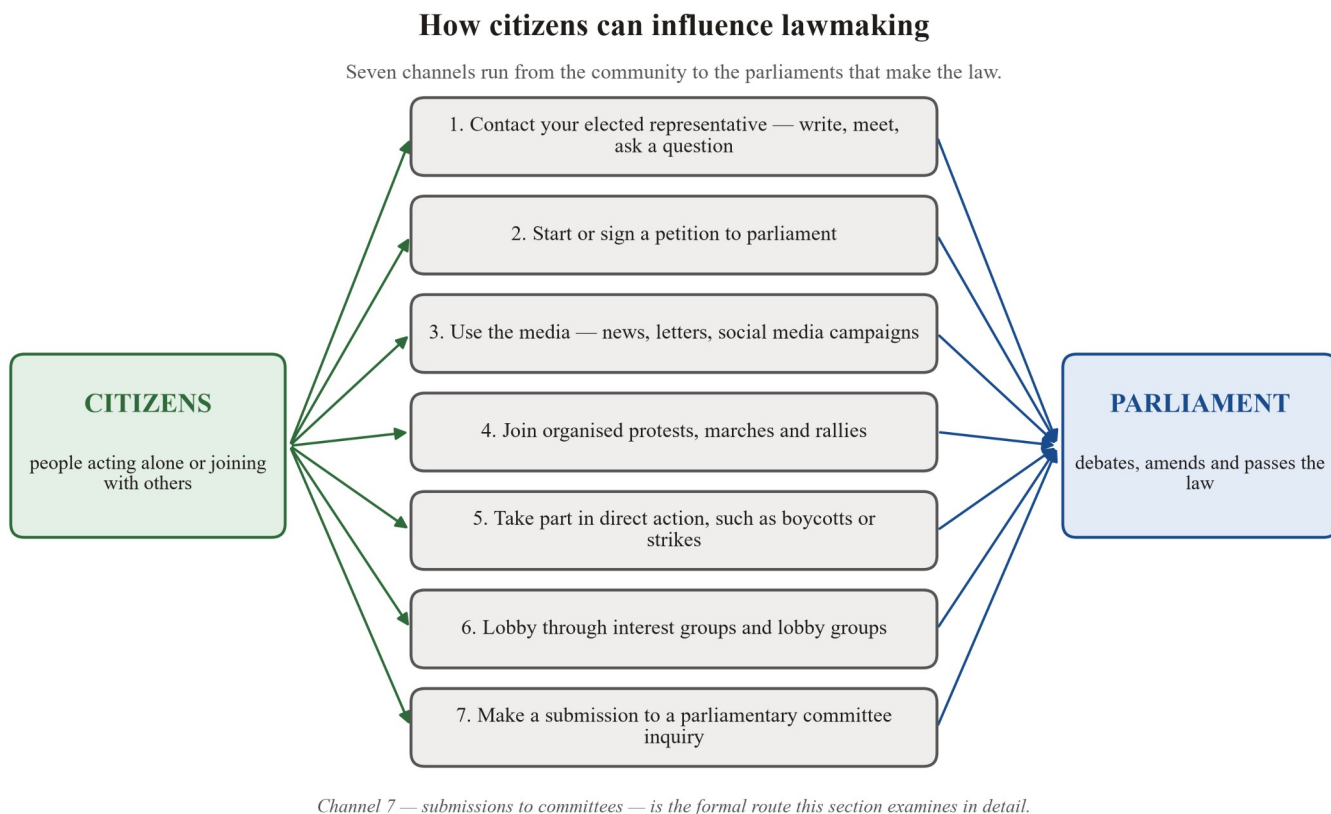
Having a say in how laws are made

Curriculum — VC2HC8K06 · draws on .E01, .E02 and .E03

Theory

Laws do not just appear. Behind most Acts of parliament there is a trail of letters, rallies, media campaigns and written submissions — citizens and groups pushing for change. This section follows that trail. First the channels themselves, then the most formal channel — a **submission** to a **parliamentary committee** — step by step, and finally what makes citizen influence more likely to work. Two worked examples at the end follow real cases all the way from citizen action to a changed law.

Part 1 — Seven channels into lawmaking. In Australia’s democracy, the power to make law sits in the parliaments — but the power to *influence* the law is open to everyone. Figure 1 shows seven channels a citizen or group can use.



A diagram of seven channels running from citizens to parliament: contacting an elected representative, petitions, the media, organised protests and rallies, direct action such as boycotts or strikes, lobby and interest groups, and submissions to parliamentary committee inquiries

Two of the channels need definitions, because they are subject terms you will meet all through this subject. An **elected representative** is a member of parliament — a person chosen by voters to speak and vote for them in parliament. Contacting your member (channel 1) is the most direct channel: you can write to them, call their office, or ask them to meet you, and they can raise your issue in parliament or with a minister. A **petition** (channel 2) is a written request to parliament that people sign to show how many of them support it.

Channels 4 to 6 are the pressure channels. **Organised protest** — marches, rallies and demonstrations — puts an issue in front of the public and the cameras. **Direct action** is pressure applied outside parliament’s formal processes, such as a boycott (refusing to buy something) or a strike (refusing to work), chosen to make an issue impossible to ignore. A **lobby group** is a group or person that contacts members of parliament and ministers to persuade them about a law or decision; when a group of people with a shared concern does this together, it is acting as an **interest group**. The two ideas overlap in real life, and both are legal and normal in a democracy — Part 6 looks at what they add and what to watch for.

Channel 7 is the formal door, and the rest of this section walks through it in detail.

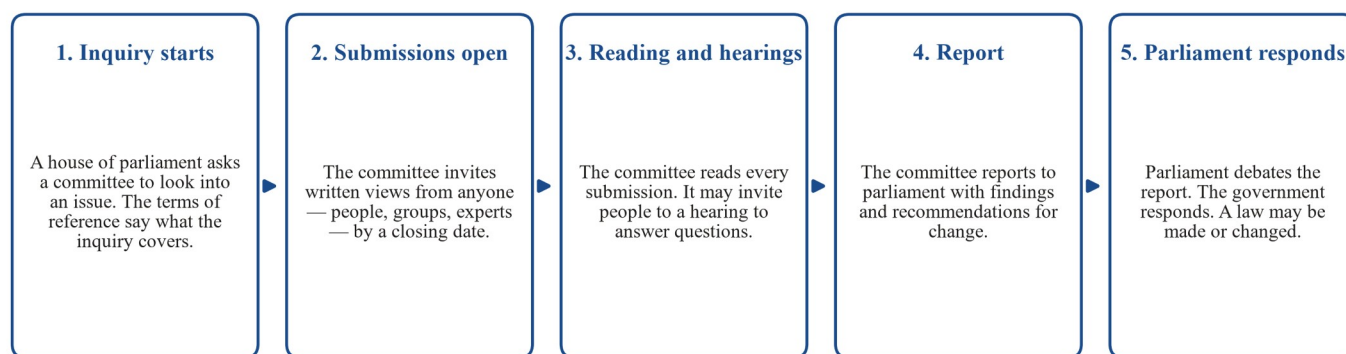
Defining our terms. The curriculum names *interest groups*, *lobby groups*, *direct action* and *submissions* without defining them. This section therefore treats them as follows, and every question here is answerable on these definitions alone. Other definitions exist and are not interchangeable with these.

- **Interest group:** an organised group that tries to influence laws and government decisions in line with a shared concern.
- **Lobby group:** a group or person that contacts members of parliament and ministers to persuade them about a law or decision.
- **Direct action:** pressure applied outside parliament's formal processes — such as boycotts or strikes — to make an issue impossible to ignore.
- **Submission:** a written statement of your views and evidence, sent to a parliamentary committee during an inquiry.

Part 2 — The committee process: the formal door. A **parliamentary committee** is a small group of members of parliament set up to examine one issue in detail. When a house of parliament wants a close look at an issue, it sends the issue to a committee, and the committee runs an **inquiry** — a formal investigation. The **terms of reference** are the written bounds of the inquiry: they say exactly what the committee will and will not look at. Figure 2 shows the five steps every inquiry follows.

How a parliamentary committee inquiry runs

The same basic steps are used at the Commonwealth Parliament and the Parliament of Victoria.



You can take part at step 2 — a submission is a written statement of your views and evidence.

A five-step flow chart of a parliamentary committee inquiry: the inquiry starts with terms of reference; submissions open; the committee reads submissions and holds hearings; the committee reports to parliament with recommendations; parliament responds and a law may be made or changed, with a note that you can take part at step 2

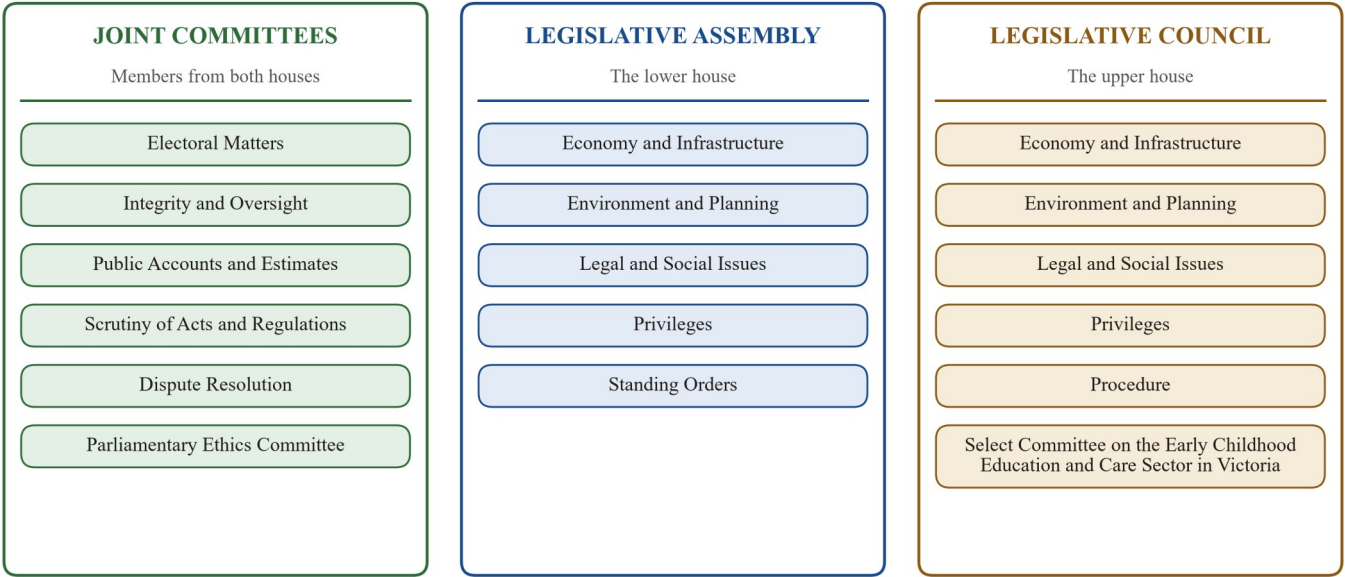
The step that matters for this section is step 2. The committee invites written views from anyone — a person, a group, a business, an expert — and each written statement is a **submission**. Submissions are not petitions in miniature: they give reasons and evidence, and they say exactly what change the writer wants. The committee reads them, and it may also invite people to a **hearing** — a meeting where members ask questions and test the evidence face to face.

What happens to all those views? They feed the report. A committee's report sets out what it found and what it **recommends**, and it is tabled in parliament — put formally before the house. The government must respond, and if the committee has made a strong case, the result can be a new or changed law. (What happens once a bill enters parliament — the readings, the votes, the two houses — is the story of Section 2C; here we stop at the door citizens open.)

Part 3 — Committees in Victoria, right now. This is not a museum topic. Figure 3 lists the real committees of the Parliament of Victoria as its website names them, and Figure 4 shows four inquiries those committees were running in April and May 2026.

Committees of the Parliament of Victoria

Victoria's parliament has two houses, plus committees that include members from both houses.



Most inquiries Victorians can make a submission to are run by these committees.

Source: Parliament of Victoria committees page, viewed 26 August 2026.

A three-column diagram of the committees of the Parliament of Victoria: joint committees with members from both houses, Legislative Assembly committees, and Legislative Council committees, each column listing the real committee names

Victorian committee inquiries in the news, April–May 2026

Committees of the Parliament of Victoria were examining issues like these in 2026 — each an issue Victorians could have their say on.

19 May 2026

Decommissioning Victoria's offshore oil and gas legacy

What should happen to old offshore oil and gas equipment when it stops being used.

7 May 2026

Fires and regional communities

Regional communities gave strong responses about how fires affect them.

27 April 2026

Energy changes in apartment buildings

The support apartment owners and renters need as energy systems change.

17 April 2026

Public school funding

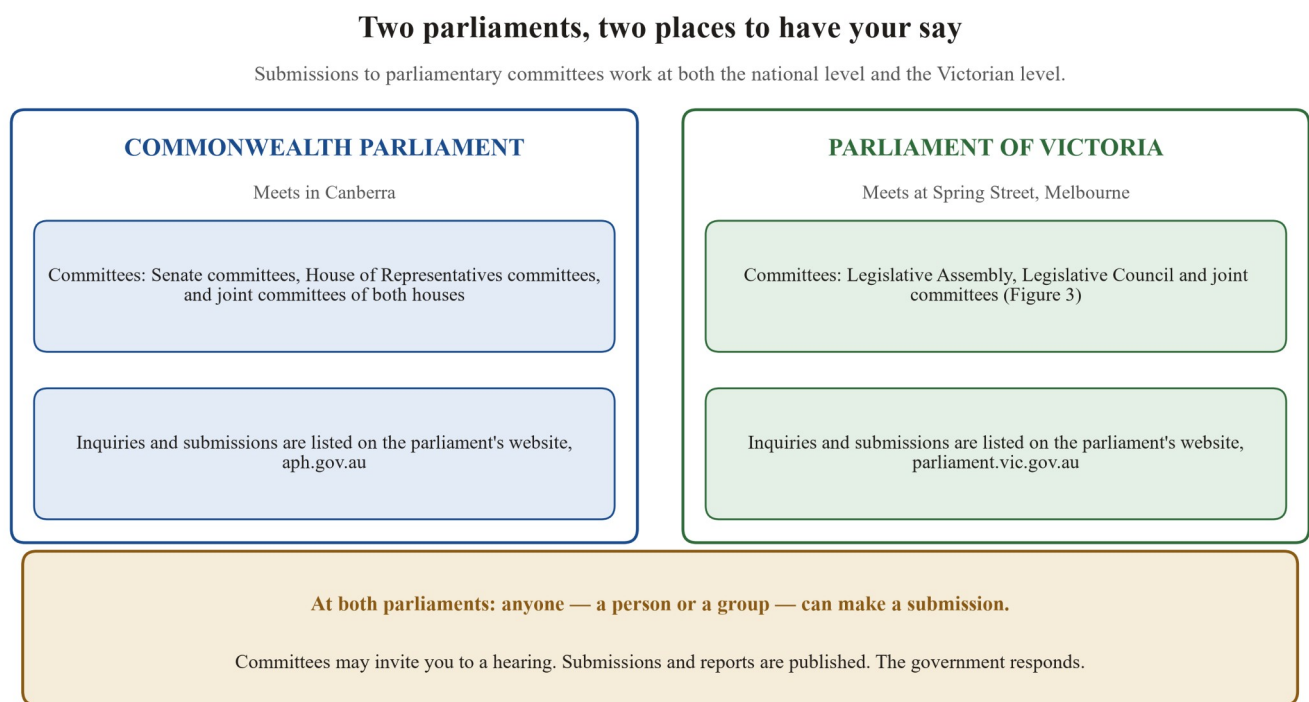
Parents told the committee that shortfalls were pushing schools to fill gaps themselves.

Committees call for input from the wider community — an inquiry is an opportunity for the public to have input (Parliament of Victoria website, viewed 26 August 2026).

Four dated cards of Victorian committee inquiries from April and May 2026 — offshore oil and gas legacy, fires and regional communities, energy changes in apartment buildings, and public school funding — each with a one-line note, and a footnote that an inquiry is an opportunity for the public to have input

Read Figure 4 as a set of open doors. A student whose family rents an apartment could have written to the committee examining energy changes in apartment buildings. A parent could have written about school funding. No invitation letter arrives: the closing date is published, and it is up to you to walk through the door before it shuts.

Part 4 — Two parliaments, one method. The same method works at both parliaments that affect you, shown in Figure 5.



If an issue is a state matter (schools, roads, police), write to the Parliament of Victoria. If it is a national matter (defence, immigration), write to the Commonwealth Parliament.

A two-panel diagram comparing the Commonwealth Parliament in Canberra and the Parliament of Victoria at Spring Street, Melbourne: each panel names its committees and its website, with a shared note that anyone can make a submission and that state matters go to Victoria while national matters go to the Commonwealth

The rule of thumb in Figure 5 decides which door to use: if the issue is a state matter — schools, roads, police — the Parliament of Victoria is the right parliament; if it is a national matter — defence, immigration — the Commonwealth Parliament is. Both list their open inquiries and their closing dates on their websites, and both publish the submissions they receive and the reports that follow.

Part 5 — Writing a submission that gets used. Committees receive anything from a one-line letter to a hundred-page report, and they can use all of it — but a clear, short submission is easiest to use. Figure 6 is a model: the parts a good submission usually has.

A model submission to a parliamentary committee

This is a MODEL showing the parts a submission usually has. It is not a real document.

To: The committee secretariat, Inquiry into [topic], [committee name]	Say which inquiry it is for
From: [Your name, or your group's name]	Say who is making the submission
1. Why I am writing: this issue matters because ...	Paragraph 1 — why the issue matters
2. What we know: our evidence and examples show that ...	Paragraph 2 — facts and evidence
3. What we recommend: the committee should recommend that ...	Paragraph 3 — the exact change you want
I am happy for this submission to be made public. / Please keep my name confidential.	Choose public or confidential
Signed and dated: [signature] [date]	Sign and date it

Numbered paragraphs, short sentences and a clear recommendation make a submission easier for a committee to use. Send it before the closing date.

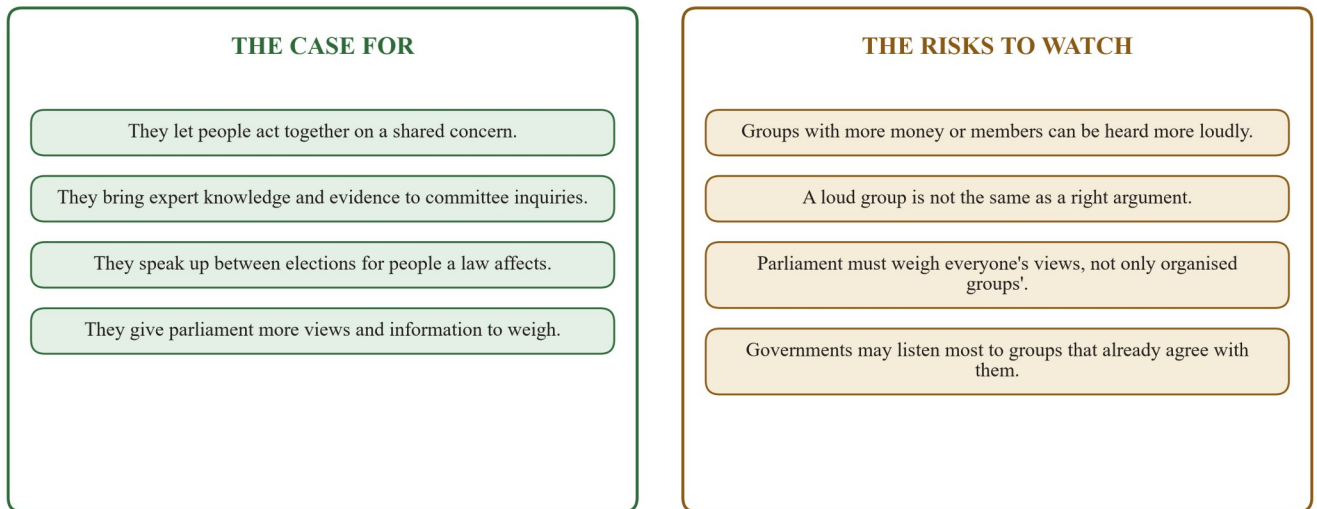
A model submission document with seven labelled parts: who the submission is for, who is making it, a first paragraph on why the issue matters, a second paragraph of facts and evidence, a third paragraph stating the exact change wanted, a choice of public or confidential, and a signature and date

Three habits make a submission powerful. Number your paragraphs, so the committee can quote “paragraph 3” in its report. Give evidence, not only feelings — a fact, an example, something you have seen first-hand. And end with one exact recommendation: the change you want, and who should make it. Then choose whether your name is published with the submission or kept confidential, sign it, and send it before the closing date.

Part 6 — Interest groups: the case for, and the risks to watch. Most submissions to a big inquiry are made by groups, not lone citizens — which raises a fair question: are interest groups good for lawmaking, or a distortion of it? Figure 7 puts each side in its strongest form.

Do interest groups strengthen lawmaking? Two sides, each at full strength

An interest group is an organised group that tries to influence laws and decisions in line with a shared concern.



Both sides are shown in the strongest form their supporters would accept. In your answer, marks go to the quality of your reasoning, not the side you pick.

A two-panel steelman diagram titled “Do interest groups strengthen lawmaking?”: the case for — acting together on a shared concern, expert knowledge and evidence at inquiries, speaking up between elections, giving parliament more views to weigh — and the risks to watch — money and members buying volume, loudness mistaken for rightness, parliament weighing everyone’s views, and governments favouring groups that already agree with them

One of the world’s best-known interest groups is **Amnesty International**, an organisation that campaigns for human rights; Worked Example 1 follows its Australian branch through a real inquiry and a real Act of parliament. Notice, in both panels of Figure 7, that nothing makes interest groups illegal or improper — the risks are things parliament and citizens must *watch for*, not reasons to shut the channel.

Part 7 — What makes citizen influence work. Whichever channel you use, some habits make success more likely. Figure 8 names six.

What makes citizen influence on lawmaking more likely to work

Six things that make it easier for a voice to change a law — in any channel from Figure 1.



None of these guarantee success — but each one raises the chance that parliament listens.

Six cards naming what makes citizen influence on lawmaking more likely to work: a clear ask, evidence, numbers, persistence, timing, and allies and media, each with a one-line explanation, and a footnote that none guarantees success but each raises the chance that parliament listens

Keep Figure 8 handy: the worked examples below are best read with it in mind, and several practice questions ask you to use it.

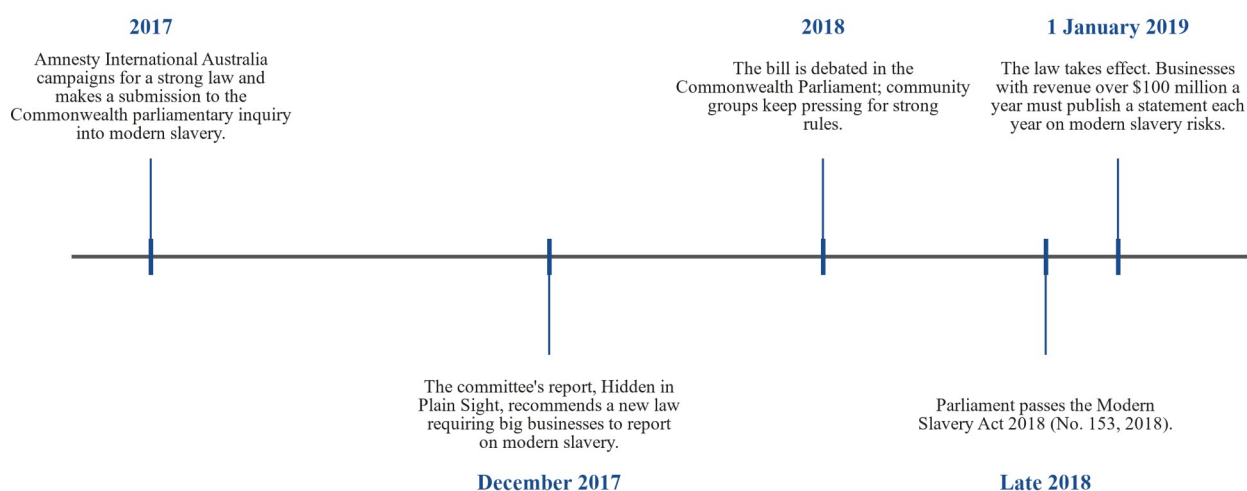
Worked examples

Example 1 — An interest group's submission: Amnesty International and the Modern Slavery Act 2018 (Commonwealth) (scaffolded)

Modern slavery means serious exploitation in which people are forced to work, or controlled, and cannot leave. In 2017 the Commonwealth Parliament began looking at whether Australia needed a law against it. Figure 9 sets out what happened next.

Case study — Amnesty International Australia and the Modern Slavery Act 2018 (Commonwealth)

Modern slavery means serious exploitation in which people are forced to work, or controlled, and cannot leave.



Sources: Parliament of Australia inquiry records; Federal Register of Legislation; Amnesty International Australia (all viewed 26 August 2026).

*A timeline from 2017 to 1 January 2019: Amnesty International Australia campaigns and makes a submission to the Commonwealth parliamentary inquiry; the committee's report *Hidden in Plain Sight* recommends a new law in December 2017; the bill is debated through 2018; the Modern Slavery Act 2018 (No. 153, 2018) is passed in late 2018; and the law takes effect on 1 January 2019 requiring big businesses to publish statements each year on modern slavery risks*

Working	Comment
1. Amnesty International is a worldwide interest group that campaigns for human rights. Its Australian branch ran a campaign for a strong Australian law against modern slavery.	An interest group by our definition: organised people acting on a shared concern (Figure 8: allies and media).
2. In 2017 the Commonwealth Parliament opened a committee inquiry into modern slavery, and Amnesty International Australia made a submission to it.	The formal channel of Figure 2, step 2: written views and evidence, sent before the closing date.
3. In December 2017 the committee's report, <i>Hidden in Plain Sight</i> , recommended a new law requiring big businesses to report on modern slavery risks.	Steps 3 and 4 of Figure 2: the committee read the submissions and turned what it learned into recommendations.
4. The bill was debated during 2018, and in late 2018 the Commonwealth Parliament passed the <i>Modern Slavery Act 2018</i> (No. 153, 2018). It took effect on 1 January 2019.	Step 5 of Figure 2: parliament responds. The pressure channel and the formal channel both fed into this moment.
5. The Act requires businesses with revenue over \$100 million a year to publish statements each year on what they are doing about modern slavery in their supply chains.	What the law actually does: it forces the facts into the open, so shoppers, workers and investors can judge.

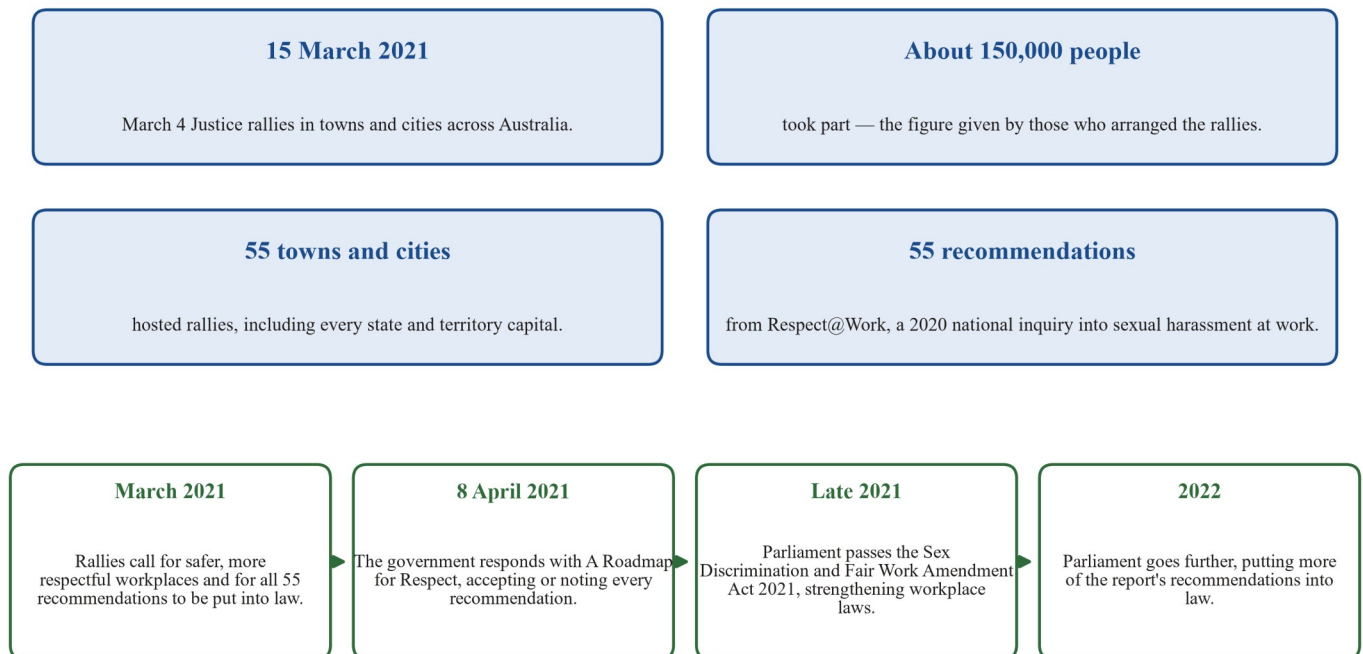
(Sources: Federal Register of Legislation; Parliament of Australia inquiry records; Amnesty International Australia — all viewed 26 August 2026.)

Example 2 — Direct action that reached parliament: the March 4 Justice rallies (scaffolded)

On 15 March 2021, rallies under the name March 4 Justice were held across Australia, calling for safer and more respectful workplaces. Figure 10 gives the numbers and the chain of responses.

Case study — the March 4 Justice rallies, 15 March 2021

Organised protest and media attention pushed the Commonwealth Parliament to change workplace law.



Sources: Wikipedia, '2021 March 4 Justice' and 'Sex Discrimination Commissioner'; Federal Register of Legislation (viewed 26 August 2026).

A panel on the March 4 Justice rallies of 15 March 2021 — about 150,000 people across 55 towns and cities, demanding the 55 recommendations of the 2020 Respect@Work report — followed by a four-step response chain: the rallies, the government's A Roadmap for Respect of 8 April 2021, the Sex Discrimination and Fair Work Amendment Act 2021, and further amendments in 2022

Working	Comment
1. On 15 March 2021, about 150,000 people rallied in about 55 towns and cities, from the capitals to regional centres. The rallies began with one citizen, Janine Hendry, and volunteer teams around the country.	Organised protest at scale (Figure 1, channel 4). Numbers matter: Figure 8 says many voices making the same point are harder to set aside.
2. The rallies carried one clear ask: put all 55 recommendations of Respect@Work — a 2020 national inquiry into sexual harassment at work — into law.	Figure 8, “a clear ask”: the protesters named the exact change and who could make it.
3. On 8 April 2021 the government responded with <i>A Roadmap for Respect</i> , which accepted or noted all 55 recommendations.	Timing helped: parliament was already examining the issue when the rallies happened (Figure 8, “timing”).
4. In late 2021 the Commonwealth Parliament passed the <i>Sex Discrimination and Fair Work Amendment Act 2021</i> , strengthening workplace laws; in 2022 it went further, putting more of the recommendations into law.	The rallies did not pass the law — parliament did. Direct action changed what parliament chose to do. That is influence on lawmaking, exactly as the curriculum names it.

(Sources: Wikipedia, '2021 March 4 Justice'; Federal Register of Legislation — viewed 26 August 2026.)

Practice questions

Scaffolded

Q1. Figure 1 shows seven channels. Match each story to the channel number it best shows: (a) a student emails the local member of parliament asking them to raise an issue in the house; (b) a group collects 4,000 signatures on a written request to parliament; (c) workers refuse to buy from a company until it changes its conduct; (d) a group sends a written statement of its views and evidence to a committee inquiry.

Q2. Using Figure 2: (a) put these steps in order: the committee reports to parliament; submissions open; the terms of reference are set; parliament responds; the committee reads submissions and holds hearings. (b) Name the two steps at which an ordinary citizen can directly take part, and how. (c) In one sentence, say what the terms of reference are for.

Q3. Using Figures 3 and 4: (a) a Victorian renter is worried about energy costs in apartments. Which inquiry shown in Figure 4 could they make a submission to, and what is its date? (b) Which kind of committee includes members from both houses of the Victorian Parliament? (c) Name one committee of the Legislative Council shown in Figure 3.

Q4. Using Figure 5: (a) a group wants a change to Victorian school policy. Which parliament's committees should it write to? (b) a group wants a change to immigration law. Which parliament? (c) name the website where each parliament lists its open inquiries.

Q5. Figure 6 is a model submission. (a) Which part says who is making the submission? (b) why does the model number its paragraphs? (c) what choice does the writer make about their name, and why might someone choose each option? (d) what must the paragraph headed "What we recommend" contain for the submission to be easy to use?

Q6. Figure 8 names six things that make influence more likely to work. Each story below is missing one of them. Name the missing one: (a) a group sends one letter to a committee, gets a reply it dislikes, and gives up; (b) a submission says an issue is "very bad" but gives no facts, examples or first-hand experience; (c) a large rally is held, but nobody watching can say what change the rally wants.

Un scaffolded

Q7. A student says: "A submission is just a letter. Parliament does not have to read it, so making one is pointless." Use Figure 2 and Source A to evaluate this claim. Say what is right in it and what is wrong.

Q8. Look at Figure 7. (a) Give the strongest case you can that interest groups strengthen lawmaking. (b) Give the strongest case you can that they distort it. (c) Which case do you find stronger, and why? Marks are given for the reasoning, not for the side you take.

Q9. "Laws are changed by parliaments, not by rallies — so the March 4 Justice rallies achieved nothing." Use Worked Example 2 to evaluate this claim. Your answer must use at least two dated facts from the example.

Q10. It is June 2026. A Victorian Year 8 student wants the Parliament of Victoria to examine how public schools are funded. Choose one channel from Figure 1 for their first move and justify your choice with two cards from Figure 8. (Figure 4 may help.)

Source task — reading Source A

Source A quotes the Parliament of Victoria’s own description of its committees. Read it, then answer the questions.

Source A — the Parliament of Victoria on its committees

"Committees are formed of members from one house or both houses."

"Committees hold inquiries into particular issues and call for input from the wider community."

"Inquiries are an opportunity for the public to have input into issues being considered by committees."

Source: Parliament of Victoria committees page, viewed 26 August 2026.

Source A: three sentences quoted from the Parliament of Victoria committees page — committees are formed of members from one house or both houses; committees hold inquiries into particular issues and call for input from the wider community; inquiries are an opportunity for the public to have input into issues being considered by committees

S1. According to Source A: (a) who are committees formed of? (b) what do committees call for, and from whom?

S2. Connect Source A to Figure 2. The “input” Source A describes arrives mostly at one step of the inquiry. Which step, and in what form does the input arrive?

S3. Source A says an inquiry is “an opportunity for the public to have input”. Give two reasons a committee would want input from the wider community, not only from the government.

Answers

Q1. (a) Channel 1. (b) Channel 2. (c) Channel 5. (d) Channel 7. **Q2.** (a) The terms of reference are set; submissions open; the committee reads submissions and holds hearings; the committee reports to parliament; parliament responds. (b) Step 2, by making a submission, and step 3, by being invited to a hearing to answer questions. (c) They set the written bounds of the inquiry — what it will and will not look at. **Q3.** (a) The inquiry into energy changes in apartment buildings, 27 April 2026. (b) Joint committees. (c) Any one from the Legislative Council column of Figure 3, for example Economy and Infrastructure. **Q4.** (a) The Parliament of Victoria. (b) The Commonwealth Parliament. (c) parliament.vic.gov.au for Victoria; aph.gov.au for the Commonwealth. **Q5.** (a) The “From” line. (b) So the committee can quote a paragraph by number in its report. (c) Public or confidential: someone may go public to add weight and stand behind their words, or stay confidential if naming them could bring trouble. (d) The exact change wanted, and who should make it. **Q6.** (a) Persistence. (b) Evidence. (c) A clear ask. **Q7.** See full solution. **Q8.** See full solution. **Q9.** See full solution. **Q10.** See full solution. **S1.** (a) Members from one house or both houses. (b) Input, from the wider community. **S2.** See full solution. **S3.** See full solution.

Full solutions

Q7. Step 1 — What is right in the claim: a submission has no legal force. Parliament does not have to agree with it, and making one does not bind anyone. Step 2 — What is wrong: Figure 2 shows the committee reading every submission before it writes its report, and Source A shows the parliament itself calling for that input; a submission also becomes part of the public record of the inquiry. Step 3 — So the claim mistakes “not binding” for “not read”. A submission is not a command; it is evidence placed formally before the people writing the recommendations, which is exactly how citizens influence lawmaking through the formal channel.

Q8. Step 1 — Strongest case for: groups let scattered people act as one voice, they bring expert knowledge and first-hand evidence that busy members could never collect themselves, and they keep speaking up between elections, so parliament hears from more of the people a law affects. Step 2 — Strongest case against: volume is not truth — a group with more money or members can sound bigger than its argument, and a government may hear loudest the groups that already agree with it, while people with no organisation go unheard. Step 3 — Your choice earns marks for reasons, not for the side: a strong answer names which risk or which benefit it weighs more heavily, and says what parliament or citizens can do to keep the channel fair (for example, publishing all submissions so every view is on the record).

Q9. Step 1 — The claim is right about one thing: rallies do not pass laws. Only parliament did that, in late 2021 and again in 2022. Step 2 — But “achieved nothing” is wrong on the dated facts: on 8 April 2021, less than a month after the 15 March rallies, the government responded with A Roadmap for Respect, accepting or noting all 55 Respect@Work recommendations; the 2021 Act and the 2022 amendments then put those recommendations into law. Step 3 — The correct reading is the section’s: direct action is influence, not lawmaking. The rallies changed what parliament chose to do, and the speed and size of the response is the evidence.

Q10. Step 1 — A strong choice: channel 7, a submission to the Parliament of Victoria’s inquiry into public school funding (Figure 4, 17 April 2026). Step 2 — Justify with two cards from Figure 8: timing — the committee is already examining the issue, so the input arrives while the door is open; evidence — a student can give first-hand experience of what funding shortfalls mean at their own school, which is exactly the kind of evidence a committee uses. Step 3 — Other choices can also earn marks if justified (for example, channel 1, writing to the local state member, with “a clear ask” and “persistence”), but the justification must name two cards and connect each to the chosen channel.

S2. Step 1 — Source A says committees call for input from the wider community. Step 2 — In Figure 2 that input arrives at step 2, submissions open, in the form of written submissions (and at step 3, for people invited to a hearing). Step 3 — So the public’s opportunity is not a vague one: it is a named step with a closing date, in a written form the committee can read, quote and answer.

S3. Step 1 — Reason 1: evidence. The wider community holds facts and first-hand experience the government does not have — Figure 8’s “evidence” card, and Figure 7’s point that groups bring expert knowledge to inquiries. Step 2 — Reason 2: range of views. A law affects many different people, and hearing from the wider community stops the committee from seeing the issue through one department’s eyes — parliament must weigh everyone’s views. Step 3 — Join: input from the wider community makes the report’s recommendations better informed and harder to ignore, which is why the parliament itself calls for it.

What makes a law, and where laws come from

Every day you follow laws without thinking about them: which side of the path you keep to, what you can buy, what a seller must tell you. But what makes a law a *law* and not just a habit or a suggestion? And who actually makes laws in Australia — and how? This section answers both questions. You will learn the four **characteristics** (the marks or features) of laws, and you will meet Australia's two chief lawmakers: **parliaments**, which make **statute law** (law written and passed by parliament, also called an **Act** or **statute**), and **courts**, which make **common law** (law built up from judges' decisions in real cases).

Curriculum link: VC2HC8K07.E01 · VC2HC8K07.E02 · VC2HC8K07.E03 · VC2HC8K07.E04

Part 1 — What makes a law a law? (VC2HC8K07.E01)

A rule only works as a law if it has certain features. In this course we use four **characteristics of laws**.

What makes a law a law?

Four characteristics of laws in Australia

1 Reflects society's values

Laws grow out of the values and perspectives held in the community.

Example: helmet laws value safety;

anti-discrimination law values equality.

Values differ, so laws often balance views.

2 Enforceable

A law can be enforced: police, courts and penalties back it up.

Example: a rider without a helmet

can be fined under Victoria's

Road Safety Road Rules 2017 (rule 256).

3 Known, clear and understood

People must be able to find the law and work out what it asks of them.

Acts are published; courts give words

a clear meaning when people disagree

about what they say.

4 Relatively stable

Laws last long enough for people to plan their lives around them.

Change happens by set steps (a new

Act in parliament, or a higher court's

decision), not day to day.

Four cards listing the four characteristics of laws: laws reflect society's values; laws are enforceable; laws are known, clear and understood; laws are relatively stable.

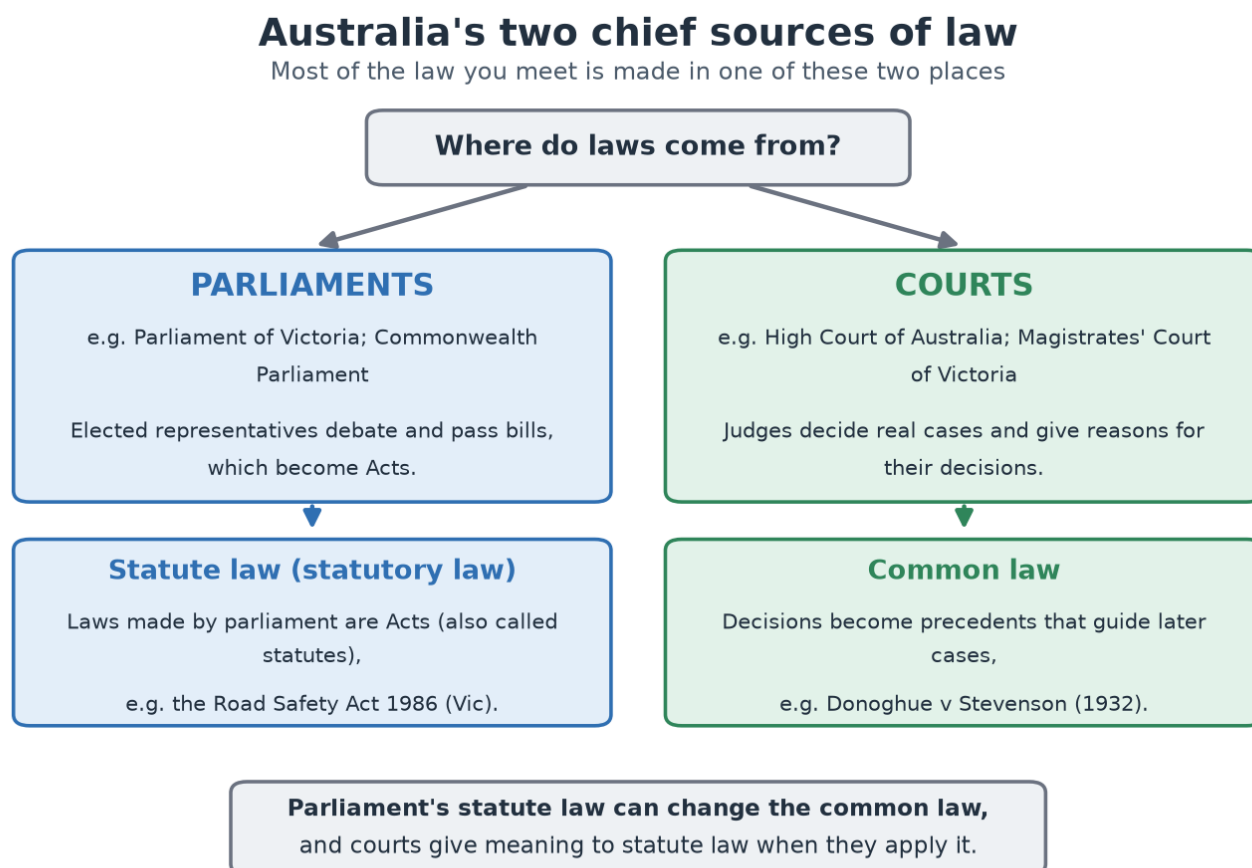
1. **Laws reflect society's values.** A society makes laws about the things it cares about — safety, fairness, honesty, property. When values shift over time, laws often shift too.
2. **Laws are enforceable.** **Enforceable** means the law can be backed up: if you break it, an official body such as the police or a court can act (for example, by issuing a fine or ordering you to pay for harm). A rule nobody can enforce is a suggestion, not a law.
3. **Laws are known, clear and understood.** People can only obey a law they can find out about and understand. That is why Acts are published and why courts explain what the words mean.
4. **Laws are relatively stable.** Laws last long enough for people to plan their lives around them. They can change — but slowly, through proper steps, not on a whim.

Thinking point — whose values? Be careful when we say a law “reflects society's values”. Australia is a diverse society, and reasonable people disagree about which values should win. Many people put **safety** first: a good law prevents harm, even if it limits some choices. Others put **personal freedom** first: adults

should make their own choices, even risky ones, where the harm mostly falls on themselves. Neither view is silly — they put the same two good things in a different order. Parliament’s job is to balance these views when it makes laws; a citizen’s job is to test whether the balance is fair. You will practise that testing in Part 5 and in Question 10.

Part 2 — The two chief sources of law: parliaments and courts (VC2HC8K07.E02)

Most of the law you will ever meet was made in one of two places.



Flow chart showing Australia’s two chief sources of law: parliaments, where elected representatives debate and pass bills that become Acts (statute law), and courts, where judges decide real cases and their decisions become precedents (common law).

Parliaments make statute law. In Victoria, a proposed law is called a **bill**. A bill is debated and voted on in each house of the Parliament of Victoria, and if it passes both houses it receives **assent** (the Governor’s approval) and becomes an **Act** — for example, the *Road Safety Act 1986* (Vic). The Commonwealth Parliament in Canberra works the same way, with the Governor-General giving assent. (How citizens and groups try to influence these votes is covered in Section 2B.)

Courts make common law. Judges decide real disputes between real people, and they write down their reasons. The legal rule in those reasons becomes a **precedent** — a recorded decision that guides later cases that are similar. You will meet both sources again in the consumer law case study in Part 3.

Two kinds of law, working together

Comparing statute law and common law

	STATUTE LAW	COMMON LAW
Who makes it?	Elected representatives in parliament	Judges in courts
How is it made?	A bill is debated and passed by both houses, then receives assent	Judges decide real disputes and record their reasons
What is it called?	Statute law — Acts (statutes)	Common law — precedents (judge-made law)
Real example	Australian Consumer Law (Schedule 2 to the Competition and Consumer Act 2010 (Commonwealth))	Donoghue v Stevenson (1932): a maker owes a duty of care to the user
How does it change?	Parliament passes a new Act, or amends or repeals an old one	A higher court can change the rule in a later case

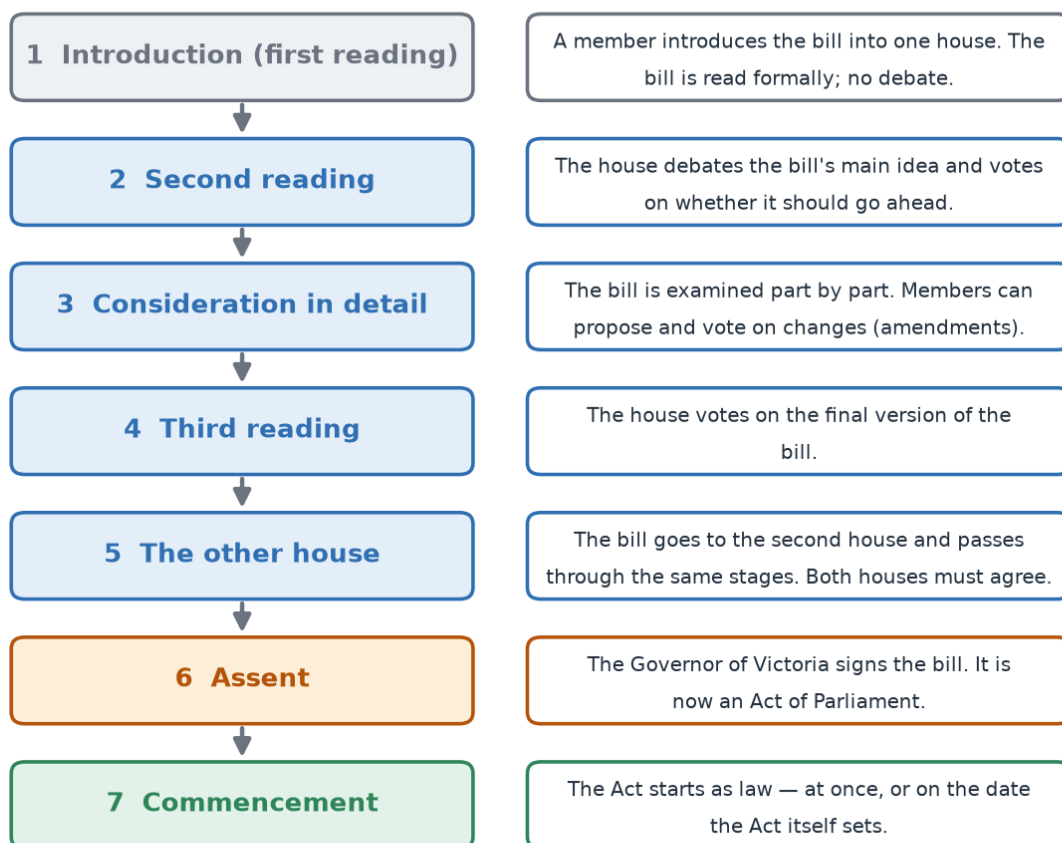
Comparison table of statute law and common law: who makes it, how it is made, what it is called, a real example of each, and how each kind of law can change.

How a bill becomes an Act

The stages below are the path a bill follows in the Parliament of Victoria. The careful, public steps are part of what makes the result a law that people accept.

How a bill becomes an Act — the Parliament of Victoria

A proposed law is a bill. The Commonwealth Parliament follows the same basic stages; there, the Governor-General gives assent.



Flow chart of the stages a bill passes through in the Parliament of Victoria: first reading, second reading, consideration in detail, third reading, then the same stages in the other house, then the Governor's assent, and finally commencement.

- **First reading** — the bill is introduced and its title is read out.
- **Second reading** — the house debates the big idea behind the bill and votes on it.
- **Consideration in detail** — the bill is examined part by part; members can propose and vote on changes (amendments).
- **Third reading** — the house votes on the final form of the bill.
- **The other house** — the second house repeats these stages. If it changes the bill, the first house considers those changes.
- **Assent** — the Governor signs the bill into law.
- **Commencement** — the Act starts operating, on the day it names or on a later day it provides for.

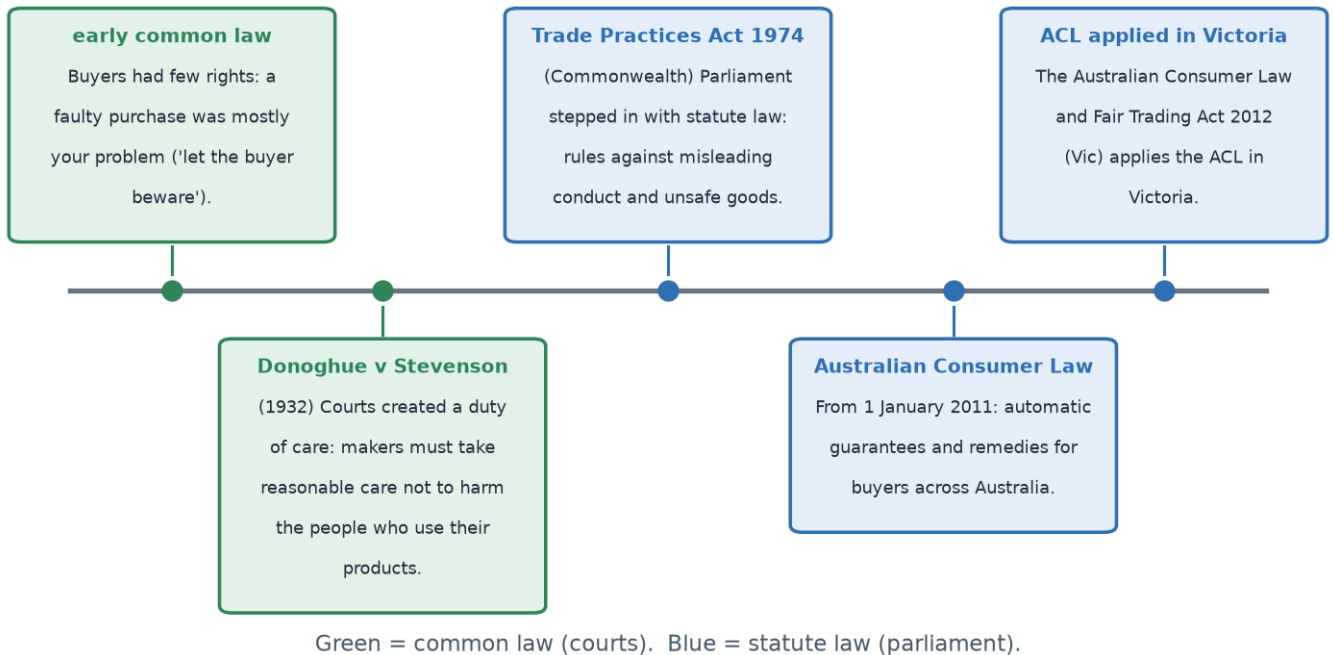
Part 3 — Case study: consumer law grew from both sources (VC2HC8K07.E02)

Consumer law is the law that protects you when you buy goods and services. It is a perfect case study because you can see both sources of law working: courts first, then parliament.

A century ago, buyers had few rights. The old saying was “let the buyer beware”. Then courts began to change the common law, and later parliaments wrote stronger protections into statute law.

Case study: consumer law grew from both sources

How buyers came to be protected — common law first, then statute law



Timeline showing consumer protection growing from both sources: early common law with few buyer rights; Donoghue v Stevenson (1932), where courts created a duty of care; the Trade Practices Act 1974 (Commonwealth), where parliament stepped in with statute law; the Australian Consumer Law from 1 January 2011; and the Australian Consumer Law and Fair Trading Act 2012 (Vic), which applies the ACL in Victoria.

Today, the main statute is the **Australian Consumer Law (ACL)** — Schedule 2 to the *Competition and Consumer Act 2010* (Commonwealth), which commenced on 1 January 2011. In Victoria, the *Australian Consumer Law and Fair Trading Act 2012* (Vic) applies the ACL as Victorian law. The ACL gives you **consumer guarantees**: automatic rights that apply every time you buy, even if a shop says nothing.

Your automatic rights when you buy: the Australian Consumer Law

Consumer guarantees (ACL, Part 3-2) and what you can get if goods fail them

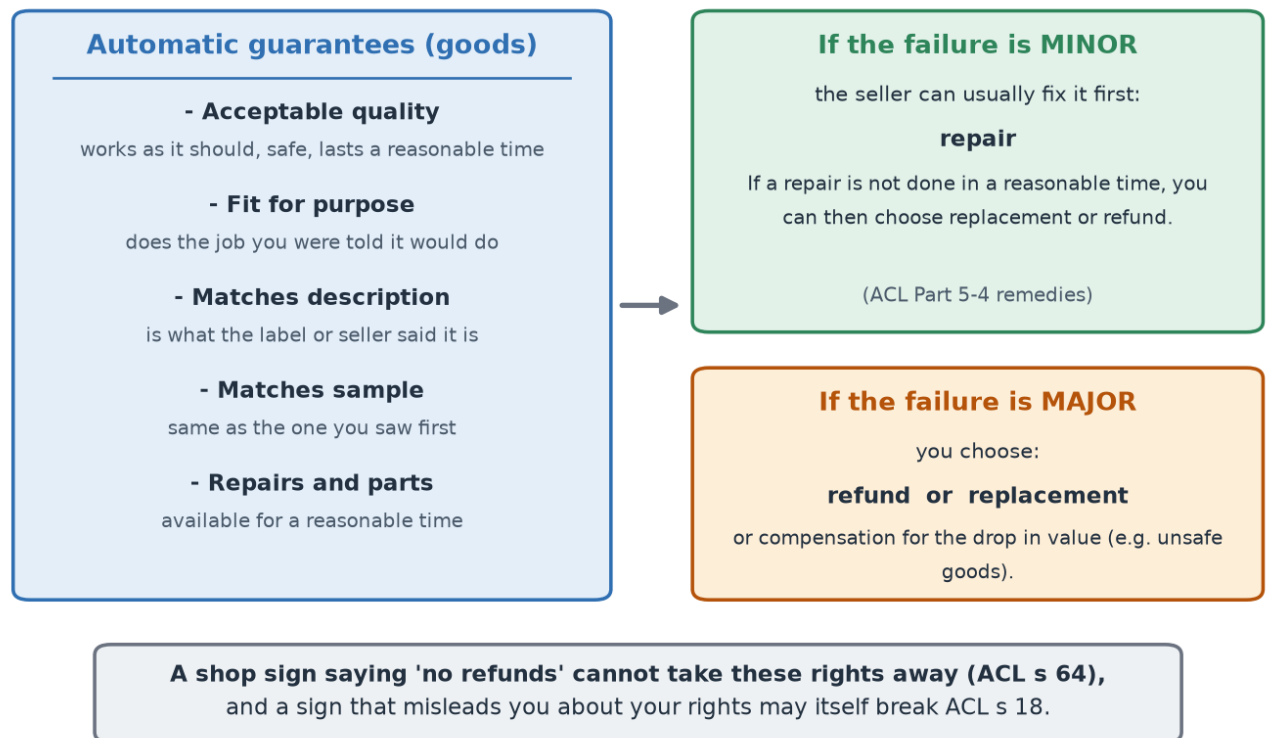


Diagram of the Australian Consumer Law's automatic guarantees for goods — acceptable quality, fit for purpose, matches description, matches sample, repairs and parts — and the remedies: for a minor failure the seller can usually offer repair first; for a major failure the buyer chooses a refund or replacement.

Three guarantees to remember (ACL ss 54–56):

- **Acceptable quality** — goods work as they should, are safe, and last a reasonable time.
- **Fit for purpose** — goods do the job you were told they would do.
- **Matches description** — goods are what the label or the seller said they are.

And two things about remedies (ACL Part 5-4):

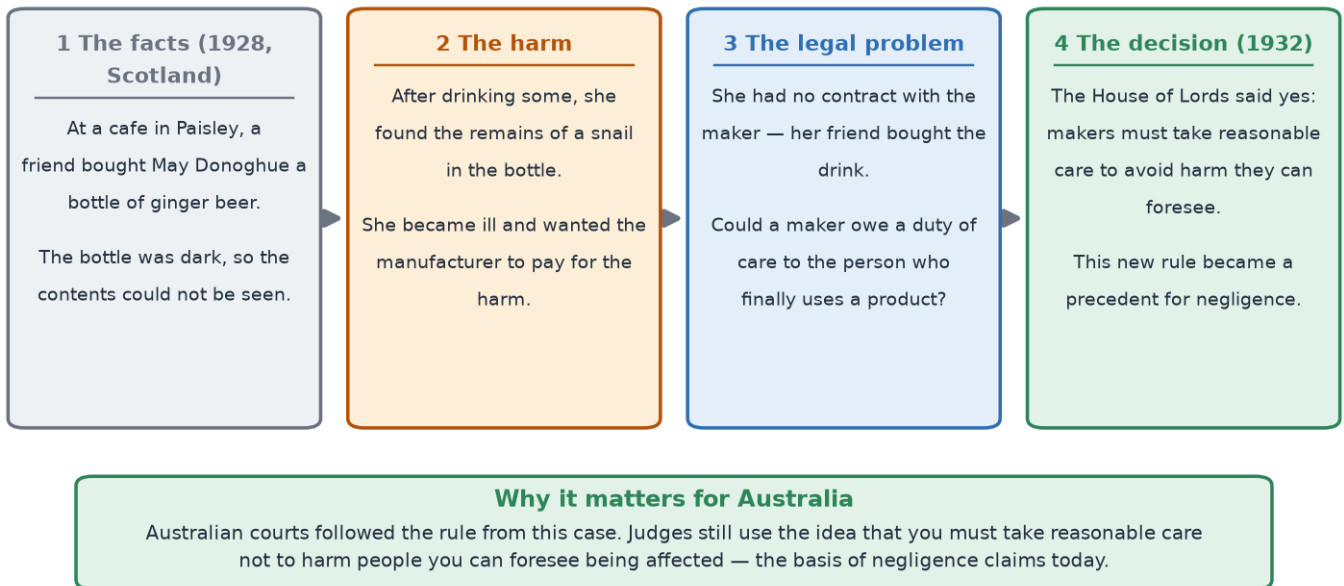
- If the failure is **minor**, the seller can usually choose to fix it first (repair, replacement or refund).
- If the failure is **major** — say, the product is unsafe or would not have been bought by a reasonable consumer — **you** choose: refund or replacement.
- A shop sign saying “no refunds” cannot take these rights away (ACL s 64).

Part 4 — How courts develop the law (VC2HC8K07.E04)

Parliament does not sit still and neither does the common law. Courts develop the law in two main ways: by **precedent** and by **statutory interpretation**.

How a court made law: **Donoghue v Stevenson (1932)**

The case that built the modern law of negligence — common law made by judges

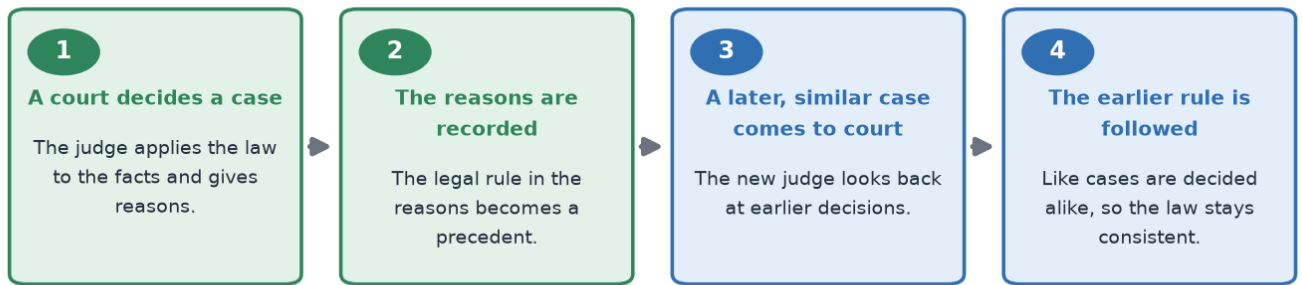


Four-step case summary of Donoghue v Stevenson (1932): the facts (a friend bought May Donoghue a bottle of ginger beer at a cafe in Paisley, Scotland, and the dark bottle hid a snail); the harm (she became ill); the legal problem (she had no contract with the maker); and the decision (the House of Lords said makers must take reasonable care to avoid harm they can foresee).

Donoghue v Stevenson [1932] is one of the most important cases in the common law world. May Donoghue became ill after drinking part of a bottle of ginger beer a friend had bought her, because the dark bottle hid the remains of a snail. She had no **contract** with the manufacturer — her friend had bought the drink — so the legal question was whether a maker could owe a **duty of care** (a legal obligation to take reasonable care) to the person who ends up using the product. On 26 May 1932 the House of Lords, the top court in the United Kingdom, said yes: you must take reasonable care to avoid harm to people you can foresee being affected. That idea became the foundation of the modern law of **negligence** (the area of law about careless harm), and Australian courts followed it too.

How precedent develops the law

Precedent: a court's recorded decision that guides later cases that are similar



What can change a precedent?

- A higher court can change the rule when a later case reaches it.
- Parliament can pass a statute that overrides the rule — statute law wins over common law.
- This keeps common law flexible case by case, while parliament can settle matters for everyone.

Four-step flow chart of how precedent develops the law: a court decides a case and gives reasons; the legal rule in the reasons is recorded as a precedent; a later, similar case comes to court; the earlier rule is followed so like cases are decided alike. A box lists what can change a precedent: a higher court in a later case, or parliament passing a statute that overrides the rule.

Precedent keeps the law **consistent**: like cases are decided alike, so people know where they stand. But precedent is not frozen. A higher court can change the rule in a later case, and parliament can pass a statute that overrides it — statute law wins over common law. That is exactly what happened in consumer law, when Acts like the ACL set down clear rights on top of the common law.

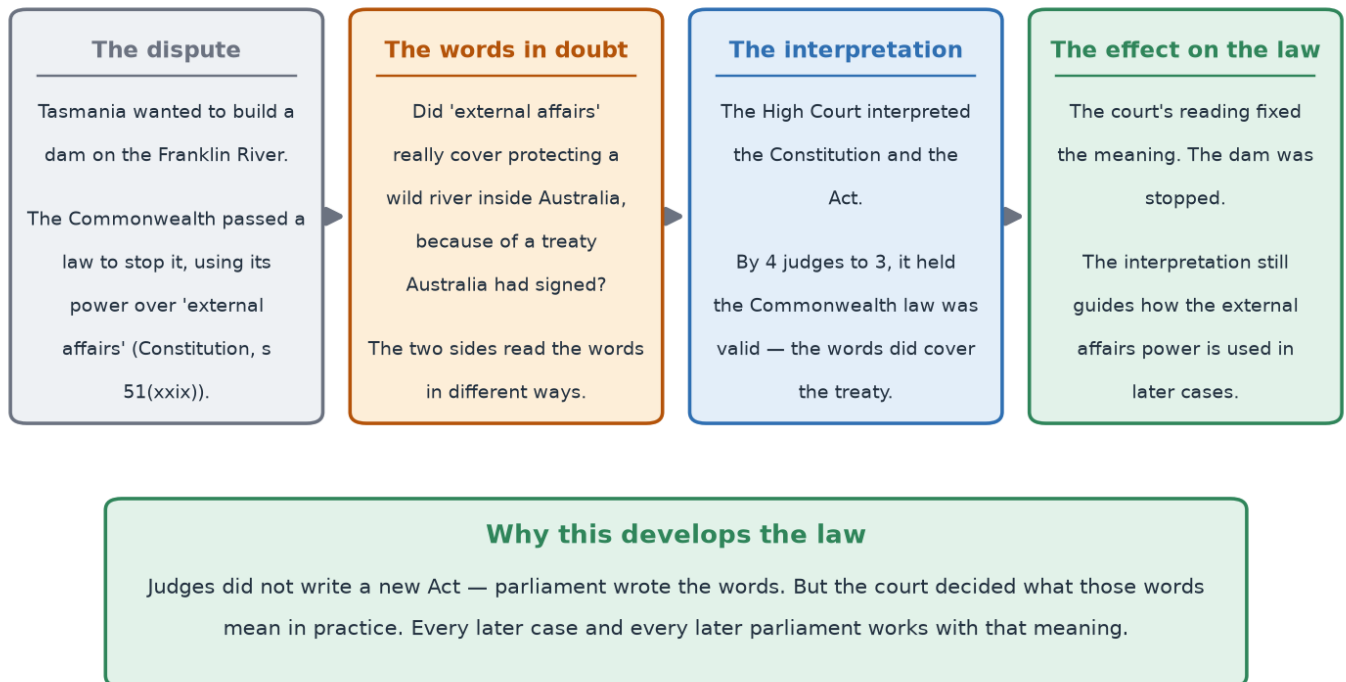
Statutory interpretation: courts give meaning to the words of an Act

Acts are written in words, and words have edges. When a dispute turns on what the words of an Act cover, a court must work out their meaning. That process is called **statutory interpretation**.

How courts give meaning to the words of a law

Statutory interpretation — the High Court of Australia reads and explains what a law means

Case: Commonwealth v Tasmania (1983) — the Tasmanian Dam case



Four-step summary of Commonwealth v Tasmania (1983), the Tasmanian Dam case: the dispute (Tasmania wanted to build a dam on the Franklin River and the Commonwealth passed a law to stop it using its power over external affairs, Constitution s 51(xxix)); the words in doubt (did 'external affairs' cover protecting a wild river inside Australia because of a treaty Australia had signed?); the interpretation (the High Court, by 4 judges to 3, held the Commonwealth law was within power); and the effect (the reading still guides how the external affairs power is used in later cases).

In *Commonwealth v Tasmania* (1983) — the **Tasmanian Dam case** — Tasmania wanted to build a dam on the Franklin River. The Commonwealth Parliament passed a law to stop it, relying on its power over “external affairs” in s 51(xxix) of the Australian Constitution, because Australia had signed a treaty to protect the area’s World Heritage listing. The High Court of Australia had to interpret those words: does “external affairs” reach a dam inside Australia? By 4 judges to 3, the Court held that the Commonwealth law was within power — the words did cover carrying out a treaty Australia had signed. The dam was stopped, and that reading of the Constitution still guides later cases. The judges did not write a new Act; they decided what the existing words mean in practice. That is how courts develop the law.

Part 5 — Laws and different perspectives (VC2HC8K07.E03)

Because laws reflect values, and because people and communities hold different values, laws are often seen in different ways from different **perspectives**. Perspectives also change over time, and when enough of them change, laws change too. Victoria’s bicycle helmet law is a clean example.

In 1990 Victoria became the first place in Australia to make bicycle riders wear helmets. Today the rule sits in rule 256 of the *Road Safety Road Rules 2017* (Vic): a rider must wear an approved bicycle helmet. At the time, some people cheered the rule and some called it an overreach. Both sides made serious arguments.

One law, two strong arguments: bicycle helmets in Victoria

Rule 256 of the Road Safety Road Rules 2017 (Vic) makes an approved helmet compulsory. Victoria first introduced the rule in 1990. Each side's strongest case is set out in a fair way.

The strongest case FOR the law

Head injuries lead crash deaths; helmets cut that risk.

Riders are often hurt by others - cars, doors - not by their own choice.

The community pays for hospital care, so preventable harm is everyone's business.

A clear rule makes safe habits normal for children.

The strongest case AGAINST the law

Adults should weigh their own risks when the harm falls mainly on themselves.

If the rule deters riding, the loss of exercise may cause more harm than it prevents.

Fines under the rule fall hardest on people with the least money.

Safer roads and slower traffic may do more than what riders wear.

What the law shows

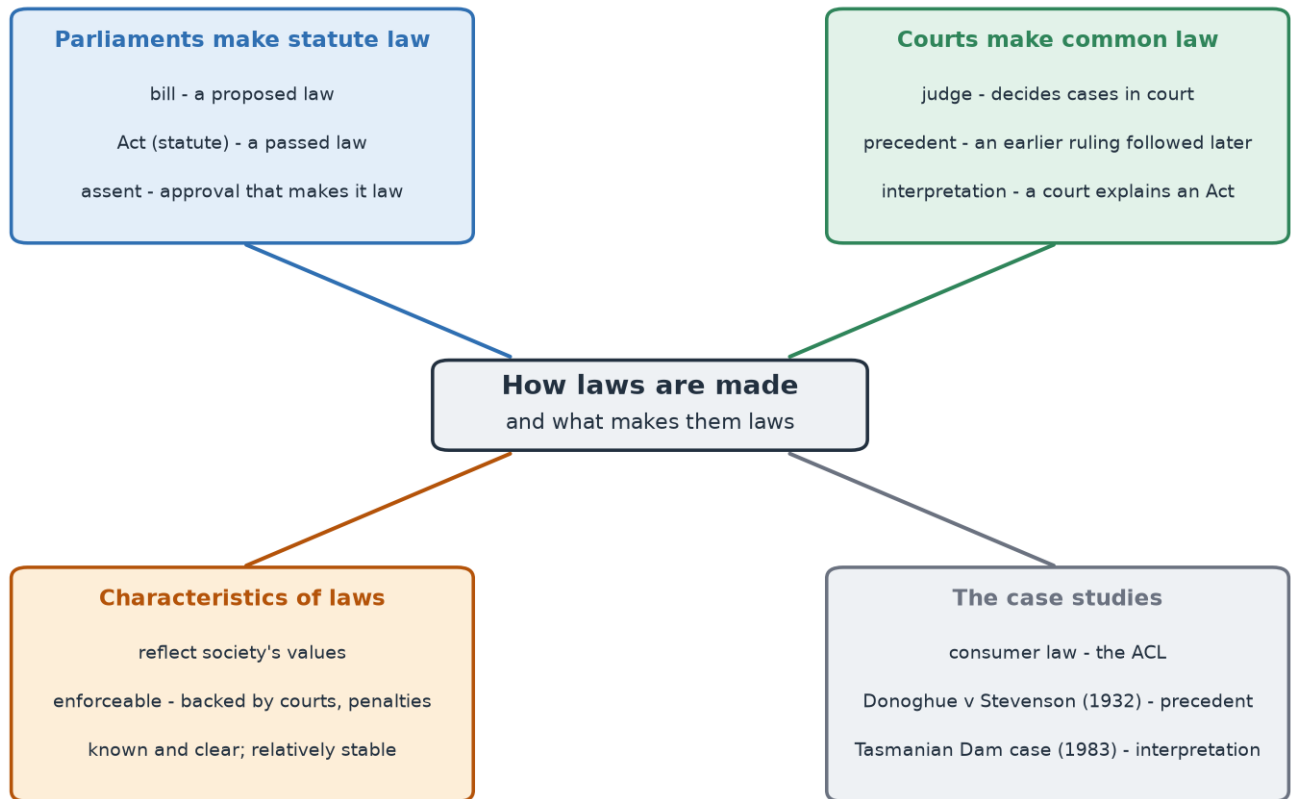
Laws balance values that pull in different ways - here, safety against personal freedom. Testing each side's best case is how citizens reason about law.

Two-column table setting out, side by side, the strongest case for and the strongest case against Victoria's compulsory bicycle helmet law, with a closing note that laws balance values that pull in different ways, here safety against personal freedom.

Notice that each side is arguing from a value most people share — keeping people safe, and treating adults as adults. When reasonable people disagree, it is usually because they rank shared values in a different order. Testing each side's *strongest* case, not its weakest, is how citizens reason about law. (Section 2B looks at how citizens and groups put such arguments to parliament.)

Values shifting can also be seen in laws like the *Equal Opportunity Act 2010* (Vic), which protects people against unfair treatment in areas such as work, schools and shops. Earlier generations of Victorians lived under weaker protections; as society's view of fair treatment broadened, the law followed. Laws are one of the ways a society writes down what it has decided — for now — that it values.

Key words of this section



Word web linking the key words of this section around the centre idea 'how laws are made and what makes them laws': parliaments make statute law (bill, Act, assent); courts make common law (judge, precedent, interpretation); the characteristics of laws (reflect society's values, enforceable, known and clear, relatively stable); and the case studies (consumer law, Donoghue v Stevenson, Tasmanian Dam case).

Worked examples

Worked example 1 — Testing a real rule against the four characteristics (scaffolded)

Rule: Rule 256 of the *Road Safety Road Rules 2017* (Vic) — a rule made under the *Road Safety Act 1986* (Vic) — requires a person riding a bicycle to wear an approved bicycle helmet. Is this rule doing its job as a *law*? Test it against each characteristic.

Working	Comment
Reflects society's values? In 1990 Victoria decided that protecting riders from head injuries ranked above the small limit on choice, and every other Australian state and territory later made a similar rule.	Shows values in action — and that they can change: before 1990 no Australian state had this rule.
Enforceable? Police can fine a rider who breaks rule 256.	Because a penalty backs it, the rule is law, not advice. A sign that said “please wear a helmet” would not be.
Known, clear and understood? The rule is published in the <i>Road Safety Road Rules 2017</i> (Vic); learners meet it in bike education and road rules tests; it says plainly what must be worn.	People can find the rule and work out what it asks — the “known and clear” characteristic is met.
Relatively stable? The rule has run since 1990 (now as rule 256 of the 2017 rules). It is updated slowly — for example, as standards for what counts as “approved” improve — not changed on a whim.	Stability lets riders, sellers and police all plan around the same rule for years.

Conclusion: the helmet rule shows all four characteristics, so it is doing its job as a law.

Worked example 2 — How one case made new law (scaffolded)

Case: *Donoghue v Stevenson* [1932]. Trace how a judge-made rule was born.

Working	Comment
Facts (1928). A friend bought May Donoghue a bottle of ginger beer at a cafe in Paisley, Scotland. The dark bottle hid a snail; she became ill.	Real facts matter: the common law only develops when a real dispute reaches a court.
The legal gap. She had no contract with the manufacturer — her friend had bought the drink — so the law of the time probably gave her no claim against the maker.	This is why the case was worth arguing: the existing law seemed to run out.
The question. Could a maker still owe a duty of care to the person who finally uses the product?	Courts develop law by answering questions the old law left open.
The decision (1932). The House of Lords said yes: makers must take reasonable care to avoid harm they can foresee.	A new legal rule, written into the judges' reasons.
The precedent. Later courts in the United Kingdom and Australia followed the rule; it became the base of the modern law of negligence.	One decided case guiding many later cases is precedent at work.

Practice questions

Scaffolded

Q1. Match each situation to the characteristic it mainly tests. *Word bank:* reflects society's values · enforceable · known, clear and understood · relatively stable.

- A rule says "be respectful", but no court or official could ever say what counts as breaking it.
- A law is published, but only in one language that many residents cannot read.
- After new research, parliament slowly tightens the penalties for using a hand-held phone while driving.
- A new law gives every child free health checks, following years of public campaigning about fairness.

Q2. Sort each item into **statute law** or **common law**.

- The Australian Consumer Law (Schedule 2 to the *Competition and Consumer Act 2010* (Commonwealth)).
- The rule from *Donoghue v Stevenson* that a maker owes a duty of care to the user of a product.
- The *Road Safety Act 1986* (Vic).
- A High Court decision explaining what the words "external affairs" cover.

Q3. The stages below are out of order. Rewrite them in the correct order for a bill in the Parliament of Victoria, using the flow chart in Part 2. *Stages:* third reading · first reading · consideration in detail · assent (Governor) · second reading · the other house repeats the stages · commencement.

Q4. Match each shopper's problem to the consumer guarantee it mainly breaks, then answer (e). *Word bank:* acceptable quality · fit for purpose · matches description · matches sample.

- A brand-new phone keeps shutting down by itself.
- You told the seller you needed a bag to carry 10 kg of textbooks; they said this one would; the strap broke on day one.
- The box said "blue"; what arrived is red.
- The display model you checked was perfect; the sealed one you bought is missing parts.
- The fault in (a) is minor. Which remedy can the seller usually offer first?

Q5. A new case: a company sells a folding chair whose hinge it knew could snap, and a user is injured. The user did not buy the chair directly — it was a gift. Using the precedent from *Donoghue v Stevenson*, what should the judge do, and why?

Q6. Rule 256 says a rider must wear an “approved bicycle helmet”. An e-scooter rider fined under the road rules argues the words do not mention scooters. Why can a court not simply skip this argument, and what is the name of the process the judge uses to answer it?

Un scaffolded

Q7. Explain, in your own words and with one example of your own, why the characteristic “known, clear and understood” matters for fairness. (Think about what it would feel like to be punished under a rule you could never read or understand — Section 2A on the rule of law connects here.)

Q8. Compare parliaments and courts as lawmakers. Give two differences in *how* they make law, and one way the two sources work together.

Q9. Priya bought a laptop for school. Six months later the battery fails completely. The shop points to a “no refunds” sign and says the guarantee is over. Write a short note to Priya using ACL ideas: which guarantee looks broken, whether the failure is likely major or minor, what she can ask for, and what the sign can and cannot do.

Q10. Victoria makes bicycle helmets compulsory (rule 256, *Road Safety Road Rules 2017* (Vic)). Give your own reasoned view on the rule, and include the strongest argument *against* your view, stated in a fair way.

Source inquiry — reading a real law (Knowledge)

Read the source, then answer the questions.

Source A — “A person must not, in trade or commerce, engage in conduct that is misleading or deceptive or is likely to mislead or deceive.” — *Competition and Consumer Act 2010* (Commonwealth), Schedule 2 (Australian Consumer Law), s 18.

(*Deceptive* here means tending to trick or lead into error.)

- Whose conduct does s 18 control? Use the words of the source in your answer.
 - What do the extra words “or is likely to mislead or deceive” add, beyond “is misleading or deceptive”?
 - Parliament chose broad words on purpose. Who gives those words their exact meaning when a real dispute arrives, and what is that process called?
-

Answers

Q1. a. enforceable · b. known, clear and understood · c. relatively stable · d. reflects society's values. **Q2.** Statute law: a, c. Common law: b, d. **Q3.** First reading → second reading → consideration in detail → third reading → the other house repeats the stages → assent (Governor) → commencement. **Q4.** a. acceptable quality · b. fit for purpose · c. matches description · d. matches sample · e. repair (for a minor failure the seller can usually choose to fix it first). **Q5.** Follow the precedent: the maker owed a duty of care to a user it could foresee, even without a contract, so the user's claim can succeed. **Q6.** Because the rule's words are the law, the judge must work out what "approved bicycle helmet" (and the rule's reach) means before deciding; that process is statutory interpretation. **Q7–Q10 and Source inquiry:** see the sample responses below.

Sample responses

Q7. A law can only be obeyed if people can find out what it says. If a rule is secret or unclear, people get punished without any chance to do the right thing — which is unfair. For example, if a council banned "unsuitable" clothes in a pool without saying what "unsuitable" means, swimmers could be fined for guessing wrong. Clear, published law lets everyone — including officials — play by the same known rules (the rule of law idea from Section 2A).

Q8. Differences: (1) parliament makes law in advance, by debating and voting on general rules, while courts make law afterwards, by deciding real cases and writing reasons; (2) parliament's law comes from elected representatives, while courts' law comes from judges applying and explaining the law. Working together: parliament can change or override common law by passing an Act, and courts give meaning to Acts through statutory interpretation — as in the Tasmanian Dam case.

Q9. The battery failing at six months in a school laptop looks like a failure of the **acceptable quality** guarantee (a reasonable consumer would expect a laptop battery to last longer). A dead battery in a laptop is likely a **major** failure, so Priya can choose a **refund or replacement**. The "no refunds" sign changes nothing: guarantees are automatic and cannot be removed by a sign (ACL s 64) — and a sign that misleads shoppers about their rights may itself break ACL s 18.

Q10. Sample shape only — your view may differ. *For the rule:* head injuries lead crash deaths and helmets cut that risk; the community pays for hospital care, so preventable harm is everyone's business. *Strongest case against:* adults should weigh their own risks where the harm falls mainly on themselves, and fines fall hardest on people with the least money. A reasoned view states one side while answering that strongest point — for example, that the small limit on choice is a fair trade for lives saved, or that education and safer roads should come first.

Source inquiry. a. Anyone acting "in trade or commerce" — that is, businesses and sellers in the course of business, not a neighbour selling one old bike privately. b. It catches conduct that *could* mislead, even before anyone actually has been misled — so a business cannot wait and see whether a customer is tricked. c. Courts, through **statutory interpretation** — exactly the process shown in the Tasmanian Dam case.

Sources for this section (retrieved 26 August 2026)

- *Competition and Consumer Act 2010* (Commonwealth), Schedule 2 — Australian Consumer Law, ss 18, 54–56, 64 and Part 5-4 — legislation.gov.au.
- Australian Competition and Consumer Commission, "Consumer guarantees" — acc.gov.au.
- *Donoghue v Stevenson* [1932] UKHL 100; [1932] AC 562 (House of Lords, 26 May 1932) — bailii.org.
- *Commonwealth v Tasmania* (1983) 158 CLR 1; [1983] HCA 21 — the Tasmanian Dam case — austlii.edu.au.
- *Road Safety Road Rules 2017* (Vic), r 256; *Road Safety Act 1986* (Vic) — legislation.vic.gov.au.
- *Australian Consumer Law and Fair Trading Act 2012* (Vic); *Equal Opportunity Act 2010* (Vic) — legislation.vic.gov.au.
- Parliament of Victoria and Parliamentary Education Office material on how a bill becomes an Act — parliament.vic.gov.au; peo.gov.au.

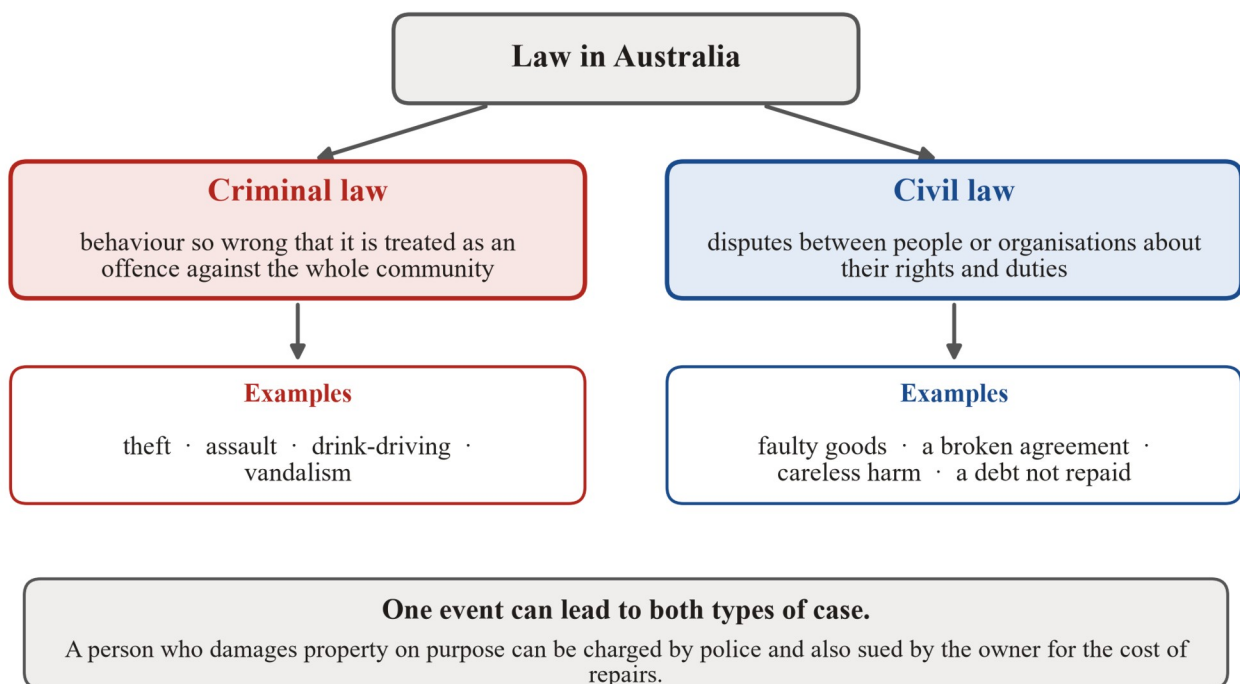
Crime and disputes: Australia's two main kinds of law

Curriculum: VC2HC8K08 · VC2HC8K08.E01 · VC2HC8K08.E02 (Victorian Curriculum 2.0, Civics and Citizenship, Levels 7–8 band). ClassBasics Civics and Citizenship 8 · Chapter 2 · Section 2D

Theory

The two types of law. Australia's law falls into two main types: **criminal law** and **civil law**. Criminal law treats a crime as an offence against the whole community, so the state brings the case. Civil law sorts out disputes between people or organisations about their rights and duties, and the person who was harmed brings the case. The same event can sometimes lead to both types of case.

The two main types of law in Australia

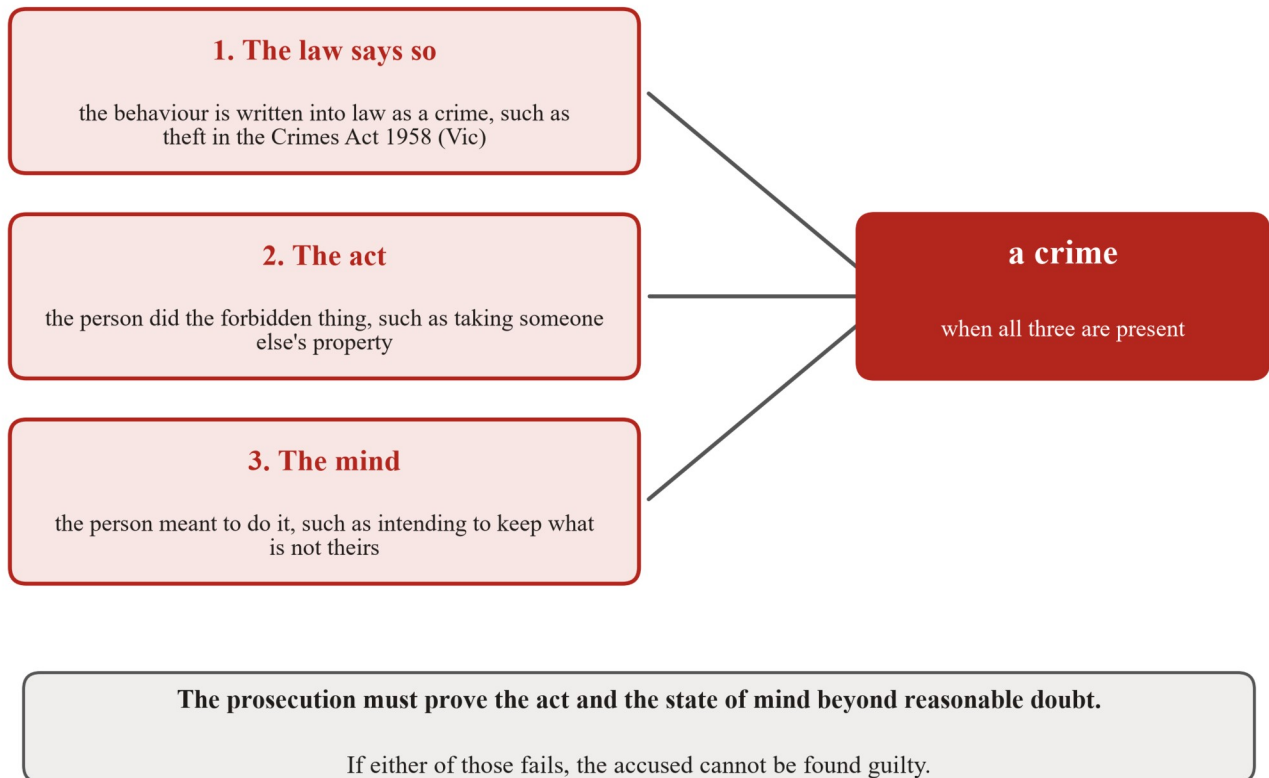


Civics and Citizenship 8 · Australia's two main kinds of law

A tree diagram: “Law in Australia” splits into criminal law (behaviour so wrong it is treated as an offence against the whole community; examples: theft, assault, drink-driving, vandalism) and civil law (disputes between people or organisations about their rights and duties; examples: faulty goods, a broken agreement, careless harm, a debt not repaid). A banner notes that one event can lead to both types of case.

Criminal law — what makes a crime? Something is a crime only when three things are true at the same time.

What makes a crime?



Civics and Citizenship 8 · Australia's two main kinds of law

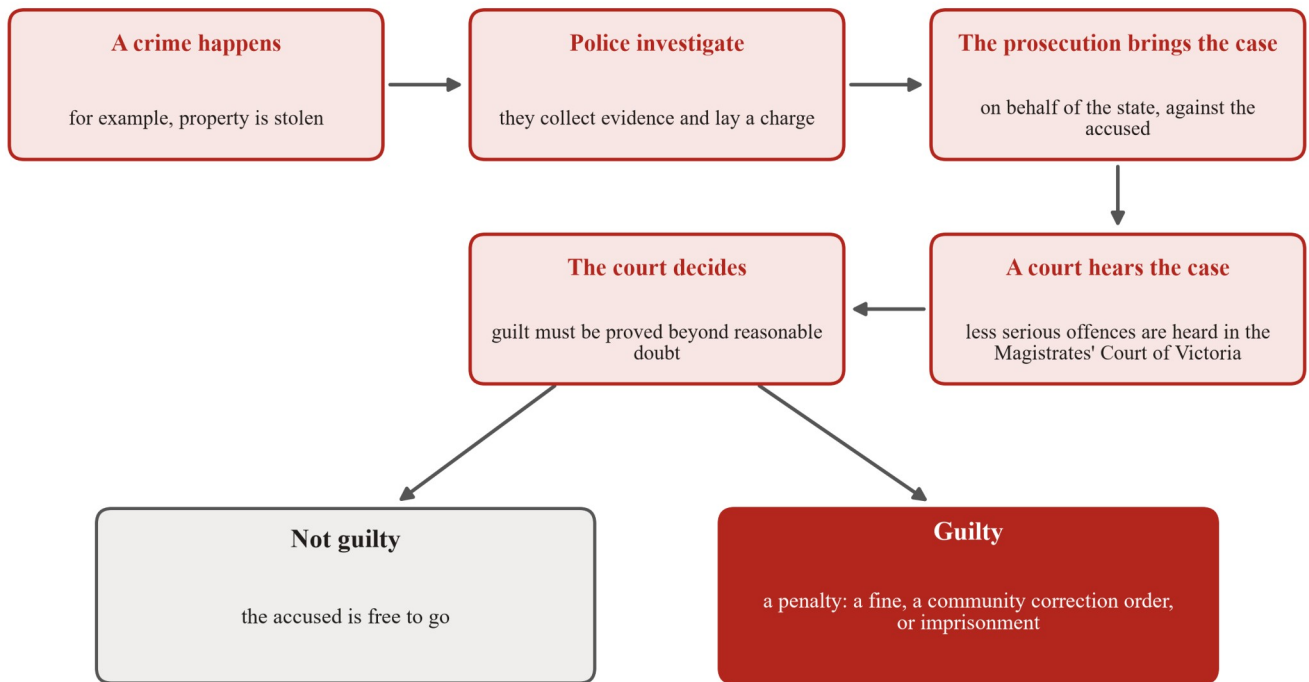
A diagram with three condition boxes — 1. The law says so (the behaviour is written into law as a crime, such as theft in the Crimes Act 1958 (Vic)); 2. The act (the person did the forbidden thing); 3. The mind (the person meant to do it) — all pointing to one result box: “a crime, when all three are present”. A footer says the prosecution must prove the act and the state of mind beyond reasonable doubt, and if either fails the accused cannot be found guilty.

1. **The law says so.** Conduct is a crime only if a statute — a law made by parliament — says it is. In Victoria, theft is defined in section 72 of the *Crimes Act 1958* (Vic), which says: “A person steals when he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it.” Something can be rude, unkind or unfair and still not be a crime, because no statute says it is.
2. **The act.** The person must have done the forbidden thing — for theft, taking property that belongs to someone else.
3. **The mind.** The person must have meant to do it. For theft, the mind is a dishonest intention to keep the property permanently. Lawyers call the guilty mind *mens rea* (Latin for “guilty mind”).

The **prosecution** (the side bringing the case for the state) must prove the act and the mind **beyond reasonable doubt**. If either is not proved, the accused cannot be found guilty. Taking a stranger’s umbrella from a stand, honestly believing it is yours, is not theft: the act is present, but the dishonest mind is not.

Who brings a criminal case, and what follows? Police investigate crimes, and a prosecutor brings the case against the **accused** (the person charged with the offence). If the court finds the accused guilty, it gives a penalty: a fine, a community correction order (a court order served in the community, with conditions such as unpaid work: *Sentencing Act 1991* (Vic)), or imprisonment for serious offences. Penalties aim to protect the community, punish the wrong, deter others from doing the same, and help the offender rehabilitate so they do not commit crimes again.

How a criminal case runs in Victoria



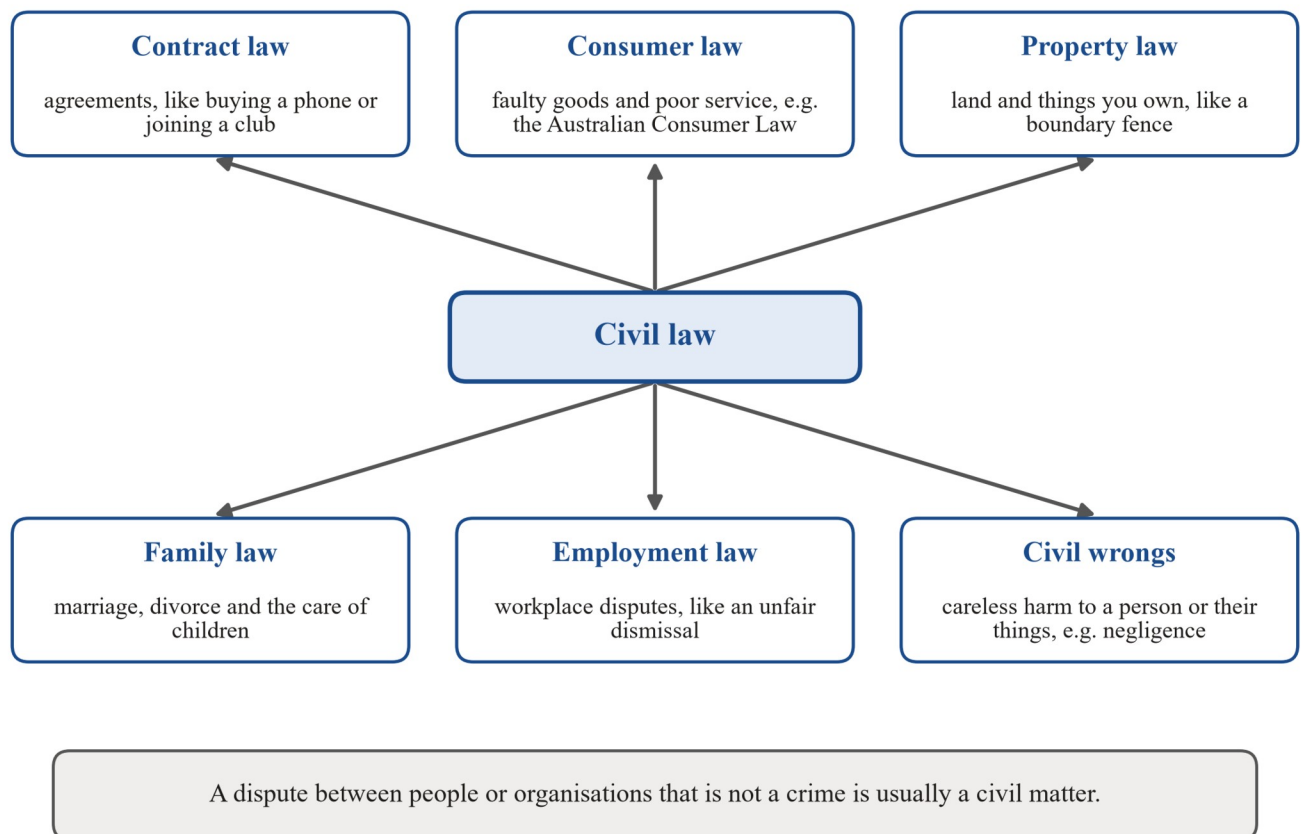
Civics and Citizenship 8 · Australia's two main kinds of law

A five-step flow of a criminal case in Victoria: a crime happens; police investigate and lay a charge; the prosecution brings the case on behalf of the state against the accused; a court hears the case (less serious offences are heard in the Magistrates' Court of Victoria); the court decides, with guilt proved beyond reasonable doubt — branching to “not guilty” (the accused is free to go) or “guilty” (a penalty: a fine, a community correction order, or imprisonment).

Less serious offences (**summary offences**) are heard by a magistrate in the Magistrates' Court of Victoria, which hears most criminal cases in the state. More serious criminal matters go to the County Court of Victoria or the Supreme Court of Victoria, usually before a judge and jury. (How courts are arranged, and what a fair trial requires, is covered in Section 2A.)

Civil law — many areas under one umbrella. Civil law is not one subject but many. When a dispute between people or organisations is not a crime, it is usually a civil matter, and civil law covers all of these areas:

Civil law covers many areas of law



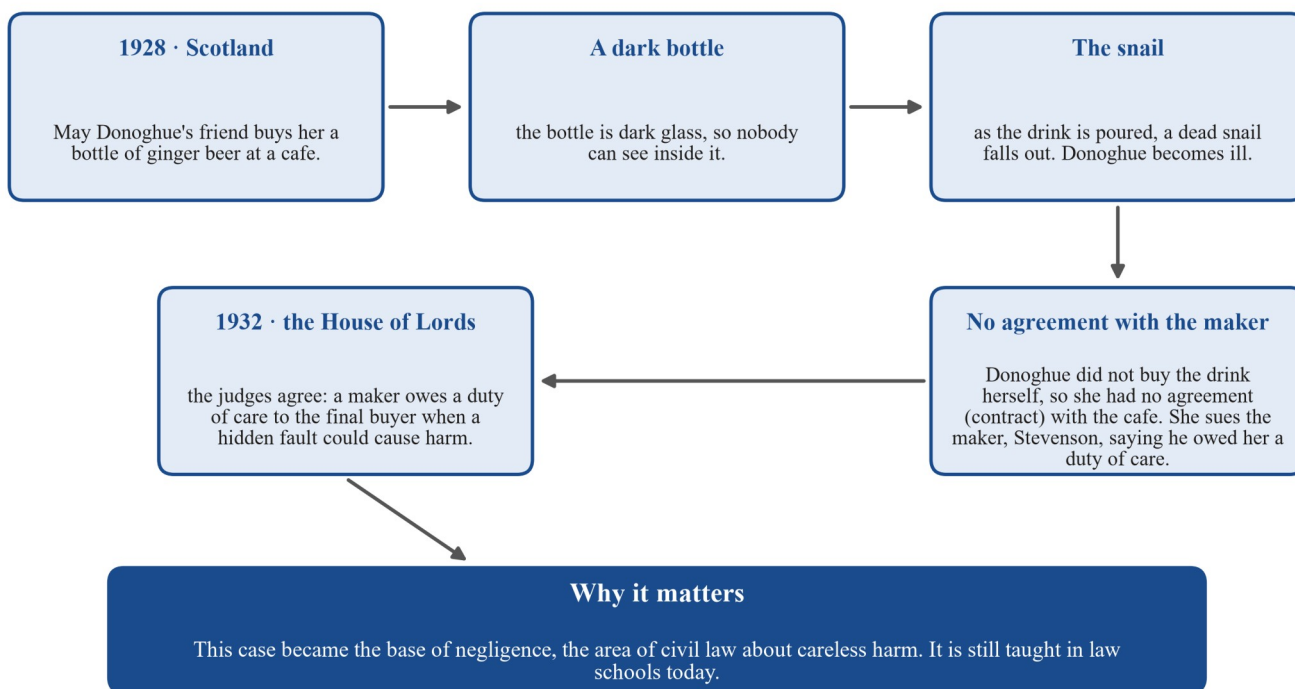
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A hub-and-spoke diagram: “Civil law” in the centre, joined to six areas — contract law (agreements, like buying a phone or joining a club), consumer law (faulty goods and poor service, e.g. the Australian Consumer Law), property law (land and things you own, like a boundary fence), family law (marriage, divorce and the care of children), employment law (workplace disputes, like an unfair dismissal), and civil wrongs (careless harm to a person or their things, e.g. negligence). A footer notes that a dispute between people or organisations that is not a crime is usually a civil matter.

- **Contract law** — the law of agreements. You make contracts all the time: buying a phone, joining a club. If a band is paid for a party and does not turn up, contract law works out what was promised and what happens now.
- **Consumer law** — protects buyers of goods and services. The Australian Consumer Law (Schedule 2 of the *Competition and Consumer Act 2010* (Commonwealth)) includes consumer guarantees that cannot be removed, such as the guarantee that goods are of acceptable quality. Headphones that stop working after a week are a consumer law problem.
- **Property law** — who owns, uses or may enter land and things; for example, a dispute between neighbours over a boundary fence.
- **Family law** — the legal side of family change, such as divorce and the care of children, under the *Family Law Act 1975* (Commonwealth), heard in the Federal Circuit and Family Court of Australia.
- **Employment law** — the rights and duties of employers and employees; for example, a worker not paid for every hour worked.
- **Civil wrongs** — careless harm to a person or their things. The main area is **negligence**: a person owes a **duty of care** when they must take reasonable care to avoid harming others; if they breach that duty and harm follows, the harmed person may sue for **damages** (money to make up for the harm).

A real case that built civil law.

A real case that built civil law: Donoghue v Stevenson (1932)



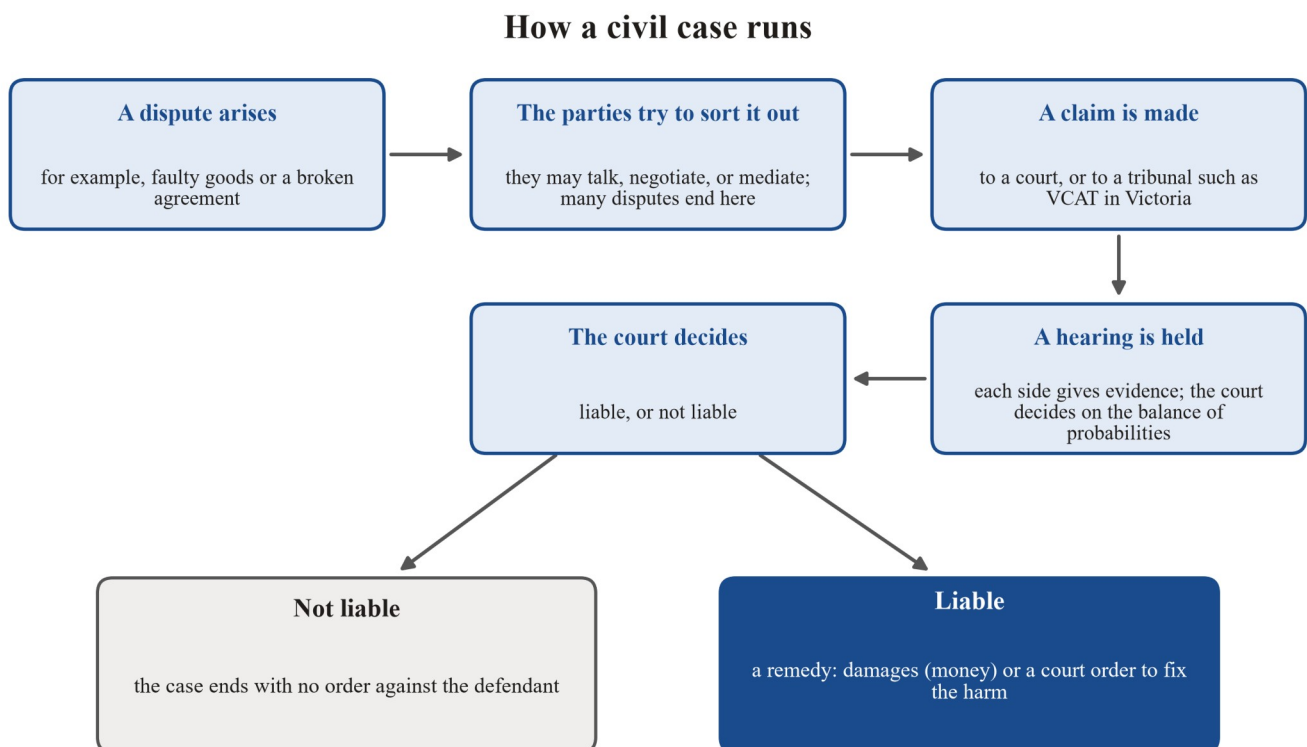
Source: Donoghue v Stevenson [1932] AC 562 (House of Lords)

Civics and Citizenship 8 · Australia's two main kinds of law

A five-step timeline of Donoghue v Stevenson: 1928, Scotland — May Donoghue's friend buys her a bottle of ginger beer at a cafe; a dark bottle, so nobody can see inside; the snail — as the drink is poured, a dead snail falls out and Donoghue becomes ill; no agreement with the maker — Donoghue had no contract with the cafe, so she sues the maker, Stevenson, saying he owed her a duty of care; 1932, the House of Lords — a maker owes a duty of care to the final buyer when a hidden fault could cause harm. A banner explains the case became the base of negligence. Source line: Donoghue v Stevenson [1932] AC 562 (House of Lords).

In 1928, in Scotland, May Donoghue's friend bought her a bottle of ginger beer in a cafe. The bottle was dark glass, so nobody could see inside. As the drink was poured, a dead snail fell out, and Donoghue became ill. She had not bought the drink herself, so she had no contract with the cafe — and without a contract, she could not sue the cafe. Instead she sued the maker, Stevenson, saying he owed her a duty of care to keep the drink safe. In 1932 the House of Lords agreed: a maker owes a duty of care to the final user of a product when a hidden fault could cause harm (*Donoghue v Stevenson* [1932] AC 562). The case became the base of negligence, and it is an example of **precedent** — later judges following an earlier decision. How judges make this kind of law is covered in Section 2C.

How a civil case runs.



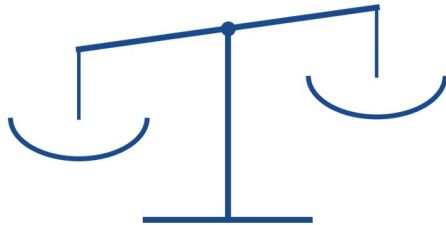
Civics and Citizenship 8 · Australia's two main kinds of law

A flow diagram of a civil case: a dispute arises (for example, faulty goods or a broken agreement); the parties try to sort it out (they may talk, negotiate, or mediate; many disputes end here); a claim is made to a court, or to a tribunal such as VCAT in Victoria; a hearing is held (each side gives evidence; the court decides on the balance of probabilities); the court decides liable or not liable — branching to “not liable” (the case ends with no order against the defendant) or “liable” (a remedy: damages, or a court order to fix the harm).

Most civil disputes never reach a hearing: the parties talk, **negotiate**, or use **mediation** (a process where a neutral helper helps the parties reach their own agreement). If that fails, the person bringing the case makes a claim against the **defendant** (the person being sued) in a court or, for many everyday disputes in Victoria, in VCAT, the state’s civil tribunal. Small consumer claims, like a faulty phone a shop will not replace, often go to VCAT. At the hearing, each side gives evidence, and the court or tribunal decides on the **balance of probabilities**. If the defendant is found **liable**, the remedy is usually damages or a court order to put things right; if not liable, the case ends with no order against the defendant.

How sure must the court be? Two standards of proof.

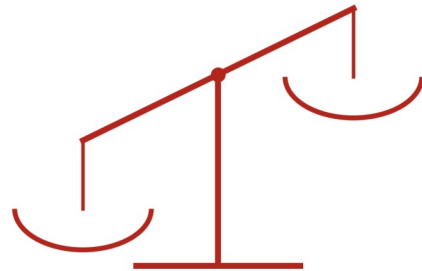
How sure must the court be? The two standards of proof



Civil law

balance of probabilities

the court only needs to find that one side is more likely right than the other



Criminal law

beyond reasonable doubt

the court must be sure; if there is a reasonable doubt, the answer is not guilty

The criminal standard is much higher because a guilty finding can take away a person's freedom.

Civics and Citizenship 8 · Australia's two main kinds of law

Two drawn balance scales side by side. The civil law scale tips only slightly: balance of probabilities — the court only needs to find that one side is more likely right than the other. The criminal law scale tips hard: beyond reasonable doubt — the court must be sure, and if there is a reasonable doubt the answer is not guilty. A footer explains the criminal standard is much higher because a guilty finding can take away a person's freedom.

In a civil case, the court decides on the balance of probabilities: the side that is more likely right wins. In a criminal case, the prosecution must prove guilt beyond reasonable doubt: the court must be sure. The criminal standard is much higher because a guilty finding can take away a person's freedom, so the community demands near certainty first.

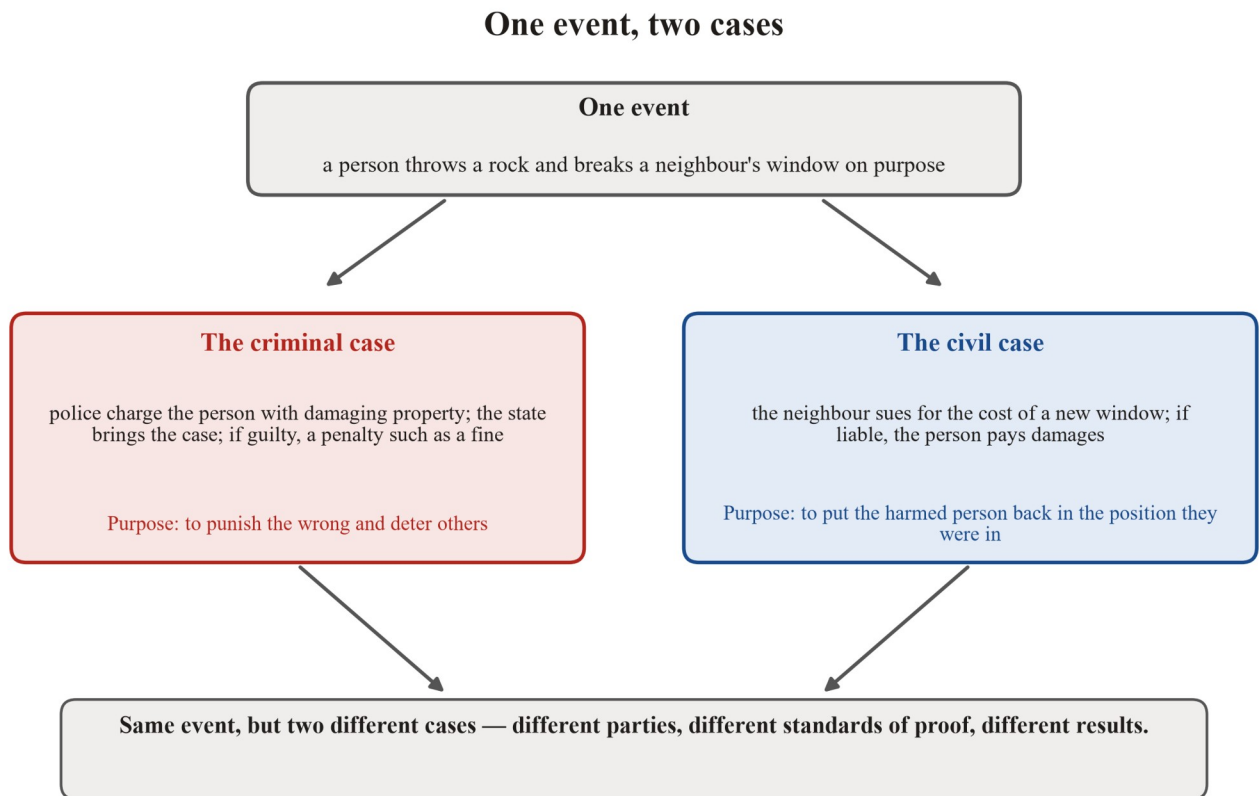
Criminal law and civil law compared

Question	Criminal law	Civil law
What is the matter about?	an offence against the whole community	a dispute between people or organisations
Who brings the case?	the state (police or a prosecutor)	the person who was harmed
What are the sides called?	the prosecution and the accused	the person bringing the case, and the defendant
What must be proved?	guilt beyond reasonable doubt	the case on the balance of probabilities
What is the court's answer?	guilty or not guilty	liable or not liable
What is the result?	a penalty: a fine, a community correction order, or imprisonment	a remedy: damages (money) or a court order
Examples	theft, assault, drink-driving	faulty goods, a broken agreement, careless harm

Civics and Citizenship 8 · Australia's two main kinds of law

A comparison table of criminal law and civil law with seven rows: what the matter is about (an offence against the whole community / a dispute between people or organisations); who brings the case (the state, via police or a prosecutor / the person who was harmed); what the sides are called (the prosecution and the accused / the person bringing the case, and the defendant); what must be proved (guilt beyond reasonable doubt / the case on the balance of probabilities); the court's answer (guilty or not guilty / liable or not liable); the result (a penalty: a fine, a community correction order, or imprisonment / a remedy: damages or a court order); examples (theft, assault, drink-driving / faulty goods, a broken agreement, careless harm).

One event, two cases. Because the two types of law ask different questions, one event can run through both.



Civics and Citizenship 8 · Australia's two main kinds of law

A diagram: one event — a person throws a rock and breaks a neighbour's window on purpose — leads to two cases. The criminal case: police charge the person with damaging property, the state brings the case, and if guilty there is a penalty such as a fine (purpose: to punish the wrong and deter others). The civil case: the neighbour sues for the cost of a new window, and if liable the person pays damages (purpose: to put the harmed person back in the position they were in). A banner notes: same event, but two different cases — different parties, different standards of proof, different results.

If a person throws a rock through a neighbour's window on purpose, police may charge them with damaging property (a criminal case: the state against the accused, a penalty if guilty), and the neighbour may also sue for the cost of a new window (a civil case: the harmed person against the defendant, damages if liable). Same event — different parties, different standards of proof, different results.

Worked examples

Example 1 — scaffolded (criminal law · VC2HC8K08.E01)

The *Crimes Act 1958* (Vic), section 72(1), says: “A person steals when he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it.”

Riley walks out of a shop with a new phone hidden in their bag, without paying, meaning to keep it. Is this theft under the Act? Check the definition part by part.

Working	Comment
“appropriates property belonging to another”: the phone belongs to the shop, and Riley takes it.	The act is present.
“dishonestly”: Riley knows the phone is not theirs and	On these facts there is no honest mistake, so the taking

Working	Comment
takes it without paying or asking.	is dishonest.
“with the intention of permanently depriving the other of it”: Riley means to keep the phone.	The mind is present.
A statute names this conduct as a crime: <i>Crimes Act 1958</i> (Vic) s 72.	The law says so.
All parts are satisfied → this is theft.	In court, the prosecution would still have to prove each part beyond reasonable doubt.

Now change one fact. Riley sees a phone on the counter that looks exactly like Riley’s own, picks it up and walks out, honestly believing it is theirs. The act is still present — the phone belongs to the shop — but the dishonest mind is not: an honest belief that the phone is yours defeats the dishonesty. On those facts, it is not theft. One changed fact about the mind changes the answer.

Example 2 — scaffolded (civil law · VC2HC8K08.E02)

Each dispute below is a civil matter. Name the area of civil law it belongs to, and the real source of law a lawyer would look at first.

Working	Comment
(a) Zara buys headphones that stop working after a week; the shop points to a “no refunds” sign.	Consumer law — the Australian Consumer Law (Schedule 2 of the <i>Competition and Consumer Act 2010</i> (Commonwealth)) guarantees acceptable quality, and a “no refunds” sign cannot remove it.
(b) A band is paid \$200 to play a birthday party and does not turn up.	Contract law — the agreement promised live music; contract law gives a remedy for a broken promise.
(c) A worker is not paid for the last two weeks worked.	Employment law — the rights and duties of employers and employees.
(d) A customer slips on a wet floor where no warning sign was put out, and breaks a wrist.	Civil wrongs — negligence: the shop owed the customer a duty of care, and breaching it caused harm; the customer may sue for damages.

Practice questions

Scaffolded

Q1. Name the two main kinds of law in Australia and, for each, say who brings the case.

Q2. Something is a crime only when three conditions are true at the same time. List them.

Q3. For each standard of proof, name the type of law that uses it: (a) beyond reasonable doubt; (b) balance of probabilities.

Q4. Sort these words into a criminal box and a civil box: guilty, liable, penalty, remedy, accused, defendant, prosecution, damages.

Q5. Tom borrows his friend’s bike, honestly believing his friend is fine with it, and returns it that night. His friend is angry and calls it theft. Using the three conditions for a crime, explain which condition is missing.

Q6. Match each matter to the place most likely to hear it (Magistrates’ Court of Victoria / VCAT / Federal Circuit and Family Court of Australia): (a) a driver charged with a summary offence such as speeding; (b) a \$400 dispute over a faulty laptop; (c) separating parents who cannot agree about the care of their children.

Un scaffolded

Q7. A skateboarder throws a rock through a shop window on purpose to impress friends. The shop owner pays \$900 for a new window. Explain how this one event can become both a criminal case and a civil case. For each case, name who brings it, the standard of proof, and the possible result.

Q8. Why is the criminal standard of proof higher than the civil standard? Answer in two or three sentences, referring to what is at stake in each type of case.

Q9. In *Donoghue v Stevenson*, why could Donoghue not sue the cafe, and why did that make her case against the maker so important for the law of negligence?

Q10. Some people argue that sentencing should mainly punish; others argue it should mainly help the offender rehabilitate. (a) Write the strongest case you can for each view. (b) The *Sentencing Act 1991* (Vic) lists several purposes of sentencing, including punishing the offender, deterring others, and helping the offender rehabilitate. What does that mix tell you about what parliament decided?

Source inquiry

Read the short source, then answer the questions.

Source A — *Crimes Act 1958* (Vic), section 72(1) (definition of theft): “A person steals when he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it.”

I1. (a) Which words in Source A describe the act? (b) Which words describe the mind?

I2. Explain in your own words what “permanently depriving” adds to the definition. Would taking a bike with a plan to return it in the morning be theft under this definition? Why or why not?

I3. Why does the definition include the word “dishonestly”? Give one example of a taking that is not dishonest.

I4. Is section 72 part of criminal law or civil law? Use two features from this section’s comparison table to support your answer.

Answers

Q1. Criminal law — the state brings the case (police or a prosecutor). Civil law — the person who was harmed brings the case.

Q2. (1) A statute says the conduct is a crime; (2) the person did the act; (3) the person had the guilty mind (meant to do it).

Q3. (a) Criminal law. (b) Civil law.

Q4. Criminal box: guilty, penalty, accused, prosecution. Civil box: liable, remedy, defendant, damages.

Q5. The mind is missing. Tom honestly believed his friend was fine with the borrowing, so there is no dishonest intention. The act is present, but theft needs all three conditions at the same time.

Q6. (a) Magistrates' Court of Victoria (summary offences). (b) VCAT (a small civil consumer dispute). (c) Federal Circuit and Family Court of Australia (family law).

Q7. Criminal case: police charge the skateboarder with damaging property; the prosecution must prove guilt beyond reasonable doubt; if guilty, a penalty such as a fine or a community correction order. Civil case: the shop owner sues for the \$900; the court decides on the balance of probabilities; if liable, the skateboarder pays damages.

Q8. A guilty finding in a criminal case can take away a person's freedom and leaves a conviction, so the court must be as sure as it can be. A civil finding usually ends in money or an order to fix the harm, so the lower balance of probabilities is fair.

Q9. Donoghue had no contract with the cafe because her friend bought the drink, and a contract claim needs an agreement between the two sides. Suing the maker forced the court to ask whether a duty of care can exist without a contract; the House of Lords said yes, and that answer became the base of negligence.

Q10. (a) Punish view, in its strongest form: the offender chose to do wrong, so they should pay for that wrong; punishing also answers the harm done and warns others off. Rehabilitate view, in its strongest form: most offenders return to the community, so the safest result is a person who no longer offends; helping them change prevents the next victim better than punishment alone does. (b) Parliament did not pick just one view: the Act mixes punishing, deterring and helping the offender rehabilitate (along with protecting the community), so courts must balance the purposes in each case.

I1. (a) "appropriates property belonging to another" — taking what belongs to someone else. (b) "dishonestly" and "with the intention of permanently depriving the other of it".

I2. "Permanently depriving" means the taker intends the owner never to get the thing back. Taking a bike with a plan to return it lacks that intention, so on that definition it is not theft — the mind is missing.

I3. "Dishonestly" separates crime from honest mistakes and from borrowing with permission. Example: picking up an identical umbrella, believing it is yours, is a taking but not a dishonest one.

I4. Criminal law. Two supporting features: the state (police or a prosecutor) would bring the case against the accused, and guilt must be proved beyond reasonable doubt (and the result is a penalty — theft can carry imprisonment).

Fully-worked solutions

Q7. Work the two cases separately, using the comparison table.

Working	Comment
Criminal: damaging property on purpose is an offence, so police may charge the skateboarder.	The law says so; the act and the mind are both present.
Criminal case name and proof: the prosecution (state) against the accused; guilt beyond reasonable doubt.	The state treats the damage as an offence against the whole community.
Criminal result if guilty: a penalty — a fine, a community correction order, or imprisonment for serious damage.	Penalties punish and deter.
Civil: the shop owner is \$900 out of pocket and sues the skateboarder as defendant.	The harmed person brings the case.
Civil proof and result: balance of probabilities; if liable, damages of \$900 to put the owner back in the position they were in.	Civil remedies fix the harm rather than punish.
Conclusion: one event, two cases — different parties, different standards, different results.	The cases can run at the same time.

Q10. Build each view in its strongest form before judging.

Working	Comment
Punish view: the offender made a free choice to harm someone, so justice requires they pay for that wrong; a penalty also answers the harm done to the victim and warns others off.	This view rests on desert and on the message a penalty sends.
Rehabilitate view: nearly all offenders return to the community, so the safest outcome for everyone is a person who no longer offends; helping them change prevents the next victim, which punishment alone does not.	This view rests on results: fewer future victims.
What the Act does: the <i>Sentencing Act 1991</i> (Vic) lists punishing, deterring and helping the offender rehabilitate among the purposes of sentencing.	Parliament kept both views in the law.
Conclusion: the mix tells us parliament decided that no single purpose is enough; courts must weigh the purposes case by case.	A good answer marks the reasoning, not just the conclusion.

Sources (all retrieved 26 August 2026): Crimes Act 1958 (Vic) s 72(1) (definition of theft); Sentencing Act 1991 (Vic) (community correction orders; purposes of sentencing); Competition and Consumer Act 2010 (Commonwealth) Schedule 2 (Australian Consumer Law, consumer guarantees); Family Law Act 1975 (Commonwealth) and the Federal Circuit and Family Court of Australia; Donoghue v Stevenson [1932] AC 562 (House of Lords); Magistrates' Court of Victoria (summary offences), County Court of Victoria and Supreme Court of Victoria; VCAT (Victoria's civil tribunal).

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