

# FNSACC413

Make decisions in a legal context



**COMPLIANT**  
LEARNING RESOURCES



**LEARNER  
GUIDE**

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# Table of Contents

<b>This Learner Guide</b> .....	<b>5</b>
<b>Introduction</b> .....	<b>13</b>
<b>I .Examine Legal Context for Financial Services Work</b> .....	<b>14</b>
1.1. Identify Australian Legal Systems and Processes .....	15
<b>1.1.1. Basis of Australian Legal System and Processes</b> .....	<b>15</b>
<b>1.1.2. Identifying Relevant Australian Laws, Statutes, Regulations and Legal Judgements</b> .....	<b>20</b>
<b>1.1.3. Legal Processes and System Concerning Basic Legal Principles</b> .....	<b>26</b>
1.2. Identify Functions of Courts and Other Regulatory Bodies .....	30
<b>1.2.1. Various Courts and Regulatory Bodies</b> .....	<b>31</b>
<b>1.2.2. Roles and Functions of Courts and Other Regulatory Bodies</b> .....	<b>33</b>
1.3 Implications of Relevant Legislation, Regulation and Legal Precedent on Operational Decisions.....	35
<b>1.3.1. Operational Decisions</b> .....	<b>35</b>
<b>1.3.2. Identifying and Describing Main Features of Legislations and Regulations</b> .....	<b>36</b>
<b>1.3.3. Impact of Laws and Regulations While Making Operational Decisions</b> .....	<b>43</b>
<b>1.3.4. Identifying Decisions of Courts</b> .....	<b>44</b>
<b>1.3.5. Identify Implications of Legal Precedents and Apply Them to Operational Decisions</b> .....	<b>46</b>
1.4. Seek Advice and Guidance to Evaluate and Moderate Decision Processes .....	49
<b>1.4.1. Decision Process</b> .....	<b>50</b>
<b>1.4.2. Seeking Advice and Guidance to Evaluate and Moderate Decision Process</b> .....	<b>51</b>

<b>II. Identify Compliance Requirements .....</b>	<b>54</b>
2.1. Accurately Interpreting Compliance Requirements .....	55
<b>2.1.1. Compliance Requirements .....</b>	<b>57</b>
<b>2.1.2. Accurately Interpreting Compliance Requirements .....</b>	<b>57</b>
2.2 Review Legislative and Regulatory Sources of Information Regularly to Identify Changes to Compliance Requirements .....	59
<b>2.2.1. Need to Identify Changes in Compliance Requirements .....</b>	<b>59</b>
<b>2.2.2. Reviewing Legislative and Regulatory Sources of Information .....</b>	<b>60</b>
2.3 Analyse Impact of Changes to Compliance Requirements on Business Operations, Policies and Procedures .....	63
<b>2.3.1 Impact of Changes in Compliance Requirements on Business Operations, Policies             and Procedures .....</b>	<b>63</b>
<b>III. Develop Procedures to Ensure Compliance .....</b>	<b>65</b>
3.1. Develop Procedures in Consultation With Others to Address Compliance Requirements .....	66
<b>3.1.1. Developing Procedures to Meet Compliance Requirements .....</b>	<b>66</b>
<b>3.1.2. Reviewing and Assisting Organisational Procedures to Meet Compliance             Requirements .....</b>	<b>69</b>
3.2. Establish Timeframes to Meet Compliance Requirements to Align With Statutory Deadlines .....	71
<b>3.2.1. Statutory Deadlines and Consequences of Missing Them .....</b>	<b>71</b>
<b>3.2.2. Establishing Timeframes to Meet Deadlines .....</b>	<b>72</b>
<b>References .....</b>	<b>74</b>

# This Learner Guide

## **FNSACC413 - Make decisions in a legal context (Release 1)**

This unit describes the skills and knowledge required to make decisions in a legal context, particularly those relating to compliance issues. It is intended to satisfy the requirement for a course of study in commercial law at an introductory or foundation level, covering Australian legal systems and processes.

It applies to individuals who, within the scope of their own responsibility, use specialised knowledge to make decisions that require consideration of the legal context.

No licensing, legislative or certification requirements apply to this unit at the time of publication.

**A complete copy of the above unit of competency can be downloaded from the TGA website:**

<https://training.gov.au/Training/Details/FNSACC413>

## About this Unit of Study Introduction

As a worker, a trainee, or a future worker, you want to enjoy your work and become known as a valuable team member. This unit of competency will help you acquire the knowledge and skills to work effectively as an individual and in groups. It will give you the basis to contribute to the goals of the organisation which employs you.

It is essential that you begin your training by becoming familiar with the industry standards to which organisations must conform.

## This Learner Guide Covers

Make decisions in a legal context

- I. Examine legal context for financial services work
- II. Identify compliance requirements
- III. Develop procedures to ensure compliance

## Learning Program

As you progress through this unit of study, you will develop skills in locating and understanding an organisation's policies and procedures. You will build up a sound knowledge of the industry standards within which organisations must operate. You will become more aware of the effect that your own skills in dealing with people have on your success or otherwise in the workplace. Knowledge of your skills and capabilities will help you make informed choices about your further study and career options.

## Additional Learning Support

To obtain additional support you may:

- Search for other resources. You may find books, journals, videos and other materials which provide additional information about topics in this unit.
- Search for other resources in your local library. Most libraries keep information about government departments and other organisations, services and programs. The librarian should be able to help you locate such resources.
- Contact information services such as Infolink, Equal Opportunity Commission, Commissioner of Workplace Agreements, Union organisations, and public relations and information services provided by various government departments. Many of these services are listed in the telephone directory.
- Contact your facilitator.

## Facilitation

Your training organisation will provide you with a facilitator. Your facilitator will play an active role in supporting your learning. Your facilitator will help you at any time during working hours to assist with:

- How and when to make contact
- What you need to do to complete this unit of study
- What support will be provided

Here are some of the things your facilitator may do to make your study easier:

- Give you a clear visual timetable of events for the semester or term in which you are enrolled, including any deadlines for assessments
- Provide you with online webinar times and availability
- Use 'action sheets' to remind you about tasks you need to complete, and updates on websites
- Make themselves available by telephone for support discussion and provide you with industry updates by email where applicable
- Keep in touch with you during your studies

## Flexible Learning

Studying to become a competent worker is an interesting and exciting thing to do. You will learn about current issues in this area. You will establish relationships with other students, fellow workers, and clients. You will learn about your own ideas, attitudes, and values. You will also have fun. (Most of the time!)

At other times, studying can seem overwhelming and impossibly demanding, particularly when you have an assignment to do and you aren't sure how to tackle it, your family and friends want you to spend time with them, or a movie you want to see is on television.

Sometimes being a student can be hard.

Here are some ideas to help you through the hard times. To study effectively, you need space, resources, and time.

### Space

Try to set up a place at home or at work where you can:

- Keep your study materials
- Be reasonably quiet and free from interruptions
- Be reasonably comfortable, with good lighting, seating, and a flat surface for writing.

If it is impossible for you to set up a study space, perhaps you could use your local library. You will not be able to store your study materials there, but you will have a quiet place, a desk and chair, and easy access to the other facilities.

## Study Resources

The most basic resources you will need are:

- A chair
- A desk or table
- A computer with Internet access
- A reading lamp or good light
- A folder or file to keep your notes and study materials together
- Materials to record information (pen and paper or notebooks, or a computer and printer)
- Reference materials, including a dictionary

Do not forget that other people can be valuable study resources. Your fellow workers, work supervisor, other students, your facilitator, your local librarian, and workers in this area can also help you.

## Time

It is important to plan your study time. Work out a time that suits you and plan around it. Most people find that studying, in short, concentrated blocks of time (an hour or two) at regular intervals (daily, every second day, once a week) is more effective than trying to cram a lot of learning into a whole day. You need time to 'digest' the information in one section before you move on to the next, and everyone needs regular breaks from study to avoid overload. Be realistic in allocating time for study. Look at what is required for the unit and look at your other commitments.

Make up a study timetable and stick to it. Build in 'deadlines' and set yourself goals for completing study tasks. Allow time for reading and completing activities. Remember that it is the quality of the time you spend studying rather than the quantity that is important.

## Study Strategies

Different people have different learning 'styles'. Some people learn best by listening or repeating things out loud. Some learn best by 'doing', some by reading and making notes. Assess your own learning style and try to identify any barriers to learning which might affect you. Are you easily distracted? Are you afraid you will fail? Are you taking study too seriously? Not seriously enough? Do you have supportive friends and family? Here are some ideas for effective study strategies:

1. **Make notes.** This often helps you to remember new or unfamiliar information. Do not worry about spelling or neatness, as long as you can read your own notes. Keep your notes with the rest of your study materials and add to them as you go. Use pictures and diagrams if this helps.
2. **Underline keywords** when you are reading the materials in this Learner Guide. (Do not underline things in other people's books.) This also helps you to remember important points.
3. **Talk to other people** (fellow workers, fellow students, friends, family, or your facilitator) about what you are learning. As well as help you to clarify and understand new ideas, talking also gives you a chance to find out extra information and to get fresh ideas and different points of view.



## Using this Learner Guide

A Learner Guide is just that, a guide to help you learn. A Learner Guide is not a textbook. Your Learner Guide will:

1. Describe the skills you need to demonstrate to achieve competency for this unit.
2. Provide information and knowledge to help you develop your skills.
3. Provide you with structured learning activities to help you absorb knowledge and information and practice your skills.
4. Direct you to other sources of additional knowledge and information about topics for this unit.

### How to Get the Most Out of Your Learner Guide

Some sections are quite long and cover complex ideas and information. If you come across anything you do not understand:

1. Talk to your facilitator.
2. Research the area using the books and materials listed under Resources.
3. Discuss the issue with other people (your workplace supervisor, fellow workers, fellow students).
4. Try to relate the information presented in this Learner Guide to your own experience and to what you already know.
5. Ask yourself questions as you go. For example, 'Have I seen this happening anywhere?' 'Could this apply to me?' 'What if...'. This will help you to 'make sense' of new material, and to build on your existing knowledge.
6. Talk to people about your study. Talking is a great way to reinforce what you are learning.
7. Make notes.
8. Work through the activities. Even if you are tempted to skip some activities, do them anyway. They are there for a reason, and even if you already have the knowledge or skills relating to a particular activity, doing them will help to reinforce what you already know. If you do not understand an activity, think carefully about the way the questions or instructions are phrased. Read the section again to see if you can make sense of it. If you are still confused, contact your facilitator or discuss the activity with other students, fellow workers or with your workplace supervisor.

## Additional Research, Reading, and Note-Taking

If you are using the additional references and resources suggested in the Learner Guide to take your knowledge a step further, there are a few simple things to keep in mind to make this kind of research easier.

Always make a note of the author's name, the title of the book or article, the edition, when it was published, where it was published, and the name of the publisher. This includes online articles. If you are taking notes about specific ideas or information, you will need to put the page number as well. This is called the reference information. You will need this for some assessment tasks, and it will help you to find the book again if you need to.

Keep your notes short and to the point. Relate your notes to the material in your Learner Guide. Put things into your own words. This will give you a better understanding of the material.

Start off with a question you want answered when you are exploring additional resource materials. This will structure your reading and save you time.

# Introduction



In every business, legal decisions are of material bearing. Legal decisions have an impact on the business operations, policies and processes. They also have an impact on the future and finances of the business. Thus, it is important to make the right legal decisions for a business. Otherwise, the finances and the future of the business are jeopardised.

In this Learner Guide, you will understand the process of making legal decisions for business. This Learner Guide includes specific discussions on the following aspects:

- Examining legal context of financial services work
- Identifying compliance requirements
- Developing compliance procedures

# I. Examine Legal Context for Financial Services Work



Law is omnipresent. This would mean that the law has a role in every activity done by an individual. There is always a legal angle, whether buying a \$10 packet of biscuits or selling \$10,000 worth of goods.

Law and finance are closely related when it comes to finance and economics. All financial transactions are regulated by law. These regulations are important to remember and implement to avoid penalties.

This chapter is about how law and legal requirements affect financial services work. It will also discuss the need to adhere to legal processes for financial services work and how to do that.

In this chapter, you will learn how to do the following:

- Identify Australian legal systems and processes
- Identify functions of courts and other regulatory bodies
- Identify implications of relevant legislation, regulations and legal precedents on operational decisions
- Seek advice and guidance to evaluate and moderate decision processes

## 1.1. Identify Australian Legal Systems and Processes

As previously mentioned, law plays an important role in financial services works. Law is the regulating aspect of financial transactions. It defines what is required to be done, how it needs to be done and what compliances need to be followed.

For example, if you are learning how to cook, the person teaching you will tell you everything. He will tell you how much salt you need to add to your pasta or how much spices are needed. If you add any more or less, it will result in a badly cooked meal. Thus, it can be said that the quantity of ingredients is the rule or law of cooking. The person instructing you is your supervisor or officer of the 'cooking law'. Similarly, a person doing financial transactions must follow the rules and procedures prescribed in the financial laws. Australian legal authorities act as supervisors who guide the person doing financial transactions and penalise them if anything goes wrong.



This subchapter will discuss the details of the origin of the Australian legal system and processes. The ways of identifying these processes will also be discussed in the subsequent sections of this chapter.

### 1.1.1. Basis of Australian Legal System and Processes

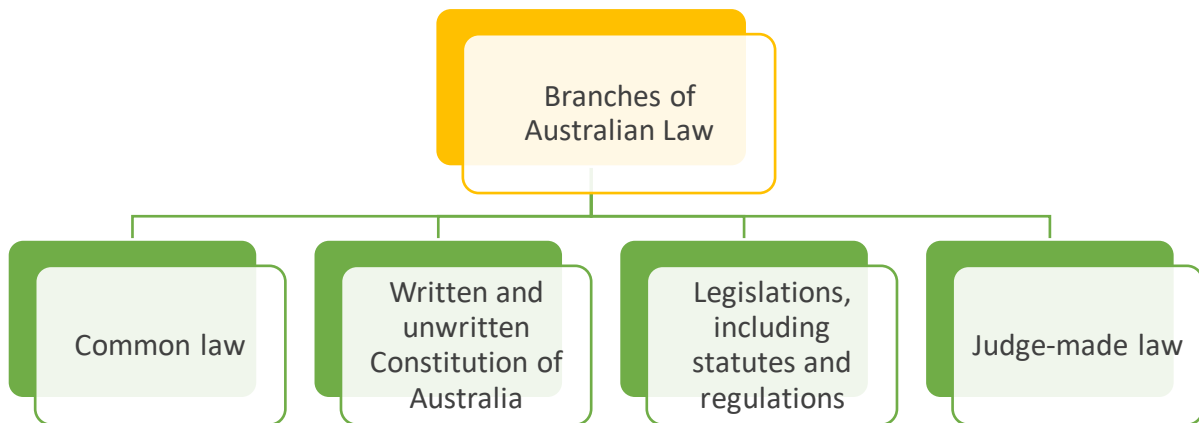
Before Australia became independent, the country was ruled by the British Crown. Australia continues to be a part of the commonwealth countries. It means the country was once colonised by the British.

In every country, the laws evolve with the developments in society. Governments and rulers change and with them, so do laws. Naturally, when the long British rule in Australia existed, the laws in Australia were also as per the wishes of the Crown. The Australian laws were similar to the British laws and the laws of the various other colonised countries.

In the modern sense, the law emerging from the British colonisation widely adopted by colonised countries is the *common law*. Thus, it would be right to say that the basis of the Australian legal system is common law. In other words, Australia is a common law country.

*Common law* refers to that branch of law based on customs and judgements emerging from the English legal system. The common law is not codified in nature. It means that common law is not a written law. Common law is backed by the age-old practices that society follows without interruption. The judgements pronounced by judges are also the law of the land. Though the judges write judgements, these are seldom converted into legislation. Thus, the common law system is regarded as uncodified.

Although the common law system exists in Australia, the entire legal system and processes are not solely based on the unwritten form of law. Several legislations and written regulations passed by the Australian Parliament and authorities are regarded as a part of the law in Australia. These include the following:

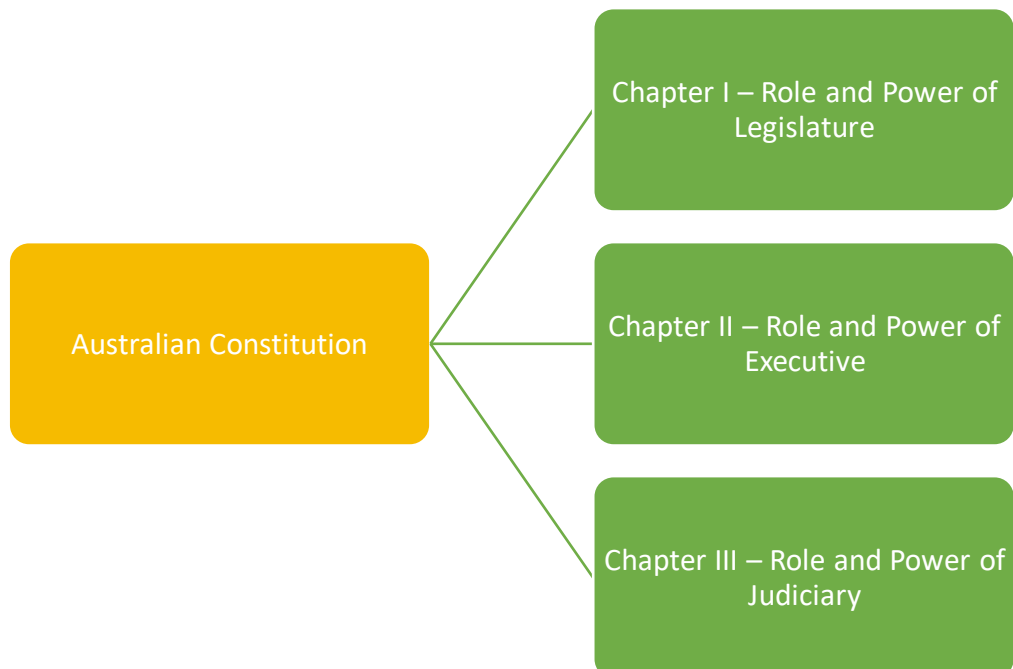


You must understand what each branch includes. These are the following:

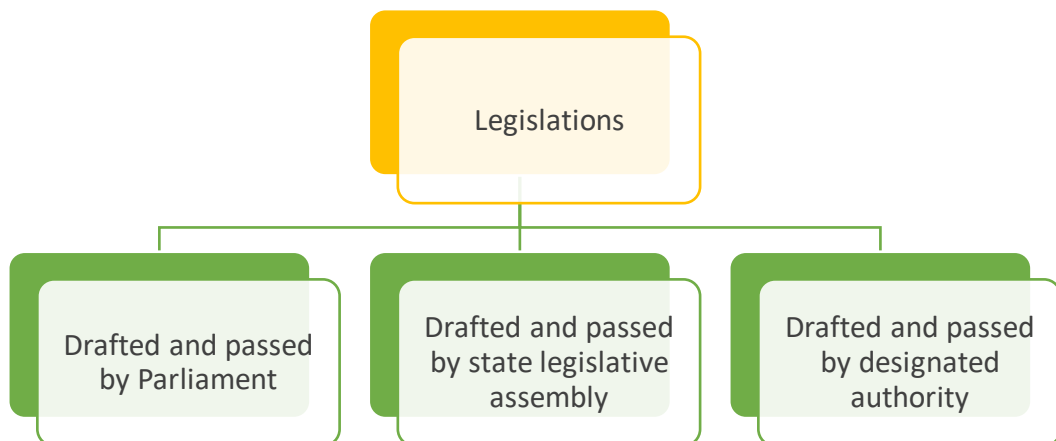
- **Common law**

- As already described above, common law refers to that branch of law based on customs and judgements. The common law is unwritten and has evolved from the English legal system. It is followed in Australia because Australia was once a British territory and the laws of Britain were applicable in the country. The customs and judgements included in the common law are applicable in Australia. They are not required to be separately included by the Parliament.
- However, the customs and judgements can be overruled by any law passed by the Australian Parliament or court. If this happens, then such a common law principle shall become ineffective.

- For instance, a hypothetical common law principle states that no one can be prosecuted for tax evasion without adequate proof. Contrary to this principle, the Australian Parliament passed a law stating that anyone can be prosecuted for tax evasion on the basis of doubt. In this case, the law will prevail against the common law principle.
  - In another example, the common law has the same principle as mentioned above. Contrary to it, the Australian Supreme Court pronounces that anyone can be prosecuted for tax evasion if the authorities have proof for doubt. The requirement for adequate proof showing tax evasion is removed. In this instance, the judgement will prevail over the common law principle.
- **Written and unwritten Constitution of Australia**
- In Australia, the Constitution is a written document that covers the basic spirit of Australia's legal system. The Australian colonists drafted the Australian Constitution and has been influenced by the constitutions in the United States of America and Switzerland. Naturally, the United Kingdom's unwritten constitutional conventions have a strong impact on framing the Australian Constitution.
  - The Constitution has three chapters. Each chapter discusses the power and roles of the various organs of the government—the legislature, executive and judiciary. You can refer to the diagram below for these:



- As regards the unwritten Constitution, several constitutional conventions are followed in Australia. They are often not mentioned in the Constitution. For example, as per common law, the governor-general must accept the advice of the Prime Minister of Australia. This principle is not mentioned in the Constitution but is implemented.
- The constitutional considerations for the learner here are that all legal decisions should be as per the law. The law of the land, be it common law or civil law, is supreme. It prescribes how decisions are to be made and on what considerations. If illegal decisions are made, then the Constitution gives power to the various legislations to prosecute such culprits.
- **Legislations, including statutes and regulations**
  - *Statutes* refer to the acts and enactments passed by the Parliament of Australia or state legislative assemblies. These statutes are written, passed and can also be amended by the authority that passes them. Similarly, *regulations* are quasi-legislative enactments framed and passed by authorities who are given the power to do so under any statute applicable to them.

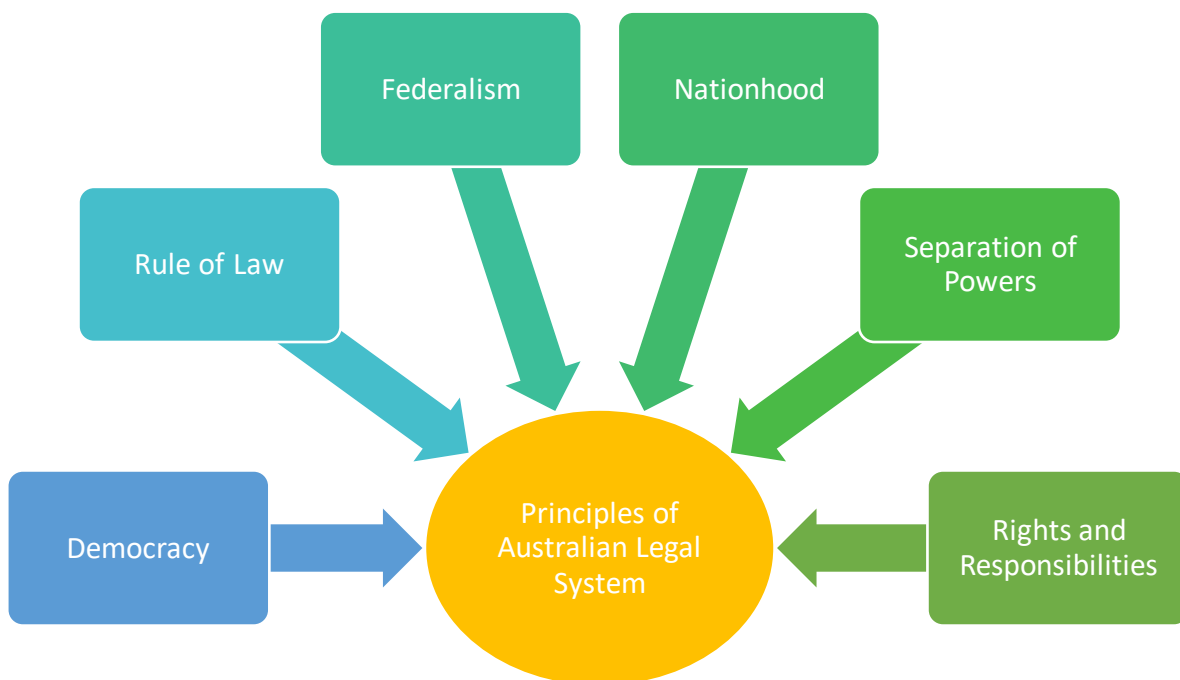


- For example, a statute in Australia would be the *Income Tax Assessment Act*. Any regulations passed by the Australian Taxation Office as per its powers in the above-stated Act will be treated as a regulation. Since the power to frame laws is delegated here by the legislature to an authority, the framed regulation will also be included in the legislation's meaning. Thus, legislations include enactments passed in writing by the appropriate authority under law. These legislations can be civil or criminal.
- Thus, some legislations may impose only fines while others might impose criminal imprisonment as a penalty for violation. Regardless of their nature, all legislations are required to be complied with to avoid penalties and repercussions.

### ▪ Judge-made law

- *Judge-made law* refers to the law made by the judges. This is to say that whenever a country's apex court pronounces a judgement on a matter of law, the judgement would become a part of the law.
- For example, A approaches the court, asking for relief from a penalty. He says there was an improper investigation by the taxation authorities. The court allows the relief. In this case, the court has made law by including improper investigation as a ground of relief. This is a hypothetical situation and has been included only for explanation.
- Thus, a judge-made law would be one pronounced by a court. It is the final law on the point of law until the legislature does not overturn it by their written law.

Now that you know the branches of law, you also need to know the basic principles on which Australia's legal processes and legal system are based. These include the following:



These are the six basic principles on which the various branches of the Australian Legal System stand.

In this section, you learned the basis of the Australian laws and processes. In the next section, you will learn the ways to identify and access relevant Australian laws, statutes, regulations and legal judgements.

## 1.1.2. Identifying Relevant Australian Laws, Statutes, Regulations and Legal Judgements



For every organisation, different laws and regulations are applicable. For a corporation, the *Corporations Act* is applicable. The purpose of the *Corporations Act 2001 (Cth)* is to regulate matters related to business entities (mostly companies), such as the formation and operation of companies, duties of officers, takeovers and fundraising. For a partnership firm, the *Partnership Act* is applicable. Thus, you need to know which law, statute, regulation and judgement would apply to you. Here are the steps to follow to identify these laws and regulations:

### 1. Identify the nature of business.

*Nature of business* refers to the type of business structure within which the business entity would fall. There are several types of business structures that are allowed in Australia. These include the following:



#### ○ **Sole proprietorship**

*Sole proprietorship* refers to a business structure where there is a sole trader. It is in his name and control that the business is running. In such a business, the law does not create a different entity. The sole proprietorship firm and the proprietors are the same entity under the law in the case of a sole proprietorship. For example, A is the owner of A Enterprises. He is the business owner, so A Enterprises is a sole proprietorship firm.

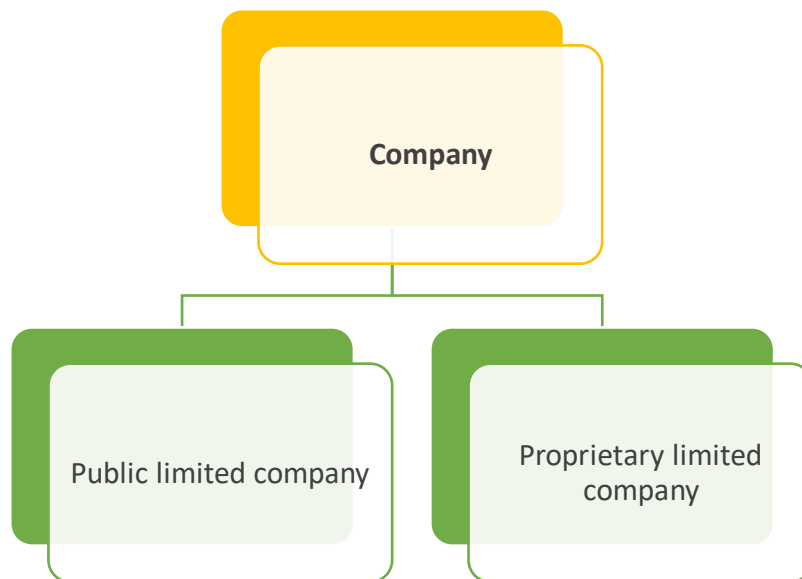
- **Partnership firm**

When two or more people join hands and pool resources to start and fund a business, it is a *partnership firm*. In such a business structure, the people coming together are called *partners*. These partners share profits and losses in an agreed ratio.

They also invest capital in the agreed ratio, or as the case may be. For instance, A Partners is a partnership firm jointly owned by A and B. A and B share capital and profits in the ratio of 1:1.

- **Company**

A *company* refers to an enterprise registered under the Corporations Act. It is a separate legal entity in the eyes of the law and has the same rights as a natural person. It can take debt, give debt, sue and be sued in its name. It also has a separate seal, and with the death or insanity of one member, the company's existence is not affected. For instance, A, B and C own a company together. Its name is A Enterprises Proprietary Limited and is registered under the Corporations Act. A, B and C are its directors and members. With the death or insanity of either A, B or C, the company's existence would not be affected.



The company is further divided into public and proprietary limited companies based on the holding. Members of the public own a *public limited company*. These companies are present on the share market and trade their shares to the public. On the other hand, a *proprietary limited company* does not trade its shares to the public and is owned by private members.

## ○ Trust

In a *trust*, a *trustee* is an appointed person or company who holds the business for the benefit of the named beneficiaries. A trust is set up under the law prescribed for it. The profits from the business managed by the trust are distributed amongst the beneficiaries.

For example, A is a person who is the trustee of A Enterprises. He is managing the business for the benefit of the named beneficiaries, namely B, C and D.

Apart from the four main forms of business structure discussed above, there are other forms of business structure. They are mostly subdivisions of the four main business structures. These include proprietary and public limited companies, limited liability partnerships etc.



### Further Reading

The website of the Australian Taxation Office describes the various forms of business entities in detail. You must read them for a better and clearer understanding of the topic. You can access these through the link below:

[Choosing your business structure](#)

## 2. Identify the laws and regulations applicable to different business entities.

For each business entity, there is legislation applicable. These laws and regulations apply to the incorporation, registration, formation and working of these business entities. These include the following:

Sole proprietorship	• No specific law
Partnership firm	• Partnership Act
Trust	• Trustee Act
Company	• Corporations Act

- **Sole proprietorship**

A sole proprietorship firm is not required to be registered under the law specifically. However, every sole proprietorship firm is required to obtain an Australian Business Number (ABN) to operate within the territories of Australia. There is no specific law governing sole proprietorships. The sole trader is liable for all the acts of such a firm. No differentiation is created between the two.

- **Partnership firm**

A partnership firm is not compulsorily registered. However, the same can be governed by the Partnership Act. The firm can be created either through a written or an oral agreement. Every partnership firm has a separate Tax Filing Number (TFN) under which it files its partnership tax returns.

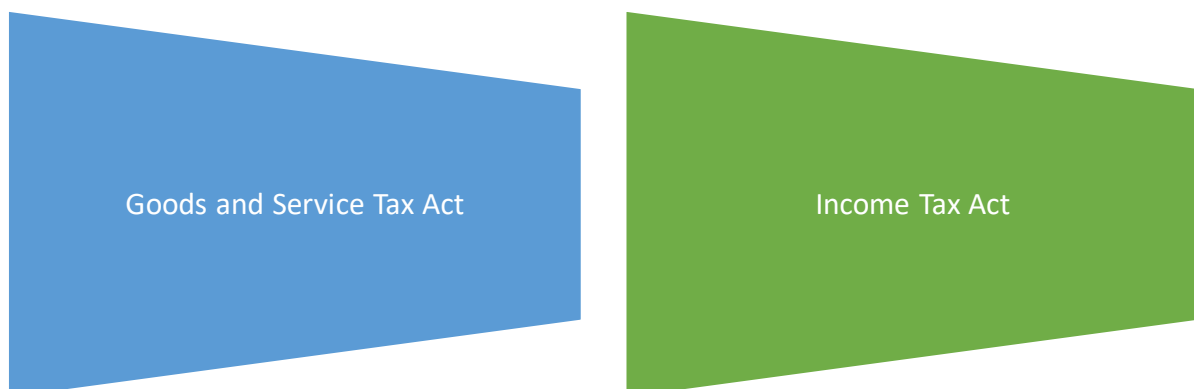
- **Trust**

A trust is governed by the *Trustee Act of 2000*. Trust should also have a TFN and an ABN as it is a separate legal entity from its trustee. The trust is not required to pay income tax. However, the trustees and beneficiaries in whose favour the benefits are transferred have to disclose such benefits and pay tax accordingly.

- **Company**

Whether proprietary limited or public limited, a company must be registered under the Corporations Act. The company is also required to have TFN and ABN, and the directors are required to have Director Identification Numbers (DIN). Companies are also regulated by the Australian Securities and Investment Commission (ASIC).

Apart from the laws mentioned above, two laws apply to all business structures, regardless of the entity type. These laws include the following:



Every business entity must have a registration under the Goods and Service Tax Act and pay taxes accordingly. Similarly, every business entity or the people deriving benefits from the businesses must declare the profits in the Income Tax return as per the Income Tax Act. They are also required to pay taxes as per the legislative requirements.



## Multimedia



Learn about various types of business in Australia from the video linked below:

[Types of Businesses / Classification of Businesses](#)

### 3. Identify laws, regulations, statutes and legal judgements applicable to the business.

The third and final step is to identify and access the various resources to understand the applicable and relevant regulations, statutes and legal judgements. Since you already know the type of business entity your business falls into, you can easily identify applicable laws, regulations, statutes and legal judgements.

To identify laws, statutes, and regulations, you need to check the law's applicability. A Google search is a good way to find laws, statutes and regulations applicable to your business entity. For instance, if you need to know about the laws applicable to a company, type 'Laws Applicable on Companies in Australia'. Several options will appear from which you can choose. It is advised to go to the government's official website and download the legislation. In the legislation, run a search and check if the legislation defines and deals with companies. If it does, then the law, regulation, or statute is relevant to you.

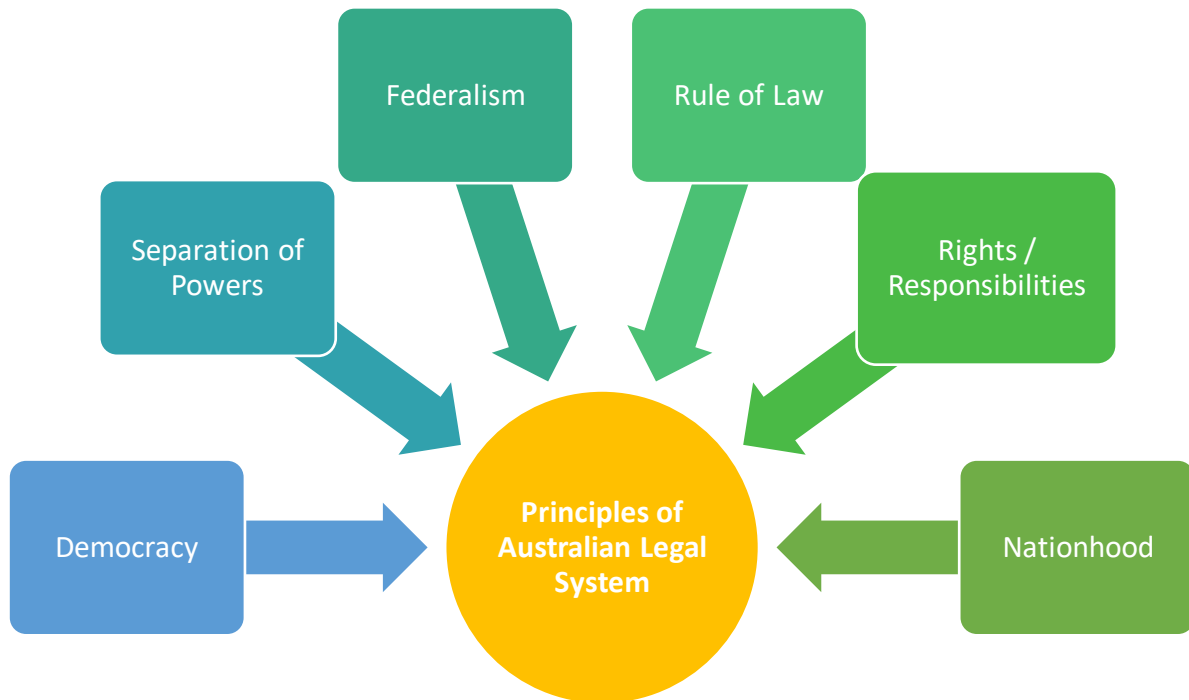
Here are the following sources of the latest legal information:

Government Websites	Thomas Reuters
Local Newspapers and Blogs	Websites of Courts
Melbourne Law School Blog	La Trobe Law School Blog

For judgements, the best way is to read the original draft of the judgement. It is advised to keep a tab on legal news to know about the latest happenings. One can also subscribe to various legal journals and newsletters that send out regular legal updates. Once you get to know about a new judgement, run a search in the original draft of the judgement. Do this to check if it applies to the business entity you are working with. If it does, then such a judgement is relevant to you.

### 1.1.3. Legal Processes and System Concerning Basic Legal Principles

In the first section of this chapter, the six basic principles of the Australian legal system were briefly mentioned. In this section, the following shall be discussed in detail:



- **Democracy**

*Democracy* is a system of government where the public elects the representatives through voting. The democratic system of elections is the best way of selecting a government. It considers the opinion and choice of each citizen. All laws are based on the ideas of democracy, that is, equal representation of all.

- **Nationhood**

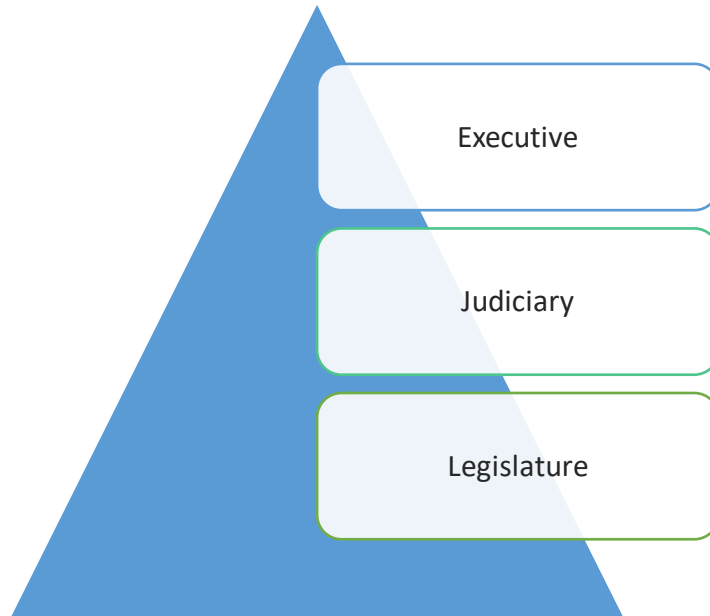
*Nationhood* refers to the fact of being a nation. Australia is a federation yet a nation because a common Constitution governs all the federation members here. The constitutional principles enshrined in the written Constitution of Australia have similar bearing and consideration on all member states. Nationhood and the ideal of togetherness are at the heart of each law framed in Australia.

- **Rights and Responsibilities**

The Constitution of Australia lays down a person's various rights and responsibilities. These rights and responsibilities defined in the law prescribe the code of conduct and the privileges available to a person in Australia. These laws also lay down various government organs' key roles and responsibilities. These organs include the executive, judiciary and legislature.

- **Separation of Powers**

Australia follows the principle of separation of powers, as given by Montesquieu. The *Principle of Separation of Powers* states that every organ of the government is separate from one another.



The legislature makes the law, the executive implements those laws and the judiciary examines any disputes arising out of the laws. The roles and powers of these three government organs are separate from one another and this concept is known as separation of powers.

- **Federalism**

A *federation* is a form of division or decentralisation of powers between the state and federal governments. The central or federal government shares its powers with the governments of states and territories as prescribed under the Constitution. This provides easier access to powers and decentralisation of roles and responsibilities.

- **Rule of Law**

The *rule of law* states that all the people living and working in Australia are bound by Australian laws. It also comes with the presumption that all Australian inhabitants are aware of the laws. This is because a mistake of law or unawareness of law is not an excuse under the Australian laws.

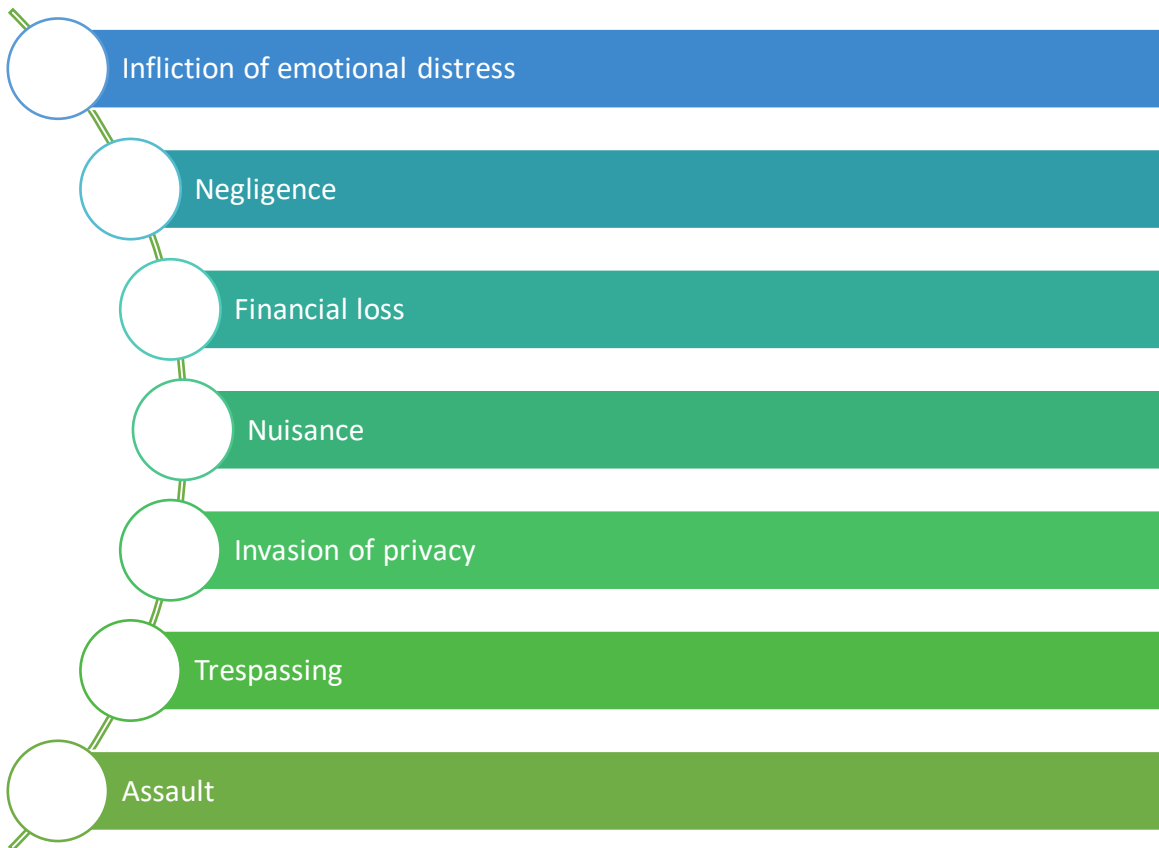
Those mentioned above are the fundamental principles on which the Australian laws are founded. Now, you need to understand certain basic principles of tort law.

*Tort law* refers to that branch of common law jurisdiction that deals with civil wrongs. The essentials of tort law include the following:

- Existence of a civil right
- An act violating such civil right
- Damage or injury caused
- Damage or injury caused due to the violation of such civil right

If these essentials are fulfilled for any act, such a civil wrong will fall under the law of torts.

The law of torts includes the following acts:



The most important principles of tort that apply to legal decision making are the following:

- **Negligence**

*Negligence* refers to the tort which results because of an omission of duty. For instance, A is a citizen of Australia who owns a pet tiger. He must ensure the pet tiger does not leave A's premises as it is dangerous. However, A does not install a good and strong cage to keep his tiger. As a result, the tiger enters the house of A's neighbour, B, and scratches him. Due to A's negligence, B's right to safety was compromised. A omitted his duty to take care of the tiger due to which damage was caused to B. In this case, negligence is proved against A. He is liable under the tort law.



- **Negligent misstatement**

It is often said that one must ensure one says the true words. *Negligent misstatement* is a tort whereby a person carelessly makes false or misleading claims that the other party suffers. For instance, A sold a horse to B. While buying the horse, B told A that he would be using the horse for racing. He also asked A if the horse was fit for racing. Without paying much heed, A agrees to B's question carelessly, knowing that the horse is not fit for racing. Due to A's negligent misstatement, B failed to win the race. The horse also died in the middle of the race. In this scenario, A made a negligent misstatement and is guilty of a tort.



### Checkpoint! Let's Review

1. Nature of business refers to the type of business structure within which the business entity would fall.
2. For every business entity, different laws are applicable as per the nature of the business.
3. The rule of law states that all the people living and working in Australia are bound by Australian laws.

## 1.2. Identify Functions of Courts and Other Regulatory Bodies



For every law, courts and regulatory bodies form an important part of compliance and dispute redressal mechanism. The courts and regulatory bodies are a part of the government machinery, or as it has been stated, organs of the government. They are a part of the third organ of the government, that is, the judiciary, and deal with matters about dispute resolution.

For different forms of business entities and depending on the laws applicable to them, different courts and regulatory bodies come into play. Similarly, different regulatory bodies are present for different acts and activities of the business.

This subchapter will discuss the various regulatory bodies and courts under various laws applicable to different business entities. This subchapter will also discuss identifying the courts and regulatory bodies applicable to a certain business type. The roles and functions of each court and regulatory body will also be discussed in detail within this subchapter.

### 1.2.1. Various Courts and Regulatory Bodies

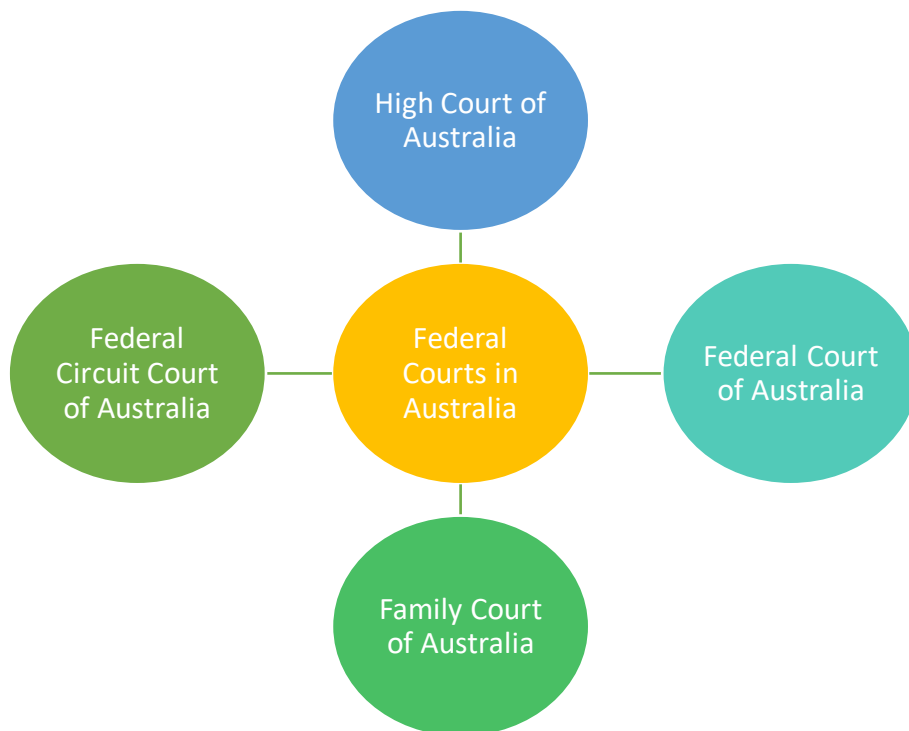
Courts are a part of the judicial system of Australia. As previously mentioned, Australia is a federation with decentralisation of powers; the judicial powers have also been decentralised between the federal and the state judiciary.

For the federal judiciary of Australia, the High Court of Australia is the apex judicial authority in terms of the court hierarchy. It is the final court of appeal from federal and state judicial courts.

As per the Constitution of Australia, the judicial powers of the Australian Commonwealth are vested in the High Court of Australia. The federal judicial structure includes the Federal Court of Australia and the Federal Circuit and Family Court of Australia.

There are various Supreme Courts for different states and territories on the state level. These Supreme Courts are the highest courts of record, having unlimited and general jurisdiction over the territory they are set up.

For each state, there are different land courts as well. Certain other regulatory bodies are established under different laws, apart from the formally established courts. The various courts and regulatory bodies are Constitutional bodies in nature. They resolve disputes wherever required. The regulatory bodies are mostly set up within the Act of legislation for which they are established. Refer to the diagram below for these:



Judiciary is an independent body or organ of the government. It is separate from the executive and legislature. Thus, the appointments once made into the judiciary cannot be overturned unless a matter of proven misbehaviour or incapacity comes to light.



## Further Reading

The website of the Australian Government prescribes in detail the idea of separation of powers in Australia along with the principle of independence of the judiciary. You must read them for a better and clearer understanding of the topic using the link below:

[Courts](#)

*Regulatory bodies* refer to commissions, authorities and tribunals set up for redressing the specific problems relating to a particular sector or niche. These tribunals, authorities and commissions are established under the relevant legislation. They act as dispute resolution authorities and regulatory authorities. They only deal with the matters for which they are established. The regulatory bodies and tribunals include the following:

Administrative Appeals Tribunal	Australian Competition Tribunal	Copyright Tribunal of Australia
Defence Force Discipline Appeal Tribunal	Fair Work Commission	National Native Title Tribunal
Australian Taxation Office	Australian Securities and Investment Commission	Australian Finance Security Authority

The Australian Taxation Office is the regulatory body for taxation purposes for every business entity. Corporations are also governed by the Australian Finance Security Authority and the Australian Securities and Investment Commission.

## 1.2.2. Roles and Functions of Courts and Other Regulatory Bodies



Now that you know about the different types of regulatory bodies and courts in Australia, you must also understand their roles and functions.

The role and function of every court and regulatory body are distinguished to some extent based on the types of cases they resolve and the types of matters they regulate.

For instance, a family court only deals with matters relating to marriage, divorce, maintenance, alimony, etc. Their responsibilities are to determine complex law cases, cover specialised areas in family law, and to act as the national appellate court for family law matters.

The High Court of Australia's role is to interpret and apply the law of Australia, decide on the constitutionality of laws and hear appeals. Their responsibilities are to deal with cases which come to it on appeal or which begin in the High Court itself, to deal with cases which involve interpretation of the Constitution, to deal with cases where the court may be invited to depart from one of its previous decisions, and to deal with cases where the court considers the principle of law involved to be one of major public importance.

Meanwhile, a circuit court will deal with matters of criminal nature.

An administrative tribunal will only be responsible for regulating and resolving matters relating to administrative departments, like the ministries and other departments. They are not required to deal with matters of common citizens. Instead, they regulate and resolve matters about government officials.

Similarly, the competition tribunal will only deal with matters surrounding the violation of competition law. The competition tribunal will also ensure that the corporate entities follow competition-related norms diligently. The competition tribunal's assent to deals is also required in several matters. The tribunal's regulatory power ensures that the competition law norms are not violated and the Australian companies respect the country's competition laws.



The Australian Taxation Office (ATO) is a regulatory body. Their role is effectively manage and shape the tax and superannuation systems to support and fund services for Australians. Their responsibilities are to collect revenue, to administer the goods and services tax (GST) on behalf of the Australian states and territories, to administer a range of programs that provide transfers and

benefits to the community, to administer the major aspects of Australia's superannuation system, and to be custodian of the Australian Business Register.

Similarly, the role of Australian Securities and Investment Commission (ASIC) is to regulate Australia's corporates, markets, financial services and consumer credit. Their responsibilities are to maintain, facilitate and improve the performance of the financial system and entities in it; to promote confident and informed participation by investors and consumers in the financial system; to administer the law effectively and with minimal procedural requirements; to receive, process and store, efficiently and quickly, information they receive; to make information about companies and other bodies available to the public as soon as practicable; and to take whatever action they can, and which is necessary, to enforce and give effect to the law.



### Checkpoint! Let's Review

1. For the federal judiciary of Australia, the High Court of Australia is the apex judicial authority in terms of the court hierarchy.
2. Once made into the judiciary, the appointments cannot be overturned unless a matter of proven misbehaviour or incapacity comes to light.

## 1.3 Identify Implications of Relevant Legislation, Regulation and Legal Precedent on Operational Decisions



Operational decisions are affected whenever there is a change in a law or regulation through an amendment or legal precedent. Moreover, operational decisions are affected when a law point is clarified and pronounced upon by the court in the form of a judgement. It is important to change and update operational decisions to match the organisational requirements as per these changes.

This subchapter will discuss the effect of legislation, regulations and legal precedents, also called judgements, on operational decisions. To understand this, you first need to know what operational decisions are.

### 1.3.1. Operational Decisions

*Operational decisions* refer to the decisions relating to the day-to-day working of an organisation. These operational decisions are in line with the working of the organisation and its ongoing activities. These are mostly repeatable decisions made mechanically as they are made almost every day. These decisions include everyday business decisions that are required to be taken. Thus, it is important to match law with operational decisions for the business transactions to be legally viable.

For instance, A approaches your business for buying 100 kgs of sugar. In this case, you are a sugar trader. The operational decision would be to take the order and then supply it with an invoice. However, if you are not aware of the right tax rate applicable, your transaction will be wrong. Thus, the operational decision of making an invoice is related to the legal framework around taxation.

The operational decisions taken by the regular staff do not hold high value. However, the operational decisions made by the management of a company and higher employees have a strong bearing on the business and its work. To differentiate, here are the following definitions:

#### Operational Decisions by Lower Management

- Repeated
- Relating to day-to-day business
- Not of fundamental bearing on business

#### Operational Decisions by Upper Management

- Important
- Have fundamental bearing on business

### 1.3.2. Identifying and Describing Main Features of Legislations and Regulations

Operational decisions and any business operations are affected by the laws and regulations. It is advisable to identify the main features of current legislation and regulations. This is done to make sound and effective business operational decisions in line with the law.

Different laws impact business operations differently. These legislations and regulations are required to be identified and described. You must also understand their impact on business decisions. In this section, the same will be discussed concerning various areas of law. These include the following:

#### ▪ Consumer Law

The Australian Competition and Consumer Commission prescribes various consumer laws and regulations affecting businesses. You can access its website to identify the consumer law-related regulations and legislations applying to businesses.

The *Australian Consumer Law* is the law to protect the rights of consumers in Australia. It includes the *Competition and Consumer Act 2010*. The key implication of this law is to ensure consumer rights are protected in a competitive market. It prescribes certain compliances, which will be discussed below. These compliances are required to be followed by businesses. If not, then as an impact and implication, the consumer can approach the consumer forum to redress their complaint. The consumer can seek compensation and damages in this regard.

Here are some of the main features of consumer legislation and regulations:

Manufacturer to provide goods and services of acceptable quality

Manufacturer to accurately describe the product or service

Manufacturer to satisfy Manufacturer's Express Warranty, if any

Manufacturer to provide spare parts or repair within reasonable time and cost

Seller to provide an itemized bill if request by consumer

Manufacturer to provide replacement or repairs, free of cost, in case of manufacturing defects

These features can also be found in the *Competition and Consumer Act 2010*. Chapter 2 of the Act provides certain protections to consumers that are the main features of this legislation.



### Further Reading

You can further read and learn about the details of Australian Consumer Law through the link given below:

[Consumers' rights & obligations](#)

Consumer laws have an impact on business operations. This is because businesses deal with consumers, and the consumer has a right to seek redressal of their disputes. Thus, the business must ensure that its practices align with consumer laws to avoid litigation.

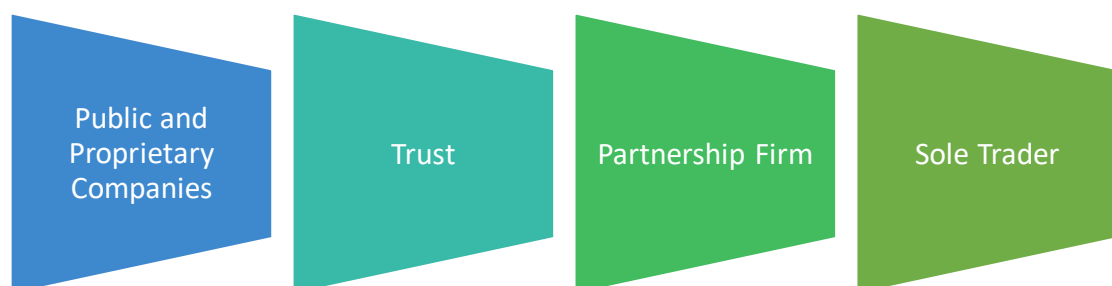
- **Contract Law**

A *contract* is a legally binding agreement between two or more parties in which each party agrees to fulfil a legal obligation. Contracts are involved in many facets of daily life, such as purchasing real estate, applying for a vehicle loan, completing employment paperwork and consenting to terms and conditions when buying products and services or using computer software.

Contractual legal challenges arise most frequently when one party fails to fulfil the legal obligation it has agreed upon. When one party fails to comply with a contract, the other party can sue for money damages or, in rare situations, petition the court to compel the other party to perform as promised. The issues arising out of contracts are included in the contract law.

- **Corporations Law**

As you already know, different business structures exist. There are four main types of business structures given below:



- **Public and Proprietary Companies**

A *company* is an entity registered under the Corporations Act. It has a separate legal entity independent of its owners. If private members own it, it is a *proprietary company*. If the shares of a company are publicly traded on the share market, it is known as a *public company*.

- **Trust**

A *trust* is a form of business structure where a trustee holds the business in the interest of the beneficiaries. The trust runs a business and its *trustee* can be a person or a company.

- **Partnership Firm**

A *partnership firm* is where two or more people join hands and pool resources in an agreed ratio to run a business. The profits and losses are also divided amongst the partners in an agreed ratio.

- **Sole Trader**

*Sole trader*, also known as *sole proprietorship*, is a business structure where a single individual runs the business. This person and the company are the same in the eyes of the law.

The Australian Corporations Law is heavily influenced by the laws passed in the United Kingdom. A reason for this is the colonisation of Australia by the British empire. For different business structures, different legislations and regulations exist. The law can be identified and described depending on the type of business entity. To do this, one must be aware of their business structure. Once that is settled, a simple Google search will help you understand which legislation is applicable.

Broadly, the following legislations apply to the following business types. This also includes the implications of different laws on such businesses:

Type of Business	Applicable Legislation	Implication
Public and Proprietary Companies	Corporations Act 2001	If the provisions of this law are violated, the company's registration might be suspended or revoked.
Trust	Australian Trust Law	If the provisions of this law are violated, the trust's registration can be suspended or revoked.
Partnership Firm	State-wise Partnership Laws	If the provisions of these laws are violated, the partnership's Australian Business Number (ABN) can be revoked.
Sole Trader	No particular law	-



## Further Reading

You can learn more about the different forms of business structure through the website linked below:

[Business structures](#)

The business structure of an organisation defines the type of legislation applicable to it. The type of legislation then determines the basic compliances to be done by the business. These compliances must be incorporated into the day-to-day operational decisions to avoid penalties and implications.

### ▪ Property Law

*Property law* refers to the law applicable to the sale and purchase of a property. In this context, the properties refer to the properties owned, sold, leased and gifted by the business. There are various Australian laws regulating real estate transactions. Businesses can own properties in two forms. These include the following:

#### Revenue Asset

- When the organisation's main business is to sell and purchase properties

#### Capital Asset

- When the property is held by the business as an asset

In most cases, property laws affect a business when the transaction is of a revenue nature. When the asset is of a capital nature, it is not used for trading purposes. Thus, a business trading in property must adhere to property laws. This should be done in regular operational decisions too. This ensures that the business does not attract liability, penalty or risk of closure.

Otherwise, the ownership of a property is determined depending on the business structure. For every business apart from a sole proprietorship, properties are owned in the business's name. In partnerships, the business owns the property until winding up when it is divided into agreed ratios.

There are state-wise laws in Australia about the property. These laws are important to note as they apply to businesses and individuals. These laws are also applicable for businesses operating in dealing in real estate. The difference between businesses holding property as revenue and capital assets arises only when the business's books of accounts are made. Otherwise, there are no differences in the legal application as per property laws.

Listed below are the state-wise legislations for property and title:

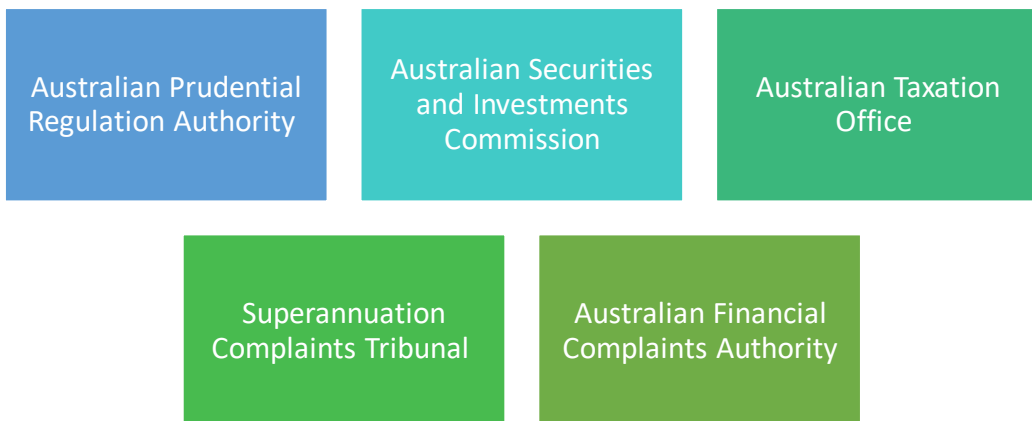
State	Legislation for Property	Legislation for Title
Australian Capital Territory	Civil Law (Property) Act 2006	Civil Law (Sale of Residential Property) Act 2003
New South Wales	Real Property Act 1900 No 25	Conveyancing Act 1919 No 6
Northern Territory	Law of Property Act 2000	Land Title Act 2000
Queensland	Property Law Act 1974	Land Title Act 1994
South Australia	Law of Property Act 1936	Real Property Act 1886
Tasmania	Conveyancing and Law of Property Act 1884	Land Titles Act 1980
Victoria	Property Law Act 1958	Sale of Land Act 1962
Western Australia	Property Law Act 1969	Transfer of Land Act 1893

#### ▪ Superannuation Tax

*Superannuation* refers to the money the employer is required to pay to the employee for their retirement. Every business paying an employee a salary or wage of \$450 or more (before tax) must pay for the super guarantee or superannuation. The salary or wage here includes any overtime done by the employee and paid for by the employer. Non-payment of superannuation can attract a fine of up to \$10,500 or imprisonment of 12 months.

The Australian Federal Law determines the amount of money required from the employer to be paid towards superannuation. Apart from this, there are legislation and regulations. These include the *Superannuation Industry (Supervision) Act 1993*, the *Financial Services Reform (Consequential Provisions) Act 2002* and the *Stronger Super* reforms, including *MySuper*.

Some agencies regulate superannuation payments to ensure compliance. These are the following:



### Further Reading

You can learn more about the superannuation laws through the website linked below.

[Super for employers](#)

#### ■ Taxation Law

Business taxation laws are governed by the Australian Taxation Office (ATO). The ATO ensures the tax obligations are fulfilled under the *A New Tax System (Goods and Services Tax) Act 1999*, the *Australian Capital Territory Stamp Duty Amendment Act 1986*, the *Fringe Benefits Tax Assessment Act 1986* and the *Income Tax Assessment Act 1997*. Apart from this, there are other business taxes as well.

Non-adherence to the taxation laws can result in penalties and jail time for the business and its owners. For different taxes, different laws are applicable. Upon determining the tax applicable to the business, a simple search on Google or the website of the Australian Taxation Office can help you understand the compliances.



### Further Reading

You can learn more about the business taxation laws using the link below.

[Taxation](#)

### 1.3.3. Impact of Laws and Regulations While Making Operational Decisions

The previous section discussed the laws and regulations that affect operational decisions. In this section, the discussion will surround the impact of laws and regulations while making operational decisions.

To understand the impact of each set of laws and regulations on operational decisions, you must refer to the table below:

Law	Impact on Operational Decisions
<b>Consumer Law</b>	All invoices and sales must be made while keeping consumer laws in mind. Additionally, all manufacturing, repairs and returns should be done to ensure that consumer rights are not violated.
<b>Corporations Law</b>	The corporation's laws should be adhered to. This ensures that the company's formation is done in the right manner. All operational decisions should be made to be in line with the corporation's laws. If not done so, the registration of the firm might be jeopardised.
<b>Property Law</b>	You must keep the property laws in mind when selling, buying, leasing or gifting any business property. These decisions are also operational.
<b>Superannuation Law</b>	Superannuation and other benefits should be rightly extended to the employees by the business, as per the law. This is an operational decision, and non-adherence attracts a penalty.
<b>Taxation Law</b>	The taxation laws must be considered while making a sale, purchase or any business transaction of any sort that attracts tax. Non-compliance can result in penalties and closure of business.



## Further Reading

You can learn more about how the Corporations Regulations 2001 of the current Corporations Act 2001 (Cth) impact different business organisational structures, using the link below.

[Corporations Regulations 2001](#)

### 1.3.4. Identifying Decisions of Courts

As you have already seen, judge-made laws, also known as the *decisions of courts*, also form a part of the law. Court decisions are also called *legal precedents*. *Decisions of courts* refer to the precedents set by judges while hearing questions of law and fact. These decisions of the courts define and clarify the legal point on matters. Often, the decisions made by the apex courts affect the laws and their applicability.

While you know that decisions of courts are important, you must also know how to identify these decisions. Moreover, the finds of courts are also important to interpret. However, the judgements are long and have legal terms which might be difficult to understand.

To identify decisions, you need to access cases. To do that, you first need to know the various sources of these decisions. The following sources can be used to access copies of the latest decisions:

#### Westlaw

- A website that provides full-text access to latest judgements and legislations

#### LexisNexis

- A global network that provides copies of judgements and articles that interpret them for a subscription

#### AustLII

- A database of decisions from all courts of Australia

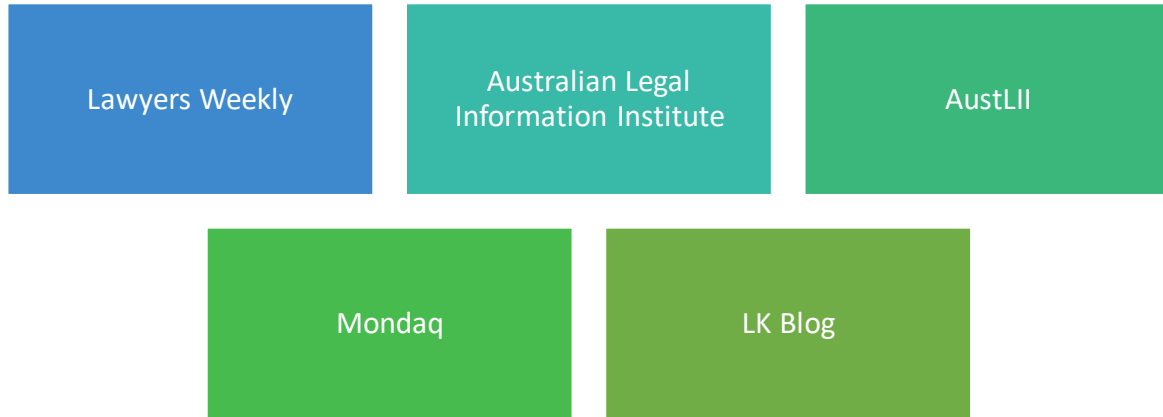
#### Court Websites

- Are the best sources to receive information on latest case laws and have true and full-text of the decisions

Since this guide speaks of making legal decisions, decisions in various laws mentioned in the previous section will apply to you.

To understand the various sources of information to get legal updates, you can refer to several websites and newsletters available online. Subscribing to these newsletters and websites will keep you up to date regarding the latest happenings. These blogs, websites and newsletters will also help you interpret the difficult court decisions.

The following websites can be good sources for the latest happenings in the legal world:



These are only some prominent examples. You can also subscribe to other blogs and newsletters to get the latest legal information and information on court decisions.

As you have already read, interpreting the court decisions might become difficult sometimes. This is because the decisions are mostly text-heavy. These decisions also have a technical legal language that might be difficult to understand.

Thus, it is best to refer to the decisions and their interpretation. The decisions should be preferably first read by you. Once you have read and highlighted the important parts of the judgement, you should highlight the parts you did not understand. These parts can then be understood in several ways.

You can read various online blogs and articles to understand and interpret court decisions. In a written format, numerous books and commentaries are available to read. These articles, blogs, books and commentaries will help you interpret the decisions.

However, the books and commentaries can be costly. They will also be difficult to get immediately after the decision is pronounced. Even if you subscribe to a legal magazine that is printed offline, you might not be able to get it before the end of the month. Regardless, a weekly magazine is an easier and better option.

Online blogs and articles are the best for quick and easy access to interpretations of judgements. Moreover, you can also approach a legal practitioner or a subject-matter expert to get a better insight into the decisions.

Thus, it can be concluded that the following are the main sources that can be used to interpret the decisions of the court:



Court decisions can have a material bearing on the laws and their interpretation; thus, you should keep track of them. The ways to do it easily are already given above.

### 1.3.5. Identify Implications of Legal Precedents and Apply Them to Operational Decisions

There are various interpretations of precedents, also called decisions of the court. Finding these interpretations is required because legal precedents affect the existing law. Often, these implications result in changes in the current law. It also means interpreting an undefined part of the law. This might result in changes in the manner of taking operational decisions. Thus, you must keep track of legal precedents.

In this section, you will understand how to identify the implications of legal precedents. The best way is to go through the various interpretations of legal precedents available online and offline. The ways to locate these interpretations have already been described in the previous section. Once the interpretation is read and understood, you will be able to identify whether the legal precedent applies to you or not. Additionally, if it applies to you, the interpretation will help you locate the specific change the legal precedent might bring.

For instance, A is a company making paper invoices to sell steel goods. The government announces that all big traders will now make invoices electronically, as per the e-invoicing guidelines. Thus, A starts e-invoicing. However, someone challenged the decision in court, stating that the government did not define big traders. Court hypothetically defines big traders as traders selling goods above \$10,000 annually. However, A sells goods worth \$9,000 annually. Thus, e-invoicing would not apply to it. Thus, the court's decision will impact the operational decision of invoicing in A company.

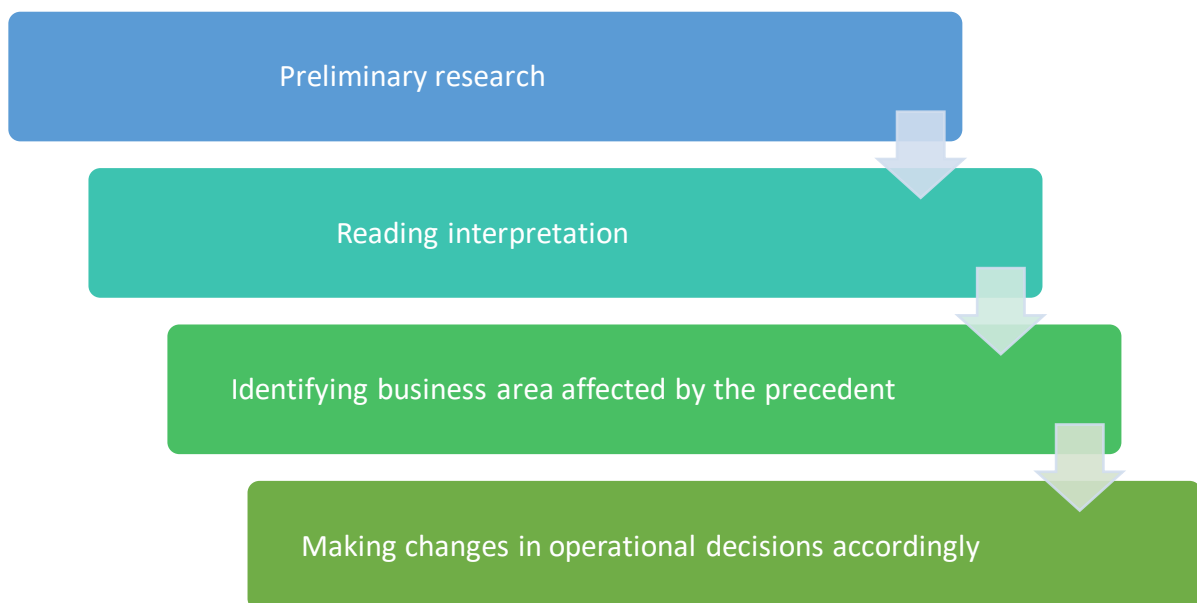
In the above-stated case, A will have to read, understand and interpret the legal precedent. Afterwards, if they feel they cannot understand the precedent, they should approach a legal practitioner who can help them understand. After seeking advice from the legal practitioner, A should make the appropriate changes in their invoicing procedure. In this case, it would be going back to paper invoicing.



Please note that the example above is only a hypothetical situation written to help you understand the concept. Thus, the best way to identify and understand the implications of legal precedent is to understand its interpretation. Before referring to interpretations, a simple search through the precedent can help you determine if the judgement applies to you. For that, you need to search the judgement. Try to search the specific law your business falls under in the judgment. If the judgement mentions the law, you must go through its interpretation because chances are it applies to you. Otherwise, you can also determine if it does not apply to you.

After preliminary research, read through its interpretations and check which part of your operational decision-making will affect it. Once that is identified, make the changes in the operational decision-making system accordingly.

To summarise, this entire exercise can be broken down into the steps mentioned below:





## Checkpoint! Let's Review

1. Operational decisions refer to the decisions relating to the day-to-day working of an organisation.
2. These operational decisions are in line with the working of the organisation and its ongoing activities.
3. A contract is a legally binding agreement between two or more parties in which each party agrees to fulfil a legal obligation.
4. Decisions of courts refer to the precedents set by judges while hearing questions of law and fact. These decisions of the courts define and clarify the legal point on matters.
5. Before referring to interpretations, a simple search through the precedent can help you determine if the judgement applies to you.



## 1.4 Seek Advice and Guidance to Evaluate and Moderate Decision Processes



In every business, several decisions are required to be made. These decisions include the operational decisions that have been discussed above. You must follow a process when making these decisions. This process should be logical and uniform. Establishing a process to ensure unilateral decision-making helps the business grow. This is because the business can then keep track of all the decisions and the procedure followed in making them.

You must also document each stage of making the decision. This helps the business revisit the decision-making process and ensure that all its steps were taken with caution and research.

This subchapter will discuss the ways of moderating the decision process. It also includes the discussion on seeking advice and guidance to evaluate decision processes.

### 1.4.1. Decision Process

The *decision process*, also known as the decision-making process, refers to the procedure employed before reaching a conclusive decision. The decision process has various steps listed and explained in this section.

A decision process involves following a series of steps before making a final call. This is done to ensure the best course of action is chosen to meet the needs of the business. These decisions are mostly taken by people in managerial positions in the business. These decisions include operational and regular decisions and important business growth and management decisions.

Ideally, business decisions are based on facts and objectives and their analysis using business intelligence and analytics tools. These tools help determine the best course of action given the nature of business and its circumstances.

You must follow these steps to ensure the decision process is completed:



#### 1. Identify the goal.

The first step for the business is to identify its needs and goals. It is the motive for which the decision is made and the expectations of the business from the decision.

#### 2. Gather information.

Research plays a key role in the decision process. Gathering the right information is important to reach the desired goal.

#### 3. Consider risks and returns.

The data gathered in the previous step is analysed. After that, the arising risks and returns are judged.

#### 4. Make the decision.

This is the step where the actual decision is made.

#### 5. Evaluate the results.

Finally, the results of the decision are evaluated to find whether it was the right one. Later, these observations are employed in other decisions too.

### 1.4.2. Seeking Advice and Guidance to Evaluate and Moderate Decision Process



In the previous section, you read about the decision process and its steps. In this section, you will learn about evaluating and moderating the decision process.

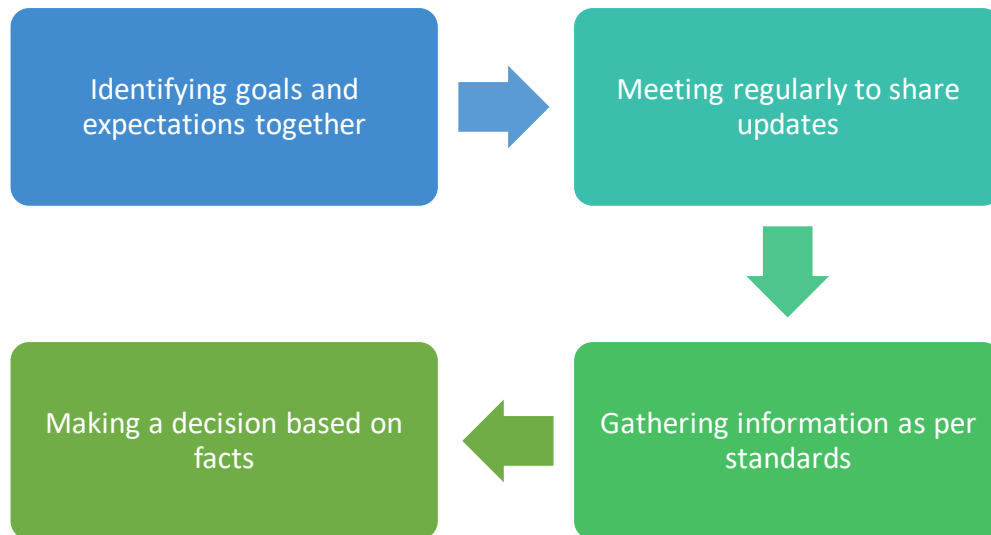
First of all, you need to understand the meaning of advice and guidance. *Guidance* would refer to an impersonal opinion on the issue at hand. Guidance will involve analysing the given information and drawing reasonable conclusions from it. On the other hand, *advice* would refer to the expert's personal opinion. It would include the opinion of the expert based on the conclusion reached from the analysis. Advice would be given to steer the business in the supposedly right direction.

Evaluating the decision process is the last step on the list. It involves revisiting the decision and its effects on the business. This helps the business decide the outcome of the decision and judge whether the desired goal was achieved. The business aims to ensure that a good decision process is followed from precedent. If the decision cannot reap the desired results, the decision process is revisited to find the error. This is to ensure the same mistake is not repeated.

Moderating the decision process would involve regulating the first four steps of the decision process. The term *moderating* would include facilitating and smoothening the process of decision making.

You must seek advice and guidance to moderate and evaluate the decision process. This can be from the members of the business, the professionals working with the business or the subject-matter expert. The subject-matter expert here would be of the subject regarding the decision.

These are the following steps in moderating the decision process:



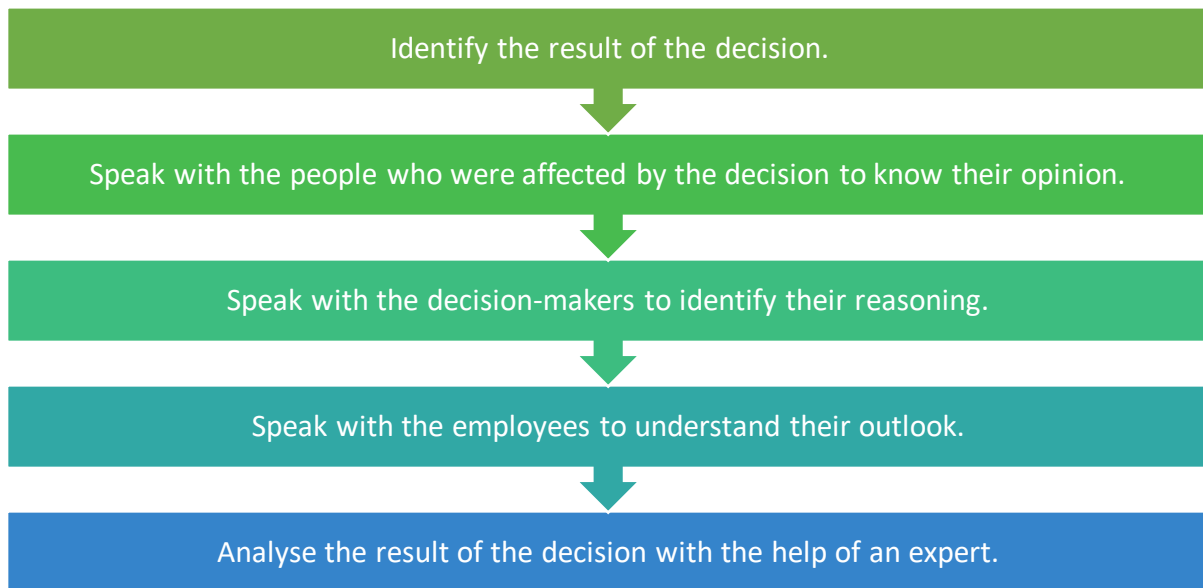
While the first two steps in the above-given process are internal for the business, the last two involve experts.

For the first two steps, the members and employees of the business should be consulted. They work first-hand on business issues. They will be able to advise and guide better on the business's goals. You can seek their advice through meetings or questionnaires, depending on the number of employees. These questionnaires with standard questions will help the business understand the opinion of its people. It will guide the business towards a good decision.

For the last two steps, the business should seek advice and guidance from experts. These experts know the area of decision that the business is struggling with. They will be able to determine the standards of gathering information along with the data relevant to the decision process. They will also be able to analyse the data, along with the members of the business. Their advice and guidance will enhance the analysis and help the business make the best decision.

For example, A is a company selling frozen food. The company is aiming to start a new wing of selling mixes. The team sits together, reads and discusses the scope of the market. Then, the team discusses the compliances required in the industry of selling premade mixes. Once that is done, everyone gathers information and discusses it again. Finally, they reach out to an expert and make the final decision.

The following steps can be done concerning evaluating the decision process:



As mentioned, for moderating decisions, you can evaluate internally by calling a meeting or distributing questionnaires. You can approach experts against a fee to take their opinion and advice to help the business evaluate the decision better.



### Checkpoint! Let's Review

1. The decision process, also known as the decision-making process, refers to the procedure employed before reaching a conclusive decision.
2. You must seek advice and guidance to moderate and evaluate the decision process.



### Learning Activity for Chapter 1

Well done completing this chapter. You may now proceed to your **Learning Activity Booklet** (provided along with this Learner Guide) and complete the learning activities associated with this chapter.

Please coordinate with your trainer/training organisation for additional instructions and guidance in completing these practical activities.

## II. Identify Compliance Requirements



*Compliance requirements* refer to the legal and regulatory requirements that a business needs to comply with. Complying with here would mean making business decisions as per the regulations and laws passed by the appropriate authority. The laws and regulations often provide for certain methods and steps to be followed by the business to ensure that their actions are appropriate and legal. These are the compliance requirements.

For instance, the law states that a business has to lodge its Business Activity Statement (BAS) reporting the business's Goods and Service tax-related activities. The term 'activities' would include inward and outward supply. Thus, lodging the BAS is a compliance requirement of the business.

In this chapter, you will learn how to do the following:

- Accurately interpret compliance requirements
- Review legislative and regulatory sources of information regularly to identify changes to compliance requirements
- Analyse impact of changes to compliance requirements on business operations, policies and procedures

## 2.1. Accurately Interpret Compliance Requirements



Different business structures often have various compliance requirements based on their work. Similarly, the work undertaken by the business also acts as a distinguishing factor when talking about compliance requirements. However, some requirements remain the same for all businesses. These are mostly taxation related requirements.

Following compliance requirements is important for the business. Disregarding these requirements may attract monetary penalties for the business. It may also lead to an order of closure of the business if the compliance requirements are repeatedly ignored. Thus, it becomes important to interpret compliance requirements accurately.

In this subchapter, you will learn how to interpret compliance requirements accurately.

### 2.1.1. Compliance Requirements

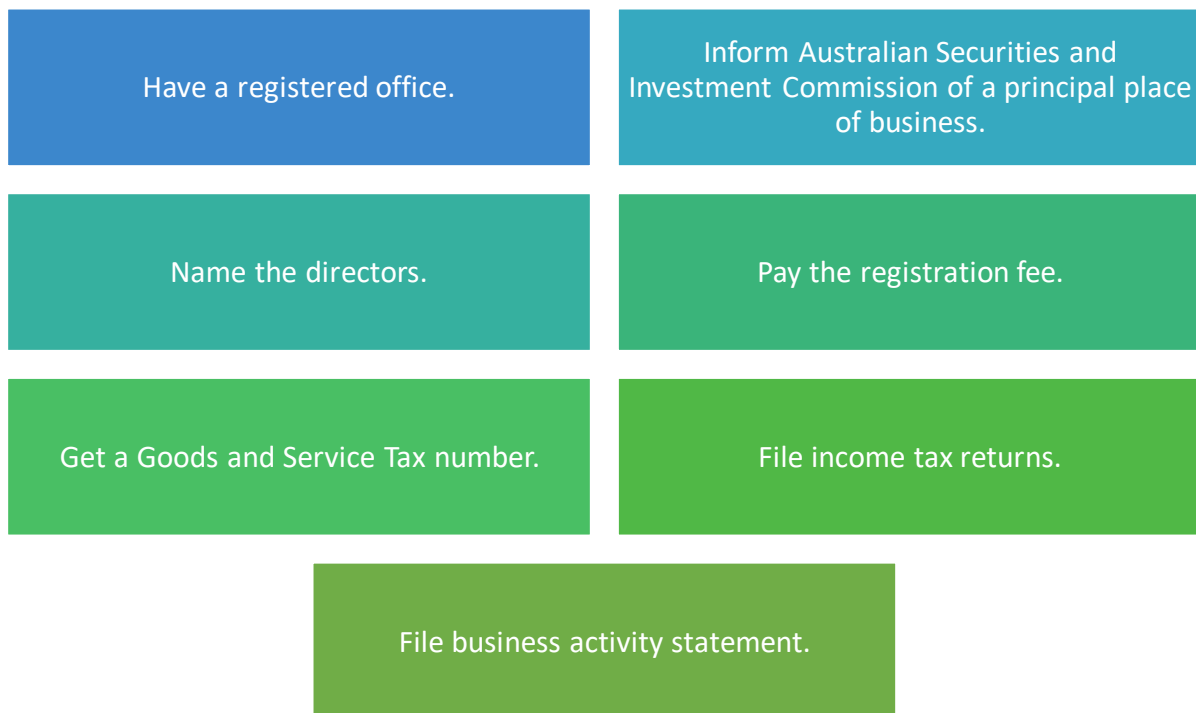
In the introduction to this chapter, you have already read the basic definition of compliance requirements. However, in this section, you will understand compliance requirements in detail.

If you are a business person who wants to start your business in Australia, you cannot start working on your own. You need the permission of the state to start the business. Before starting work, you need to register yourself and your business with the government and its authorities. You also need to follow certain standards established by the government and its agencies for the product or service you are dealing with. Once you start dealing in your product or service as per the legal standards, you need to ensure the operational decisions of the business are also in line with the law. There are regulatory frameworks and legislation. They regulate how operational decisions are made and recorded. These include decisions like entering into contracts and generating invoices. For different businesses, there are different requirements.

Once the goods are sold and tax is collected, there are steps to be followed to lodge it and pay it. If these steps are not followed properly, there are consequences (e.g. fines).

Everything mentioned above, which involves any regulation or legislation, is a part of the compliance requirement of the business. The business's requirement to follow the regulations and legislations accurately in their work is known as a compliance requirement.

Some compliance requirements for business in Australia are as follows:



If these requirements are followed as per the regulations and legislation, the business fulfils its compliance requirements.

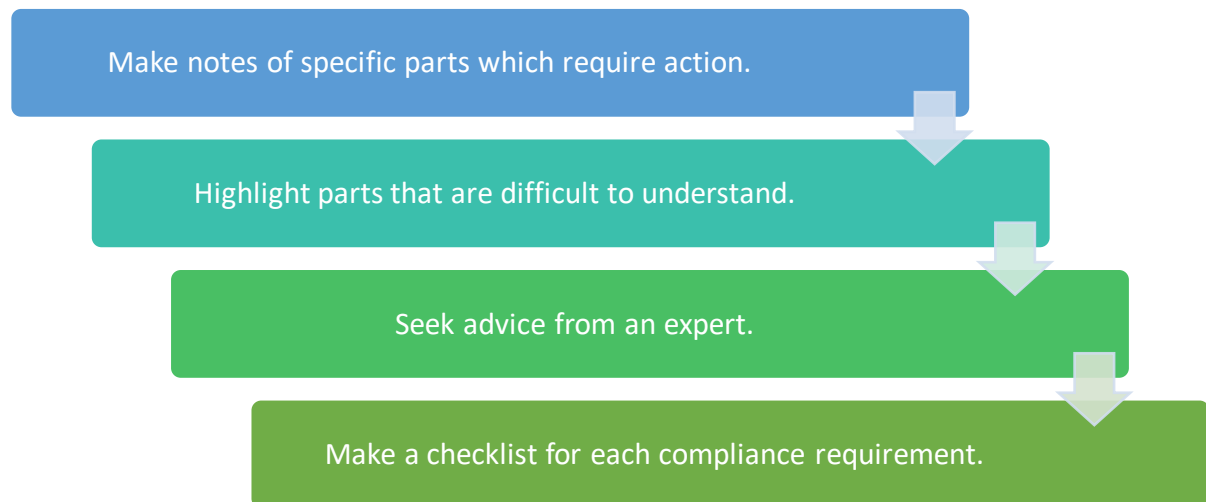
## 2.1.2. Accurately Interpreting Compliance Requirements

In the previous section, you read the definition of compliance requirements. This section will help you accurately interpret compliance requirements.

Compliance requirements are mentioned in regulations and legislation. Often these regulations and legislations have legal terms which might be difficult to understand. Thus, while interpreting what is needed to be done as per the compliance requirement, you must also do it accurately. Doing it accurately would mean identifying what the legislation or regulation requires. This will also involve interpreting the meaning of the legal jargon to understand the compliance requirement accurately.

*Accurately interpreting compliance requirements* would mean understanding the requirements as per the legislation and regulations. It also means understanding these requirements as per different business structures.

You can do the following steps to interpret compliance requirements accurately:



### 1. Read the requirement.

Go through the provision defining the requirement with a fine-tooth comb.

### 2. Make notes of specific parts which require action.

Requirements are action-based. You need to do something or refrain from doing something as per the requirements. Make a note of these specific actions you must take or avoid.

### 3. Highlight parts that are difficult to understand.

Make a separate note of the requirements that you are unable to understand.

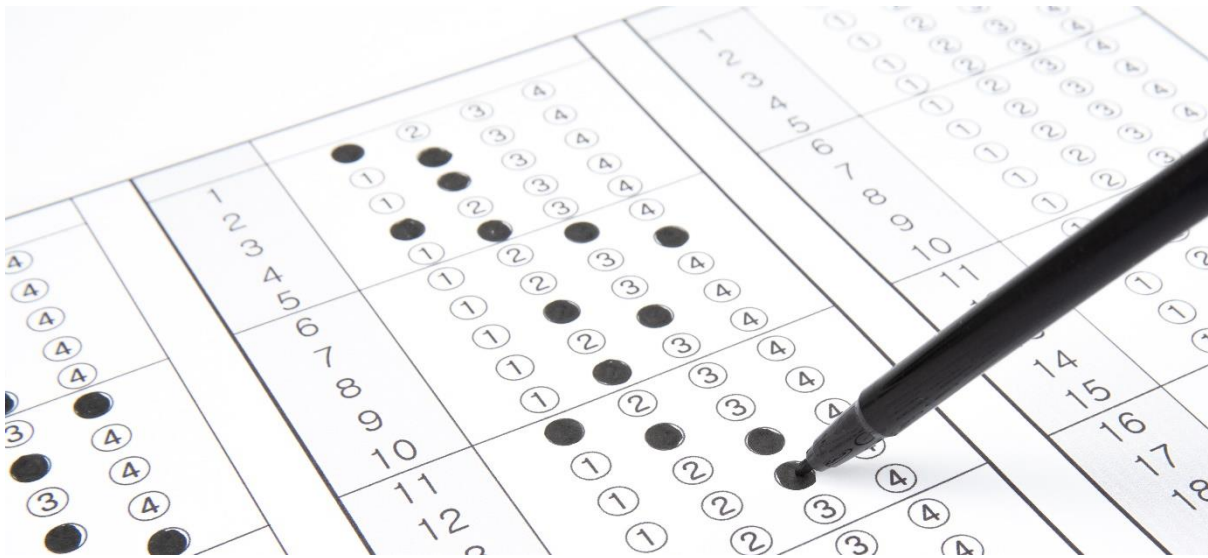
#### 4. Seek advice from an expert.

Reach out to a legal or subject-matter expert with your doubts. They will be able to help you interpret and understand the compliance requirement.

#### 5. Make a checklist for each compliance requirement.

Make a checklist for each compliance requirement to be used whenever the requirement needs to be complied with.

If these steps are followed, it will be easy for the business to interpret its compliance requirements accurately.



### Checkpoint! Let's Review

1. Following compliance requirements is important for the business. Disregarding these requirements may attract monetary penalties for the business.
2. It may also lead to an order of closure of the business if the compliance requirements are repeatedly ignored.
3. Accurately interpreting compliance requirements would mean understanding the requirements as per the legislation and regulations.

## 2.2 Review Legislative and Regulatory Sources of Information Regularly to Identify Changes to Compliance Requirements



Like any other law, compliance requirements also keep on changing. These changes in compliance requirements happen regularly. They happen either every year or whenever its parent legislation or regulation is changed.

It is important to interpret and follow the compliance requirements accurately. Thus, you must review changes in these requirements. This can be done in the ways discussed in this subchapter.

### 2.2.1 Need to Identify Changes in Compliance Requirements

Some compliances change yearly. Some compliances change with the changes in legislation and regulations. These changes are brought and approved by the regulatory and legislative authorities. Once these changes are published and enacted, they apply to businesses. Not following the updated requirement might result in financial penalties against the business. Thus, you must identify changes in compliance requirements to ensure that the business runs smoothly.

The top reasons why a business should keep itself up to date with changes in compliance requirements include the following:

To update processes of compliance requirement as per changes

To ensure use of current procedures as per changes

To ensure filing of documents and records as per updated standards

To ensure that audit and inspections do not lead to inquiries

To meet the requirements under law

To avoid penalties

To ensure employees use the most current documents and follow accurate procedures

### 2.2.2. Reviewing Legislative and Regulatory Sources of Information

Business compliance requirements change often. With most changes in compliance requirements, there are corresponding changes in legislation and regulations. Thus, reviewing legislative and regulatory sources of information becomes important. Reviewing these sources helps the business identify the changes in compliance requirements in time and make the changes accordingly.



Listed below are the ways to review legislative and regulatory sources of information to keep track of changes in compliance requirements:

- **Monitoring regulatory agency websites**

A regulatory agency oversees every compliance requirement. The agency acts as the watchdog and ensures everyone fulfils the compliance requirements. Any changes in the requirements are also reflected on their websites. Thus, monitoring them would help the business get information on changes in compliance requirements.

- **Following regulatory agencies on social media**

The regulatory agencies mentioned in the previous point also have their social media presence. They have their accounts on Twitter, Facebook and Instagram. They often post information regarding regulatory and compliance-related changes on these social media platforms.

- **Subscribing to blogs and newsletters**

Industry blogs and legal and regulatory newsletters can help businesses update themselves about the changes in compliance requirements.

- **Talking to regulators**

Maintaining a rapport with the officers and regulators helps a lot. The regulators will not only help you with the changes in compliance requirements but will also assist you in interpreting them accurately.

- **Attending conferences and seminars**

Conferences and seminars are places where information and its interpretation are exchanged. Regularly attending industry events can help a business update themselves.

- **Talking to peers in the industry**

Friends in the industry help a lot. The business and its employees should discuss the latest happenings with their peers in the industry. This not only helps the business in updating their requirements but also in reviewing the changes and interpreting them.



## Multimedia



Learn more about legislation as a source of law from the video linked below:

[Legislation as Source of Law | Jurisprudence | Sources of Law](#)



### Checkpoint! Let's Review

1. You must identify changes in compliance requirements to ensure that the business runs smoothly.
2. A regulatory agency oversees every compliance requirement. The agency acts as the watchdog and ensures everyone fulfils the compliance requirements.

## 2.3 Analyse Impact of Changes to Compliance Requirements on Business Operations, Policies and Procedures



Business operations, policies and procedures are highly affected by compliance requirements. You have already read about the importance of compliance requirements concerning business operations, policies and procedures. Since the existing operations, policies and procedures are affected by compliance requirements, any changes in compliance requirements also impact these.

This subchapter will discuss the impact of these changes on businesses.

### 2.3.1 Impact of Changes in Compliance Requirements on Business Operations, Policies and Procedures

In the previous subchapters of this chapter, you have already read about the influence of compliance requirements on business operations, policies and procedures. Business policies, operations and procedures are aligned as per the compliance requirements of the business. There must be a corresponding change in the policies and procedures of the business for every change in compliance requirements. Similarly, business operations are affected as the decision process is changed. The new decision process includes the changes made in the compliance requirements.

These changes in operations, procedures and policies are brought forth to accommodate the amended compliance requirements.

The following are the impacts of changes in compliance requirements, which have already been discussed in the previous sections:

Changes in procedures and policies

Changes in business's operational decision process

Re-training employees for updated requirements

For example, A is a company selling frozen peas. However, the food safety standard compliances are changed in Australia. Because of this, A asks employees to read about the new compliances. They are also trained to meet these compliances.



### Checkpoint! Let's Review

1. Changes in compliance requirements highly affect business operations., policies and procedures.
2. There must be a corresponding change in the policies and procedures of the business for every change in compliance requirements.



### Learning Activity for Chapter 2

Well done completing this chapter. You may now proceed to your **Learning Activity Booklet** (provided along with this Learner Guide) and complete the learning activities associated with this chapter.

Please coordinate with your trainer/training organisation for additional instructions and guidance in completing these practical activities.

## III. Develop Procedures to Ensure Compliance



Now that you know what compliance requirements are and why they are required to be adhered to, this chapter will discuss a new aspect. As you have already read in the previous chapter, every business is required to fulfil the compliance requirements applicable to it. You must fulfil these compliances as per the requirements mentioned in the law.

A business has several decisions to make and tasks to manage. It would become impossible to work without a plan. Working without a plan will also lead to repetition of work or omission of important tasks. Thus, it is important to develop a procedure that ensures that compliance requirements are satisfied. This chapter will discuss this aspect of decision making by dividing it into two parts:

- Develop procedures in consultation with others to address compliance requirements
- Establish timeframes to meet compliance requirements to align with statutory deadlines

## 3.1. Develop Procedures in Consultation With Others to Address Compliance Requirements

You have already read why developing procedures for addressing compliance requirements is necessary. Developing adequate procedures in consultation with members of the business and experts helps maintain uniformity and punctuality. It ensures the compliance requirements are fulfilled adequately as per the law and follows the timelines prescribed by the respective authority.



In this subchapter, you will read about the organisational means of developing procedures to address compliance requirements effectively.

### 3.1.1. Developing Procedures to Meet Compliance Requirements

The need for developing procedures for meeting compliance requirements has already been discussed above. In this section, you will understand how to develop procedures for meeting compliance requirements.

Organisational procedures are established to meet compliance requirements as the employees know best about the workings of the business. They can assist and accurately fulfil compliance requirements. Even if a professional is hired to fulfil the compliance requirements, the data comes from the business itself. Thus, putting in place procedures relating to each compliance requirement becomes important.

The following tasks form a part of the organisational procedures established to meet compliance requirements:

1. Identify compliance requirements.
2. Perform an internal audit.
3. Establish internal compliance policies and deadlines.
4. Train employees for compliance.
5. Approach experts.
6. Review organisational procedures regularly.

### 1. Identify compliance requirements.

Every business has different compliance requirements. These differences occur due to differences in business structure and products or services the business trades in. The compliance team should identify the compliance requirements as per the business and its status. The applicable regulations, legislations and the concerned regulatory authority should also be identified.



### 2. Perform an internal audit.

A *compliance audit* helps the business keep track of its policies and procedures. It ensures the compliance procedures are in line with the law. This would be further discussed in the next section.

### 3. Establish internal compliance policies and deadlines.

Policies for compliance should be set up internally. The organisation should determine who is required to provide what. The responsible people for compliance should report regularly to a compliance manager. This manager will then gather all the data and fulfil the compliance requirements. The deadlines should also be internally established to avoid delay.

### 4. Train employees for compliance.

Employees should be given compliance training to assist them in performing better compliance. They should be trained to understand the current requirements as per the law. They should also know the corresponding tasks they are required to perform to ensure compliance.

### 5. Approach experts.

Experts and subject-matter specialists should be approached for their opinion and guidance. They can determine how compliances are required to be performed. This saves the organisation hassles and times they cannot understand how to go about compliance.

### 6. Review organisational procedures regularly.

Organisational policies and procedures regarding compliance should be reviewed regularly. It helps find and correct shortcomings. They should also be reviewed and updated in events of changes in the law. This part will be discussed in the next section.

These procedures should be developed in consultations with everyone. By everyone, it means the employees and the industry experts. The employees should be consulted either one-on-one or through a meeting. Their opinion can also be taken through a questionnaire. This would help determine how to divide compliance-related work. It also helps understand the training requirements regarding compliance.



As for experts, they can be approached against a fee. They may even be the professionals retained by the business. They should be approached to understand the best means of completing compliance requirements.

Once the opinions of both the employees and the experts are received, a reviewable procedure should be developed.

## Multimedia

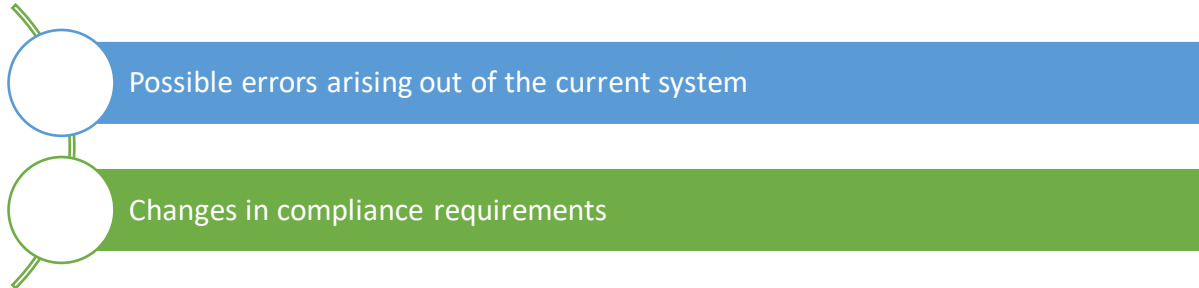


Learn more about organisational procedures from the video linked below:

[Organisation as a process - Principles of Management Lectures](#)

### 3.1.2. Reviewing and Assisting Organisational Procedures to Meet Compliance Requirements

The mere establishment of procedures facilitating the fulfilment of compliance requirements is not enough. This is because of the following reasons:



Thus, reviewing the organisational procedures is also necessary. For assisting organisational procedures the business should seek help from experts to review organisational procedures.

#### Reviewing Organisational Procedures

There are two ways by which organisational procedures established for meeting compliance requirements can be reviewed. These are the following:



- **Internal audit**

An *internal audit* should be conducted in every organisation to evaluate the compliance status. The audit extensively assesses the business's process and progress in areas of compliance. It also brings to light any gaps and risks to which the business might be exposed to. The audit is solution-driven, so problems are found and solutions are sought.

The following are accessed and reviewed in an internal audit:

- The alignment of internal processes with legal provisions
- Knowledge and training of staff regarding compliance
- Documentation of ongoing compliances

These standards help the business determine whether changes in the existing process are required.

## ▪ Regular review

The existing process should be reviewed either on a pre-decided regular interval or whenever the compliance requirements are changed. The review helps bring much-needed changes into the process. The review will involve monitoring the changes in the legal landscape and implementing them in the existing process. It would also involve updating the training requirements of the staff as per the changes.



These reviews also include opinions and feedback from employees and experts to understand the shortcomings of the process. It helps expedite the compliance procedures and makes the compliance requirements easy to fulfil.

## Assisting Organisational Procedures

Assisting organisational procedures involves experts in meeting compliance requirements. It is important to appoint experienced compliance officers. Experts provide guidance and advice on how to meet compliances. A compliance officer looks into the regular progress in meeting the compliance. The expert's work is theoretical, while the compliance manager monitors the practical work done in business towards meeting compliance requirements.



### Checkpoint! Let's Review

1. A compliance audit helps the business keep track of its policies and procedures.
2. An internal audit should be conducted in every organisation to evaluate the compliance status.
3. The audit extensively assesses the business's process and progress in areas of compliance.
4. The review will involve monitoring the changes in the legal landscape and implementing them in the existing process.

## 3.2. Establish Timeframes to Meet Compliance Requirements to Align With Statutory Deadlines

As you have already read, meeting compliance requirements is very important. However, compliance requirements cannot be met at the wishes of the business. There are certain procedures to be followed while meeting compliance requirements. One of these procedures relates to the deadlines for meeting compliance requirements.

For instance, there are last dates of lodging income tax returns for the business. Similarly, a certain time limit is given for lodging the Business Activity Statement. These deadlines should be adhered to. If not, then the compliance requirement is deemed unfulfilled.

In this subchapter, you will read about the importance of meeting statutory deadlines and how to meet them.

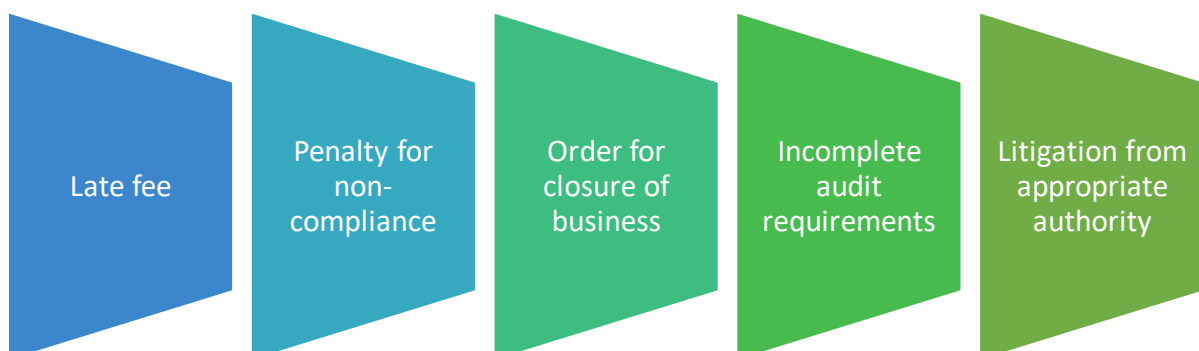
### 3.2.1. Statutory Deadlines and Consequences of Missing Them

Every compliance requirement undertaken by a business has attached legislation or regulation to it. This regulation or legislation is referred to as a *statute*. There is an attached deadline in every compliance until the compliance requirement can be met. If the date is missed, the requirement is deemed as unmet. If a provision for completing the compliance requirement later than the due date is made, it results in late fees or penalties, as the case may be.

Thus, *statutory deadline* refers to the deadline imposed by the statute. It is the last date to fulfil compliance requirements.

Statutory deadlines are mostly notified along with the statute and are updated as per the requirements. Thus, these updates must be checked and taught in the organisational process of meeting compliance requirements.

If a statutory deadline is missed, the consequences may include the following:



For different statutes, there are different consequences, but in most cases, the consequences mentioned above are applicable. Thus, it is important to stay compliant and meet all deadlines.

### 3.2.2. Establishing Timeframes to Meet Deadlines

Now that you know the consequences of missing statutory deadlines, here is a way to ensure compliance deadlines are met on time. Making an *internal timetable* that puts the internal deadline a week before the actual deadline can help the business stay on track. It also leaves a window open for the business to revisit the compliances and revise their documents if needed. It also saves time and ensures the submitted compliance requirement is perfect and error-free.

A *timeframe* refers to the dates within which the compliance requirements are to be fulfilled. A *timetable* refers to a systematic schedule to which the compliance timeframes are required to be adhered to.

Without a timetable or timeframe, the deadlines might be forgotten or the concerned department may push the work to the last day. This leaves no scope for review and poses a possibility of missing the deadline. Thus, a timetable for internal purposes comes in handy.

Here are some examples The first example is tax returns. The Business Activity Statements and Goods and Service Tax returns are required to be filed monthly, quarterly and annually, as per the requirements of the Australian Taxation Office. Below are the statutory deadlines for filing quarterly returns and the proposed internal deadlines:

Quarter	Months	Statutory Deadline	Internal Deadline
First	July–September	28 October	10 October
Second	October–December	28 February	10 February
Third	January–March	2 April	10 April
Fourth	April–June	-	10 July

Similarly, whenever there are key changes in a business, like a change in registered office address or names of directors, such change should be intimated to ASIC within 28 days. However, the internal deadline should be 18 days, so the notice is given to ASIC and the required documents within the stipulated time.

Making a timetable ensures saving time and proper compliance with the requirements of the business.



### Checkpoint! Let's Review

1. Every business should make a timetable to ensure that compliance deadlines are met.
2. Statutory deadline refers to the deadline imposed by the statute. It is the last date to fulfil compliance requirements.
3. An internal timetable saves time and ensures the submitted compliance requirement is perfect and error-free.
4. A timeframe refers to the dates within which the compliance requirements are to be fulfilled.
5. A timetable refers to a systematic schedule to which the compliance timeframes are required to be adhered to.



### Learning Activity for Chapter 3

Well done completing this chapter. You may now proceed to your **Learning Activity Booklet** (provided along with this Learner Guide) and complete the learning activities associated with this chapter.

Please coordinate with your trainer/training organisation for additional instructions and guidance in completing these practical activities.

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