**Testbank**

to accompany

**Business Law**

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by

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**Chapter 2**

**The Australian legal system**

1. Australia’s legal system is a common law legal system based on the:

a. Indigenous Australian legal system.

\*b. British legal system.

c. Roman legal system.

d. US legal system.

General feedback:

Learning objective 2.1: What are the main features of the Australian legal system? Why is our legal system so complicated given our relatively small size?

2. The head of state of the Commonwealth of Australia and of the various States and Territories is the:

a. Prime Minister.

\*b. King or Queen of England.

c. Constitution.

d. Chief Justice.

General feedback:

Learning objective 2.1: What are the main features of the Australian legal system? Why is our legal system so complicated given our relatively small size?

3. Under Australia’s federal system of government:
i. There are two levels of government: the Federal government and the various State governments.
ii. Power to govern is shared between the Federal and the State governments.
iii. The two levels of government are not subordinate to each other, but are ‘partners’.

a. i, ii.

b. ii, iii.

c. i, iii.

\*d. i, ii, iii.

General feedback:

Learning objective 2.1: What are the main features of the Australian legal system? Why is our legal system so complicated given our relatively small size?

4. Australia was initially regarded terra nullius at the time of British settlement, which means:

a. ‘Land to be settled’.

\*b. ‘Land belonging to no-one’.

c. ‘Inhabited land’.

d. ‘Conquered land’.

General feedback:

Learning objective 2.1: What are the main features of the Australian legal system? Why is our legal system so complicated given our relatively small size?

5. The application of the doctrine of reception in Australia meant that:

a. the laws of the indigenous Australians remained in place and were recognised by the British.

b. native title laws were recognised by the British.

\*c. the British settlers brought British laws with them.

d. British laws and laws of the indigenous Australians were assimilated.

General feedback:

Learning objective 2.1: What are the main features of the Australian legal system? Why is our legal system so complicated given our relatively small size?

6. The Australian legal system is:
i. a constitutional monarchy.
ii. a liberal democracy.
iii. a federation.
iv. a democratic republic.

a. i, ii, iv.

\*b. i, ii, iii.

c. i, iii, iv.

d. ii, iii, iv.

General feedback:

Learning objective 2.1: What are the main features of the Australian legal system? Why is our legal system so complicated given our relatively small size?

7. The doctrine of separation of powers states:

\*a. That the legislative, executive and judicial arms of government should function independently of each other.

b. That the executive holds the ultimate authority.

c. That the federal, state and local governments should remain separate.

d. That the head of state has no power and is a mere figurehead.

General feedback:

Learning objective 2.1: What are the main features of the Australian legal system? Why is our legal system so complicated given our relatively small size?

8. Which of the following countries is not a parliamentary republic?

a. Italy

\*b. France

c. Singapore

d. East Timor

General feedback:

Learning objective 2.1: What are the main features of the Australian legal system? Why is our legal system so complicated given our relatively small size?

9. In a common law legal system:

a. the primary source of law is legislation.

b. the decisions of judges are not recorded as a source of law.

c. the model of law is the Roman model.

\*d. the two main sources of law are legislation and case law.

General feedback:

Learning objective 2.1: What are the main features of the Australian legal system? Why is our legal system so complicated given our relatively small size?

10. Which of these is not a characteristic of a liberal democracy?

a. The judiciary and legislature constrain the power of the executive.

b. The citizens determine the outcomes of elections.

\*c. There is no written constitution.

d. All citizens are equal under the law.

General feedback:

Learning objective 2.1: What are the main features of the Australian legal system? Why is our legal system so complicated given our relatively small size?

11. Which of the following statements is true?

a. There was no legal system in Australia prior to British settlement.

b. The first governor of Australia was Governor Lachlan Macquarie.

c. Indigenous Australians were recognised as legal inhabitants when the first British colony was established.

\*d. Terra nullius means ‘empty land’.

General feedback:

Learning objective 2.1: What are the main features of the Australian legal system? Why is our legal system so complicated given our relatively small size?

12. The High Court decided in the landmark decision of Mabo v Queensland (No.2) that:

a. Australia was terra nullius at the time of colonisation.

b. the Meriam people had no title to the Murray islands.

\*c. Indigenous Australians could have their traditional title to land formally recognised.

d. compensation should be paid where traditional rights are removed.

General feedback:

Learning objective 2.1: What are the main features of the Australian legal system? Why is our legal system so complicated given our relatively small size?

13. By the late 1800s there was growing pressure for unification of the colonies. The sources of pressure did not include:

\*a. the British government’s desire to reinforce its control over the colonies.

b. the need to defend the continent during war.

c. trade disputes because of customs barriers between colonies.

d. the desire for a consistent and effective immigration policy.

General feedback:

Learning objective 2.1: What are the main features of the Australian legal system? Why is our legal system so complicated given our relatively small size?

14. The Australian Constitution was established by the:

a. Colonial Laws Validity Act.

b. Constitution Act.

c. Australia Act.

\*d. Commonwealth of Australia Constitution Act.

General feedback:

Learning objective 2.1: What are the main features of the Australian legal system? Why is our legal system so complicated given our relatively small size?

15. A local government is:

a. a separate level of government in its own right.

b. comprised of a legislature, executive and judiciary.

\*c. established by a state government to be responsible for local services.

d. responsible for controlling power supply and health services.

General feedback:

Learning objective 2.1: What are the main features of the Australian legal system? Why is our legal system so complicated given our relatively small size?

16. When used in a legal context the term ‘bicameral’ refers to:

\*a. the parliament consisting of two Houses, an Upper House and a Lower House.

b. the separation of power between federal and state governments.

c. the authority of the Governor General.

d. the ban on the filming of parliamentary sessions.

General feedback:

Learning objective 2.1: What are the main features of the Australian legal system? Why is our legal system so complicated given our relatively small size?

17. Australia is a:

a. presidential system.

b. parliamentary republic.

c. theocracy.

\*d. constitutional monarchy.

General feedback:

Learning objective 2.1: What are the main features of the Australian legal system? Why is our legal system so complicated given our relatively small size?

18. The role of the executive within the federal government is to:

a. make the law.

b. interpret the law via the court system.

c. declare certain laws unconstitutional and invalid.

\*d. administer the law and oversee the public service.

General feedback:

Learning objective 2.1: What are the main features of the Australian legal system? Why is our legal system so complicated given our relatively small size?

19. The Australian legal system differs in some respects from the legal systems of other countries. Select the statement below that correctly describes the Australian system.

a. Australia has a constitution accompanied by a bill of rights identifying Australian citizens’ civil rights and liberties.

\*b. The head of state is the Queen of England.

c. The head of state is also the head of the executive.

d. The Australian prime minister has no connection with the legislature.

General feedback:

Learning objective 2.1: What are the main features of the Australian legal system? Why is our legal system so complicated given our relatively small size?

20. Which of the following is not a characteristic of a liberal democracy?

\*a. The military has the power to override the authority of the executive and legislature.

b. Citizens enjoy freedom of speech, freedom of opinion and the right to demonstrate.

c. The judiciary is independent and operates to protect civil liberties.

d. The rule of law protects citizens’ human rights.

General feedback:

Learning objective 2.1: What are the main features of the Australian legal system? Why is our legal system so complicated given our relatively small size?

21. The phrase ‘division of power’ refers to:

a. the separation of legislative, executive and judicial power within each level of government.

b. the notion that laws are made by the legislature, administered by the executive and interpreted by the judiciary.

c. the separation between the three arms of government.

\*d. the division of law-making power between the Federal government and various State governments.

General feedback:

Learning objective 2.1: What are the main features of the Australian legal system? Why is our legal system so complicated given our relatively small size?

22. According to the doctrine of responsible government:

a. persons convicted of an indictable offence are not eligible to contest a parliamentary seat in an election.

b. the members of the legislature are also judicial officers.

\*c. the ministers comprising the executive council are elected representatives who are also members of the legislature.

d. the members of the executive government are not answerable to citizens, as they are not elected to their positions.

General feedback:

Learning objective 2.1: What are the main features of the Australian legal system? Why is our legal system so complicated given our relatively small size?

23. The doctrine of reception provides that:

a. where a territory is conquered or acquired the colonising power brings with it the laws of its home country.

b. where a territory is settled the laws of the original inhabitants remain in place.

\*c. where a territory is settled the territory is regarded as previously unoccupied and the settlers bring with them the laws of their home country.

d. at the time of the colonisation of Australia the British settlers acknowledged the prior existence of Indigenous customary law.

General feedback:

Learning objective 2.1: What are the main features of the Australian legal system? Why is our legal system so complicated given our relatively small size?

24. The New South Wales Act passed in 1823 was an important piece of legislation. Which of the following was not an effect of that Act?

a. The establishment of New South Wales as a full colony

b. The establishment of a comprehensive court system in New South Wales

c. The establishment of a legislative council

\*d. The establishment of the Supreme Court of New South Wales

General feedback:

Learning objective 2.1: What are the main features of the Australian legal system? Why is our legal system so complicated given our relatively small size?

25. Australia is:
i. a constitutional monarchy.
ii. a liberal democracy.
iii. a common law legal system.
iv. a federation.

a. i, ii, iii.

b. i, ii, iv.

c. i, iv.

\*d. i, ii, iii, iv.

General feedback:

Learning objective 2.1: What are the main features of the Australian legal system? Why is our legal system so complicated given our relatively small size?

26. The ‘residual’ powers of the State parliament are:

a. matters in relation to which both the Federal and State parliaments may make laws.

b. matters in relation to which only the Federal parliament may make laws.

c. unimportant matters which do not necessitate the making of laws.

\*d. matters in relation to which only the State parliaments may make laws.

General feedback:

Learning objective 2.2: How does the Australian Constitution regulate the relationship between the Federal government and the various State and Territory governments?

27. Disputes between the Federal and State governments concerning the interpretation of the Australian Constitution are:

a. resolved by the Governor-General as Crown representative.

b. resolved by the State Supreme courts.

c. subject to a referendum.

\*d. resolved by the High Court of Australia according to section 76 of the Constitution.

General feedback:

Learning objective 2.2: How does the Australian Constitution regulate the relationship between the Federal government and the various State and Territory governments?

28. The exclusive powers only able to be exercised by the Federal Parliament do not include:

\*a. trade and commerce with other countries.

b. the imposition of customs and excise duties.

c. the coining of money.

d. the raising and maintaining of military forces.

General feedback:

Learning objective 2.2: How does the Australian Constitution regulate the relationship between the Federal government and the various State and Territory governments?

29. The Australian Constitution lists a number of concurrent powers at section 51. Which of the following statements is not correct concerning concurrent powers?

a. Concurrent powers are those powers able to be exercised by both the Federal and State parliaments.

b. If the Federal parliament has not legislated in relation to a matter listed in section 51 the matter remains within the regulatory authority of the States.

c. If the State parliament has made a law in relation to a matter listed in section 51 and the Federal parliament makes a law in relation to the same matter the law of the Federal parliament will override the State law in the event of inconsistency.

\*d. When a law of the Commonwealth is inconsistent with a law of the State the law of the State will prevail and the law of the Commonwealth will be invalid to the extent of the inconsistency.

General feedback:

Learning objective 2.2: How does the Australian Constitution regulate the relationship between the Federal government and the various State and Territory governments?

30. His Honour Dixon J observed in Ex parte McLean (1930) 43 CLR 472 at 483:

a. the mere fact of the coexistence of a Federal and State law concerning the same matter is enough to constitute inconsistency.

b. the intention of the legislature is irrelevant when resolving a dispute between coexistent laws of Federal and State parliaments.

c. even if a federal law is intended to be supplementary to a state law, there will still be inconsistency where the laws govern the same matter.

\*d. when a federal law declares its intention to exclusively govern a particular matter it is inconsistent for a law of a State to govern the same matter.

General feedback:

Learning objective 2.2: How does the Australian Constitution regulate the relationship between the Federal government and the various State and Territory governments?

31. The Australian Constitution places important limitations on the powers of the Commonwealth. According to those limitations, the Commonwealth:

a. cannot grant a person charged with an offence under Commonwealth law a trial by jury.

b. must not interfere where residents of States are discriminated against within other States.

c. must make laws regulating religion.

\*d. cannot acquire property without just compensation.

General feedback:

Learning objective 2.2: How does the Australian Constitution regulate the relationship between the Federal government and the various State and Territory governments?

32. Which of the following is not an external Territory forming part of the Commonwealth of Australia?

a. Christmas Island

b. Coral Sea Islands

\*c. Tokelau Island

d. Jervis Bay

General feedback:

Learning objective 2.2: How does the Australian Constitution regulate the relationship between the Federal government and the various State and Territory governments?

33. The Australian Constitution can be amended:

a. by an Act of Parliament.

b. by a referendum passed by a majority of voters in a majority of states.

\*c. by an amendment passed by an absolute majority of both Houses of parliament and by a referendum passed by a majority of voters in a majority of States and receiving Royal Assent.

d. by a proposed amendment receiving Royal Assent.

General feedback:

Learning objective 2.2: How does the Australian Constitution regulate the relationship between the Federal government and the various State and Territory governments?

34. Which of the following is incorrect in relation to Federal Government Ministers. They are:

a. Members of Parliament appointed by the Governor-General on the advice of the Prime Minister to administer the various departments of the Federal public service.

b. Members of the Federal Executive Council.

\*c. elected to their positions according to a ballot of the House of Representatives.

d. responsible for advising the Governor-General on matters of government.

General feedback:

Learning objective 2.3: What is the role of the executive government?

35. The Governor-General has powers that can be exercised independently of the advice of
the Executive Council. These powers are known as:

a. residual powers.

b. independent powers.

\*c. reserve powers.

d. non-executive powers.

General feedback:

Learning objective 2.3: What is the role of the executive government?

36. When exercising a reserve power, the Governor-General ordinarily acts in accordance with ‘conventions’. Conventions are:

a. rules of conduct governing behaviour in polite society.

b. treaties and other agreements between nations concerning matters of international importance.

\*c. established and generally accepted rules of practice.

d. formal directions issued by the Prime Minister.

General feedback:

Learning objective 2.3: What is the role of the executive government?

37. In 1975, the Governor-General Sir John Kerr dismissed the Prime Minister Mr Gough Whitlam. Some people argued that Kerr acted improperly in dismissing Whitlam because:

a. it was a breach of friendship.

b. it was consistent with the convention that a Prime Minister who cannot obtain supply should either seek a general election or be dismissed.

\*c. it was in breach of the convention that a person who retains majority support in the House of Representatives is entitled to remain Prime Minister.

d. it was not within Kerr’s reserve powers to dismiss a Prime Minister.

General feedback:

Learning objective 2.2: How does the Australian Constitution regulate the relationship between the Federal government and the various State and Territory governments?

38. Which of the following entities does not exercise executive power?

a. The Executive Council within the Federal Government

b. The Executive Council within the Territory Governments

\*c. The State Supreme courts

d. The Governor-General

General feedback:

Learning objective 2.3: What is the role of the executive government?

39. Which of the following statements is not correct?

a. An ombudsman is a link between a citizen and government bureaucracy.

b. An ombudsman investigates complaints about administrative actions and decisions by government departments.

c. Each State and Territory has its own ombudsman.

\*d. The word ombudsman means seeker of truth.

General feedback:

Learning objective 2.3: What is the role of the executive government?

40. The *Freedom of Information Act 1982* (Cth):

a. gives the government the power to obtain records and information about individuals.

b. allows the media to have unfettered access to records held by any government department or agency.

\*c. gives individuals the right to access documents held about them by any Federal department or agency.

d. gives any individual the right to access documents held about them by any public or private corporation.

General feedback:

Learning objective 2.3: What is the role of the executive government?

41. Which of the following statements is not correct? The Administrative Appeals Tribunal:

a. was created by the *Administrative Appeals Tribunal Act 1975* (Cth).

\*b. is a court exercising judicial powers.

c. exercises administrative authority rather than judicial authority.

d. on reviewing a decision, substitutes its own decision in place of the original decision.

General feedback:

Learning objective 2.3: What is the role of the executive government?

42. Which of the following circumstances would not justify review of an administrative decision by a court pursuant to the *Judicial Review Act 1991*?

a. The decision was induced by fraud.

b. The decision involved an error of law.

c. The decision was contrary to law.

\*d. The decision was a proper exercise of power conferred and authorised by legislation and within the jurisdiction of the decision maker.

General feedback:

Learning objective 2.3: What is the role of the executive government?

43. The exclusive powers of the Federal Parliament are those powers:

a. able to be exercised only by the State parliaments.

\*b. able to be exercised only by the Federal parliament.

c. able to be exercised by both the Federal parliament and the State parliaments.

d. that vest executive authority in the Governor-General, acting on the advice of the Federal Executive Council.

General feedback:

Learning objective 2.2: How does the Australian Constitution regulate the relationship between the Federal government and the various State and Territory governments?

44. Australia has:

\*a. a written constitution and constitutional conventions.

b. a written constitution only.

c. a constitution based entirely on convention.

d. no constitution.

General feedback:

Learning objective 2.2: How does the Australian Constitution regulate the relationship between the Federal government and the various State and Territory governments?

45. Chapter III of the Australian Constitution vests:

a. executive power in the Federal parliament.

b. legislative power in the Governor-General acting on the advice of the Federal Executive Council.

\*c. Federal judicial power in the High Court of Australia and other Federal Courts.

d. government power in the Cabinet.

General feedback:

Learning objective 2.2: How does the Australian Constitution regulate the relationship between the Federal government and the various State and Territory governments?

46. The ‘concurrent’ powers in the Australian Constitution are those that are exercisable by:

a. the State parliaments.

b. the Federal parliament.

c. the State and Territory parliaments.

\*d. both the Federal and State parliaments.

General feedback:

Learning objective 2.2: How does the Australian Constitution regulate the relationship between the Federal government and the various State and Territory governments?

47. Where the Federal Parliament has not made a law in relation to one of the powers listed in section 51 of the Australian Constitution, the power remains within the regulatory authority of the:

a. Prime Minister.

\*b. State parliaments.

c. Governor-General.

d. Local government.

General feedback:

Learning objective 2.2: How does the Australian Constitution regulate the relationship between the Federal government and the various State and Territory governments?

48. An amendment to the Australian Constitution does not require:

a. a majority of votes in both Houses of Parliament.

b. a majority of votes by the citizens.

c. Royal Assent.

\*d. a majority of votes by all Australian judges.

General feedback:

Learning objective 2.2: How does the Australian Constitution regulate the relationship between the Federal government and the various State and Territory governments?

49. Executive power is the power to:

\*a. administer the law.

b. interpret the law.

c. make the law.

d. practise the law.

General feedback:

Learning objective 2.3: What is the role of the executive government?

50. Parliament frequently authorises the executive branch of the government to make rules, regulations and by-laws. Such rules, regulations and by-laws are known as:

a. sub-legislation.

b. administrative legislation.

c. authorised legislation.

\*d. delegated legislation.

General feedback:

Learning objective 2.3: What is the role of the executive government?

51. There are inconsistencies between schooling systems around Australia because:

\*a. each State has residual power to make laws with respect to education.

b. the Australian Constitution grants exclusive power to each State to make laws with respect to education.

c. schooling systems are not regulated by law.

d. the Federal government regulates schooling differently in each State.

General feedback:

Learning objective 2.2: How does the Australian Constitution regulate the relationship between the Federal government and the various State and Territory governments?