

1: Australian criminal law - The Full Wiki

The criminal law of Australia is the body of law made, recognised and applied in Australia that relates to www.enganchecubano.com criminal law is made and administered by the individual states and territories of Australia.

The difference between criminal and civil law Greg Norman and Chris Evert at their wedding The main function of the law is to protect the lives, liberties, rights and property of citizens. There are two fundamental areas of law: Law represented in news reports, public discussion or popular culture, such as TV crime shows, it is usually criminal law. But we often hear about civil law cases too, such as High Court challenges and actions to recover losses or damages. High-profile divorce cases also make the news. In Australian golf professional Greg Norman see picture separated from his wife of 25 years, Laura Norman. Within months Greg Norman became engaged to former tennis pro, Chris Evert also pictured " however they have since divorced, and Norman has married a third time. In simple terms, criminal law refers to: Laws that are defined by legislation, enforced by the police and prosecuted by the state. Laws that set clear and firm boundaries of conduct for individual behaviour in a society. Laws with a strong range of sanctions or punishments, ranging from fines to imprisonment and, in some societies, execution. Laws that deal with offences against the person, such as murder, attempted murder, assault and sexual assault. Laws that deal with offences against property, such as theft, fraud, arson and vandalism. Laws that deal with offences against public morality, such as prostitution, child pornography, bigamy and indecent exposure. In contrast, civil law: Is concerned with protecting the rights and property of individuals that are not necessarily protected by criminal laws. Is usually initiated by an aggrieved party such as the plaintiff , who takes legal action against those who they claim to have wronged them. Is sometimes concerned with commercial or contractual disputes, such as unpaid monies, an unfulfilled contract or a breach of promise. Is sometimes concerned with resolving family disputes, such as marital break-ups, divorce settlements, child custody arrangements and child maintenance. Is sometimes concerned with examining personal suffering, such as psychological harm or loss of reputation, to find out if someone is liable and whether they should make restitution. Criminal and civil law are not mutually exclusive. It is possible for an individual to be prosecuted for criminal conduct and then face civil action for the same conduct. Because the standard of proof is higher in criminal law than civil law, it is not unknown for civil action to succeed, even if the accused was acquitted in a criminal trial. Content on this page may not be republished or distributed without permission. For more information please refer to our Terms of Use.

2: LAW - Australian Criminal Law I

This major new text examines the core features of criminal law in all Australian jurisdictions. It builds upon the trend of recent High Court decisions to provide national solutions that will work so far as possible in all Australian jurisdictions, whether code or common law.

Abortion is a safe medical procedure, yet half of Australian women may have difficulty accessing a termination because they live in states and territories that designate it a crime. From the 19th century onward, abortion was regarded as a crime in Australia. Abortion law was included in criminal legislation and was based on the English Offences Against the Person Act. Abortion laws in Australia are all state or territory laws. The Commonwealth is only responsible for the oversight of drugs for medical abortion through the Therapeutic Goods Administration. Queensland law remains little changed from the Criminal Code which contains the same wording as the English Act. Any person who carries out, or assists with, an abortion may be liable to criminal prosecution, including the woman herself. In 1982, a Cairns couple was charged under the Queensland legislation. Although they were acquitted after a jury trial, they were subject to 18 months of glaring negative publicity. NSW case law has established that in certain circumstances, similar to those in Queensland, an abortion would not be unlawful. Although, there was no case law in WA to determine when abortion was lawful. South Australia Under the Criminal Law Consolidation Act 1935, and amendments, abortion is lawful in SA in certain circumstances prescribed by legislation. So, similarly to WA, there has not been complete decriminalisation. Abortion must be carried out in a hospital or prescribed facility, which has limited availability of early medical abortion in the state. The woman must have resided in SA for a minimum of two months for the abortion to be lawful unless the grounds are fetal abnormality or immediate threat to the life or health of the woman. However requirements that early medical abortions must be performed in hospitals, and not clinics, limit the availability, as there are so few hospitals in the NT. The Reproductive Health Access to Terminations Act has essentially decriminalised abortion and moved it into the health regulations. After 16 weeks, it can be performed if two medical practitioners one of whom must be a specialist gynaecologist reasonably believe the continuation of the pregnancy would involve greater risk of injury to the physical or mental health of the pregnant woman than if the pregnancy were terminated. The woman herself cannot be charged. This Tasmanian legislation also includes restrictions on the harassment of women seeking abortion services by mandating exclusion zones around clinics, the only legislation so far to do so. Victoria The Victorian Abortion Law Reform Act decriminalised abortion by removing it from the Crimes Act and placing it in the health regulations. A pregnant woman who requests an abortion is entitled to the procedure when the pregnancy does not exceed 24 weeks. After 24 weeks, abortion is available where a medical practitioner reasonably believes that the abortion is appropriate and has the agreement of a second practitioner. Where a doctor conscientiously objects to abortion, he or she is obliged to make a referral to a provider who is known not to conscientiously object. A woman seeking or receiving an abortion faces no legal sanction; nor does the service provider. All Australian women should be able to access abortions, no matter where they live.

3: Criminal Code Act

History of criminal law This chronology aims to document the important milestones in Commonwealth criminal law. www.enganchecubano.com constitutionally the Commonwealth Parliament has no general power to legislate in relation to crime.

Back to top Legal regime Australia is a federation comprising six States and two self-governing Territories. The Australian Constitution specifies those areas in which the Commonwealth has power to legislate and leaves the residue to the States. Corruption and bribery are largely State matters. Each of the States and Territories criminalise both public sector and private sector bribery. The Australian federal government the Commonwealth has laws which prohibit bribery of federal public officials,² as well as laws which prohibit the bribery of foreign public officials. Both treaties require State Parties to criminalise bribery of foreign public officials in the course of international business. The offence created by section 70 While a key element of the offence is that the defendant must have intended to influence the foreign public official, it is not necessary to show that such an intention was expressed. In determining whether a benefit was legitimately due, a court must disregard whether the benefit in question was customary, necessary or required in the particular circumstances. The value of the benefit is also to be disregarded. Liability arises if the bribery occurred in Australia, and also where it occurred outside Australia, so long as the person who engaged in it was an Australian citizen or resident, or a body corporate incorporated in Australia. A corporation can be fined the greatest of: Bribery may also give rise to money laundering charges under Division 400 of the Criminal Code. The consultation period for the exposure draft closed on 1 May. The Attorney-General received 16 submissions. In addition to criminal penalties, any benefits obtained by foreign bribery can be forfeited to the Australian government under the Proceeds of Crime Act Cth. That Act establishes a regime that allows proceeds of Commonwealth-indictable offences to be traced, restrained and confiscated by a court. It also confers power on a court to order that a person appear before it to demonstrate that unexplained wealth was acquired by lawful means. Defences to foreign public sector bribery The Criminal Code provides two defences to the offence of foreign bribery under section 70. The first defence is engaged where the conduct in question was lawful according to the written law of the place where the conduct occurred. Routine government action does not involve a decision whether to award new business, or to continue existing business with a person. Setting the terms of new or existing business is also excluded. While sections 26A⁵² and 26A⁵³ of the Income Tax Assessment Act Cth provide that domestic or foreign bribes cannot be deducted under the Act, facilitation payments are not considered bribes, so are tax-deductible as losses or outgoings. A defendant bears the onus of proving a defence. Domestic bribery offences The Criminal Code also criminalises bribery of Commonwealth public officials. A Commonwealth public official will be guilty of a criminal offence under section 70. The maximum penalties for individuals and corporations convicted of these offences are the same as those for offences under section 70. A person will be liable whether or not the conduct constituting domestic public sector bribery occurred in Australia, and whether or not the result of the bribery was obtained in Australia, so long as it involved an Australian Commonwealth public official. There are also State and Territory provisions which prohibit bribery of public officials, although those provisions are often the same as those which prohibit private sector bribery. At the State and Territory level generally, it is illegal to corruptly give or offer inducements or secret commissions to, or receive them from, employees or agents of corporations and individuals. Section B 2 imposes mirror offences on persons who give or offer an agent any such benefit. Section D 2 makes it an offence to corruptly receive such a benefit. The legislation in the States and Territories varies as to the penalties that may be imposed for private sector bribery. He or she may also be disqualified from holding civic office for up to seven years. Where bribery is perpetrated by a corporation, some jurisdictions provide for fines instead of imprisonment. False accounting On 1 March, new false accounting provisions came into effect. The provisions, found in Part 7.1 Specifically, the provisions make it an offence to make, alter, destroy or conceal an accounting document or to fail to make or alter an accounting document that the person is under a legal duty to make or alter, if that conduct is done: The certain

circumstances are intended to ensure that the offences are within the constitutional power of Federal Parliament. However, they make it clear that the offence may apply to conduct committed outside of Australia. The maximum penalties for these offences are identical to the penalties for the foreign bribery offences in the Criminal Code, described above. Whistleblower protection There is no general legislative protection for whistleblowers who report bribery. However, there are some specific legislative protections. For instance, Part 9. In some instances, bribery will constitute an offence under certain of these Acts, in which case the whistleblower may be entitled to rely on the relevant protections offered. The PID Act seeks to encourage public officials to report suspected wrongdoing in the Australian public sector, while protecting those who make public interest disclosures from reprisals. There is equivalent legislation covering public servants in each State and Territory. A report published on the Transparency International Australia website concluded that Australia had significant room for improvement, particularly in relation to the private sector. In November , the Australian Senate referred an inquiry into whistleblower protections to the Joint Parliamentary Committee on Corporations. Separately on 20 December the Australian Treasury released a consultation paper in relation to tax and corporate whistleblower protections,¹⁵ which canvasses a range of possible reforms to strengthen whistleblower protection and incentives in Australia including by establishing a system of rewards for whistleblowers. In late June the Financial Services Minister said that the government would shortly introduce legislation to extend protections for tax and corporate whistleblowers. There has already been a strengthening of whistleblower protections in one specific area. It includes protections from reprisal for union whistleblowers. Investigation and enforcement agencies Australia has adopted a multi-agency approach to combatting corruption. State-based investigations are generally conducted by the fraud squad of the particular State police department, with prosecutions being undertaken by State Directors of Public Prosecution. The AFP is active in detecting and investigating corruption as part of its statutory obligations to investigate serious crimes against federal laws and against Commonwealth property, revenue and expenditure. While allegations of corruption will generally be referred to the AFP, other agencies that may become involved in investigation processes include: The DPP is largely responsible for prosecuting offenders under the anti-bribery provisions of the Criminal Code. Corruption involving or affecting the public sector including State government agencies, local government authorities, members of Parliament and the judiciary is also dealt with at State level through independent bodies such as the NSW Independent Commission Against Corruption ICAC. Reports following an investigation can be given to parliament, the police or released publicly.

4: 17 Criminal Law Master's degrees in Australia - www.enganchecubano.com

give an account of and appraise the law in Australia in relation to each of the main procedural stages of the criminal justice system, assessing how the law takes into account the competing public policy considerations of crime control and individual liberty, and the interests of the key stakeholders.

The Magistrate decides the guilt or innocence of the defendant. These offences are usually of a less severe nature and carry lower penalties. Offences such as shoplifting or traffic violations are summary offences. Indictable offences are triable by a higher court, and hence, by a jury. They are usually of a more serious nature and carry heavier penalties. Offences such as murder, rape and armed robbery are usually indictable offences. For some indictable offences, a defendant may choose to waive the right to be tried in the higher courts by a jury. Legal representation Access to legal representation is important for a fair justice system. Australia has a system of legal aid services which helps pay the legal costs involved in court appearances for those assessed as being least able to afford such costs. Legal aid policy and development is largely undertaken by the Office of Legal Aid and Family Services while the aid itself is delivered by independent Legal Aid Commissions, Aboriginal Legal Services and other community-based legal agencies. In the federal budget statement, the States and Territories were called on to pay for the costs of legal aid for all cases being tried under State and Territory law. Lawyers Barristers are lawyers who can represent others in any court. Solicitors are lawyers who can advise clients and instruct barristers but cannot represent clients except in some lower courts. Juries A jury may be called to try criminal cases depending on the type and seriousness of the crime in question. If a crime is indictable then the defendant has the right to a trial by jury in a higher court. A jury consists of 12 people with no legal training and no previous connection to the case. In most States and Territories, a jury decision on guilt or innocence must be unanimous. However in some, a majority decision involving at least 10 members is sufficient where a unanimous decision could not be achieved within a specified period of time at least two hours. Judges Judges and magistrates control and arbitrate the functions of the courts. They make the crucial decisions concerning the evidence that can be admitted and in what form, thus deciding what information the jury will get, and often how they must use it². Only one woman has ever served as a Justice of the High Court. She was appointed in and is still serving. There are currently 40 judges of the Federal Court, of whom five are women. Prior to , judges in the High Court and the Federal Court were appointed for life. However, judges appointed since must retire at the age of There are still two judges of the Federal Court with life appointments i. Corrective services There are three main categories of correctional actions available to the courts when convicting offenders. The first category includes those that do not involve supervision or detention of the offender, such as fines and bonds. Options in the second category involve supervision in the community, usually for a specified period, or until some educational or community reparative target is achieved. These include probation or community service orders. The third category includes options involving detention, either in prisons or other institutions, or at home. In recent years it has become common for courts to impose sentences combining options from several different categories. Separate provisions exist in each State and Territory for dealing with juvenile offenders. The Commonwealth Government does not operate any prisons or other correctional services, and persons convicted of offences under federal laws are held in State correctional agencies. There were 88 prisons operating in Australia in Of those, 84 had facilities for men and 25 had facilities for women. Prison occupancy levels in each State are calculated by dividing the actual number of prisoners by the number of people the prisons were designed to hold. This measure can be used to gauge the extent of overcrowding in Australian prisons. Overcrowding occurs when the level of occupancy exceeds Of the States for which data is available, Queensland and the Northern Territory had overcrowded prison systems and New South Wales and Western Australia were both close to capacity, in Queensland had the highest ratio of deaths in custody to prisoners, although New South Wales had the highest total number of deaths in custody. Inquiries into Aboriginal deaths in custody continue to find that Indigenous people in prison die at a higher rate than non-Indigenous people⁴. There were 8, prison officers in Australia in , a drop from 10, in In the ratio of prisoners per officer ranged from 1. The number of

prisoners per officer does not reflect the actual number of prisoners for whom each officer is responsible. Factors such as prisoners being guarded 24 hours a day requiring officers to work in shifts and officers doing non-custodial work such as administration would account for the low ratios.

5: Federal Register of Legislation - Australian Government

Schedule 8 – The Criminal Code Chapter 8 – Offences against humanity and related offences Division 1 – Genocide, crimes against humanity, war crimes and crimes against the administration of the justice of the International Criminal Court.

Although all states now also have some criminal law legislation, in some states the criminal law has been wholly codified, whereas in other states the bulk of the criminal law remains based on the common law, but may be partially expressed in legislation. These states have legislation which lists the most common offences and fix their penalties, but do not always exhaustively define the elements of the offence. Punishment for larceny: Whosoever commits larceny, or any indictable offence by this Act made punishable like larceny, shall, except in the cases hereinafter otherwise provided for, be liable to imprisonment for five years. This section states that larceny is. But neither this section nor the remainder of the Act defines larceny. The offence of larceny remains defined by the common law. In these jurisdictions a statutory code has been introduced to be a comprehensive statement of criminal law, and replaces the common law except in cases of ambiguity. Codification in some cases involved a simple enactment of the common law into a statutory instrument. In other cases the changes were greater as the code was based on legislative instruments from other jurisdictions. Legislation including the criminal codes is further refined by the method of judicial precedent and interpretation. At present, New South Wales, [7] Western Australia and the Northern Territory have participated in modifying some crimes to match the position in the model criminal code, but in many areas states have not changed laws to reflect this code, and in some instances rejected the code entirely. However, its jurisdiction in criminal matters is more limited than that of the States. The situation is similar to American criminal law see also Federal crime in the United States. The principal source of Commonwealth criminal law was originally the Crimes Act Cth. In 1985, the Commonwealth Attorney-General established a committee chaired by Sir Harry Gibbs to undertake a review of Commonwealth criminal law. The Committee decided to draft a model criminal code capable of adoption by all Australian jurisdictions. This was the first time the federal government used the external affairs power to override a State criminal law. This legislation along with federal acts Crimes Act, [18] and the Criminal Code Act, [19] form the majority of criminal law for New South Wales. Other statutes, such as the Summary Offences Act, [20] also create criminal offences which are generally dealt with in the Local Court system. Other frequently used legislation includes the Bail Act, [28] now amended by the Bail Amendment Act. Controversially, the Act now contains provisions which limit the power to release an offender when the offences are related to terrorism. Commonly contested parts of the act include Part 4 and Part 5 which are in relation to police search powers, and Part 8 in relation to powers of arrest. While criminal offences are still sourced from the Crimes Act NSW, [17] the Young Offender Act NSW [45] establishes a scheme which provides alternatives to the court system for young offenders of certain offences. Queensland [edit] The Criminal Code Act Qld, [52] is the primary instrument for the source of criminal law in Queensland. Griffith also took inspiration from the New York Penal Code. The Criminal Code of Queensland has naturally been the subject of further legislative revision and also judicial interpretation and precedent. One key feature of the Criminal Code is the formal absence of the common law element of mens rea. The Criminal Code provides expressly that a mental element of an offence will be expressly provided for in the provision creating the offence. Notable exceptions include Murder for example, which can be established as Manslaughter with an intent to kill or to do grievous bodily harm.

6: History of criminal law – Parliament of Australia

Australian Criminal Law Specialists, Sydney, NSW. 13, likes 3 talking about this 19 were here. We are strategic experts able to assist you in.

Although all states also have some legislation on the criminal law, in some states criminal law has been codified whereas in other the bulk of the law is based on the common law. These States have Crimes Acts which list the most common offences and fix their penalties, but do not always exhaustively define the elements of the offence eg Crimes Act NSW. It is settled law in the common law jurisdictions that only Parliaments, not the courts, can create new offences. In these jurisdictions a statutory code has been introduced to be a comprehensive statement of criminal law, and are interpreted to replace the common law except in cases of ambiguity. Codification in some cases involved a simple enactment of the common law into a statutory instrument. In other cases the changes were greater as the code was based on legislative instruments from other jurisdictions. Legislation including the criminal codes is further refined by the method of judicial precedent and interpretation. In addition to explicitly titled criminal code legislation there exists in most jurisdictions a further body of legislative or case precedent, the breach of whose conditions may result in criminal proceedings. At present, New South Wales, Western Australia and the Northern Territory have participated in the law reform, but the remaining states and territories have not yet agreed to participate. Criminal codes Advertisements Federal The Commonwealth has its own criminal jurisdiction for offences against federal laws, however, its jurisdiction in criminal matters is more limited than that of the States. Because the Commonwealth is in transition from the common law model to the code model, some Commonwealth offences are located in the Crimes Act Cth and others are in the code enacted by the Criminal Code Act Cth, which abolished all common law offences. In recent decades, the Commonwealth has increasingly encroached on the powers of the states in relation to criminal law. For instance, the Human Rights Sexual Conduct Act of overrode the sodomy laws contained in the criminal code of Tasmania, the first time a Commonwealth law was expressly used to counteract state legislation. In the Port Arthur massacre led to the introduction of Commonwealth legislation on gun control, and in jurisdiction over offences relating to corporations was transferred from the states to the Commonwealth. There are also a number of common law provisions for criminal conduct within Victoria. The Griffith Code borrowed large elements of the Italian Penal Code also known as the Zanardelli Code after its primary supporter which Griffith described as "in many respects the most complete and perfect Penal Code in existence" and which was translated from Italian by Griffith himself. Griffith also took inspiration from the New York Penal Code The Criminal Code of Queensland has naturally been the subject of further legislative revision and also judicial interpretation and precedent. One key feature of the Criminal Code is the formal absence of the common law element of mens rea. The Criminal Code provides expressly that a mental element of an offence will be expressly provided for in the provision creating the offence. The practical effect of this stipulation is however not great, as most offences create a mental element of some sort, including recklessness or malice or intent. It should be noted however that the common law concept of actus reus is not excluded by the Criminal Code. There are also a number of common law provisions for criminal conduct in South Australia. This includes serious offences against the person murder, manslaughter, death by dangerous driving, wounding, rape, sexual assault, against property computer crimes, stealing, burglary, robbery and the like and against society bribery of public officials, treason, etc. Like the Queensland and Western Australian legislation, the mental element or mens rea is located under section 13 of the Code, requiring that an act or omission be "voluntary and intentional" for a crime to have occurred. The intent of this is to rule out circumstances where a person is not in control of their own actions - for instance, automatism, insanity, and for some offences, intoxication. There are numerous other laws where criminal offences may be found. These include the Firearms Act offences relating to ownership or use of firearms or ammunition, the Police Offences Act less serious criminal acts and breaches of the peace, the Road Safety Alcohol and Drugs Act for drink driving, amongst many others. Western Australia Western Australia has an almost exhaustive codification of criminal law in a Criminal Code

substantially based on the Queensland one. Criminal Code enacted directly Northern Territory:

7: Bribery & Corruption | Australia | Laws and Regulations | GLI

The Australia Chapter to Bribery & Corruption 5th edition deals with issues relating to: The law and enforcement regime, Overview of enforcement activity and policy during the past two years, Law and policy relating to facilitation payments and hospit.

8: - Australian Social Trends,

The listing of Australian Criminal Law Rising Stars details non-Partner level lawyers practising in criminal defence law matters across all Australian legal markets who have been identified by senior level criminal lawyers and barristers for their knowledge and expertise in these areas.

9: Explainer: is abortion legal in Australia?

Criminal law also addresses indictments, accusations, and criminal pleas and trials. Criminal law also deals with problems associated with probation or parole, or requests for record sealing or expungement of records.

User-centered design: a developers guide to building Metsudah Kitzur Shulchan Aruch Compact Size Set (3 vol.) The man with Bogarts face Fields for potential and possible connectors An auctioneers lot Gene-environment interplay : scientific issues and challenges Michael Rutter American women in World War II Nielsen african american consumer report 2015 The little big book of baseball Xanathars guide vs book V. 2. Arbitration (International Investment Disputes Act, 1966 to Bronze Coil (Legal Tender Act, 1918 Toward a healthy economy Omr sheet for bank exam First There Is a Mountain Autobiography of subhas chandra bose Bobcat t750 service manual Drugs and the adolescent brain Bhagavad gita chapter 11 While spring and summer sang All of me trumpet sheet music DNA stability and repair Malcolm F. White and Dennis W. Grogan Gender and Fatherhood in the Nineteenth Century (Gender and History) Prospect theory for risk and ambiguity Natural resources law handbook War, Medicine Modernity Corn-milling, ancient and modern. By W. Salmon. The direction of desire Blood Brother (Traces) Drug Interaction Facts 1998 XI. The Coronation at Rheims 217 World at war magazine Territories of difference The nursing of the elderly sick Sciences basic to psychiatry Where are we going, where have we been? Thomas M. Leitch Nationalist politics and the campaign for independence, 1957-60 Tiger and the shark What Lips My Lips Have Kissed Mormon battalion history, by D. Tyler. Civil service since 1945