Dispute management processes are becoming the norm as a precursor, or an alternative, to traditional court-based litigation. *Dispute Management* is a clear and concise introduction to an expansive range of dispute processes. Beginning with communication theory and practice, and the historical, philosophical and cultural considerations of dispute management, the book then addresses the traditional topics of negotiation, mediation and litigation, as well as interviewing, Collaborative Practice, facilitation, conciliation and arbitration. Each topic is well researched, offering the necessary depth, socio-legal considerations and balanced coverage of theory and practice.

The textbook addresses relevant ethical and cultural issues and is supported by an array of interesting examples that promote discussion. Case studies at the end of each chapter link theory to practice and present disputes between, inter alia, neighbours, conflict in the workplace, and cases that make it to trial.

Offering a combination of theoretical insights and practical information *Dispute Management* is a vital resource for students, lawyers and dispute practitioners.

**Pauline Collins** is Professor in the School of Law and Justice at the University of Southern Queensland.

**Dalma Demeter** is a law academic and practitioner and has taught at the University of Canberra Law School and Bond University.

**Susan Douglas** is a retired academic and now works as a dispute management practitioner and (volunteer) legal practitioner.
Cambridge University Press acknowledges the Australian Aboriginal and Torres Strait Islander peoples of this nation. We acknowledge the traditional custodians of the lands on which our company is located and where we conduct our business. We pay our respects to ancestors and Elders, past and present. Cambridge University Press is committed to honouring Australian Aboriginal and Torres Strait Islander peoples’ unique cultural and spiritual relationships to the land, waters and seas and their rich contribution to society.
To Cleo, Anna, Daniel and Olivia.
  Pauline Collins

To my parents, Ferenc and Erzsebet Demeter.
  Dalma Demeter

To members of the Australian Dispute Resolution Research Network
and the wider dispute management community of practice.
  Susan Douglas
This book is fresh and thorough. Everyone has experienced the problems of dispute, but now we know there are processes that help us manage these problems. These processes have exploded in use, variety, and flexibility in the last few decades. They have become a comprehensive field of action and study. This book is a significant step in that development.

Dispute is a normal consequence of the mass of activities in which busy humans can engage, but we know how corrosive unresolved dispute can be. The authors expressly recognise that not all disputes can be resolved, but can be managed to minimise damage.

Dispute occurs everywhere – between parent and child, within or among businesses, clubs and organisations, between citizen and government, and among nations. Where there is human activity, there is a risk of dispute. It helps to know what makes a dispute, how it forms, and what shape it may take for management purposes, a topic with which this book opens.

Virtually all dispute involves a need for careful communication. The authors examine the role of communication as it applies to dispute, with a new and helpful focus on how we can all communicate in a more effective and empathetic way.

Most disputes, whether in the family, between international trading partners or among anyone else, can be managed between the disputants on a negotiated basis. Only a small number of disputes must be litigated. Between those two groups, there is a vast array that will benefit from mediation, conciliation, facilitation, expert determination, arbitration or any of the other processes. Most of them require a trained dispute practitioner. This textbook, however, has a wider scope than simply to teach the practitioner the skills – it extends to the theory, philosophy, and legal understanding required to understand when and what processes to use, and why.

Any reader of this textbook, whether a student, an experienced dispute practitioner, a specialist regularly exposed to dispute such as lawyers, psychologists, mentors, counsellors, human resources officers or even an existing disputant, will find the textbook helpful and filled with useful theoretical insights and practical information. The same applies to those managing dispute in the workplace, on boards or in community organisations. Any dispute is amenable to management by those skilled and informed about how to do it.

The authors of this textbook are eminently qualified to produce a work on dispute management. The background of each has made the book theoretically strong, highly practical and very readable. Dr Pauline Collins is a Professor teaching dispute management in law degree courses, including for higher degrees, at the University of Southern Queensland and has actively written in the field in published books and articles. In addition, and just as importantly, she has practised as a lawyer – the law being one of those areas where managing
dispute is a central task. She is also a National Mediator Accreditation Scheme (NMAS) Mediator, conducting mediations for the Queensland Civil and Administrative Tribunal.

Dr Dalma Demeter is an academic and law practitioner with expertise in arbitration and international business law. She has taught at the Canberra University Law School and is teaching for Bond University Faculty of Law. She is a founding director of the UNCITRAL National Coordination Committee for Australia (UNCCA), of which she was the Deputy Chair for three years. She has extensive experience as a commercial arbitrator and adjudicator and was a founding partner of the Australasian Dispute Resolution Centre.

Dr Susan Douglas is likewise a highly qualified academic who has published widely on dispute management. She has taught in the School of Law at the University of the Sunshine Coast, is a founding member of, and has served as President of the Australian Dispute Resolution Network. Susan is a NMAS-accredited mediator with experience in private practice and family mediation. Her research and practice in dispute management is informed by her professional qualifications and experience in law and social work.

The result of the collaboration of the three authors is a textbook which describes individual dispute processes distinctly and makes clear the theoretical reasons for the operation of each. At the same time, the textbook abounds in real examples and case studies of the management of disputes. The authors have used practical themes when examining various dispute management processes. For example, in the analysis of Negotiation, the theme used is workplace dispute. Plainly, negotiation can be used in any form of dispute but it helps to explore negotiation in an applied detailed context. When examining Mediation, the theme of Elders and inheritance is used. In the emerging field of Collaborative Practice, widely used in family law but which could expand further, family dispute is used to explain the process. Arbitration is examined in the book in the context of commercial and building disputes. That is a useful approach in Australia, where arbitration is heavily used in those fields. The option of litigating, which involves the final determinative forum, is examined in the context of civil compensation dispute in tort. The thematic approach in each of these cases, allows the study of dispute management processes in an applied context.

The textbook does not suggest that these are the only processes available. It also deals with conciliation, into which ADRAC (Australian Dispute Resolution Advisory Council) – the body of which I am a member – is currently completing a major study to be released in early 2021. The book recognises that numerous other processes are available and refers to the fluidity and to the flexibility of dispute management generally. These are matters that occupied the time of the National Alternative Dispute Resolution Council (NADRAC), of which I was a Chair, and its successor ADRAC, now chaired by the Hon. Ruth McColl AO SC.

Australia is a leader in the theory of dispute management because both its academic authors and entities like NADRAC and ADRAC have elucidated dispute management theory and processes and have helped make the field accessible. This textbook, likewise, provides great insights and in addition has provided new ways of presenting ideas and examples of dispute management that will be of assistance to anyone interested in the field; that would be a large group of people as we are all capable of experiencing dispute and having to find ways to manage it.
I congratulate the authors and commend the textbook to anyone interested in human conflict.

Jeremy Gormly SC
Former Chair of NADRAC
Immediate Past President of ADRAC
Denman Chambers
Sydney
# CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Foreword</td>
<td>vii</td>
</tr>
<tr>
<td>About the authors</td>
<td>xxiii</td>
</tr>
<tr>
<td>Table of cases</td>
<td>xxiv</td>
</tr>
<tr>
<td>Table of statutes</td>
<td>xxvi</td>
</tr>
<tr>
<td>Acknowledgements</td>
<td>xxx</td>
</tr>
</tbody>
</table>

## Introduction

1 Understanding disputes

- Understanding disputes
  - A dispute as opposed to conflict
  - Components of a dispute and the dispute cycle
  - Identifying parties to a dispute
- Classification of dispute management approaches
  - Monadic dispute management
  - Dyadic (two-party) management
  - Triadic dispute management
- Using theory and models to dissect disputes
  - Moore’s Conflict Model
  - Power/Rights/Interest Model
  - Dimensions Model
  - Social Style Model
- Using dispute knowledge to assist in dispute management
  - Understanding causes of disputes
  - The stages of dispute development: latent and manifest
  - Entrapment
- Analysing a dispute
  - Positions
  - Rights
  - Interests
  - Emotion
- Positives and negatives of disputes
  - Positives
  - Negatives

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2 Communication

Understanding communication 38
Using theory and models to dissect communication
  Linear interpersonal communication model 41
  Two-way communication model 42
  Social skills model of interpersonal communication 42
  Emotion in interpersonal communication 43
Using communication knowledge to assist in dispute management
  Place 47
  Establishing trust and rapport 48
  Demonstrating empathy 49
  Active listening 51
  Eliciting information: asking questions and constructing an agenda 53
  Facilitating and checking understanding: summarising, restatement, and reframing 57
  Generating and testing options: transitions and reality testing 58
Positive and negative communication techniques
  Positives 60
  Negatives 60
Special considerations
  Emotional intelligence 61
  Reflective practice 63
  Dealing with difficult emotions
    Using assertiveness 66
    Assertiveness process 66
Conclusion 67
Exercise in applying your knowledge – Peta’s factory 67

3 History and philosophy of dispute management

Understanding dispute management in context 69
History 70
   English beginnings 70
   Senior Executive Appraisal Mediation 76
   Independent expert appraisal 77
   The Australian historical development 78

Philosophy 82
   Five philosophies 82
   Critique 83

Using history and philosophy to understand dispute management 86
   Socio-political context 86
   International disputes 89

Using history and philosophy to assist in dispute management 90
   Fairness 90
   Changing processes 91
   Roles for dispute process participants 93
   Ethical considerations 94

Positives and negatives in the history and philosophy of dispute management 95
   Positives 95
   Negatives 96

Special considerations 96
   Technology, online dispute management, and artificial intelligence 96
   Rule of Law 100

Conclusion 102

Exercise in applying your knowledge – Suzi and Kay 103

4 Interviewing 105

Understanding interviewing 106
   The nature and purpose of interviewing 106
   Types of interviews 107
   Parties to interview 108
   Components of an interview 109
      Pre-interview 109
      Opening phase 111
      The interview 111
      Close 111
   Using theory and models to dissect interviewing 112
      Theories 112
      Models for interviewing 114
5 Negotiation

Understanding negotiation 137

Using theory and models to dissect negotiation 139
The distributive model 140
The integrative model 143
Separating the people from the problem 144
Focus on interests, not positions 144
Invent options for mutual gain 144
Insist upon using objective criteria 145

The process of negotiation 145
Preparation 146
Negotiation 146
Understanding one’s BATNA 147
Starting the process: introductions 147
Establishing an agenda 148
Identifying interests 149
Creating options for mutual gain 152
Developing objective criteria 154
Agreement 154
Establishing effective communication 154
Using negotiation knowledge to assist in dispute management 155
Case example 1 – A dyadic distributive negotiation: Jacob’s job application 155
Case study 155
Discussion 156
Case example 2 – A dyadic integrative negotiation: Naomi’s maternity leave dilemma 157
Case study 157
Discussion 158
Case example 3 – Triadic composite integrative/distributive negotiation: Olivia’s workplace 161
Substantive interests 162
Relationship interests 163
Process interests 163
Interests in principle 163
Positives and negatives of negotiation 166
Positives 166
Negatives 167
Special considerations 167
Issues of power 167
Dealing with impasses 170
Dealing with difficult tactics 172
Bluff and threats 172
Low ball/high ball (or good cop/bad cop) 172
Subterfuge/red herrings 172
Aggressive behaviour 173
Conclusion 173
Exercise in applying your knowledge – Jake v AA Legal Services 174

6 Mediation 176
Understanding mediation 177
Using theory and models to dissect mediation 179
Theoretical principles of mediation 180
Confidentiality in mediation 180
Voluntariness 180
Self-determination 181
Impartiality and procedural fairness 184
Models of mediation

The facilitative model
The settlement model
The evaluative model (expert advisory model)
  Advisory mediation
  Wise counsel and tradition-based mediation
The transformative model
The narrative model
Differences in the models

Using knowledge of mediation to assist in dispute management
The classic facilitative model: 12 steps
  1 Intake
  2 Preparation
  3 Introductions/mediator’s opening statement
  4 Parties’ opening statements
  5 Mediator summaries
  6 Setting the agenda
  7 Exploration
  8 Private sessions
  9 Option generation
  10 Negotiation
  11 Agreement and close
  12 Debriefing

Positives and negatives of mediation
  Positives
  Negatives

Special considerations
  Power in mediation
  Mediation ethics
  Professional conduct in mediation
  Lawyers in mediation

Conclusion

Exercise in applying your knowledge – Kenneth Cole’s estate

7 Facilitation

Understanding facilitation
  Brief history
  Types of disputes
  Identifying parties to a dispute in facilitation
    Who should be present?
Multi-party and multiple parties 223
Using theory and models to dissect facilitation 224
Decision-making styles in groups 224
Important factors to consider in any facilitation 225
Models 227

A basic facilitation model 228
  Step 1 Intake 228
  Step 2 Preparation 228
  Step 3 Commencement 229
  Step 4 Opening statement by parties 229
  Step 5 Agenda 229
  Step 6 Goal statement 230
  Step 7 Exploration/intervention 230
  Step 8 Private sessions 230
  Step 9 Negotiation 230
  Step 10 Agreement, closure and debrief 230

Using knowledge of facilitation to assist in dispute management 231
Factors impacting on a facilitation 232
  Internal factors 232
  External factors 233

Experts 235
Facilitator qualities and skills 235
Techniques 237
  Group development theory 237
  The Johari Window 238

Common interventions 240
  Open space 240
  Consensus 241
  World Café 242

Other techniques 243
  Philosopher’s Walk 243
  Reverse Brainstorming 244
  The Delphi Method 244
  Adaptive Learning 244

Positives and negatives of facilitation 245
  Positives 245
  Negatives 245

Special considerations 249
  Confidentiality 249
  Training 250
## Technology

Related dispute management processes

Conclusion

Exercise in applying your knowledge – Water and topsoil

### 8 Conciliation

Understanding conciliation

Characteristics of conciliation

Using theory and models to dissect conciliation

The AAT Conciliation Model

Preparation and conciliator’s opening statement

Parties’ statements

Joint exploratory session and negotiation

Private meetings

Concluding joint session

Outcome

Using knowledge of conciliation to assist in dispute management

What disputes to conciliate

The role of conciliators

Positives and negatives of conciliation

Positives

Negatives

Special considerations

Good faith

Confidentiality

Other dispute management processes similar to conciliation

Conciliation counselling

Conferencing

Conclusion

Exercise in applying your knowledge – Sinquest Finance Pty Ltd and ASIC

### 9 Collaborative Practice

Understanding Collaborative Practice

Using theory and models to dissect Collaborative Practice

Theory of Collaborative Practice

Models of Collaborative Practice

Intake interview

Initial meeting
10 Arbitration

Understanding arbitration
Definition and development of arbitration 292
Classification of arbitration 293
Based on nationality 293
Based on subject matter 294
Based on its organisation 295
Parties to arbitration 297
Arbitrability 298

Using theory and models to dissect arbitration 298
Philosophical and legal characteristics of arbitration 298
Theory 300
Party autonomy 300
Arbitration rules 300
Arbitration laws 301
International conventions 302
Soft law 302
Hierarchy of the sources of norms 303

Using knowledge of arbitration to assist in dispute management 303
The arbitration agreement 303

Contents xix
11 Litigation

Understanding litigation
- Definition and scope of litigation
- The Australian legal system
- Court jurisdiction and hierarchy
  - State and federal courts
  - General and specialised courts
  - Inferior and superior courts
- Tribunals
Using theory and models to dissect litigation 336
Theory 336
Judges and juries 337
Model of litigation 339
Pre-litigation steps 339
Originating process and service 341
Pleadings 341
Evidence 342
Discovery and privilege 343
Case management 344
Trial 345
Outcomes 346
Setting aside and appeal 347
Enforcement 348
Using knowledge of litigation to assist in dispute management 348
Parties and causes of action 348
Timelines 349
Costs 350
Res judicata and estoppel 351
Positives and negatives of litigation 352
Positives 352
Negatives 353
Special considerations 354
Interim relief 354
Class actions 355
Cross-border litigation 356
Conclusion 357
Exercise in applying your knowledge – Members of Living Land v The Hornet 358

12 Statutory dispute management schemes and professional practice in dispute management 360
Understanding statutory dispute management schemes 361
Using theory and models to dissect statutory dispute management schemes 361
Theory 361
Models 362
Adjudication of payment claims in the building industry 362
Farm debt mediation 365
Contents

Native title claims 366
Ombudsman complaints 369
Using knowledge of statutory schemes to assist in dispute management 370
  Construction adjudication 371
  Farm debt mediation 371
  Native title claims 372
  Royal commissions 372
Positives and negatives of statutory dispute management schemes 373
  Positives 373
  Negatives 374
Special considerations 374
  Codes of conduct and professional liability 375
  Confidentiality 376
  Culture and ethics 377
Roles and jobs in dispute management 378
  Lawyers in dispute management 379
  Working in mediation and conciliation 379
  Working in adjudication 380
  Working in arbitration 381
  Working in litigation: courts and tribunals 382
The positives and negatives of working in dispute management 383
  Positives 383
  Negatives 385
Conclusion 386
Exercise in applying your knowledge – The World against Nico Catano 386

Index 388
**ABOUT THE AUTHORS**

**Pauline Collins** is Professor in the School of Law and Justice at the University of Southern Queensland. She teaches dispute management and international humanitarian law. Pauline has been widely published on matters such as legal education, dispute management, military discipline, international law and private military companies. Pauline has also been a legal practitioner in South Australia working in general practice, Parliamentary Counsel, the Crown Solicitors Office, and the office of the Director of Public Prosecution. She has degrees in law, visual arts, public relations and is a Nationally Qualified Mediator. Pauline was National Mediation Conference Board member helping organise the National Mediation Conference, Gold Coast, 2016. Pauline conducts mediations for the Dispute Resolution Branch in the Queensland Civil and Administrative Tribunal.

**Dalma Demeter** is a law academic, researcher, and practitioner with expertise in international commercial law and dispute resolution. Her teaching combines professional skills and practical application with theory and her pedagogy is recognised by several teaching awards. As a researcher and author, Dalma’s publications focus primarily on dispute management and legal development. She is frequently invited to present at international conferences and to provide capacity building training in the Asia-Pacific Region. As a legal practitioner, Dalma serves as independent arbitrator, adjudicator, and consultant. Her expertise in commercial arbitration, international commercial law, and contracts cover both civil law and common law systems. As an adjudicator, she is accredited to decide construction payment claims. Dalma is a tireless supporter of dispute management and of legal development and harmonisation in international trade law. She serves on several Boards and Committees for organisations working in these areas and she has been the Deputy Chair of the UNCITRAL National Coordination Committee for Australia (UNCCA) between 2017-2020.

**Susan Douglas** is a retired law academic who worked at the University of the Sunshine Coast for over 20 years. She has degrees in Arts, Social Work (with Honours) and Law; a PhD based upon an empirical investigation of mediation; a qualification in University Learning and Teaching; and she is a NMAS-accredited mediator. Sue identifies as a socio-legal scholar and her research includes publication of empirical and critical studies in dispute management, with a focus on mediation. Her teaching has included Business Law, Employment Law and Alternative Dispute Resolution (ADR). Sue continues to publish and to contribute to the ADR Research Network, of which she is a founding member and has served as President. She is currently a consultant editor for the *Australasian Dispute Resolution Journal* (ADJR). She contributed as a Design Committee Member of the Australian National Mediation Conference in 2019 and is committed to a similar role for the Conference in 2021. Sue continues to volunteer as a solicitor with the Suncoast Community Legal Service and as a Management Committee member with the Maroochy Neighbourhood Centre where she offers a mediation service.
### TABLE OF CASES

<table>
<thead>
<tr>
<th>Case</th>
<th>Year</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>500 Burwood Highway Pty Ltd v Australian Unity Ltd</td>
<td>[2012] VSC 596</td>
<td>78</td>
</tr>
<tr>
<td>789 TEN v Westpac Banking Corporation</td>
<td>[2004] NSWSC 594</td>
<td>180</td>
</tr>
<tr>
<td>Atkins v iiNet Pty Ltd</td>
<td>[2019] SASC 83</td>
<td>184</td>
</tr>
<tr>
<td>BC v Minister for Immigration and Multicultural Affairs</td>
<td>[2002] FCAFC 221</td>
<td>351</td>
</tr>
<tr>
<td>Burns v The Queen</td>
<td>[1975] CLR 258</td>
<td>131</td>
</tr>
<tr>
<td>Calderbank v Calderbank</td>
<td>[1975] 3 WLR 586</td>
<td>346</td>
</tr>
<tr>
<td>Carter v Walker</td>
<td>[2010] 32 VR 1</td>
<td>351</td>
</tr>
<tr>
<td>Casaceli v Natuzzi Spa</td>
<td>[2012] 292 ALR 143</td>
<td>298</td>
</tr>
<tr>
<td>CDJ v VAF</td>
<td>[1998] 197 CLR 172</td>
<td>348</td>
</tr>
<tr>
<td>Clone Pty Ltd v Players Pty Ltd (in liq)</td>
<td>[2018] 264 CLR 165</td>
<td>347</td>
</tr>
<tr>
<td>Coco v AN Clark (Engineers) Ltd</td>
<td>[1969] RPC 41</td>
<td>270</td>
</tr>
<tr>
<td>Collins v Queensland</td>
<td>[2020] 61 Fam LR 160</td>
<td>93</td>
</tr>
<tr>
<td>Conomy v Maden</td>
<td>[2019] HCATrans 41</td>
<td>346</td>
</tr>
<tr>
<td>Donoghue v Stevenson</td>
<td>[1932] AC 562</td>
<td>85</td>
</tr>
<tr>
<td>Ebatarinja v Deland</td>
<td>[1998] 194 CLR 444</td>
<td>129, 131</td>
</tr>
<tr>
<td>Egan v Motor Services (Bath) Ltd</td>
<td>[2008] 1 WLR 1589</td>
<td>22–3</td>
</tr>
<tr>
<td>Ellis v Trustees of the Roman Catholic Church for the Archdiocese of Sydney</td>
<td>[2007] HCATrans 697</td>
<td>336</td>
</tr>
<tr>
<td>Enka Insaat ve Sanayi AS v OOO Insurance Company Chubb</td>
<td>[2020] EWCA Civ 574</td>
<td>304</td>
</tr>
<tr>
<td>Field v Commissioner for Railways for New South Wales</td>
<td>[1957] 99 CLR 285</td>
<td>180</td>
</tr>
<tr>
<td>Galaxy Development Pty Ltd v Civil Contractors (Australia) Pty Ltd</td>
<td>[2020] QSC 51</td>
<td>364</td>
</tr>
<tr>
<td>Glencore International AG v Commissioner of Taxation</td>
<td>[2019] 265 CLR 646</td>
<td>344</td>
</tr>
<tr>
<td>Henderson v Henderson</td>
<td>[1843] 67 ER 313</td>
<td>351</td>
</tr>
<tr>
<td>Hera Resources Pty Ltd v Gekko Systems Pty Ltd</td>
<td>[2019] NSWSC 37</td>
<td>344</td>
</tr>
<tr>
<td>Hickie v Hunt &amp; Hunt</td>
<td>[1998] HREOCA 8</td>
<td>161</td>
</tr>
<tr>
<td>House v The King</td>
<td>[1936] 55 CLR 499</td>
<td>347</td>
</tr>
<tr>
<td>Hulley Enterprises Limited (Cyprus) v Russia, UNCITRAL, PCA Case No. AA 226</td>
<td>382</td>
<td></td>
</tr>
<tr>
<td>Interpharma Pty Ltd v Eli Lilly and Company</td>
<td>[2008] FCA 1422</td>
<td>345</td>
</tr>
<tr>
<td>Jones v National Coal Board</td>
<td>[1957] 2 QB 55</td>
<td>338</td>
</tr>
<tr>
<td>Kruger v Commonwealth</td>
<td>[1996] 3 Leg Rep 14</td>
<td>349</td>
</tr>
<tr>
<td>Ku-ring-gai Council v Ikor Constructions Pty Ltd</td>
<td>[2018] NSWSC 610</td>
<td>324</td>
</tr>
<tr>
<td>Legal Services Commissioner v Mullins</td>
<td>[2006] QLPT 12</td>
<td>214–15</td>
</tr>
<tr>
<td>Ling v Commonwealth</td>
<td>[1996] 139 ALR 159</td>
<td>351</td>
</tr>
<tr>
<td>Liprini v McIntyre</td>
<td>[2019] NSWSC 355</td>
<td>178</td>
</tr>
<tr>
<td>Mabo v Queensland</td>
<td>[1992] 175 CLR 1</td>
<td>366</td>
</tr>
<tr>
<td>McDermott v The Queen</td>
<td>[1948] 76 CLR 501</td>
<td>131</td>
</tr>
<tr>
<td>Murphy v Murphy</td>
<td>[2007] FamCA 795</td>
<td>128</td>
</tr>
<tr>
<td>National Australia Bank Ltd v Freeman</td>
<td>[2000] QSC 295</td>
<td>96</td>
</tr>
<tr>
<td>Oceanic Sun Line Special Shipping Co Inc v Fay</td>
<td>[1988] 165 CLR 197</td>
<td>341</td>
</tr>
</tbody>
</table>

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Table of cases

Orr v Holmes (1948) 76 CLR 632, 348
Ostwald Brothers Pty Ltd v Jaylon Pacific Pty Ltd [2016] QSC 240, 363
Pearce v The Queen (1998) 194 CLR 610, 351
Pell v The Queen (2020) 376 ALR 478, 347
R v Ireland (1970) 126 CLR 521, 131
R v Lee (1950) 82 CLR 133, 131
Secure Funding Pty Ltd v Bee [2016] NSWSC 521, 365
Spadaccini v Grice (2012) 52 NTLR 1, 35
Strickland v Commonwealth Director of Public Prosecutions (2018) 266 CLR 325, 131–2
Subway Systems Australia Pty Ltd v Ireland ([2014] 46 VR 49, 301
Sulamérica Cia Nacional De Seguros SA v Enesa Engenheria SA [2013] 1 WLR 102, 304
TCL Air Conditioner (Zhongshan) Co Ltd v Judges of the Federal Court of Australia (2013) 251 CLR 533, 349
Veteran Petroleum Limited (Cyprus) v Russia, UNCITRAL, PCA Case No. AA 228, 382
Yukos Universal Limited (Isle of Man) v Russia, UNCITRAL, PCA Case No. AA 227, 382
<table>
<thead>
<tr>
<th>Australia</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative Appeals Tribunal Act 1975</td>
<td>s 34E, 270</td>
</tr>
<tr>
<td>Building and Construction Industry (Security of Payment) Act 2009</td>
<td>362</td>
</tr>
<tr>
<td>Civil Dispute Resolution Act 2011,</td>
<td>34, 81, 341</td>
</tr>
<tr>
<td>s 4, 178</td>
<td></td>
</tr>
<tr>
<td>s 6, 339</td>
<td></td>
</tr>
<tr>
<td>s 9, 34</td>
<td></td>
</tr>
<tr>
<td>s 12, 340</td>
<td></td>
</tr>
<tr>
<td>s 12(2), 34</td>
<td></td>
</tr>
<tr>
<td>s 12(3), 34</td>
<td></td>
</tr>
<tr>
<td>Constitution, 180, 330–1</td>
<td></td>
</tr>
<tr>
<td>ch III, 331</td>
<td></td>
</tr>
<tr>
<td>s 51, 332</td>
<td></td>
</tr>
<tr>
<td>s 51( xxxv), 256</td>
<td></td>
</tr>
<tr>
<td>s 72, 332</td>
<td></td>
</tr>
<tr>
<td>Corporations (Aboriginal and Torres Strait Islander) Act 2006, 2011</td>
<td>367</td>
</tr>
<tr>
<td>Evidence Act 1995, 343</td>
<td></td>
</tr>
<tr>
<td>pt 3.3, 343</td>
<td></td>
</tr>
<tr>
<td>s 131, 82, 280</td>
<td></td>
</tr>
<tr>
<td>Fair Work Act 2009, 78</td>
<td></td>
</tr>
<tr>
<td>ss 67–70, 160</td>
<td>s 76, 160</td>
</tr>
<tr>
<td>s 85, 160</td>
<td></td>
</tr>
<tr>
<td>Family Law Act 1975, 79, 91, 202, 210</td>
<td>343</td>
</tr>
<tr>
<td>s 101, 294</td>
<td>s 601, 79</td>
</tr>
<tr>
<td>Family Law Legislation Amendment (Family Violence and Other Measures)</td>
<td>91</td>
</tr>
<tr>
<td>Act 2011, 341</td>
<td></td>
</tr>
<tr>
<td>Family Law Rules 2004</td>
<td>div 15.5.3, 343</td>
</tr>
<tr>
<td>Federal Court of Australia Act 1976, 81, 355</td>
<td></td>
</tr>
<tr>
<td>s 37M(1), 353</td>
<td>s 50C, 212</td>
</tr>
<tr>
<td>s 53A, 340</td>
<td></td>
</tr>
<tr>
<td>Federal Court Rules 2011</td>
<td>pt 23, 343</td>
</tr>
<tr>
<td>Foreign Judgments Act 1991, 357</td>
<td></td>
</tr>
<tr>
<td>Foreign Judgments Regulations 1992, 357</td>
<td></td>
</tr>
<tr>
<td>International Arbitration Act 1974, 293–4, 349</td>
<td></td>
</tr>
<tr>
<td>s 2C, 298</td>
<td>s 2D, 302</td>
</tr>
<tr>
<td>s 8(7A), 315</td>
<td>s 16(2), 305</td>
</tr>
<tr>
<td>s 18A(1), 323</td>
<td>s 22A, 318</td>
</tr>
<tr>
<td>s 22A(c), 318</td>
<td>s 23, 320</td>
</tr>
<tr>
<td>s 23G, 320</td>
<td>s 28(1), 375</td>
</tr>
<tr>
<td>Legal Services Directions 2017, 93</td>
<td></td>
</tr>
<tr>
<td>s 117, 336</td>
<td></td>
</tr>
<tr>
<td>Native Title Act 1993, 366–7</td>
<td></td>
</tr>
<tr>
<td>s 86A(1), 32</td>
<td>s 86A(2), 32</td>
</tr>
<tr>
<td>s 203BB, 368</td>
<td>s 203BE, 368</td>
</tr>
<tr>
<td>s 203BF, 368</td>
<td>s 203BG, 368</td>
</tr>
<tr>
<td>s 203BH, 368</td>
<td>s 203BI, 368</td>
</tr>
<tr>
<td>Native Title Legislation Amendment Bill 2020, 369</td>
<td></td>
</tr>
<tr>
<td>Ombudsman Act 1976, 78</td>
<td></td>
</tr>
<tr>
<td>Paid Parental Leave Act 2010, 161</td>
<td></td>
</tr>
<tr>
<td>Privacy Act 1988, 373</td>
<td></td>
</tr>
<tr>
<td>Public Service Act 1999, 382</td>
<td></td>
</tr>
<tr>
<td>Royal Commissions Act 1902, 331, 373</td>
<td></td>
</tr>
<tr>
<td>Sex Discrimination Act 1984, 162</td>
<td></td>
</tr>
<tr>
<td>Telecommunications Act 1997, 78</td>
<td></td>
</tr>
</tbody>
</table>

xxvi
<table>
<thead>
<tr>
<th>Territory</th>
<th>Statute</th>
<th>Section(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Workplace Relations Act 1996, 78</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Workplace Relations and Other Legislation Amendment Act 1996, 334</td>
<td></td>
</tr>
<tr>
<td><strong>Australian Capital Territory</strong></td>
<td>Building and Construction Industry Security of Payment Act 1999, 362</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Civil and Administrative Tribunal Act 2008, 81</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Civil Law (Wrong) Act 2002, 81</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Commercial Arbitration Act 2017, 79</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Court Procedures Rules 2006</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Evidence Act 2011, 343</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Uniform Civil Procedure Rules 2005</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>New South Wales</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Civil Procedure Act 2005, 81</td>
<td></td>
</tr>
<tr>
<td></td>
<td>pt 10, 355</td>
<td></td>
</tr>
<tr>
<td></td>
<td>s 26, 340</td>
<td></td>
</tr>
<tr>
<td></td>
<td>s 38, 340</td>
<td></td>
</tr>
<tr>
<td></td>
<td>s 56(1), 353</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Criminal Procedure Regulation 2017</td>
<td></td>
</tr>
<tr>
<td></td>
<td>pt 7, 73</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Commercial Arbitration Act 2010, 79</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Community Justice Centres Act 1983, 79</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Community Justice Centres (NSW Pilot Project) Act 1980, 79</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Evidence Act 1995, 343</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Farm Debt Mediation Act 1994, 365</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Land and Environment Court Act 1979</td>
<td></td>
</tr>
<tr>
<td></td>
<td>s 34(3)(a), 264</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ombudsman Act 1974, 78</td>
<td></td>
</tr>
<tr>
<td><strong>Northern Territory</strong></td>
<td>Commercial Arbitration (National Uniform Legislation) Act 2011, 79</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Construction Contracts (Security of Payments) Act 2010, 362</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Evidence (National Uniform Legislation Act) 2011, 343</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Local Court Act 1989, 81</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Supreme Court Act 1979</td>
<td></td>
</tr>
<tr>
<td></td>
<td>s 83A, 340</td>
<td></td>
</tr>
<tr>
<td><strong>Queensland</strong></td>
<td>Building Industry Fairness (Security of Payment) Act 2017, 362</td>
<td></td>
</tr>
<tr>
<td></td>
<td>s 78(2), 362</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Civil Proceedings Act 2011</td>
<td></td>
</tr>
<tr>
<td></td>
<td>pt 6, 81</td>
<td></td>
</tr>
<tr>
<td></td>
<td>pt 13A, 355</td>
<td></td>
</tr>
<tr>
<td></td>
<td>ss 40-1, 81</td>
<td></td>
</tr>
<tr>
<td></td>
<td>s 43, 340</td>
<td></td>
</tr>
<tr>
<td></td>
<td>s 52, 212</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Commercial Arbitration Act 2013, 79</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Courts of Conciliation Act 1892, 78</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Courts of Conciliation Act 1931, 78</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Courts Reform Amendment Act 1997, 79</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Dispute Resolution Centres Act 1990, 79</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Evidence Act 1977, 343</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Farm Business Debt Mediation Act 2017, 365</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Neighbourhood Disputes (Dividing Fences and Trees) Act 2001, 91</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Queensland Civil and Administrative Tribunal Act 2009, 81</td>
<td></td>
</tr>
<tr>
<td></td>
<td>s 88, 202</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Uniform Civil Procedure Rules 1999, 343</td>
<td></td>
</tr>
<tr>
<td><strong>South Australia</strong></td>
<td>Building and Construction Security of Payment Act 2009, 362</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Commercial Arbitration Act 2011, 79</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Conciliation Act 1929, 78</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Evidence Act 1929, 343</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Farm Debt Mediation Act 2018, 365</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ombudsman Act 1972, 78</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Sentencing Act 2017</td>
<td></td>
</tr>
<tr>
<td></td>
<td>s 22, 73</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Supreme Court Act 1935, 81</td>
<td></td>
</tr>
<tr>
<td></td>
<td>s 65, 340</td>
<td></td>
</tr>
<tr>
<td><strong>Tasmania</strong></td>
<td>Alternative Dispute Resolution Act 2001</td>
<td></td>
</tr>
<tr>
<td></td>
<td>s 5(1), 81</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Commercial Arbitration Act 2011, 79</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Evidence Act 2001, 343</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Supreme Court Civil Procedure Act 1932</td>
<td></td>
</tr>
</tbody>
</table>

Table of statutes xxvii
Supreme Court Civil Procedure Act 1932 (cont.)
  s 37A, 340
  s 37B, 340

Victoria
Civil Procedure Act 2010, 81
  s 7, 353
Commercial Arbitration Act 2011, 79
Evidence Act 2008, 343
Farm Debt Mediation Act 2011, 365
Magistrates’ Court (Koori Court) Act 2002, 73
Supreme Court Act 1986
   pt 4A, 355
   s 24A, 340
   s 25(1)(e)-(ea), 340
Supreme Court (General Civil Procedure Rules) 2015
   r 44.01, 343
Traditional Owner Settlement Act 2010, 367

Western Australia
Commercial Arbitration Act 2012, 79
Construction Contracts Act 2004, 362
Evidence Act 1906, 343
Parliamentary Commissioner Act 1971, 78
Supreme Court Act 1935, 81
   s 69, 340

Sweden
Constitution 1809, 369

United Kingdom
Judicature Act 1873, 72
Judicature Act 1875, 72

United States of America
Uniform Collaborative Law Act 2009, 276, 288

International instruments
Charter of the United Nations, 89

Hague Convention on Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters 1965, 341, 357
Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters 1971, 357
Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters 2019, 357
Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters, 357
International Covenant on Civil and Political Rights, 353
   art 14, 345
Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters, 357
UNCITRAL Arbitration Rules (2013), 301
UNCITRAL Model Law on International Commercial Arbitration, 294, 301, 349
   art 1(3), 294
   art 4, 321
   art 5, 318
   art 7, 303, 305
   arts 7(3)–(6), 305
   art 8(1), 318
   art 9, 319
   art 11(3)(a), 319
   art 11(3)(b), 319
   art 11(4), 319
   art 13(3), 319
   art 16(1), 322
   art 16(3), 319, 322
   art 17A, 320
   art 17H, 319
   art 17J, 319
   art 18, 310
   art 19(1), 306
   art 19(2), 311
   art 24(1), 311
   art 27, 320
   art 29, 314
   art 33, 314

Table of statutes
<table>
<thead>
<tr>
<th>Article</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>34, 320</td>
<td></td>
</tr>
<tr>
<td>34(2)(a)(i)</td>
<td>315</td>
</tr>
<tr>
<td>34(2)(a)(ii)</td>
<td>315</td>
</tr>
<tr>
<td>34(2)(a)(iii)</td>
<td>316</td>
</tr>
<tr>
<td>34(2)(a)(iv)</td>
<td>316</td>
</tr>
<tr>
<td>34(2)(b)(i)</td>
<td>315</td>
</tr>
<tr>
<td>34(2)(b)(ii)</td>
<td>315</td>
</tr>
<tr>
<td>35–6, 315</td>
<td></td>
</tr>
<tr>
<td>36(1)(a)(i)</td>
<td>315</td>
</tr>
<tr>
<td>36(1)(a)(ii)</td>
<td>315</td>
</tr>
<tr>
<td>36(1)(a)(iii)</td>
<td>316</td>
</tr>
<tr>
<td>36(1)(a)(iv)</td>
<td>316</td>
</tr>
<tr>
<td>36(1)(b)(i)</td>
<td>315</td>
</tr>
<tr>
<td>36(1)(b)(ii)</td>
<td>315</td>
</tr>
</tbody>
</table>

**United Nations Convention on International Settlement Agreements Resulting from Mediation**, 357


<table>
<thead>
<tr>
<th>Article</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>II(1), 305</td>
<td></td>
</tr>
<tr>
<td>V(2), 305</td>
<td></td>
</tr>
</tbody>
</table>
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