

**DENTONS**

# **Australia's government, laws and regulatory bodies**

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# Australia's government, laws and regulatory bodies

## 1. Australia's government and laws

Australia is a democratic, constitutional monarchy with a federal system of government.

Australia comprises six states (New South Wales, Queensland, Victoria, South Australia, Western Australia and Tasmania) and two mainland territories (Northern Territory and Australian Capital Territory). It has a population of more than 26 million and is the twelfth largest economy in the world.

There are three tiers of government in Australia; federal, state (and territory) and local.

- The federal government legislates on specific areas listed in the Australian Constitution which are of relevance to the nation as a whole. These include trade and commerce, defence, foreign affairs, taxation, banking, communications and customs.
- The state and territory governments legislate primarily on matters of service delivery regarding areas such as education, health, transport and housing.
- Local governments have the smallest jurisdiction and are established by the state and territory governments in which they exist. Their primary function is to deliver community services such as waste disposal services, street lighting and parking, arts and cultural programs, roads etc.

A business established in Australia is bound by federal laws, the laws of the particular states or territories in which it operates and the regulations of local government where it has a presence.

Australia is a common law country, meaning that case law applies alongside statute law.

## 2. Key regulatory bodies

### Australian Competition and Consumer Commission (ACCC)

The ACCC is an independent Australian Government statutory authority. The ACCC seeks to promote competition, fair trading and to provide for consumer protection to benefit consumers, businesses and the community. It addresses anti-competitive and unfair market practices, company mergers and acquisitions that have an anti-competitive effect, product safety and product liability, and third-party access to national infrastructure services.

### Australian Prudential Regulation Authority (APRA)

APRA is the prudential regulator of the Australian financial services industry. APRA supervises all bank and non-bank financial institutions (such as banks, insurers and superannuation funds) to ensure that prudential standards and practices are met to maintain a stable and competitive financial system.

### Australian Securities and Investments Commission (ASIC)

ASIC is an independent Australian Government statutory authority which regulates Australia's financial markets, corporations and financial services providers. ASIC's role is to maintain, facilitate and improve the performance of the financial system and entities in it, promote confident and informed participation by investors and consumers in the financial system. ASIC regulates organisations and professionals who deal and advise in investments, superannuation, insurance, deposit taking and credit. ASIC is responsible for enforcing and administering various laws related to financial services and corporations, conducting investigations, and imposing penalties and sanctions when necessary.

## **Australian Transaction Reports and Analysis Centre (AUSTRAC)**

AUSTRAC is the Australian Government agency responsible for preventing, detecting, deterring and disrupting criminal abuse of the financial system to protect the community from serious and organised crime. AUSTRAC enforces breaches of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) and *Financial Transactions Reports Act 1988* (Cth), which can include applying to the Federal Court for a civil penalty order against a non-complying entity.

## **ASX Limited (ASX)**

The ASX (also known as the Australian Securities Exchange) provides the platform for the major Australian market trading in equities, derivatives, futures and fixed interest securities. The ASX functions as a market operator, clearing house and payments system facilitator. The ASX compliance function oversees compliance by listed entities and market participants with its listing and operating rules, promotes standards of corporate governance among Australia's listed companies, and helps to educate retail investors. The operations of the ASX are reinforced by the market supervision and regulatory role undertaken by ASIC across all trading venues and clearing and settlement facilities.

## **Australian Taxation Office (ATO)**

The ATO is the statutory body responsible for administering the federal tax system. The current income tax system involves taxation of income and capital gains of individuals and businesses. It is governed by legislation, ATO administrative taxation rulings and court decisions. The ATO also regulates Australia's superannuation system, collects excise tax on tobacco, petroleum and alcohol, and administers the goods and services tax.

## **Foreign Investment Review Board (FIRB)**

The main functions of FIRB are to:

- Examine proposals by certain foreign persons wishing to make investments in Australia
- Advise the government on the foreign investment proposals received
- Monitor and ensure compliance with foreign investment laws and regulations

The Treasurer is ultimately responsible for the government's foreign investment policy and for making decisions on proposals.

## **IP Australia**

IP Australia is a federal government agency which receives and processes applications for registration of patents, trademarks, designs, and plant breeder's rights and which conducts hearings and decides on disputed matters relating to granting or refusing Australian intellectual property rights. Various copyright collecting societies administer certain uses of copyright materials for their members and are authorised to collect fees for uses of the copyright materials, which they redistribute to copyright owners.

## **Reserve Bank of Australia (RBA)**

The RBA is an independent statutory authority performing Australia's central banking functions. It has two broad areas of responsibility:

- Monetary policy (primarily directed at maintaining inflation rates)
- Financial stability (to prevent excessive risks in the financial system and to limit the effects of financial disturbances when they occur)

The RBA plays an active role in maintaining the efficiency of the payments system and is responsible for issuing Australian currency. It also manages Australia's gold and foreign exchange reserves.

## **Takeovers Panel**

The Takeovers Panel is a peer review body that regulates corporate control transactions (greater than 20 per cent) of Australian companies. The Takeovers Panel was established under the *Australian Securities and Investments Commission Act 2001* (Cth) and derives its enforcement powers directly from the *Corporations Act 2001* (Cth) (**Corporations Act**). The Takeovers Panel operates under ASIC and is composed of experts from various backgrounds, including legal, financial, and commercial sectors. The primary role of the Takeovers Panel is to provide a forum for resolving disputes in takeovers, aiming to provide timely and effective resolutions.

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