MA99 EDUCATION

Investigating the law: Summary 01

NSW LEGAL STUDIES 11-12 SYLLABUS 2025 FOR HSC 2028 AND LATER

Every Act and case is real and cited the way you should cite it. Read this the week before an assessment.

1. The focus area on one page

CONTENT POINT	KEY POINT	EVIDENCE
Effective law	Known, clear, consistent with values, equal, enforceable, not retrospective, responsive, efficient	Social media age law: penalties up to $49.5 million, yet children reported getting around it
Classifying law	Six pairs: binding, written, public, criminal, common, domestic, and their opposites	UDHR 1948 is non-binding; ICCPR 1966 is binding on parties
Justice	Equality, access and fairness	Legal Aid NSW; Anti-Discrimination Act 1977 (NSW)
Ethics and law	They overlap but are not the same; contested ethics can move the law	Voluntary Assisted Dying Act 2022 (NSW): conscience vote, 23 to 15; in force 28 November 2023
Procedural fairness	A fair hearing and the rule against bias	Kioa v West (1985) 159 CLR 550; Charisteas v Charisteas [2021] HCA 29
Rule of law	All are equal before the law; no one is above it, the government included	Robodebt: Prygodicz (No 2) [2021] FCA 634, $112 million settlement
Absence or misuse of law	Absence brings disorder; misuse turns law into a weapon	Aborigines Protection Amending Act 1915 (NSW) s 13A; Bringing Them Home, 26 May 1997
Customary Lore	Diverse, living law grounded in Country, Peoples, Cultural Practices and kinship	Circle Sentencing, Nowra, 2002; 84 Indigenous Protected Areas
Common law in Australia	Received in 1788, fixed by 1828, made Australian by 1986	Australian Courts Act 1828 (Imp) s 24; Australia Act 1986
Precedent	Ratio binds down one hierarchy; obiter and outside courts persuade	Donoghue (1932) and Grant (1936); NZYQ overruled Al-Kateb (2023)
Statute and process	Bill, three readings, both Houses, royal assent, commencement	Social media bill: 21 November to 10 December 2024
Delegated legislation	Detail made under an Act, controlled by Parliament and courts	Online Safety (Age-Restricted Social Media Platforms) Rules 2025 (Cth)
Courts	Role, jurisdiction, hierarchy: Local, District, Supreme, High Court	Local Court civil to $100,000; District to $1.25 million
Parliament	Bicameral; makes law, represents, forms government, scrutinises	NSW: 93 and 42 members; Commonwealth: 150 and 76
Courts and parliament	A dialogue: parliament legislates, courts interpret and invalidate, parliament responds	Commonwealth v ACT [2013] HCA 55; Mabo then Native Title Act 1993
Division of powers	Exclusive, concurrent, residual; s 109; territories under s 122	Tasmanian Dam case (1983) 158 CLR 1
Separation of powers	Three arms; judicial power kept strictly separate	Boilermakers (1956); NZYQ [2023] HCA 37
Referendums	Double majority under s 128; 8 of 45 carried	1967: 90.77 per cent; 2023: 39.94 per cent
State sovereignty	Limits enforcement abroad; treaties need legislation at home	Japan left the IWC, 2019; Teoh (1995) 183 CLR 273
UN, IGOs, courts, NGOs	Forum, rules, judges and pressure	ICJ climate opinion, 23 July 2025; Whaling, 31 March 2014; ICAN, 2007

CONTENT POINT	KEY POINT	EVIDENCE
Sources and protection of rights	Constitution, statute, common law, international law; no national bill of rights	ss 80, 116, 51(xxxi); Racial Discrimination Act 1975 (Cth)
Breach of rights	Remedies, invalidity, international criticism, reform	Toonen v Australia (1994), then the 1994 Act, then repeal in 1997

2. The facts to quote

Legal foundations

Robodebt. Debts raised by averaging income from 2016; unlawful (Amato, consent orders, November 2019); $112 million settlement approved 11 June 2021 in Prygodicz v Commonwealth (No 2) [2021] FCA 634, with debts of at least $1.763 billion unlawfully asserted against about 433,000 people ("a massive failure of public administration"); Royal Commission report 7 July 2023, "crude and cruel mechanism", 57 recommendations.

Charisteas v Charisteas [2021] HCA 29. Private contact between the trial judge and one side's barrister, March 2016 to February 2018. Test: a fair-minded lay observer "might reasonably apprehend that the judge might not bring an impartial mind". Unanimous; orders set aside; rehearing.

Kioa v West (1985) 159 CLR 550. A deportation decision relied on an adverse claim Mr Kioa was never given the chance to answer; natural justice required a hearing.

Customary Lore

NESA glossary: Lore comes from the Dreaming, and it "provides protocols and Practices" for how people relate to Country, Kinship and Community; "folklore" is not appropriate. Elders hold, teach and uphold Lore and mediate disputes to restore relationships. Circle Sentencing began at Nowra in February 2002; the Youth Koori Court at Parramatta in 2015, Surry Hills in 2019, Dubbo on 24 March 2023. ALRC Report 31, tabled 12 June 1986. Indigenous Protected Areas: 84, covering 87 million hectares of land and 5 million of sea, more than half of the National Reserve System (DCCEEW). Royal Commission into National Natural Disaster Arrangements, 28 October 2020: a chapter on Indigenous land and fire management.

Sources of law

Reception. Settlement 1788; Australian Courts Act 1828 (Imp) s 24 fixed 25 July 1828; Cooper v Stuart (1889): "practically unoccupied". **Independence.** Parker v The Queen (1963) 111 CLR 610; Australia Act 1986 from 3 March 1986; Mabo (No 2) (1992) 175 CLR 1.

The 2024 Act. Introduced 21 November 2024; House passed 27 November, more than 100 votes to 13; Senate passed with amendments 28 November, 34 to 19; House agreed 29 November; royal assent 10 December 2024, Act No 127 of 2024; age limit from 10 December 2025; penalties up to $49.5 million. The 2025 Rules, made by the Minister, set which platforms it covers. Disallowance: 15 sitting days; sunsetting: 10 years (Cth), 5 years (NSW).

Legal institutions

Local Court. Civil to $100,000 (Small Claims to $20,000); summary crimes; committals. Its judicial officers have been called judges, not magistrates, since 28 March 2026. **District Court.** All crimes except murder, treason and piracy; civil to $1.25 million. **Supreme Court.** Murder; unlimited civil; Court of Appeal and Court of Criminal Appeal. **High Court.** Seven Justices; final appeals; the Constitution.

Children's Court of NSW (1905). Crime by those under 18 at the time of the offence; care and protection; compulsory schooling orders. **Coroners Court.** Coroners Act 2009 (NSW): unnatural, sudden, suspicious deaths, missing persons, fires and explosions; no blame; recommendations; inquest mandatory for deaths in custody or police operations. Lindt Café inquest: 29 January 2015 to findings 24 May 2017. **NCAT** since 1 January 2014.

Parliaments. NSW: Legislative Assembly 93, Legislative Council 42, Governor. Commonwealth: House 150 (since 3 May 2025), Senate 76, Governor-General.

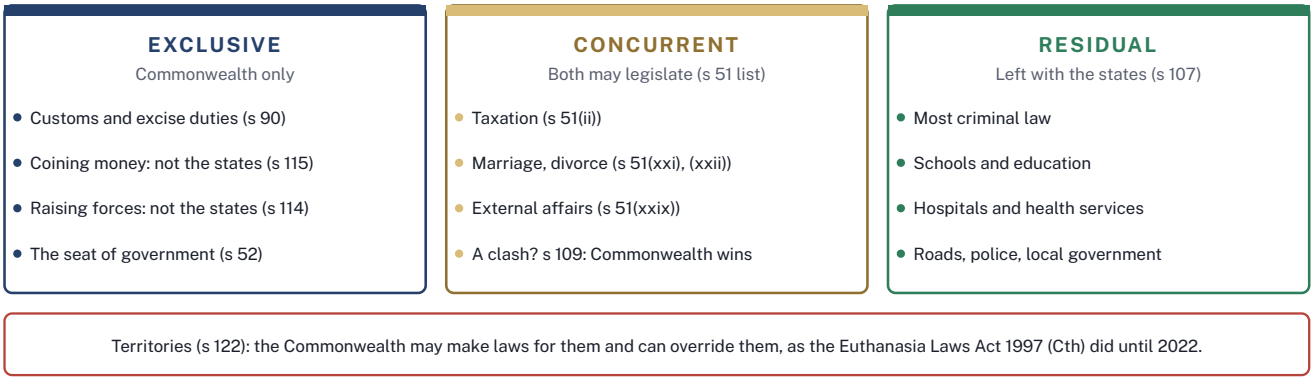


Figure 1 · The division of powers: the section numbers to quote.

The constitutional framework

Conventions 1891 and 1897 to 1898; colonial referendums 1898 to 1900; royal assent 9 July 1900; in force 1 January 1901. Exclusive (ss 52, 90, 114, 115), concurrent (s 51), residual (s 107); s 109 inconsistency; s 122 territories. Euthanasia Laws Act 1997 (Cth) until the Restoring Territory Rights Act 2022 (Cth), 13 December 2022; ACT assisted dying from 3 November 2025. Tasmanian Dam case, 4 to 3, external affairs power. Boilermakers (1956) 94 CLR 254. NZYQ [2023] HCA 37: unanimous; Al-Kateb (2004) overruled; about 149 released. Referendums: 8 of 45 carried; 1967 90.77 per cent and six states; 1999 republic 45.13 per cent; 2023 Voice 39.94 per cent (6,286,894 of 15,739,686) and no state.

The global legal system

ICJ Statute art 38: treaties, custom, general principles, decisions and writings. UN Charter in force 24 October 1945; 193 members; art 2(1) sovereign equality; art 2(7) domestic jurisdiction. Whaling in the Antarctic (31 March 2014): JARPA II not for scientific research, 12 to 4; Japan's withdrawal from the IWC took effect on 30 June 2019. Climate opinion: General Assembly resolution 77/276 (29 March 2023); hearings December 2024 with 96 states; unanimous advisory opinion 23 July 2025; not binding. Rome Statute 1998, in force 1 July 2002. ICAN: Melbourne, 23 April 2007; nuclear weapons ban treaty adopted 7 July 2017, in force 22 January 2021; Nobel Peace Prize 2017.

Legal rights

Express constitutional rights: s 80 (jury), s 116 (religion), s 51(xxxi) (just terms). Implied: political communication (ACTV 1992; Lange 1997). Statute: Racial Discrimination Act 1975, Sex Discrimination Act 1984 (Cth), Anti-Discrimination Act 1977 (NSW); human rights Acts in the ACT (2004), Victoria (2006), Queensland (2019). Common law: Dietrich (1992); Coco v The Queen (1994). International: ICCPR ratified 1980; CRC ratified 1990. Toonen v Australia: views 31 March 1994; Human Rights (Sexual Conduct) Act 1994 (Cth); Tasmania repealed in 1997.

3. Methods as short recipes

Cite a law the way a Band 6 answer does

An Act: full name, year, jurisdiction: Crimes Act 1900 (NSW). **A case:** name in italics, year, report or court: Kioa v West (1985) 159 CLR 550, or Charisteas v Charisteas [2021] HCA 29. **A report:** body, title, date: Royal Commission into the Robodebt Scheme, report, 7 July 2023.

TASK	RECIPE
Classify a law	Run all six pairs in order; say "binding on parties" for a treaty and "non-binding" for a declaration
Explain precedent	Hierarchy first, then ratio versus obiter, then one binding and one persuasive real example
Choose a court	Type of matter, then seriousness or amount, then whether it is an appeal or a constitutional question
Explain a relationship	Name both sides, the mechanism between them ("because", "so"), and a case for each direction
Evaluate effectiveness	Name a NESA criterion, give dated evidence for and against, then judge against that criterion

TASK	RECIPE
Use international law	Name the instrument and year, say whether Australia is a party, then whether Parliament has legislated

4. Common errors

The mistakes that cost the most

Calling “civil law” one thing: it means private law here, and a code-based legal system elsewhere. Writing that a judge “investigates” in an adversarial trial.

Confusing the division of powers (Commonwealth and states) with the separation of powers (legislature, executive, judiciary). Writing that a treaty is part of Australian law once signed: it needs legislation.

Calling obiter dicta binding, or a decision of another state’s court binding in NSW. Describing Customary Lore in the past tense, as one system, or as folklore.

Saying the High Court “changed the Constitution”: only a referendum changes its words. Calling an ICJ advisory opinion binding.

5. The last check before the assessment

Tick each line only when you can do it on blank paper, without these notes. Every line left at “not yet” is where your next hour of study goes.

CAN I DO THIS WITHOUT NOTES?	YES	NOT YET
Classify the Crimes Act and the UDHR six ways each.		
Explain both rules of procedural fairness with a High Court case each.		
Explain the rule of law with Robodebt, including two dates and the settlement.		
Outline the roles of Elders and give a NSW court example.		
Walk the 2024 social media bill from introduction to assent, with dates and votes.		
Draw both court hierarchies and give two jurisdiction limits.		
Explain s 109 with the Tasmanian Dam case, and the separation of powers with NZYQ.		
Explain the double majority with the 1967 and 2023 results.		
Explain state sovereignty with the whaling case, and an NGO’s role with ICAN.		
Trace Toonen from complaint to repeal.		

> If you can only do one thing before the assessment, learn one Act or case for each content point, with its year.

About this resource

MA99 EDUCATION

Scope

NSW Legal Studies, Year 11. Written to the NSW Legal Studies 11-12 Syllabus 2025, Investigating the law, for students sitting the HSC in 2028 and later years. Written to the new syllabus, taught in Year 11 from 2027. Cases and legislation are real and cited as at October 2026; check for later changes before relying on them.

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