

LAWS 3013 CONFLICT OF LAWS

Credit Points 10

Legacy Code 200656

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Description Conflict of Laws (also known as Private International Law) is about resolving legal questions involving more than one jurisdiction. Conflict of Laws issues may arise between the Australian States and Territories or between nations. The globalisation of economic activity, and ease and affordability of travel and telecommunications have contributed to the recent dramatic increase of trans-national dimensions in personal and commercial litigation. This subject provides an introduction to the sources of conflict of laws, the international jurisdiction of domestic courts, the recognition and enforcement of foreign judgements and decrees, and the problem of choice of law as it arises in various situations.

School Law

Discipline International Law

Student Contribution Band HECS Band 4 10cp

Check your HECS Band contribution amount via the Fees (https://www.westernsydney.edu.au/currentstudents/current_students/fees/) page.

Level Undergraduate Level 3 subject

Pre-requisite(s) LAWS 2013 AND
LAWS 2003 AND
LAWS 3082

Learning Outcomes

On successful completion of this subject, students should be able to:

1. Identify and discuss key substantive issues in conflict of laws including: the private dimensions of international law and forum issues that domestic courts face.
2. Compare key aspects of the way in which Australian courts approach conflict of laws situations with procedures in other jurisdictions;
3. Identify and discuss the complexities of enforcement of judgments;
4. Critically examine the issues presented in the readings;
5. Analyse problems concerning conflict of laws, develop options, including applying legal principles, to resolve the problems;
6. Research an issue concerning conflict of law and present your analysis in a logically argued clearly written, well structured, appropriately referenced paper.

Subject Content

- introduction
- Jurisdiction
- choice of Law
- Discretionary non-Exercise of choice
- limits on Jurisdiction
- aspects of trans-national Litigation
- enforcement of foreign judgements
- Defences to enforcement of foreign judgements
- choice of Law-substance and procedure

- Conflict of laws within Australia-constitutional dimensions of choice of Law
- Conflict of laws within Australia-Federal and cross-vested Jurisdiction
- particular applications: choice of Law in Contract, Tort, property Law, family Law

Assessment

The following table summarises the standard assessment tasks for this subject. Please note this is a guide only. Assessment tasks are regularly updated, where there is a difference your Learning Guide takes precedence.

| Type | Length | Percent | Threshold | Individual/ Group Task |
|-----------------------|-------------|---------|-----------|---------------------------|
| Class Participation | | 10 | N | Individual |
| Research Essay | 2,000 words | 40 | N | Individual |
| Take Home Examination | | 50 | N | Individual |

Prescribed Texts

- Davies, M, AS Bell, and PLG Brereton, Nygh's Conflict of Laws in Australia (LexisNexis, 9th ed, 2013)

Teaching Periods