



HERBERT  
SMITH  
FREEHILLS

# DOING BUSINESS IN AUSTRALIA

OVERVIEW OF AUSTRALIA





## Chapter 1

# Overview of Australia

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Australia is an extraordinary place for new business and foreign investment with a resilient economy, urbanized infrastructure, a skilled and multilingual workforce and a stable political environment. This guide outlines the laws and business practices in Australia, covering topics such as business acquisitions, foreign investment regulations, fundraising, consumer protection and product liability, banking regulation, and taxation.

Australia was ranked 14 in the World Economic Forum's Global Competitiveness Report 2018, due to its transparent public and private institutions, well-developed infrastructure, good macroeconomic environment, and strong health and primary education. This is supported by a strong and efficient financial system with a sound banking sector.

## The country, the people and the economy

Australia is an island continent in the Asia-Pacific region with an area of about 7.6 million km<sup>2</sup>. Australia has a temperate climate in most of the inhabited areas and a tropical climate in the north. The official language is English.

Australia is a vibrant multicultural society with a population of approximately 25.2 million people. With an annual population growth rate of 1.6%, the domestic market is consistently expanding, making Australia an appealing destination for corporations looking to expand their services abroad.

The key sectors of the Australian economy are services (79.2%), construction (8.8%), manufacturing (7.4%), agriculture (2.7%) and mining (1.9%).

Given its strong economic outlook and significant trust in its political, legal and economic institutions, Australia is an extremely attractive destination for foreign direct investment (FDI). Australia consistently ranks within the top 10 FDI destinations in the world. Australia's largest sources of cumulative FDI are currently the US, Japan and the UK.

With an economy strongly linked to Asia - and in particular, China - there is also great optimism

in Australia's future economic development. In fact, Australia's economy has had uninterrupted growth in total GDP for 27 years, the longest in the developed world.

Australia has very strong export markets. Natural resources make up 49.1% of Australia's A\$215 billion in exports in 2018, followed by services (21.2%), manufacturing (11.5%) and rural (10.8%). Australia's top five export commodities in 2018 were iron ore, coal, education, gold and natural gas. Australia's top five trading partners are currently China, Japan, South Korea, the US and India.

Since 70% of the population resides in the major cities, particularly along the east coast in Brisbane, Sydney and Melbourne, most business activities occur in these areas.

## **Government**

The Commonwealth of Australia consists of six states (New South Wales, Queensland, South Australia, Tasmania, Victoria and Western Australia), two major mainland territories (Australian Capital Territory and Northern Territory) and other minor territories. The capital city of Australia is Canberra.

There are three main levels of government in Australia:

- the Australian Government (also referred to as the Commonwealth or the "federal government")—primarily responsible for matters such as defence, foreign trade and international relations, income taxes, social welfare, immigration, telecommunications and broadcasting, commerce and currency;
- state governments—responsible for services such as education, health, housing, law enforcement, natural resources, roads and transport, and tourism; and
- local councils—responsible for services such as local roads, town planning, and waste removal and sanitation.

The structure of government in Australia is known as the "Westminster" system, similar to that of England. The three arms of government (at both federal and state levels) are:

- the legislature—makes the law;
- the executive—administers and polices the law; and
- the judiciary—interprets and applies the law, and rules on disputes.



## Legal system

Australia has a “common law” system which is based on the English legal system. Australia’s legal system has both federal and state laws. Australia also has a written Constitution which defines the structure of government and the powers of the Commonwealth and the states and territories.

Australian law is derived from three main sources:

- legislation or statutes (that is, Acts of parliament);
- subordinate rules or regulations (enforced pursuant to powers granted under Acts of parliament); and
- case law (developed by the courts in the course of resolving disputes).

Legislation prevails over case law; however, much case law involves the interpretation of legislation. Case law is the source of rights and duties which are not dealt with in the Acts and regulations. For a description of the court system and dispute resolution process, see Chapter 23 of this publication, *Dispute Resolution*.

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