## DISPUTE RESOLUTION COVERAGE AS OF AUGUST 2018

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Litigation practice and procedure</td>
<td>2</td>
</tr>
<tr>
<td>Australian judicial system</td>
<td>2</td>
</tr>
<tr>
<td>Jurisdiction, legislation, time limits and immunities</td>
<td>2</td>
</tr>
<tr>
<td>Court claims: overview and pre-action</td>
<td>3</td>
</tr>
<tr>
<td>Commencement: originating process, pleadings and service</td>
<td>3</td>
</tr>
<tr>
<td>Relief</td>
<td>4</td>
</tr>
<tr>
<td>ADR and compromise</td>
<td>5</td>
</tr>
<tr>
<td>Costs</td>
<td>6</td>
</tr>
<tr>
<td>Case management</td>
<td>7</td>
</tr>
<tr>
<td>Interim applications</td>
<td>7</td>
</tr>
<tr>
<td>Disclosure</td>
<td>8</td>
</tr>
<tr>
<td>Privileges and confidentiality</td>
<td>9</td>
</tr>
<tr>
<td>Evidence</td>
<td>10</td>
</tr>
<tr>
<td>Trial practice</td>
<td>12</td>
</tr>
<tr>
<td>Judgments, orders and enforcement</td>
<td>13</td>
</tr>
<tr>
<td>Appeals</td>
<td>14</td>
</tr>
<tr>
<td>State and territory litigation practice</td>
<td>14</td>
</tr>
<tr>
<td>Representative proceedings</td>
<td>15</td>
</tr>
<tr>
<td>Social media issues litigation</td>
<td>15</td>
</tr>
<tr>
<td>Corporate insolvency</td>
<td>16</td>
</tr>
<tr>
<td>Liquidation</td>
<td>16</td>
</tr>
<tr>
<td>Receivership</td>
<td>17</td>
</tr>
<tr>
<td>Voluntary administration</td>
<td>18</td>
</tr>
<tr>
<td>Deeds of company arrangement</td>
<td>19</td>
</tr>
<tr>
<td>Personal insolvency</td>
<td>20</td>
</tr>
<tr>
<td>Bankruptcy</td>
<td>20</td>
</tr>
<tr>
<td>Personal insolvency agreements</td>
<td>20</td>
</tr>
</tbody>
</table>
Litigation practice and procedure

*Australian judicial system*

- Practice notes
  - Australian judicial system

- Checklists
  - Australian judicial system: flowchart
  - State and territory Supreme Court procedure, comparative table

*Jurisdiction, legislation, time limits and immunities*

- Practice notes
  - Construing federal legislation
  - Crown and foreign state immunities
  - Federal jurisdiction, the cross vesting scheme and conflicts of law
  - Governing law and jurisdiction clauses
  - Limitation of actions

- Standard documents
  - Letter to potential applicant advising on limitation
  - Letter to potential respondent advising on limitation
  - Application to transfer proceedings between Federal Court registries
  - Affidavit to support Federal Court transfer application

- Checklists
  - Limitation periods for common actions
Court claims: overview and pre-action

- Practice notes
  - Common Federal Court actions
  - Federal court claims overview
  - Pre-action conduct
  - Directors’ and officers’ liability insurance in Australia

- Standard documents
  - Letter to applicant client giving overview of the litigation process
  - Letter to respondent client giving overview of the litigation process
  - Letter before action for breach of contract
  - Letter before action for negligence or breach of duty

- Checklists
  - Commencing legal proceedings
  - Insurance issues in litigation

Commencement: originating process, pleadings and service

- Practice notes
  - Originating process, pleadings, amendment and Anshun estoppel
  - Service, appearance and extradition
  - Parties to proceedings

- Standard documents
  - Particulars request
  - Britts’ pleading precedents: contract claims
  - Britts’ pleading precedents: defences to contract claims
  - Britts’ pleading precedents: tort claims
- Britts’ pleading precedents: defences to tort claims
- Britts’ pleading precedents: miscellaneous claims
- Britts’ pleading precedents: miscellaneous defences
- Britts’ pleading precedents: cross-claims, replies to defences, defences to cross-claims

(See also Federal Jurisdiction and legislation, time limits and immunities, Federal Court claims, overview and pre-action, Relief, Interim applications and Costs topics resources)

Relief

- Practice note: overview
  - Relief in court proceedings
  - State and territory proportionate liability regimes

- Practice notes
  - Accessorial liability in equity
  - Anton Piller, Mareva and anti-suit injunctions
  - Contribution and proportionate liability
  - Damages and other compensatory orders in competition and consumer law claims
  - Damages in contract and tort
  - Damages in shareholder claims under corporations law
  - Equitable declarations, estoppel and unjust enrichment
  - Equitable remedies to recover money
  - Equitable rectification
  - Injunctions: general principles
  - Injunctions: special cases and undertakings
  - Misleading conduct claims and litigation
  - Relief in regulatory proceedings
  - Rescission
  - Specific performance
• Standard documents
  - Freezing orders
  - Search orders

• Toolkits
  - Injunctions
  - Relief

**ADR and compromise**

• Practice note: overview
  - ADR processes, conciliation, neutral evaluation, expert determination and court referrals

• Practice notes
  - Commercial arbitration: overview
  - Commercial arbitration: conduct and enforcement
  - Calderbank offers
  - Mediation: principles
  - Mediation: preparation and conduct
  - Offers of compromise
  - Settlement agreements: principles and preparation
  - Settlement agreements: enforcement

• Checklists
  - Analysis of best and worst case scenarios for mediation
  - Table distinguishing Calderbank offers and offers of compromise
  - Statutory regime applicable to offers of compromise: flowchart
  - Drafting a settlement agreement or deed
  - Offers of compromise: state and territory comparison table
Table of Contents

- Standard documents
  - ADR Policy
  - Calderbank offer
  - Mediation agreement
  - Settlement agreement
  - Settlement deed

- Standard clauses
  - Mediation clause
  - Arbitration agreement

(See also Costs topic resources)

- Toolkits
  - ADR Toolkit

Costs

- Practice notes
  - Costs: assessment and enforcement
  - Costs: general principles
  - Costs: solicitor and client agreements
  - Costs: third parties and special cases
  - Security for costs
  - Tax implications in litigation and dispute resolution

- Checklists
  - Costs: common terms and orders
  - Security for costs

- Standard documents
  - Security for costs: application for security for costs
Security for costs: draft order
- Security for costs: lawyer's affidavit to support application
- Security for costs: letter requesting financial information
- Security for costs: letter requesting security for costs
- Security for costs: notice to produce financial material
- Security for costs: without prejudice letter

Toolkits
- Security for costs

(See also Interim applications and ADR and compromise topics resources)

Case management

Practice notes
- Case management
- Federal Court National Practice Area procedures
- Overview of Federal Court docket system and general case management procedures
- Procedural fairness

Standard documents
- First directions or case management hearing: draft orders

(See also Interim applications, Evidence and Trial practice topics resources)

Interim applications

Practice notes
- Adjournment and extension applications
- Amendment applications
- Bias applications
Disclosure

- Discovery applications and notices
- Discovery: consequences of non-disclosure
- Discovery involving third parties
- Discovery: reviewing the client's documents
- Discovery: reviewing the opponent's documents
- Discovery: scoping and conducting a search for documents
- Discovery: standard and electronic
- Freedom of information (FOI) requests
- Freedom of information (FOI): reviews and appeals
- Interrogatories
- Subpoenas
Checklists
- Expert document management and protection basic guide
- Table of document retention obligations
- FOI applications: flowcharts
- FOI applications: table of exempt and conditionally exempt documents
- Subpoenas: practical tips

Standard documents
- Discovery confidentiality regime
- Discovery orders
- Discover: letter to litigation client on disclosure obligations
- Litigation hold notice

Toolkits
- Document disclosure toolkit

(See also Privileges and confidentiality topic resources)

Privileges and confidentiality

Practice notes
- Confidentiality and access to court documents
- How legal professional privilege applies to special cases
- Legal professional privilege
- Without prejudice and other privileges

Checklists
- Preserving privilege in practice
Standard documents

- Discovery confidentiality regime
- Interim confidentiality orders and undertakings to preserve confidentiality pre-trial
- Suppression and non-publication orders on trial: identity in federal prosecution
- Suppression and non-publication orders on trial: agreed facts
- Suppression and non-publication orders on trial: confidential documents
- Suppression and non-publication orders on and post-trial: interim general non-publication order

Toolkits

- Confidentiality orders and undertakings, suppression and non-publication orders
- Document disclosure toolkit

(See also Disclosure topic resources)

Evidence

- Practice notes: overview
  - Evidence in court proceedings

- Practice notes
  - Admissions
  - Annexures and exhibits
  - Business records and other exceptions to the hearsay rule
  - Credibility and character evidence
  - Discretionary and mandatory exclusion of evidence
  - Evidence of contracts and other documents
  - Evidence of foreign law
  - Expert opinion evidence practice
  - Hearsay
  - Judgment and conviction evidence
- Lay witness evidence practice
- Obtaining evidence from non-party witnesses
- Opinion evidence
- Overseas witness evidence
- Preparing factual evidence
- Proof and inferences
- Relevance
- Standards of proof
- Survey evidence
- Tendency and coincidence evidence
- Video-link evidence

• Checklists

- Admissibility of evidence overview: flowchart
- Admissions as exception to hearsay and opinion rules
- Admissions as exception to hearsay and opinion rules in criminal proceedings: flowchart
- Admissions as exception to hearsay and opinion rules in civil proceedings: flowchart
- Admissions: flowchart
- Client legal privilege: flowchart
- Coincidence evidence: flowchart
- Credibility evidence: flowchart
- Expert document management and protection basic guide
- Expert oral evidence basic guide
- Expert report compliance and admissibility basic guide
- Hearsay in civil proceedings: flowchart
- Hearsay in criminal proceedings: flowchart
- Hearsay overview: flowchart
- Opinion evidence overview: flowchart
- Opinion evidence: flowchart
- Picture identification evidence: flowchart
- Privilege against self-incrimination: flowchart
- Tendency evidence: flowchart
- Visual identification evidence: flowchart
Standard documents

- Expert witness: letter of instructions
- Letter to witness about preparing their witness statement
- Objections to expert evidence
- Objections to written evidence

Toolkit

- Document disclosure toolkit

(See also Trial practice standard documents, Privileges and confidentiality topic and Disclosure standard documents)

Trial practice

Practice notes

- Annexures and exhibits
- Civil trial practice
- Document management in hearings
- Evidence of contracts and other documents
- Evidence of foreign law
- Expert opinion evidence practice
- Lay witness evidence practice
- Obtaining evidence from non-party witnesses
- Preparing factual evidence
- Preparing lay witnesses for trial
- Trial applications

Standard documents

- Interim confidentiality orders and undertakings to preserve confidentiality pre-trial
- Letter to witness about giving evidence at trial
- Objections to expert evidence
- Objections to written evidence
Suppression and non-publication orders on and post-trial: interim general non-publication order
- Suppression and non-publication orders on trial: confidential documents
- Suppression and non-publication orders on trial: identity in federal prosecution
- Suppression and non-publication orders on trial: agreed facts

• Checklists
  - Expert oral evidence basic guide
  - Expert report compliance and admissibility basic guide

• Toolkits
  - Civil trial practice
  - Confidentiality orders and undertakings, suppression and non-publication orders

(See also Evidence, Privileges and confidentiality and Disclosure topics resources)

Judgments, orders and enforcement

• Practice notes
  - Judgments and orders: entry and enforcement
  - Registering inter-jurisdictional and foreign judgments
  - Varying, setting aside and staying judgments and orders

• Standard documents
  - Letter to client: options to enforce a money judgment or order

(See also Interim applications, Costs and Appeals topics resources)
Appeals

- Practice notes
  - Appeals from non-judicial bodies: overview
  - Appeals: practice and procedure
  - Appeals: principles
  - Leave to appeal, principles, practice and procedure

- Standard documents
  - Notice of appeal

- Standard clauses
  - Leave to appeal: orders

- Checklists
  - Appeals: timeline
  - Leave to appeal: federal and state comparison table

State and territory litigation practice

- Practice notes
  - Australian Capital Territory court practice and procedure
  - New South Wales court practice and procedure
  - Northern Territory court practice and procedure
  - Queensland court practice and procedure
  - South Australian court practice and procedure
  - Tasmanian court practice and procedure
  - Victorian Civil and Administrative Tribunal (VCAT) practice and procedure
  - Victorian Magistrates Court practice and procedure
**Table of Contents**

- Victorian Supreme Court practice and procedure
- Western Australian court practice and procedure

- **Checklists**
  - Leave to appeal: federal and state comparison table
  - Offers of compromise: state and territory comparison table
  - State and territory Supreme Court procedure: comparative table

**Representative proceedings**

- Practice note: overview
  - Class actions in Australia

- **Practice notes**
  - Litigation funding

(See also Privileges and confidentiality, Relief, Interim applications, Disclosure and Costs topics resources)

**Social media issues litigation**

- Practice note: overview
  - Social media: claims
  - Social media: preservation and discovery
  - Social media: evidence

- **Practice notes**
  - Social media: jurisdiction and service

- **Toolkit**
  - Social media
Corporate insolvency

Liquidation

- Practice note: overview
  - Liquidation
  - Liquidators’ powers to search for, seize and secure company records and property

- Practice notes
  - Applications to extend time to register PPSA security interests: practice and procedure
  - Applications to extend time to register PPSA security interests: general principles
  - Civil actions to enforce breaches of duty and other wrongful conduct
  - Corporate insolvency and related directors’ duties
  - Creditor winding up applications
  - Guide to liquidators’ claims for remuneration and disbursements: practice and procedure
  - Ipso facto clauses: Enforcing termination and other contractual rights against a company in external administration
  - Insolvent trading actions
  - Liquidator applications to challenge voidable transactions: practice and procedure
  - Liquidators’ remuneration and disbursements: general principles
  - Proofs of debt
  - Recovery of execution proceeds and other property
  - Security interests that can be challenged in liquidation
  - Statutory demands
  - Voidable transactions: general principles
  - Voluntary winding up

- Checklists
  - Making an application for an order extending time for registration of a PPSA security interest
Making and opposing a winding up application
- Opposing an application for an order extending time for registration of a PPSA security interest
- Preparing and serving a statutory demand and affidavit
- Preparing and serving an application to set aside a statutory demand and supporting affidavit
- Quick guide for landlords: external administration of a corporate tenant
- Quick guide to the effect of liquidation on the company and key stakeholders
- Tips and strategies for contracting with a company: ipso facto and other clauses
- Tips and strategies for protecting and enforcing contractual rights against a company in external administration

• Standard documents
  - Affidavit to support application for an order extending time for registration of a PPSA security interest (solicitor)
  - Affidavit to support application for an order extending time for registration of a PPSA security interest (secured creditor)
  - Application for an order extending time for registration of a PPSA security interest
  - Draft order extending time for registration of a PPSA security interest

Receivership

• Practice note: overview
  - Receivership (private appointments)

• Practice note
  - Ipso facto clauses: Enforcing termination and other contractual rights against a company in external administration

• Checklists
  - Quick guide for landlords: external administration of a corporate tenant
Quick guide to the effect of receivership on the company and key stakeholders
- Tips and strategies for contracting with a company: ipso facto and other clauses
- Tips and strategies for protecting and enforcing contractual rights against a company in external administration

(See also Voluntary administration resources).

- Toolkit
  - Ipso facto clauses

Voluntary administration

- Practice note: overview
  - Voluntary administration

- Practice notes
  - Applications to extend time to register PPSA security interests: general principles
  - Applications to extend time to register PPSA security interests: practice and procedure
  - Corporate insolvency and related directors’ duties
  - Ipso facto clauses: Enforcing termination and other contractual rights against a company in external administration
  - Pre-pack arrangements in corporate insolvency

- Standard documents
  - Affidavit to support application for extension of convening period
  - Application for extension of convening period
  - Extension of convening period: draft order
  - Application for an order extending time for registration of a PPSA security interest
- Affidavit to support an application for an order extending time for registration of a PPSA security interest (secured creditor)
- Affidavit to support application for an order extending time for registration of a PPSA security interest (solicitor)
- Draft order extending time for registration of a PPSA security interest

● Checklists

- Quick guide to the effect of voluntary administration on the company and key stakeholders
- Quick guide for landlords: external administration of a corporate tenant
- Voluntary administration: flowchart
- Making an application for an order extending time for registration of a PPSA security interest
- Opposing an application for an order extending time for registration of a PPSA security interest
- Tips and strategies for contracting with a company: ipso facto and other clauses
- Tips and strategies for protecting and enforcing contractual rights against a company in external administration

● Toolkit

- Ipso facto clauses

Deeds of company arrangement

● Practice note: overview

- Deeds of company arrangement

● Checklists

- Quick guide to the effect of a DOCA on the company and key stakeholders
- Quick guide for landlords: external administration of a corporate tenant
Personal insolvency

Bankruptcy

- Practice notes
  - Bankruptcy notices
  - Debtors' petitions for bankruptcy
  - Hearing of a creditor's petition for a sequestration (bankruptcy) order
  - Preparing and serving a creditor's petition for a sequestration (bankruptcy) order

- Checklists
  - Issuing, serving and setting aside a bankruptcy notice
  - Presenting and opposing a creditor's petition

Personal insolvency agreements

- Practice notes
  - Entering into a personal insolvency agreement
COMING SOON TO DISPUTE RESOLUTION

Practical Law is a dynamically evolving service. In 2018, we plan to develop the following resources in existing topic areas (specific resource titles are indicative):

• State and territory litigation practice
  - Australian Capital Territory Supreme Court forms and rules
  - New South Wales Supreme Court forms and rules
  - New South Wales District Court forms and rules
  - New South Wales Local Court forms and rules
  - Northern Territory Local Court forms and rules
  - South Australian Supreme Court forms and rules
  - South Australian Magistrates Court forms and rules
  - Tasmanian Supreme Court forms and rules
  - Victorian Supreme Court forms and rules
  - Victorian County Court forms and rules
  - Victorian Magistrates Court forms and rules
  - Western Australian Supreme Court forms and rules
  - Western Australian District Court forms and rules
  - Western Australian Magistrates Court forms and rules

• Disclosure
  - Resources giving practical tips for drafting and serving a subpoena.

• Voluntary administration
  - Resources providing guidance in relation to the appointment of an administrator, addressing key issues such as eligibility, independence requirements, circumstances in which an administrator may resign or be removed and the effect of removal or resignation.

• Liquidation
  - A suite of resources (including standard documents) to effect a members' voluntary liquidation, creditors' voluntary liquidation, and to voluntarily deregister a company.
A suite of standard documents for an application by a liquidator to set aside a voidable transaction.

In 2018, we also plan to develop the following resources in new topic areas (titles are indicative):

- **Litigation and dispute resolution strategy**
  - This new topic will include resources providing guidance on litigation strategy for pursuing and defending proceedings. These resources will address matters including steps to minimise the risk of litigation, selection of court and appropriate parties, optimizing the scope of the claim or defence, legal representation and availability and deployment of resources, when to compromise, worthwhile interim applications, selection of witnesses, trial preparation, limiting costs and maximizing costs recovery, and sensible appeals.

- **Commercial contract claims**
  - Resources in relation to commercial contract claims, which will address the key principles of construction, particular types of claims, establishing breach of contract, types of relief available and principles governing the measure of damages. The resources will also address limitation periods and other factors that may limit the scope of the claim, how the statutory proportionate liability regimes may apply, and issues arising with respect to specific types of contracts and commercial contexts.

- **Regulatory investigations**
  - Resources providing guidance for responding to an Australian Securities and Investments Commission (ASIC) investigation, including pre-investigation actions and strategies to avoid or limit the scope of an investigation, responding to a dawn raid, conflicts of interest as between a company and its directors/other officers and legal representation, document production and claims of privilege and confidentiality, enforcement remedies and negotiating a resolution with ASIC to remedy misconduct or breach.
**Lawyers' professional responsibilities**

- Resources providing guidance on lawyers' professional responsibilities, including obligations on commencement of proceedings (advice on prospects, costs and other disclosures), obligations on ex parte applications, witnessing documents, advising on and certifying discovery and preparing evidence and witnesses, and communications with represented and unrepresented parties.

We welcome customer feedback on the development of Practical Law Australia. Should you have comments or suggestions, please contact us at [Laura.Hawes@thomsonreuters.com](mailto:Laura.Hawes@thomsonreuters.com).