

SEPARATION OF POWERS

In Australia, the power to make and manage federal law is divided between three groups: the Parliament, the Executive and the Judiciary. This division is known as ‘separation of powers’ and is an important principle in Australia’s system of governance.

History has shown that checks on the use of power, such as this, are important for preventing misuse of power. Separation of powers avoids a monopoly of power by any one group. Each group works within its area of responsibility and also keeps a check on the actions of the other groups.

The following table shows the role of each arm of governance and their composition:

Power	Role	Composition
Parliament	The Parliament makes and amends the law	The Parliament (also referred to as the Legislature) is made up of the Queen (represented by the Governor-General), the Senate and the House of Representatives
Executive	The Executive puts the law into action	The Executive is made up of the Prime Minister and ministers
Judiciary	The Judiciary makes judgements about the law	The Judiciary is made up of the High Court and other federal courts

Responsible government

In Australia separation of powers works together with another principle known as responsible government, to guide the way law is made and managed. The implementation of separation of powers is not exact in Australia because the Parliament, the Executive and the Judiciary are not entirely separate. For example, members of the Executive are selected from the Parliament and High Court judges are officially appointed by the Governor-General, who is a part of the Parliament.

‘Responsible government’ means that a party or coalition must maintain the support of the majority of members of the House of Representatives in order to remain in government. This provides another check on the Executive, ensuring they remain accountable to the Parliament and do not abuse their power.

History

The origins of the principle of the separation of powers can be traced as far back as ancient Greece. It was however made popular by the French philosopher Charles de Montesquieu in 1748 in his work *L’Esprit des Lois* (the Spirit of the Laws). He wrote that a nation’s freedom depended on the three powers of governance—legislative, executive and judicial—each having their own separate institution. This principle has been widely used in the development of many democracies since that time.