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# LEGAL RESEARCH SKILLS

## AN AUSTRALIAN LAW GUIDE

*A collaboration between*



# Legal Research Skills: An Australian Law Guide: 2024 Edition

# LEGAL RESEARCH SKILLS: AN AUSTRALIAN LAW GUIDE: 2024 EDITION

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- The University of Queensland
- James Cook University
- The University of Southern Queensland
- Charles Darwin University
- Southern Cross University
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- Deakin University
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# ABOUT THIS GUIDE

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This guide is designed to support students undertaking legal studies and contribute to developing research skills in Australian law schools.

*Legal Research Skills: An Australian Law Guide* is organised into four parts:

- **Part 1: Research Skills** introduces the concept of legal research, identifies the key sources of legal information, and the importance of researching strategically.
- **Part 2: Case Law** provides an introduction on how to locate cases by citation or topic, and judge a case's reliability.
- **Part 3: Legislation** helps students learn about the parliamentary process, how to find legislation and the materials used for statutory interpretation.
- **Part 4: Secondary Sources** focuses on the role of secondary sources in legal research.

This guide is general in nature and is designed to be institution neutral. The guide is shared under a CC-BY-NC 4.0 licence and can be adopted as is or adapted and localised for specific Australian Universities, law libraries and/or law schools.

**The 2024 edition of this guide primarily includes examples from the Queensland, Victorian, New South Wales, Northern Territory, South Australian and Commonwealth jurisdictions.**

**This 2024 edition replaces the *Legal Research Skills: An Australian Law Guide (2023 Edition)*.**

It is envisioned that this resource will be updated regularly and expanded to include examples from all other Australian jurisdictions in the future.

## Attribution

This 2024 edition is an updated version of the [Legal Research Skills: An Australian Law Guide \(2023 Edition\)](#). These guides are an adaptation of [Legal Research Essentials](#) by the University of Queensland Library which is available under a [Creative Commons Attribution Noncommercial 4.0 International Licence](#).

## Acknowledgements

The idea of adapting the *UQ Legal Research Essentials* to be available as an interactive Pressbook was the catalyst for a collaborative project that evolved across multiple universities. This guide is the result of a generous-spirited open collaborative effort between current and former law librarians from:

- The University of Queensland
- James Cook University
- The University of Southern Queensland
- Charles Darwin University
- Southern Cross University
- Queensland University of Technology
- Deakin University
- University of South Australia.

An amazing amount of goodwill has been shared and reciprocated within this project and is very much appreciated.

Grateful acknowledgment is also given to the exceptional staff at the [Council of Australian University Librarians \(CAUL\) OER Collective](#) for expert guidance and for providing the hosting platform for this freely available resource.

# ACKNOWLEDGEMENT OF COUNTRY

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*We acknowledge the Traditional Owners and their custodianship of the lands upon which the contributing Universities are located within Australia.*

*We pay our respect to the Elders past and present for all First Nations Peoples, who continue cultural and spiritual connections to Country.*

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# ACCESSIBILITY STATEMENT

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The web version of this resource has been designed with accessibility in mind and incorporates the following features:

- Designed to consider the needs of people who use screen reading technology.
  - All content can be navigated using a keyboard.
  - Links, headings, and tables are formatted to work with screen readers.
  - Images have alt tags.
- Information is not conveyed by colour alone.

## Other File Formats Available

In addition to the web version, this book is available in several file formats, including PDF, EPUB (for ereaders), and various editable files. Choose from the selection of available file types from the ‘Download this book’ drop-down menu. This option appears below the book cover image on the [eBook’s landing page](#).

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# VERSIONING HISTORY

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This page provides a record of changes made to this guide after publication. Each set of edits is acknowledged with a 0.1 increase in the version number. The downloadable export files available for this guide reflect the most recent version.

Version	Date	Details
1.0	15 Jan 2024	This guide is first published on the CAUL OER Collective Pressbooks Platform. This is an updated version of the <a href="#">Legal Research Skills: An Australian Law Guide (2023 edition)</a> .
1.1		
1.2		

# INTRODUCTION

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Studying law is a rewarding but often overwhelming experience. It is common to hear students talk about the law as if they are learning another language – there are rules and cultural procedures you need to follow to understand why things are the way they are. This resource is intended to provide foundational guidance to students starting legal research for the first time.

*Legal Research Skills: An Australian Law Guide* is divided into four parts reflecting the different techniques and sources you are likely to encounter in your studies:

- **Part 1: Research Skills** introduces the concept of legal research, identifies the key sources of legal information, and the importance of researching strategically.
- **Part 2: Case Law** provides an introduction on how to locate cases by citation or topic, and judge a case's reliability.
- **Part 3: Legislation** helps students learn about the parliamentary process, how to find legislation and the materials used for statutory interpretation.
- **Part 4: Secondary Sources** focuses on the role of secondary sources in legal research.

The 2024 edition of this guide includes examples from the jurisdictions of:

- Queensland
- Victoria
- South Australia
- Northern Territory
- New South Wales
- the Commonwealth.

It is envisioned that this resource will be expanded to include examples from the remaining Australian jurisdictions in future editions.



# PART I

# RESEARCH SKILLS

## 1.

# WHAT IS LEGAL RESEARCH?

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Legal research can be summarised as the ability to find, evaluate, and use sources of legal information to:

- solve a legal problem.
- suggest reform of the law.
- compare the laws of different jurisdictions.
- understand the role of law in society.

## Understanding legal research skills is important

Understanding these skills will not only improve your effectiveness in university assessment but will also prove valuable in your future career. Those who study law will continue to use legal research skills once they graduate and are in practice or other workplaces.

## 2.

## SOURCES OF LEGAL INFORMATION

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One of the challenging aspects of legal research is the variety of sources of legal information.

In Australia, there are two types of laws:

- **Case law:** made through the courts and otherwise known as judge-made law, common law, or case law
- **Legislation:** made through the parliament and otherwise known as acts or statutes.

Case law and legislation are considered primary sources of law because they *are* the law.

Encyclopaedias, journal articles, books, commentaries etc., are considered secondary sources because they talk *about* the law.

In legal research, it is often recommended that students approach a topic by looking at secondary sources of law to understand the key issues in that area of law. Secondary sources provide analysis and explanation of the law and state the leading cases or legislation on a topic. Understanding the background of a topic before reading the primary sources (i.e., cases and legislation) can help contextualise your research.

### Primary and secondary sources

**Primary sources** of law are the authoritative sources (sometimes called “authorities”) of law as made by law-making bodies. They include:

- Case law: also known as common law or judge-made law
- Legislation: which includes Acts of Parliament (or Statutes) and subordinate legislation (or delegated legislation).

**Secondary sources** provide commentary and background information on the primary sources of law and can assist in identifying the relevant primary sources. They may provide you with a quick overview or an in-depth analysis of a topic, with references to leading cases or relevant legislation. They include:

- Legal dictionaries
- Legal encyclopaedias
- Books
- Journal articles
- Looseleaf services
- Law reform resources.

3.

## LEGAL RESEARCH STRATEGY

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How you approach your research task may vary depending on your research question. However, the approach below works well with legal problem-solving methodologies such as IRAC.

### What is IRAC?

IRAC is a legal problem-solving methodology commonly used in Australian law schools. Researchers using the IRAC method should identify the:

- Issue — state legal issues that are relevant
- Rule — state the legal rule found in legislation or case law
- Application — apply the rules to the facts
- Conclusion.



Figure 1: Diagram of the legal research strategy by UQ Library in [UQ Legal Research Essentials](#) used under [CC-BY-NC 4.0](#)

### Analyse and plan

Analysing your research question involves identifying the appropriate area of law and any relevant legal issues at play. If you are researching a problem-based scenario, you should pay especially careful attention to:

- jurisdiction
- dates and timeline of events

- persons involved.

These facts will affect how you formulate your research question, as well as which websites, databases, and sources of legal information you will need to consult.

## Research the law

At this stage, you should focus on identifying the legal rules found in legislation and case law because this is what you will need to restate in your writing.

### Secondary to primary

When you are new to legal research or unfamiliar with an area of law, proceeding from general information (secondary sources) to more specific, authoritative information (primary sources) is a good approach. Secondary sources are written by subject-matter experts who can efficiently lead you to the key authorities you will need to use.

Alternatively, if you feel like you have a good grasp of the area of law and legal principles at play, you may wish to move straight to primary sources to answer your legal question.

### Keeping up to date with the law

Once you have found your authorities, you need to make sure that they are up-to-date. Has the case you are relying on been reversed on appeal? Has the Act and provision you wish to cite been amended recently?

## Apply the law

Apply the law to the facts. Use plain English to express your thoughts and to indicate the best course of action to take as well as the likely outcome of taking that course. It is important to:

- deal separately with each specific issue raised by the facts
- refer to the points of law extracted from the various cases, legislation, or texts
- have clarity of reasoning
- list authorities for and against the argument
- always conclude.

Statements setting out principles of law should be supported by authoritative resources, preferably primary sources.

## 4.

## SEARCHING STRATEGIES AND TIPS

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### Search strategy

Before you start searching for information, take some time to think about the legal situation or scenario and plan your search strategy. There is a vast amount of primary and secondary material available across multiple databases, catalogues, and print publications. It is important to develop a systematic approach to your research.

Before you begin searching, consider the following questions:

- What do you wish to find (journal articles, commentary, law reform material)?
- Which resources will you need to search (databases, library catalogues, Library Guides)?
- Are there applicable search parameters (time period or jurisdiction)?
- What search terms will you need to use (keywords, phrases, and synonyms)?

### Keywords and phrases

As part of planning your search strategy, you will need to think of keywords and phrases to help you find relevant information. Remember, you are researching the legal issues, not the facts of the scenario, so select keywords and phrases that are relevant to the legal issues of the case. Brainstorm related words, subject terms, synonyms, and phrases. The more care and thought you put into your search strategies, the more relevant your results will be.

Imagine you are searching for journal articles on the topic of refugees. A keyword search for **refugee** returns 919 hits. After expanding your search and utilising other possible keywords and phrases, a search for refugee OR “asylum seeker” OR “displaced persons” returns 956 hits.

**Table 1: Keywords and synonyms**

Keyword	Synonym	Related term
Refugee	Asylum seeker	Displaced persons

## Search operators

### Boolean operators

Boolean operators are connective words you place between your keywords to improve your search results.

**Table 2: Using Boolean operators to connect keywords**

Boolean operator	Example	Results
<b>AND</b>	negligent AND conduct	This search will find both words
<b>OR</b>	teenager OR youth	This search will find either word
<b>NOT</b>	remedy NOT damages	This search will find the first word but not the second word

### Truncation and wildcards

Truncation symbols are used to find alternative word endings. For instance:

placing a truncation symbol (such as \* or !) after *law\** retrieves *law, laws, lawyer, lawless, lawlessness*

Wildcard symbols are used to replace a single character within the word. For instance:

*organi?ation* retrieves *organisation* or *organization*.

These truncation and wildcard symbols vary between databases. Use the help section in each database to find the specific symbol.

### Proximity operators

Proximity operators enable you to define how closely your search terms will be found in relation to one another. Proximity searching is commonly used in legal research to improve the relevancy of results, as most legal databases perform searches across lengthy documents (such as entire journal articles or full text judgments). For instance:



*contributory w/s negligence* retrieves documents with both words appearing within the same sentence

## Power of phrase searching

Searching for a phrase using “double quotation marks” will dramatically focus your search results. Rather than finding results for 3 ungrouped words, the search engine will return results for the phrase.

This example search in Google Scholar demonstrates the power of phrase searching:

Illegal wildlife trade = 190,000 results

“Illegal wildlife trade” = 10,200 results

## Combining operators

Sometimes you may need to use more than one operator in the same search. When you use more than one type of operator in the same search, you can use brackets to ‘nest’ the terms so the database processes the different parts of the search in the correct order. An example is if you wanted to find material on the sentencing of young people. By adding more operators, the following search string will capture the most relevant records in one search:

sentenc! AND (teenager OR youth OR adolescent)

By using operators and brackets to nest and connect synonyms, you can ensure that you receive the most relevant results.

**The resource below is provided as a space for you to practice creating a search strategy**



*An interactive H5P element has been excluded from this version of the text. You can view it online here:*

<https://oercollective.caul.edu.au/legal-research-skills-an-australian-law-guide-2024-edition/?p=47#h5p-1>

## 5.

# AUSTRALIAN GUIDE TO LEGAL CITATION (AGLC) 4TH EDITION

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Referencing acknowledges the sources of ideas and information used in written work. Correct referencing is an important skill as it:

- prevents allegations of plagiarism
- provides evidence of relevant research, wide reading, and authorities for legal arguments
- enables readers to locate and verify information sources
- forms part of ethical practice by acknowledging the work of others.

The referencing style used in the Australian law discipline is currently the 4<sup>th</sup> edition of *Australian Guide to Legal Citation* ('AGLC'),<sup>1</sup> which is available for free download from the [Melbourne University Law Review](#). The *AGLC* is a footnote referencing style and prescribes rules and elements to construct footnote references for a wide variety of source types. It is divided into the following sections:

- Part I — General Rules
- Part II — Domestic Sources
- Part III — Secondary Sources
- Part IV — International Materials
- Part V — Foreign Domestic Sources.

## AGLC 4 – General Rules

Newcomers to the *AGLC* should begin by reviewing Part I for an overview of rules that apply generally across the style. Key general rules include:

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1. Melbourne University Law Review Association and Melbourne Journal of International Law, *Australian Guide to Legal Citation* (4<sup>th</sup> ed, 2018) ('AGLC').

**Table 3: Overview of *Australian Guide to Legal Citation* key general rules**

<b>1.1.2</b>	Insert footnote numbers after any punctuation, eg ....is outlined in the relevant Act. <sup>1</sup>
<b>1.1.3</b>	Use a semicolon ; to separate multiple citations within a single footnote.
<b>1.1.4</b>	End all footnote citations with a full stop.
<b>1.1.6</b>	Do not use prefixes before pinpoint page numbers, eg use 35 — not p 35, p. 35, pg 35, at 35, per 35 etc. Pinpoint paragraph numbers are generally enclosed in square brackets, eg [15]. Separate multiple pinpoint references with a comma.
<b>1.1.7</b>	Use an en-dash to separate spans of pinpoint references, eg 21–2 or [35]–[37].
<b>1.2</b>	Where appropriate, use introductory signals before a citation, eg see, see also, see especially, see generally, cf.
<b>1.3</b>	Rules for citing a source that is quoted in, cited or discussed in another source.
<b>1.4</b>	Rules for subsequent references are discussed in detail in the section on <a href="#">AGLC Subsequent References</a> .
<b>1.6.1</b>	Do not use full stops in abbreviations or after initials.
<b>1.6.3</b>	Rules for em-dashes, en-dashes, hyphens and slashes.
<b>1.7</b>	Capitalise the first letter of the first word in a title or subtitle and of main words within source titles, eg <i>Effective Legal Writing: A Practical Guide</i> .
<b>1.8.2</b>	Italicise all source titles, wherever they appear, as required by <i>AGLC</i> rules.
<b>1.11.1</b>	Dates are written as Day Month Year, eg 10 November 2022.
<b>1.13</b>	Formatting a bibliography in <i>AGLC</i> style is discussed in detail in the section on <a href="#">AGLC Bibliographies</a> .

## Direct Quotations

A direct quote must appear in the format outlined in *AGLC* 1.5. This includes extracts copied word for word from legislation and case judgments.

**Short quotations (3 lines or less) — type the quotation into the main text and add single quotation marks around the quote.**

Short quotation example

Legal research is a vital skill because ‘what you learn in law school, or in your years as a lawyer, can easily change and become outdated or superseded’.<sup>2</sup>

Alternative short quotation example (from open text)

Australia has traditionally made a ‘clear distinction between the various areas of law making up the law of obligations’.<sup>3</sup>

**Long quotations (more than 3 lines) — indent as a separate paragraph using smaller font size and no quotation marks.**

Long quotation example

Custom or trade usage may give rise to implied contractual terms:

Over time, particular contractual clauses have become typical for certain types of trade. Some of these have reached such widespread acceptance that virtually anybody in that line of trade would assume all contracts done within that line of trade to contain those particular terms. The law recognises this fact and, thus, terms may be implied based on custom or trade usage.<sup>4</sup>

2. Jay Sanderson, Drossos Stamboulakis and Kim Kelly, *A Practical Guide to Legal Research* (Lawbook, 5<sup>th</sup> ed, 2021) 1.

3. Dan Jerker B Svantesson, *Svantesson on the Law of Obligations* (Bond University, 4<sup>th</sup> rev ed, 2022) pt 1.1.

4. Ibid pt 2.3.

*AGLC* 1.5 also outlines rules for omissions, introducing and editing quotes.

6.

## AGLC FOOTNOTES

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The *AGLC* is a footnoting style where footnotes are inserted next to the relevant portion of text and the footnote entry appears at the bottom of each page.

To insert a [footnote](#) within Microsoft Word:

1. Use the **References** tab
2. Click **Insert Footnote**.

The [General Rules](#) section provides more information about the general format of footnotes.

The *AGLC* covers many different types of sources. Begin by identifying the type of source you would like to reference, then locate the associated rule in the *AGLC* contents or index.

This section provides example footnote citations for a selection of key sources; consult the [AGLC](#) itself for comprehensive rules for referencing other types of sources.

Click on the *i* symbols for an explanation of each element in the citation.

### Cases — *AGLC* rule 2

Reported case footnote citation example (*AGLC*2.2)



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### **Legislative Materials — *AGLC* rule 3**

Statute footnote citation example



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### **Journal Articles — *AGLC* rule 5**

Journal article footnote citation example





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## Books — *AGLC* rule 6

Book footnote citation example



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## Reports and Similar Documents — *AGLC* rule 7.1

Law Reform Commission publication footnote citation example (*AGLC* 7.1.4)



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## Looseleaf Services — *AGLC* rule 7.8

Online looseleaf commentary service footnote citation example



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<https://oercollective.caul.edu.au/legal-research-skills-an-australian-law-guide-2024-edition/?p=51#h5p-12>

Refer to *AGLC* 7.8 to format a print/hardcopy looseleaf service citation.



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<https://oercollective.caul.edu.au/legal-research-skills-an-australian-law-guide-2024-edition/?p=51#h5p-13>

## Sources not covered by the AGLC

To reference a source that does not fit neatly within an *AGLC* rule, adapt an existing rule for a similar source to maintain ‘clarity and consistency’.<sup>1</sup> It may also be helpful to search for post-2018 citations of the source in articles published in the following journals, as they adhere strictly to the *AGLC* style:

- [Melbourne University Law Review](#)
- [Melbourne Journal of International Law](#).

Contact the *AGLC* editors on X via [@AGLCTweets](#) to ask complex referencing questions.

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1. Melbourne University Law Review Association and Melbourne Journal of International Law, *Australian Guide to Legal Citation* (4<sup>th</sup> ed, 2018) xi (*AGLC*)

## 7.

## AGLC SUBSEQUENT REFERENCES

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### Subsequent References

*AGLC* 1.4 outlines general rules for subsequent citations to sources. All sources must be referenced in full the first time that they are cited. Subsequent citations should use an abbreviated form of the original citation.

Note, there are two different ways to indicate a subsequent reference, depending on whether or not it immediately follows the earlier citation.

#### Ibid

Use the abbreviation “ibid” if a source is identical to a source cited in the immediately preceding footnote. This applies regardless of whether the preceding footnote is a full citation or an abbreviated version. Ibid cannot be used if the immediately preceding footnote contains multiple sources. Add a new pinpoint reference where relevant.

#### Subsequent referencing where ibid does not apply

To reference a source cited earlier in the document, but not in the immediately preceding footnote, use an abbreviated version of the source and a cross-reference to the initial citation. For authored secondary sources, this includes the author/s last name, a cross-reference to the original footnote and any new pinpoint references.

*Author/s Surname* (n Footnote Number) Pinpoint.

Where a source is not authored, or the author is an organisation or institution, assign a short title after the initial full citation of the source. The short title should appear inside parentheses after any pinpoint references, but before the closing punctuation, and be enclosed by single quotation marks. Aside from these requirements, the format of short titles should adhere to the general title rules for that particular source type.

For subsequent references to the source, use the short title, a cross-reference to the initial footnote number and any new pinpoint references.

*Short Title* (n Footnote Number) Pinpoint.

The *AGLC* provides additional explanations and examples of subsequent referencing for the following types of sources:

- Cases — refer to 2.1.14
- Legislation — refer to 3.5
- Secondary sources — refer to 4.3

#### Example list of subsequent references in *AGLC* style

<sup>1</sup> *Commonwealth v Tasmania* (1983) 158 CLR 1 ('*Tasmanian Dam Case*').

<sup>2</sup> *Carlill v Carbolic Smoke Ball Co* [1893] 1 QB 256, 265 ('*Carlill*').

<sup>3</sup> *Ibid* 268.

<sup>4</sup> *Tasmanian Dam Case* (n 1).

<sup>5</sup> *Carlill* (n 2) 270.

<sup>6</sup> *R v Demicoli* [1971] Qd R 358 ('*Demicoli*').

<sup>7</sup> *Administrative Decisions (Judicial Review) Act 1977* (Cth) s 5 ('*ADJR Act*').

<sup>8</sup> *Ibid* s 9.

<sup>9</sup> *Ibid*.

<sup>10</sup> Ian Barker, 'Judicial Activism in Australia: A Perspective' (2005) 79(12) *Australian Law Journal* 783, 785; Robin Creyke et al, *Laying Down the Law* (LexisNexis, 11<sup>th</sup> ed, 2021) 224.

<sup>11</sup> Creyke et al (n 10) 226.

<sup>12</sup> *Ibid* 225.

<sup>13</sup> 'The Right to Vote is Not Enjoyed Equally by All Australians', *Australian Human Rights Commission* (Web Page, February 2010) <<https://humanrights.gov.au/our-work/rights-and-freedoms/publications/right-vote-not-enjoyed-equally-all-australians>> ('The Right to Vote').

<sup>14</sup> *ADJR Act* (n 7) s 13(1).

<sup>15</sup> *The Right to Vote* (n 13).

8.

## AGLC BIBLIOGRAPHIES

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An *AGLC* bibliography appears at the end of a document and should include all consulted sources. Refer to *AGLC* rule 1.13 for information on how to adapt footnote rules to suit bibliography format. This generally involves the following adjustments, as relevant:

- inverting the first listed author's names, and separating these with a comma
- omitting pinpoint references
- removing full stops at the end of citations.

Organise sources alphabetically beneath the following headings, although these categories may be adjusted as appropriate:

- *A Articles/Books/Reports*
- *B Cases*
- *C Legislation*
- *D Treaties*
- *E Other.*

### Sample *AGLC* bibliography

#### BIBLIOGRAPHY

##### *A Articles/Books/Reports*

Australian Law Reform Commission, *Without Fear or Favour: Judicial Impartiality and the Law on Bias* (Final Report No 138, December 2021)

Barker, Ian, 'Judicial Activism in Australia: A Perspective' (2005) 79(12) *Australian Law Journal* 783

Creyke, Robin et al, *Laying Down the Law* (LexisNexis, 11<sup>th</sup> ed, 2021)

Mackay, Anita and Lola Akin Ojelabi, 'A Beginner's Guide to Academic Integrity and Legal Referencing Using the AGLC' (2022) 47(1) *Alternative Law Journal* 74

#### B Cases

*Legione v Hateley* (1983) 152 CLR 406

*Mabo v Queensland [No 2]* (1992) 175 CLR 1

#### C Legislation

*Airspace Regulations 2007* (Cth)

*Australian Constitution*

*Copyright Act 1968* (Cth)

#### D Treaties

*Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, opened for signature 10 December 1984, 1465 UNTS 85 (entered into force 26 June 1987)

#### E Other

Shepherd, Stafford, 'What is Inadvertent Disclosure?', *Queensland Law Society* (Web Page, 2 April 2015) <<https://www.qls.com.au/Pages/Resources/Inadvertent-disclosure/What-is-inadvertent-disclosure>>

Thomson Reuters, *Australasian Dispute Resolution* (online at 6 November 2023)



9.

## REVIEW QUIZ - RESEARCH SKILLS AND AGLC

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### Check your research skills knowledge

Take the below review quiz to test your understanding of the content covered in this section.



*An interactive H5P element has been excluded from this version of the text. You can view it online here:*

<https://oercollective.caul.edu.au/legal-research-skills-an-australian-law-guide-2024-edition/?p=57#h5p-14>

### Check your AGLC knowledge



*An interactive H5P element has been excluded from this version of the text. You can view it online here:*

<https://oercollective.caul.edu.au/legal-research-skills-an-australian-law-guide-2024-edition/?p=57#h5p-15>

PART II

# CASE LAW

## 10.

# WHAT IS CASE LAW?

A case, often referred to as a decision or judgment, is a written record of a judge or judges reasoning or decision-making applied to a particular dispute. When deciding cases, judges interpret legislation and apply the doctrine of precedent (*stare decisis*), which means the court must follow the decisions reached by a higher court in the same jurisdiction. For this reason, case law has precedential value and is sometimes known as common law or judge-made law.

Case law is a primary source of law in Australia.

## Anatomy of a case

Understanding the different parts of a case is helpful for case law research. The figure below shows some of the key parts of a case.

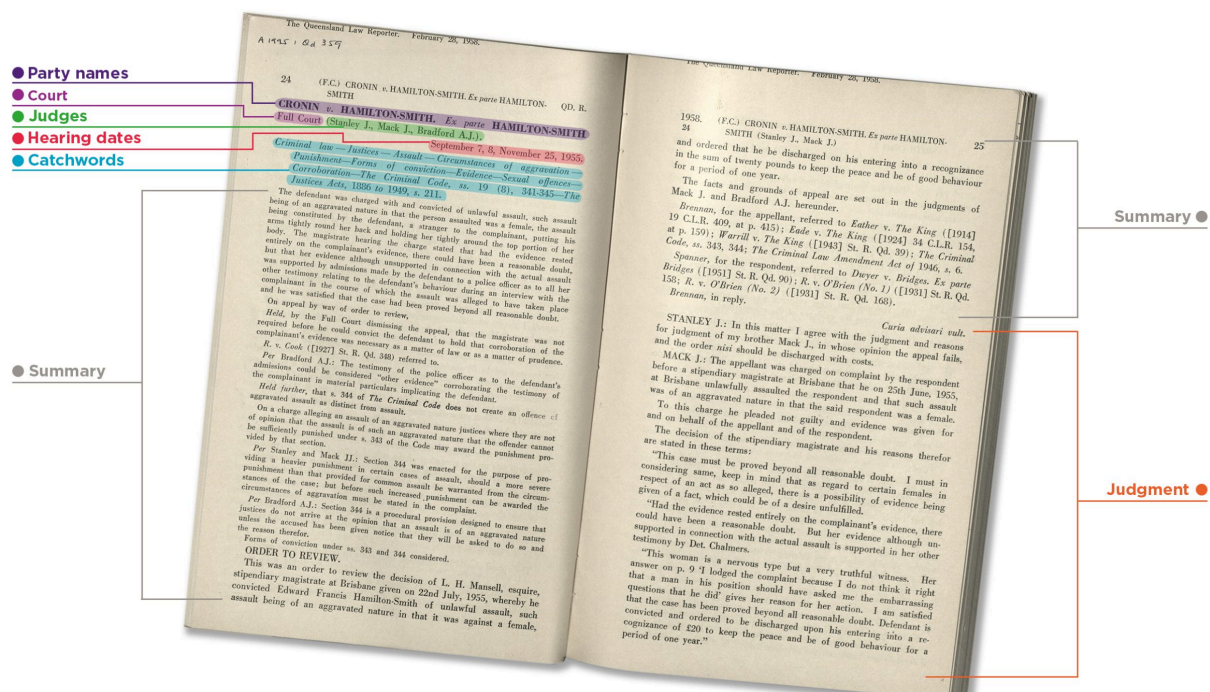


Figure 2: Anatomy of a case by UQ Library in [UQ Legal Research Essentials](#) is used under [CC-BY-NC 4.0](#)

At the very top of the decision, you will find information about the case, including the:

- party names
- court
- judge/s
- hearing date/s.

## Headnote

The headnote of the decision contains catchwords and a summary of the case. Catchwords are keywords and phrases separated by dashes, summarising the legal principles and legislation discussed in the case. The summary provides a short description of the matter and outlines the key holdings of the case.

The headnote is not officially part of the judgment.

## Judgment

The start of the judgment proper is usually indicated by the Judge's surname (e.g. Stanley J: ...). Each judgment will generally include:

- the procedural history of the case
- statement of facts
- relevant legal issues and legal principles
- conclusion
- order.

Learning how to undertake a case analysis and distinguish the *ratio decidendi* (reason for deciding) is a core skill in legal studies.

Do not be tempted to read and quote only from the headnote rather than the full decision. It is important to note that the headnote is written by a law reporter and not by a judge. Therefore, it is not considered to be part of the judgment.

## 11.

## HOW CASES ARE PUBLISHED

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It is helpful to know how judgments are published in Australia when undertaking research in case law.

### Which courts produce written decisions?

Not all courts produce written decisions. Generally speaking, most federal courts will produce and publish written decisions. In state court hierarchies, superior courts (Supreme Courts and Courts of Appeal) and intermediate courts (District Courts or County Courts) will also produce and publish written decisions. However, matters heard in the Magistrates or Local Courts will rarely lead to a written decision.

Jury trials do not necessarily result in a written decision. However, following the accused pleading guilty, or the jury finding the accused guilty at trial, there will be a sentencing hearing. Many courts make these sentencing remarks available to the public.

### Unreported and reported judgments

Almost all decisions, except those that are suppressed on the grounds of privacy or public interest, are initially published online on court websites or on [AustLII](#) as unreported judgments. From 1992 onwards, Australian courts [adopted](#) a standardised system of citation known as ‘medium neutral citation’ for unreported judgments.

Of those, judgments deemed to be significant are reported and published in law reports series. These are called reported judgments or reported decisions. To be reported, a judgment should do one or more of the following:

- raise significant points of law
- introduce a new principle of law
- significantly modify an existing principle of law
- settle a question of law
- apply an established principle in a new area
- define or interpret legislation or legal terms or be particularly instructive.

### Authorised reports

All Australian jurisdictions have a set of official or ‘authorised’ law reports. These are listed in Table 5

below. Judgments published in authorised reports are checked by a Judge (or Judge's associate) prior to publication.

## Which version of the judgment should be used?

It is possible that a decision has been published multiple times. First, in unreported format, then sometimes in an unauthorised law report series, and finally in an authorised law report series. *Commonwealth v Tasmania*, an important case about the balance of powers between the Commonwealth and the states, exists in unreported format and was reported (published) in the *Commonwealth Law Reports*, *Australian Law Reports*, and *Australian Law Journal Reports*. Reports found in the unauthorised report series are referred to as parallel citations.

**Table 4: Parallel citations for a case**

<i>Commonwealth v Tasmania</i>	[1983] HCA 21	Unreported (medium neutral citation)
	(1983) 158 CLR 1	Authorised law report series
	(1983) 46 ALR 625	Unauthorised law report series
	(1983) 57 ALJR 450	Unauthorised law report series

The general rule is, whether citing a case in your assignment or using it in court, it is important to always use the authorised version of the case where possible. The fourth edition of the *Australian Guide to Legal Citation* recommends this in [rule 2.2.2](#).

## Australia – Current list of Authorised Reports

**Table 5: Current list of Authorised reports in Australia**

Court	Law report abbreviation	Full title
High Court of Australia	CLR	<i>Commonwealth Law Reports</i>
Federal Court of Australia	FCR	<i>Federal Court Reports</i>
Supreme Court of the Australian Capital Territory	ACTLR	<i>Australian Capital Territory Law Reports</i> (2007-onwards)
Supreme Court of New South Wales	NSWLR	<i>New South Wales Law Reports</i> (1971-onwards)
Supreme Court of the Northern Territory	NTRL	<i>Northern Territory Law Reports</i> (1991-onwards)
Supreme Court of Queensland	QR (formerly Qd R)	<i>Queensland Reports</i> (1959-onwards)
Supreme Court of South Australia	SASR	<i>South Australian State Reports</i> (1921-onwards)
Supreme Court of Tasmania	Tas R	<i>Tasmanian Reports</i> (1979-onwards)
Supreme Court of Victoria	VR	<i>Victorian Reports</i> (1957-onwards)
Supreme Court of Western Australia	WAR	<i>Western Australian Reports</i> (1960-onwards)

## United Kingdom – Authorised Reports

**Table 6: Authorised reports in the United Kingdom**

Court	Law report abbreviation	Full title
Supreme Court House of Lords Privy Council	AC	<i>Law Reports, Appeal Cases</i>
High Court (Chancery Division)	Ch	<i>Law Reports, Chancery Division</i>
High Court (Family Division)	Fam	<i>Law Reports, Family Division</i>
High Court (Probate, Divorce and Admiralty Division)	P	<i>Law Reports, Probate</i>
High Court (King's Bench Division)	KB	<i>Law Reports, King's Bench</i>

## 12.

# CITING A CASE

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## Case citations

Case citations abbreviate the key information relating to a case and its publication details. Understanding the parts of a case citation will help to find the case online or in a printed library collection.

## Reported citations

Below are the parts of a citation for the reported judgment, *Jaensch v Coffey* (1984) 155 CLR 549. See rule 2.2 in the [Australian Guide to Legal Citation](#) for a detailed explanation of reported case citations.

**Table 7: Reported citations**

Party names	Year published	Volume number	Law report series	Starting page number
<i>Jaensch v Coffey</i>	(1984)	155	CLR	549

## Unreported citations

Unreported judgments use a medium neutral citation style. Below is the same judgment cited in an unreported format. See rule 2.3 in the [Australian Guide to Legal Citation](#) for a detailed explanation of unreported case citations.

**Table 8: Unreported citations**

Party names	Year heard	Court Abbreviation	Judgment number
<i>Jaensch v Coffey</i>	[1984]	HCA	52

Both citation styles abbreviate either the law report series or the court title. Abbreviations are used extensively in law and used for law reports, law courts, law journals and commonly used legal terms. There are specialist resources for looking up abbreviations:

- [Cardiff Index to Legal Abbreviations](#) (UK and Intl)



## How to talk about a case

When citing cases verbally, some elements of a case citation need to be pronounced differently than they would appear in written form. For instance, in Australia the V between the party names is not pronounced; use *Against* for criminal matters or *And* for civil cases. For example:

- *The Queen Against Stubbs*
- *Haug And Jupiters*

Instead of pronouncing the R in criminal matters, use *The King* or *The Crown*.

Use 'In the matter of' instead of *Re*.

## Make sure to provide the full citation

In advocacy or moot situations, use the full citation the first time the authority is referred to. With subsequent citations, simply indicate the party names and pinpoint reference as needed.

For example, when verbally citing *R v Stubbs* (2009) 228 FLR 221:

- First instance: "*The Queen against Stubbs, reported in 2009 at volume two hundred and twenty-eight of the Federal Law Reports at page 221.*"
- Second instance: "*The Queen against Stubbs...*"

## 13.

## FINDING A CASE

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### Finding a known case

The known case approach relies on having some details about the case – either the case citation, the judge’s name, the date of hearing, or some other combination of details.

If there is a known reported case citation, locating the decision will be straightforward.

1. locate the law report abbreviation
2. select the correct law report series
3. use a database or use the print copy in your library

Unreported decisions may be available via unreported judgments products in law databases, the [AustLII](#) website, the relevant court’s website or a jurisdictional case law website. Older unreported judgments may be difficult to locate.

### Secondary sources

Secondary sources such as legal encyclopaedias, books, articles, and looseleaf/commentary are often the best place to start when looking for case law. Important cases and the key points of law will be discussed and referred to by experts.

### Keyword searching

Searching for cases by subject or topic can be difficult. It is almost always more efficient to identify relevant cases via secondary sources. The options below are a few different ways to search using keywords.

### Catchwords and summary search

One of the most effective keyword searches you can try is the catchwords and summary search (if this is available in the database you are using). By searching this field only, you will receive a smaller number of more relevant results.

The catchwords are a series of keywords and phrases, separated by dashes, added to the headnote of the case

by the law reporter. The purpose is to quickly describe the subject matter of the case, including relevant legislation and provisions. See these example catchwords from *Cronin v Hamilton* [1958] Qd R 24:

Criminal law — Justices — Assault — Circumstances of aggravation — Punishment — Forms of conviction — Evidence — Sexual offences — Corroboration — The Criminal Code, ss. 19(8), 341-345 — The Justices Ac, 1886 to 1949, s. 211.

The digest or summary briefly summarises the matter and outlines the key holdings of the case. Most legal databases will allow the user to refine their search to just the catchwords and summary field.

## Full-text searching

A full-text search looks for keywords across the entire text of the case. This is the broadest type of search and will not only receive the largest number of results of all the searches, but the highest number of irrelevant results. Each database has a specific help section that gives tips to the user on how to search effectively. Consider using Boolean operators, proximity searching, and placing limitations to get the best results.

## Legislation and provision

Many legal databases allow you to search for cases that consider a particular Act/Regulation and section. Generally, you can achieve this using the Advanced Search function in a database.

Consider re-ranking any results you have so that decisions from higher courts are at the top of your results.

## Words and phrases judicially considered

Searching the words and phrases judicially considered field will find decisions where judges have discussed or defined particular words and phrases.

## 14.

## USING CASE CITATORS

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The main role of a case citator is to provide extra information about cases. In Australian legal databases, any judgment of a superior court will have a citator record that includes information about the:

- status of the case
- publication and citation details
- litigation history — whether the case has gone on appeal and been subsequently affirmed or reversed
- subsequent judicial treatment — how later judges have treated the decision
- consideration of earlier cases
- secondary sources that cite the case
- legislation considered by the case.

Always check case citators to understand the case.

The main case citators used in Australian legal research are:

- CaseBase (Lexis Advance/Lexis+)
- KeyCite (Westlaw Australia)
- LawCite (AustLII)

15.

## USING CITATORS TO SEE JUDICIAL CONSIDERATION

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Always determine whether a case is considered good law. A citator, with its system of flags, symbols, and annotations, will provide extra information about the litigation history of the case, as well as how the case has been treated by subsequent cases.

### Check the flag or signal

In the citator record for a case, look for the **symbol** or **flag** appearing next to the party names. The symbol will give an indication of the status of the case.

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#### Red



A **red flag or symbol** indicates the decision has been reversed on appeal, or subsequently disapproved or overruled on at least one point of law.

#### Yellow



A **yellow flag or symbol** indicates the decision has subsequently been distinguished, explained, not followed. It may have some negative history but has not been reversed or overruled.

#### Green



A **green symbol** indicates the decision has been applied, approved, followed, affirmed or upheld.

**Neutral** The **neutral symbol** indicates the decision has been considered or cited.

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The flag or signal will give limited information about the status of the case, so always look at the case annotations as well. Annotations are single word descriptors that indicate the litigation history of the case, as well as how the case has been treated in subsequent judgments.

### Check the litigation history

The **litigation history** section of the citator outlines the path of the legal dispute through the appellate hierarchy. This may directly affect the reliability of the case.

**Reversed (Red)**

Used where the decision has been overturned on appeal.

**Varied (Yellow)**

Used where a case on appeal is only partially affirmed or reversed.

**Affirmed (Green)**

Used where the decision has been upheld on appeal.

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## Subsequent judicial consideration

The doctrine of precedent means that judges are not only bound by decisions of higher courts in the same court hierarchy but very often consider decisions of those lower in the same hierarchy, or decisions produced outside of the hierarchy altogether.

A citator record will provide you with an overview of the subsequent judicial consideration of your case:

- CaseBase — Cases referring to this case
- KeyCite — Citing references

The most common annotations used to describe the subsequent judicial treatment of a judgment are described below:

Annotation	Definition
<b>Disapproved</b> <b>(Red)</b> 	Used when both courts are of coordinate jurisdiction, and the latter court has no power to overrule the earlier decision. A court may disapprove or criticise a previous decision and yet be compelled to follow it.
<b>Overruled</b> <b>(Red)</b> 	Used when a court refuses to follow the decision of a court that is equally positioned or lower in the court hierarchy.
<b>Distinguished</b> <b>(Yellow)</b> 	Used when a court decides that it need not follow a previous case by which it would otherwise be bound because there is some salient difference in facts.
<b>Explained</b> <b>(Yellow)</b> 	Used when a court interprets a previous decision and states what it means.
<b>Not Followed</b> <b>(Yellow)</b> 	Used in circumstances where both courts are of coordinate jurisdiction, and the latter court has no power to overrule but is also not bound to follow.
<b>Questioned</b> <b>(Yellow)</b> 	Used when a later decision questions an earlier decision but does not disapprove or overrule it.
<b>Applied</b> <b>(Green)</b> 	Used when the court is applying the principle of a previous decision to the present case, the facts of which are materially different from those of the earlier case.
<b>Approved</b> <b>(Green)</b> 	Used when a superior court approves an earlier decision by a lower court or court of equivalent jurisdiction.
<b>Followed</b> <b>(Green)</b> 	Used when a court is bound by the previous decision of a court of superior jurisdiction in a case where the facts were the same or substantially the same.
<b>Cited</b>	Used when the primary case is merely mentioned by the court in the subsequent case, without comment.
<b>Considered</b>	Used when the court discusses a previous decision but does not actually apply, disapprove, follow etc.

**Referred**      Used when a case is merely referred to but not discussed in any detail.

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16.

## REVIEW QUIZ - CASE LAW

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### Check your case law research knowledge

Take the below review quiz to test your understanding of the content covered in this section.



*An interactive H5P element has been excluded from this version of the text. You can view it online here:*

<https://oercollective.caul.edu.au/legal-research-skills-an-australian-law-guide-2024-edition/?p=77#h5p-16>

PART III

# LEGISLATION

17.

# INTRODUCTION TO LEGISLATIVE RESEARCH

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In Australia, the law is made in our courts by Judges (case law) and by legislation made under the authority of Parliament.

This module will focus on legislation and:

- developing an understanding of the legislative process
- identifying parliamentary documents useful for interpreting legislation
- finding sources of legislative law.

18.

# LEGISLATIVE PROCESS

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It is important to understand how legislation is made. This knowledge will assist you in research tasks such as:

- tracking proposed legislation prior to enactment
- locating parliamentary documents needed in statutory interpretation.

## Commonwealth legislative process

The passage of a Bill through Parliament is similar in most common law jurisdictions. The Commonwealth process is as follows:

- introduced to Parliament by the Minister responsible (may be introduced in either the House of Representatives or the Senate)
- read for the first time
- read for a second time – explanatory speech and debate
- proceeds to Committee stage (optional) — consideration and report from the relevant committee
- moves to consideration in detail (optional) — Bill considered clause by clause (amendments can be made at this time)
- read for the third time — agreed to
- considered by, and amendments agreed to, by the other House (**bicameral Parliament**)
- receives Royal Assent — and is enacted.

The Parliament of Australia's [Infosheet 7 Making Laws](#) describes how bills are proposed, considered and passed at a federal level.

[Making a law in the Australian Parliament](#) is a fact sheet explaining the law-making process in the Australian Parliament.

## The legislative process in other jurisdictions

The passage of a Bill through parliament is similar in most common law jurisdictions. See further reading on the jurisdiction of your choice below:

- [Factsheet No. 6 – Making Laws](#) (Parliament of New South Wales)
- [How Parliament Works](#) (Parliament of South Australia)
- [How Laws are made](#) (Parliament of Tasmania)
- [Learn how Parliament works](#) (Parliament of Western Australia)
- [How laws are made](#) (Parliament of Victoria)
- [How laws are made](#) (Legislative Assembly for the Australian Capital Territory)
- [Information papers](#) (Legislative Assembly for the Northern Territory)

One noteworthy difference is that the Queensland Parliament has abolished its Legislative Council and now use a **unicameral** (or one chamber) system. The diagram below reflects the typical passage of a Bill through the Queensland Parliament rather than the legislative process of a Parliament with two houses.



Figure 3: The Queensland Legislative Process by UQ Library, [UQ Legal Research Essentials](#), used under [CC-BY-NC 4.0](#)

Read more about Queensland's [parliamentary process](#) in the Queensland Legislation Handbook or [Queensland Parliament's Factsheet 3.6 \(PDF, 269KB\)](#).

19.

## PARLIAMENTARY DOCUMENTS

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Several important documents are produced during the law-making process including the Bill, the explanatory note or memorandum, and the explanatory or second reading speech.

### Bills

Some of the most significant documents produced by Parliament are Bills. A Bill is a proposed Act and the principal means by which government policy becomes law. Nowadays, the majority of Bills are drafted by the Office of the Parliamentary Counsel and then debated and considered in detail in Parliament before they are passed and become law.

Bills have **clauses** instead of sections or provisions.

Bills are usually introduced by the government of the day, however, non-government Bills may be introduced in the form of **Private Members' Bills**. More information about Private Members' Bills is available in [\*House of Representatives Practice\*](#).

### Extrinsic material

Interpretive materials such as explanatory memoranda or notes and parliamentary speeches are useful when researching the intent of the legislation and fleshing out the purpose and finer details of statutes. These materials are referred to as **extrinsic material** because although they are aids in statutory interpretation, they are not part of the Act.

### Explanatory note or memorandum

The **explanatory note** or **memorandum** describes the purpose of the Bill and provides an explanation of each clause in plain English. These memoranda or notes can be useful in interpreting legislation and may also be examined by courts when considering legislation. Most common law jurisdictions use the term explanatory memoranda while others use explanatory notes to describe these kinds of documents.

### Historical explanatory memoranda

Not all Bills will have an associated explanatory statement (particularly older Bills). For more information

refer to [Was there an EM?: Explanatory Memoranda and Explanatory Statements in the Commonwealth Parliament](#) for historical Commonwealth explanatory memoranda in Australian states and territories.

## Parliamentary speeches

A Bill will generally be the subject of several parliamentary speeches, the most significant of which is the **explanatory speech** given by the Minister in charge of the Bill. In this speech, the Minister outlines the policy behind the Bill and what it seeks to achieve. These speeches can therefore help you understand why a Bill has been introduced.

In most jurisdictions this speech is referred to as a second reading speech because it occurs on the second reading of the Bill.

## Accessing parliamentary documents

Most common law jurisdictions have a parliamentary website that you can use to access a full range of parliamentary documents.

## 20.

# ACTS

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Acts are laws formally passed by Parliament and that have received royal assent by the Crown. Royal Assent is granted on behalf of the Crown by the Governor or Governor-General. Sometimes Acts are referred to as Statutes.

## Anatomy of an Act

The structure of most Acts is consistent across jurisdictions, starting with a preliminary section, and separated into parts, divisions, and sections. As an example, the image below shows the preliminary part of the printed copy of the [Jobs Queensland Act 2015 \(Qld\)](#).



An interactive H5P element has been excluded from this version of the text. You can view it online here:

<https://oercollective.caul.edu.au/legal-research-skills-an-australian-law-guide-2024-edition/?p=88#h5p-17>

The preliminary section of an Act generally follows the format set out in the example and provides useful information about the Act. It will often have a **definitions** or **interpretations** section.

**Jurisdiction** — this will be readily apparent on the front page of the Act.

**Act number** — most Parliaments have a numbering system based on the calendar year. This Act is the 23rd Act of 2015.

**Long title** — although you would not generally cite a modern Act by its long title, long titles can be helpful for the purposes of statutory interpretation as they explain the Act's purpose.

**Short title** — this is the name of the Act together with the year it was passed

**Commencement date** — Usually found in section 2 and provides information about when the Act commences. This is discussed in greater detail below.

**Date of Royal Assent** — this is generally published on the title page of the Act when it is passed.



## Commencement

Acts will not come into force until the commencement date or ‘date of operation’. Sometimes different sections of an Act commence at different times. Each jurisdiction in Australia has legislation which helps with the interpretation of the Act ie. *Acts Interpretation Act 1901* (Cth), *Interpretation Act 1987* (NSW), *Legislation Act 2001* (ACT) etc. It is important to check the relevant legislation for specific commencement advice relevant to the specific jurisdiction.

Commencement information is often found in the Act itself, in section 2. Sometimes, this could be a general statement rather than a specific date, stating that the Act will commence:

- upon receiving Royal Assent from the Governor or Governor-General
- on a specified date
- on a date to be proclaimed (in the future, notified in Government Gazettes)
- in relation to another piece of legislation
- the default date of 28 days after receiving Royal Assent.

One of the easiest ways to locate the commencement date is to locate the **legislative history** for the Act. This may be located in the **Endnotes** or **Notes** section of the latest version of the Act, or there may be a legislative history page linked to from the Act homepage.

## Currency

During the currency of an Act, it may be changed by amending Acts passed by Parliament. When a version of an Act is produced that incorporates these changes it is referred to in various ways:

- version
- reprint
- consolidation
- compilation

It is important to know how up-to-date an Act is when you are using it. Check for a date on the front page of the Act that claims:

- ‘*This compilation was prepared on...*’
- ‘*Current as at...*’

If some time has passed since the compilation was prepared, amendments might have been made to the Act that have not yet been incorporated into the version to which you are referring.

**Acts as passed** or **Numbered Acts** are Acts in their original form. That is, as they were passed in the Parliament.

**Amending Act** is a statute that alters the operation of an earlier Act through substitution, insertion, omission or repealing.

**Reprint** or **Compilation** incorporates all amendments to the Numbered Act.

**Consolidating Act** is a statute that combines all the Acts in force relating to a particular subject area.

**Repealed** or **Ceased** Acts are no longer enforced as law.

21.

## SUBORDINATE LEGISLATION

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Subordinate legislation is sometimes referred to as delegated legislation because, even though it is authorised by an Act of Parliament, it is made by a body outside of Parliament.

Confusingly, this type of legislation is referred to in different ways on legislative websites, including:

- subsidiary legislation
- legislative instruments
- statutory instruments
- regulations
- subordinate legislation
- delegated legislation.

## 22.

## FINDING QUEENSLAND LEGISLATION

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[Queensland legislation](#) by the Office of Queensland Parliamentary Counsel (OQPC) provides access to official Acts and subordinate legislation. The website can be searched or browsed to find legislation.

If unsure about the title of the legislation you are after, secondary resources can help you to identify key legislation:

- textbooks
- looseleaf services (commentary)
- legal encyclopaedias
- journal articles.

### Finding current Acts

To find the most current version of an Act, look for [In force legislation](#) on the Queensland legislation website. Browse alphabetically if you know the title of the Act or choose the year it came into force.

### Finding point-in-time Acts

The ability to find Acts as they looked at a particular point in time is an important skill to possess. Using the Queensland legislation [Acts as passed](#) website, you can generally access reprints or historical versions from 1991 onwards.

For historical point-in-time research prior to 1991, access [Queensland Statute Reprints](#), or look for printed consolidations in a Library collection.

### Finding historical Acts

There are a number of historical legislation databases, the chief one being [Queensland Law](#), which contains:

- The Public Acts of Queensland 1828-1936
- Queensland Commencement Legislation
- Letters Patent Establishing Boundaries for Queensland

- Queensland Criminal Code 1879-1899.

The [Queensland Historical Acts](#) in AustLII is also a valuable database.

## 23.

## FINDING VICTORIAN LEGISLATION

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The primary source of all Victorian legislation is the Victorian Government's [Victorian Legislation](#) website. Electronic versions of Victorian legislation on this website are classified as [authorised versions](#), (including for evidentiary purposes) under the *Interpretation of Legislation Act 1984* (Vic), Part V.

This Chapter will explain how to find Victorian legislation and resources using authorised free government websites.

### Finding Bills & Extrinsic Materials

To locate a Victorian Bill and its accompanying Explanatory Memorandum, search for the Bill title in the [Bills](#) section of the [Victorian Legislation](#) website. Bills which are currently before Parliament are located in the [Bills in Parliament](#) section. To search for all other Bills (including those which have been passed, withdrawn, defeated or lapsed) search for the Bill title in the [All Bills section](#) of the website.

Once you locate the Bill core document page, you will find links to the text version of the Bill, the Explanatory Memorandum, as well as links to proposed amendments, and related parliamentary debates. From 2006, a link to the Statement of Compatibility made in accordance with the *Charter of Human Rights and Responsibilities Act 2006* (Vic) will also be located on the Bill core document page.

### Finding Aids for Bills on the Parliament of Victoria's website

The [Bills and Legislation](#) section of the [Parliament of Victoria](#) contains some useful finding aids, such as:

- [Understanding a Bill](#)
- [Bills Status List](#)
- [New Bills introduced this week](#)

### Finding historical Bills and parliamentary debates

If a Bill is not available on the [Victorian Legislation](#) website, the AustLII website has a historical collection of [Victorian Bills \(1967-\)](#) and [Victorian Explanatory Memoranda \(1911-\)](#). Some libraries will also hold print copies of historical collections of Victorian Bills.

The [Parliament of Victoria](#) website has searchable parliamentary debates (from 1991 onwards) in the [Hansard](#) database. [Daily Hansard](#) is also available from 1999 onwards, and digitised PDF versions of Hansard volumes for the period [1865-1999](#) are also available.

## Understanding the usefulness of Extrinsic Materials

When undertaking legislative legal research, it can be useful to research for the parliamentary intention as to why the legislation was created or amended. This process is known as statutory interpretation. Under section 35 of the *Interpretation of Legislation Act 1984* (Vic), extrinsic materials may be used to aid in the interpretation of provisions of legislation. Some examples of extrinsic materials are:

- explanatory memoranda
- parliamentary documents
- reports of Royal Commissions, Parliamentary Committees, Law Reform Commissioners and Commissions, Boards of Inquiry, Formal Reviews or other similar bodies.
- statements of compatibility made in accordance with the *Charter of Human Rights and Responsibilities Act 2006* (Vic)
- parliamentary proceedings published in Victorian Hansard (such as second reading speeches & debates on clauses of Bills)

**NOTE:** Second reading speeches will normally start with the phrase “That this bill be now read a second time” and will end with the phrase “I commend the Bill to the house”.

## Finding Victorian Acts – As Passed

Once a Victorian Bill has been passed and receives Royal Assent, it will be allocated an Act number. To find versions of Acts, as they are passed, search for the Act title or year and number of the Act, in the [Legislation as Made – Acts as enacted](#) section of the [Victorian Legislation](#) website.

## Finding Victorian Acts – In Force

Once a Principal Act has been amended, a consolidated version of the Act will be placed in the [Legislation in Force – Acts in Force](#) section of the [Victorian Legislation](#) website. Using a title search, navigate to the core document page of the Act. A PDF version of the current Act will be available. There will also be a table of previous versions of the Act for “point in time” research purposes.

## Researching Amendments to Victorian Acts

Victorian Acts contain margin notes next to sections. These margin notes will indicate if the section of the Principal Act has been amended/inserted or repealed. The notation will contain the Act number and year and relevant section of the Amending Act. The EndNotes, at the end of the in force version, will contain a list of all Amending Acts since the publication of the last version.

## A note about online versions and former consolidations

Online versions of Victorian Acts on the [Victorian Legislation](#) website generally commenced in 1997. To find historical consolidations of Victorian Acts you may need to refer to hardcopy reprints of Acts. Many

Victorian law libraries maintain a historical print collection of Victorian reprinted Acts. Prior to reprinted Acts, major Victorian Acts were produced in consolidated volumes for the years 1864/65, 1890, 1915, 1928/29, and 1958. For example, the *Wrongs Act 1958* (Vic) was a consolidated Act, meaning that the 1958 version included all amendments to the *Wrongs Act* up to 1958. The first page of a consolidated Act will have a sub-title description in a format like: ‘An Act to consolidate the Law relating to Wrongs’.

Consolidated Acts between the years 1864-1958 do not generally have an explanatory memorandum or second reading speeches. The exception is the *Companies Act 1958* (Vic) which does have an explanatory memorandum and a second reading speech, which are bound with the Act in the 1958 consolidation volume.

## Finding historical Victorian Acts on AustLII

Acts enacted by the Victorian Parliament from 1851 to 1995 are available on the AustLII website, under the [Victorian Historical Acts](#) database.

## Victorian Subordinate legislation

Under section 3(1) of the *Subordinate Legislation Act 1984* (Vic), the term “statutory rule” can also mean regulation. Subordinate legislation is also known as delegated legislation. In Victoria, when a section in an Act states that subordinate legislation can be made under the Act, this can take the form of Rules or Regulations. For example, section 194 of the *Aboriginal Heritage Act 2006* (Vic) is the authorising provision for rules or regulations to be made by the Governor in Council under that Act. The *Aboriginal Heritage Regulations 2018* (Vic) are an example of subordinate legislation made under section 194 of the *Aboriginal Heritage Act 2006* (Vic).

Locating subordinate legislation on the Victorian Legislation website is similar to locating Acts.

## Finding Victorian subordinate legislation – As passed

To find versions of Rules or Regulations as they are passed, search for the Rule or Regulation title or year and number, in the [Legislation as Made – Statutory Rules as made](#) section of the [Victorian Legislation](#) website.

## Finding Victorian subordinate legislation – In force

Victorian subordinate legislation can also be consolidated. To locate a consolidated Rule or Regulation, search for the title or year and number in the [Legislation in Force – Statutory Rules in force](#) section of the Victorian Legislation website. Using a title search, navigate to the core document page of the Rule or Regulation. A PDF version of the current rule or regulation will be available. There will also be a table of previous versions for “point in time” research purposes.



The Victorian Government produces Regulatory Impact Statements to accompany any new and sunseting subordinate legislation. From 2011 onwards, these can be found on the Victorian [Regulatory Impact Statements](#) section of the [Better Regulation Victoria](#) website.

### **A note about sunset clauses for Victorian subordinate legislation**

Under section 5(1) of the *Subordinate Legislation Act 1984* (Vic), subordinate legislation automatically expires on the day which is the tenth anniversary of the making of the statutory rule. This is commonly known as a “sunset provision” meaning that the rule will expire at the end of the day.

## **Finding historical Victorian subordinate legislation on AustLII**

Some historical versions of Victorian subordinate legislation are available on the AustLII website.

- [Victorian Numbered Regulations 2004-](#)
- [Victorian Reprinted Regulations 1997-](#)
- [Victorian Repealed Regulations](#)

Historical Victorian subordinated legislation is also available in hard copy print format in some libraries, and some are published in [Victorian Government Gazettes](#).

## **Finding repealed or revoked Victorian legislation**

Once a Victorian Act or subordinated legislation has been repealed or revoked it is moved out of the In Force database and into the [Repealed or Revoked](#) database on the [Victorian Legislation](#) website.

## **Other Victorian legislative information**

On the [Victorian Legislation](#) website there is other useful information linked under the Legislative Information menu, including:

- [Legislative information reports](#): This section contains tables and information about commencement or repeal of Victorian Legislation. This includes tables of subordinate legislation made under authorising Acts and subordinate legislation which is set to expire.
- [Penalty units](#): Instead of listing a monetary fine in an Act, there may be a section setting a specific fine amount in the form of a penalty unit (eg: 50 penalty units). On the Penalty and Fee unit website, the amount of a penalty unit increases on 1 July every year.
- [General Orders](#): To locate which government department is responsible for administering specific Acts, check the General Orders website.
- [Victorian Government Gazettes](#): Some Acts will come into force by dates set in section 2 of the Act, and other sections of the Act may come into force on a day to be proclaimed. Notices will be placed in Victorian Government Gazettes for those commencement proclamations.

24.

# FINDING SOUTH AUSTRALIAN LEGISLATION

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## Legislative Research in South Australia

This chapter introduces South Australian legislation. Most of this chapter explains how to access legislation electronically through the Government of South Australia's [South Australian Legislation](#) website or through [AustLII](#). It also explains how to access South Australian Bills and Hansard through the Parliament of South Australia website.

## Understanding South Australian legislation

South Australian legislation includes Acts of the Parliament of South Australia and legislative instruments, which are also known as 'subordinate legislation' or 'delegated legislation'.

### Acts of Parliament

An 'Act' is defined under section 4 of the *Legislation Interpretation Act 2021* (SA). An Act includes— (a) an Act of the Parliament of South Australia or an Act or ordinance of some earlier legislative authority in South Australia; or (b) an Act of the Imperial Parliament that has been received into the law of South Australia or applies to South Australia by paramount force.

### Legislative instruments

Legislative instruments are a form of subordinate or delegated legislation. An 'legislative instrument' is defined under section 4 of the *Legislation Interpretation Act 2021* (SA) and includes regulations, rules, by-laws, proclamations, notices, and orders made by the Governor of South Australia or a Minister under an Act. Legislative instruments are regulated under the *Legislative Instruments Act 1978* (SA) (formerly called the *Subordinate Legislation Act 1978* (SA)).

## Finding South Australian legislation

South Australian legislation can be accessed online or in hard copy.

Hard copy legislation can be accessed from the Government Publications Collection in the [State Library of](#)

[South Australia](#). The State Library also holds historical Acts and Ordinances of South Australia enacted in the British Parliament prior to 1857. The [Murray Law Library](#) at the Law Society of South Australia also a collection of historical Acts and delegated legislation that are not available online. Hard copy legislation can also be ordered online from the Government of South Australia's [Service SA](#) Online Shop or in-person at a [Service SA](#) Customer Service Centre.

Legislation may be accessed online through the [South Australian Legislation website](#) or through [AustLII](#).

## South Australian Legislation website

The South Australian Legislation website contains authorised versions of legislation. An 'authorised version' is an electronic version that is published under the *Legislation Revision and Publication Act 2002* (SA). The website also contains subordinate legislation, including regulations and rules, proclamations and notices, and other legislative instruments such as direction and declarations relating to the COVID-19 pandemic.

On this website, each South Australian Act has its own 'homepage' which provides access to the current version of the Act, and any historical versions. Acts can be located manually, by browsing the title of the Act (Acts A-Z) or by number (As made Acts) if this information is known. Otherwise, legislation can be searched by entering keywords, such as the subject-matter of the legislation.

## Acts in-force

The most common way to locate legislation is browsing by the title of an Act under the '[Acts A-Z Acts](#)' section of the website. The lists of A-Z Acts on the website contain the text of all principal Acts in force on 1 January 2003, or subsequently enacted. Unlike legislation as enacted (discussed below), A-Z Acts are subject to a program of consolidation. A-Z Acts include incorporation of any amendments made to legislation after it commenced.

Current and historical versions of legislation can be browsed on the [A-Z Acts homepage](#). By default, the website only displays Acts that are [currently in force](#). However, [ceased Acts](#) and [Acts of limited application](#) can be made visible by pressing the button labelled 'Show ceased Acts and Acts of limited application'. From here, an Act can be accessed by clicking on the letter the Act begins with. This will bring up a list of all in-force legislation beginning with that letter. From that list, the relevant Act can be chosen. This will bring up the homepage for that Act.

The homepage for each Act contains current or 'up to date' versions of the legislation. It also contains any historical versions of the Act. Acts can be downloaded in PDF or RTF format. The homepage for each Act also provides information and access to any subordinate legislation made under that Act. For example, regulations or rules. Any proclamations or notices made by the Governor of South Australia may also be listed. Under each Act homepage, it is possible to subscribe to receive emails when new versions of that Act are published.

## Acts as enacted (numbered Acts)

The South Australian Legislation website also provides access to Acts ‘as made’ or ‘as enacted’ under the ‘[As made Acts](#)’ page. Through this section of the website, legislation can be accessed as it was enacted; text of as made legislation does not include any amendments made after it was published or indicate if the legislation has since been repealed.

As made legislation can be browsed by letter or by year made. However, the website only contains Acts as made from 1 January 2003 onwards. For Acts enacted prior to 2003, hard copy legislation will need to be consulted if an authorised version of legislation is required. However, AustLII contains electronic versions of numbered Acts from 1837 onwards.

## Legislative instruments

Legislative instruments can be searched the same way as Acts. On the website there are separate sections for [Regulations and Rules](#) and [Proclamations and Notices](#), however these legislative instruments can both be searched ‘A-Z’ or ‘as made’. For example, [A-Z Regulations and Rules](#) or [As made Regulations and Rules](#). As with Acts, A-Z regulations, rules, proclamations, and notices are subject to a program of consolidation. ‘As made’ legislative instruments are in the form in which they were initially made. However, the website only has as made legislative instruments from 1 January 2003 onwards.

## Other legislative information

The South Australian Legislation website contains further useful information about legislation, including:

- [Understanding legislation](#): This section contains information about the features and structure of South Australian legislation, how to identify authorised versions of legislation, the South Australian Parliamentary process, and how subordinate legislation is made in South Australia.
- [Index to South Australian legislation](#): An annual index of South Australian Legislation, and a cumulative fortnightly update of the index.
- [Current titles of legislation](#): A list of legislation titles (A-Z) currently on the website.
- [Historical titles of legislation](#): A list of historical titles (A-Z) formerly on the website.
- [What’s new?](#): A fortnightly newsletter summarising legislative activity in South Australia.
- [Lists and other information](#): The Ministers Incorporated list details all South Australian Ministers currently incorporated. The SA Acts Committed list details which Acts are committed to each South Australian Minister. Ministers are responsible for the administration of Acts that are committed to them.
- [Regulation expiry program](#): Under Part 3A of the *Legislative Instruments Act 1978* (SA), most regulations expire 10 years after 1 September in the year that follows the year in which they were made. This section contains a list of regulations due to expire on 1 September each year.

## AustLII

South Australian legislation can also be accessed through AustLII. Legislation on the AustLII website is not an official or authorised version under the *Legislation Revision and Publication Act 2002* (SA). However, a benefit of using AustLII for legislative research is the ability to locate case law or other sources which have cited South Australian legislation. AustLII also provides access to numbered Acts (legislation as enacted) dating back to 1837, whereas the South Australian Legislation website only has as made legislation from 2003 onwards.

## Acts

AustLII contains access to [Current South Australian Acts](#), [Numbered Acts](#), and [Repealed Acts](#). Within each category, Acts can be browsed by the letter of the Act title, in a similar way to the South Australian Legislation website. The landing page for each category contains a helpful list of the most frequently accessed legislation.

## Legislative instruments

AustLII has access to some legislative instruments, including [Current Regulations](#) and [Proclamations](#). AustLII also provides access to [Numbered \(As Made\) Regulations](#) and [Repealed Regulations](#).

## Bills and extrinsic materials

This chapter concludes by explaining how to find Bills and extrinsic materials such as Hansard, which are an important part of legislative research.

## Bills

A Bill is a proposed Act that has been introduced into the South Australian Parliament. A Bill becomes an Act when it is assented to by the Governor after passing through both Houses of Parliament – the House of Assembly and the Legislative Council.

[Bills of the Parliament of South Australia](#) are available on the South Australian Legislation website. Bills can be searched by session of Parliament. Bills of the current session of Parliament display by default. Bills of earlier sessions of Parliament are available in a different section. The South Australian Legislation website contains Bills from 1 January 2005 onwards. Bills can be browsed by title in a similar way to legislation. South Australian Bills can also be accessed through [AustLII](#). Bills can be searched by year introduced, or by letter. Bills on AustLII are available from 2002 onwards

The [South Australian Legislative Tracking System](#) on the Parliament of South Australia website provides information on the progress or result of Bills. The tracking system is useful way to follow the progression of a Bill through Parliament.

## Hansard

[Hansard](#) is the official report of the debates of the Parliament of South Australia. Hansard is usually published on the [Parliament of South Australia website](#) after 4pm on the day following a sitting day. In South Australia, extrinsic materials such as explanatory memoranda (*Legislation Interpretation Act 2021* (SA) s 16(2)(f)), Hansard, and second reading speeches (*Legislation Interpretation Act 2021* s 16(2)(e)) may be considered in the interpretation of legislation.

Hansard and second reading speeches can be located on the [Parliament of South Australia website](#). Under [Hansard search](#), Hansard can be search by words or phrases. Search results can also be filtered by date range, member, or other information. Hansard search will locate all Hansard, including second reading speeches. However, there is a separate [Hansard Second Reading search](#) which provides easier access to second reading speeches. Under this search function, second reading speeches can be browsed by corresponding Bill title, or they can be searched by Parliamentary session or by date range. On some occasions, it may be easier to search for Hansard or second reading speeches through the [Hansard Calendar Search](#), if the relevant sitting date is known.

## Using Hansard and second reading speeches in the interpretation of legislation

The *Legislation Interpretation Act 2021* (SA) governs the interpretation of South Australian legislation. Extrinsic materials, such as Hansard and second reading speeches, may be used in the interpretation of legislation. For example, s 16 of the *Legislation Interpretation Act 2021* (SA) provides that:

- (1) In the interpretation of a provision of an Act or a legislative instrument, if any material not forming part of the Act or instrument is capable of assisting in the ascertainment of the meaning of the provision, consideration may be given to that material—
  - (a) to confirm that the meaning of the provision is the ordinary meaning conveyed by the text of the provision (taking into account its context in the Act or instrument and the purpose or object underlying the Act or instrument and, in the case of a legislative instrument, the purpose or object underlying the Act under which the instrument was made); or
  - (b) to determine the meaning of the provision—
    - (i) if the provision is ambiguous or obscure; or
    - (ii) if the ordinary meaning conveyed by the text of the provision (taking into account its context in the Act or instrument and the purpose or object underlying the Act or instrument and, in the case of a legislative instrument, the purpose or object underlying the Act under which the instrument was made) leads to a result that is manifestly absurd or is unreasonable.

## South Australian legislation links

- [South Australian Legislation](#)
- [Parliament of South Australia](#)
- [Hansard](#)
- [AustLII](#)

## Acts governing South Australian legislation

- [Legislation \(Fees\) Act 2019 \(SA\)](#)
- [Legislation Interpretation Act 2021 \(SA\)](#)
- [Legislation Revision and Publication Act 2002 \(SA\)](#)
- [Legislative Instruments Act 1978 \(SA\)](#)

25.

## FINDING NEW SOUTH WALES LEGISLATION

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The [New South Wales legislation](#) website managed by the NSW Parliamentary Counsel's Office provides access to authorised versions of NSW legislation. The website can be searched or browsed to find legislation.

Use secondary resources such as textbooks, online commentary, legal encyclopaedias or journal articles to help identify key legislation.

### Finding In Force Legislation

To find the most current version of a New South Wales Act, Statutory Instrument or Environmental Planning Instrument, access the [In force legislation](#) page on the [NSW legislation](#) website.

Browse alphabetically if you know the title of the legislation or select the year the legislation came into force.

Some Statutory Instruments are prepared by other NSW government agencies. Access these on the [Statutory instruments prepared by other agencies](#) page.

### Finding As Made Legislation

To find as made versions of NSW Acts, Statutory Instruments and Environmental Planning Instruments, access the [As made legislation](#) page on the [NSW legislation](#) website. This page includes:

- Acts as passed from 1824
- Statutory Instruments as made from 1990
- Environmental Planning Instruments made from 2001

You can find as made Statutory Instruments and Environmental Planning Instruments from 1832-2001 via the [NSW Government Gazettes held in Trove](#).

To search for specific instruments in Trove, type the enabling Act name in “double quotation marks” and add a keyword such as ‘regulation’, for example:



**“gold fields act of 1861” AND regulation**

Filter the results by **Category > Government Gazette Proclamations and Legislation**

## Finding Point-in-Time and Historical Legislation

The [NSW legislation](#) website includes historical versions (sometimes called ‘reprints’) of legislation from approximately 2000 onwards (some titles have earlier versions available).

On an Act or Instrument homepage, look for the **Point-in-time versions** heading. Select a version from the timeline, or select an exact date from the calendar.

This list of versions is also available by navigating to **Legislative history** (in the menu bar at the top of the Act or Instrument homepage) > **Table of versions**.

**Note:** The NSW Parliamentary Counsel’s Office are working on scanning additional historical hardcopy legislation; further information about the available collections is available on the [Historical Information](#) page of the NSW Legislation website.

You can also search for hardcopy reprints of Acts and Statutory Instruments in a Library collection.

## Finding Repealed Legislation

To find repealed versions of NSW Acts, Statutory Instruments and Environmental Planning Instruments, access the [Repealed legislation](#) page on the [NSW legislation](#) website.

This page includes legislation repealed from 2002; some titles repealed prior to 2002 are available as at the date of repeal.

## Findings Bills and Extrinsic Material

Find NSW Bills and extrinsic material on the [Parliament of New South Wales](#) website.

Browse to the Bill homepage via:

- [Current session bills](#) – by title
- [Assented bills](#) – by title or year (from 1856)
- [All bills](#) – by title or session

The Bill homepage provides links to the Bill, Explanatory Notes and Second Reading Speeches. You will also find details of amendments and committee consideration on the Bill homepage, if applicable.

**Note:** the NSW legislation website (and some commercial databases) also include Bill and Explanatory Note information; however these sites may not include supplementary or revised versions of documents. It is recommended you use the parliamentary website.

If you can't find a Bill or Explanatory Note on the Parliament website, try AustLII, which includes:

- [NSW Bills](#) – from 1979
- [NSW explanatory notes](#) – from 1978

### When were Explanatory Notes first published in NSW?

Explanatory Notes have been issued for NSW Bills since the 1920s, however not every Bill has Explanatory Notes. Prior to the 1920s, brief Explanatory Notes were attached to the front of Bills such as money Bills; they varied from a few paragraphs to a page in length. From the 1980s, Explanatory Notes became longer and from 1987 they have been published separately to the Bill.

**Note:** Adapted from [Bills and Explanatory Notes \(ENs\)](#) by State Library of NSW, [CC BY 4.0](#)

If a Second Reading Speech is not listed on the Bill homepage, browse or search the [Hansard and House Papers by Date](#) list to locate the relevant pages in the hansard.

**Tip:** Check the **Progress** table on the Bill homepage to find the date of the Second Reading Speech before you start browsing.

## Finding NSW Government Gazettes

To find NSW government gazettes from 2001 onwards, access the [Gazette](#) page of the [NSW legislation](#) website.

Find historical NSW gazettes (1832-2001) in the [Gazettes collection in Trove](#).

26.

## FINDING NORTHERN TERRITORY LEGISLATION

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Current Northern Territory ('NT') legislation can be quickly found by browsing or searching the [NT Legislation](#) site.

### Structure, history, and finding legislation before self-governance

The NT Legislative Assembly is a [unicameral parliament](#) formed in 1978. Information about the Speaker of the Legislative Assembly, board case and meeting date, and other information papers can be found on the [Legislative Assembly of the NT website](#).

From 1863 to 1911, the NT was annexed from New South Wales to South Australia. If you are looking for legislation from this period, refer to South Australian Legislation. From 1911, the NT was transferred to the Commonwealth control with an Administrator and by 1948, a new NT Legislative Council was created; further power was granted to the Council in 1962. In 1974, the Legislative Council was replaced by a Legislative Assembly, and in 1978, the NT was granted self-governance; acts are assented to by the Administrator of the Territory.

### Finding Acts and Subordinate Legislation in Force

All current NT Legislation and Subordinate Legislation in force can be found on the [NT Legislation website](#). You can browse acts by title alphabetically, or search using keywords.

If you search using keywords, you can limit your search to the full text or only the title. For example, if you search for 'summary offences' in the title, you will get two pieces of legislation: *Summary Offences Act 1923* and *Summary Offences Regulations 1994*. If you search for 'summary offences' with full text, you will get many more results as you will find legislation that mentions summary offences in the text. The advanced search function will allow you to search for acts and subordinate legislation; you can also search by status, such as to limit your search by legislation in force, historical or as assented/ made. You can also search by point in time, date, or agency.

Summary offences act

Type: ☒ Acts ☐ Subordinate Legislation

Status: ☒ In Force ☐ Historical ☐ As Assented/ Made

Search By: ☐ Full Text ☒ Title Only

Figure 4: Searching by Title for a current act in force in the Advanced Search option of the [Northern Territory Legislation Database](#)

[Boolean operators](#) work on the site. The two main ones are;

- AND- This will search for legislation that contains both words e.g., Fence AND house. This will find legislation with the words fence and house used.
- OR- This will search for legislation that contains one or the other words e.g., accommodation OR house OR building. This will find legislation that uses any of these terms.

You can find subordinate legislation in a similar manner; you can browse by title or search by keywords. Alternately you can also find subordinate legislation attached to its principle. For example, if you search for the *Firearms Act 1997*, you will see a link to the *Firearms Regulations 1997* under the title ‘Subordinate Legislation’.

Another thing you can do on the website, is to sign up and to create an account. By creating an account, you can select legislation to receive notifications. When using the website, you will see an ‘envelope’ symbol next to legislation, click on this to get notified. You can also use this service to unsubscribe or change your notifications.

In addition to the NT Legislation site, you can also find legislation in Austlii, for example:

- [Northern Territory Consolidated Acts](#)
- [Northern Territory Numbered Acts](#) 2005- onwards
- [Northern Territory Consolidated Regulations](#)
- [Northern Territory Numbered Regulations](#) 1961-1998, 2004-

## Finding Historical Legislation

Here is a quick summary of finding historical legislation:

- **1863-1911-** refer to South Australian legislation.
- **1911-1960-** NT Numbered Ordinances, available only in hard copy bound volumes, the National

Library of Australia, and many academic and court libraries provide access.

- **1960**– Consolidated reprint of NT Ordinances as of 1 January 1961, [available on Austlii](#).
- **1960-1978**– NT Numbered Ordinances, [available on Austlii](#).
- **1978- current** can be found on the [NT Legislation](#) website, however, historical consolidated version area only available from 1 July 1997.

## Finding point in time legislation

There are several different ways to search for historical and point in time legislation. See above for historical legislation pre-self-governance. From 1978 onwards you can search the [NT Legislation](#) site which gives you two options:

1. Firstly, on the NT Legislation find the legislation you want as it is in force. Open the legislation and under the heading 'Related' to select 'View History Listing.' This will provide you with a reprint history with start and end date.
2. Secondly, you can use the Advanced Search to search by title and then set a specific time period. For example, you could search for the *Criminal Code Act* in Advanced Search using the title only from the radio buttons then in the point in time field select the dates 1/01/2001 – 2/01/2002. This will bring you back the acts and bills that correspond to that time period.

Another useful way of breaking down how the legislation was at a specific point in time is to explore the Endnotes in the legislation. The Endnotes will provide you with information about when the principal act was assented to and commenced, it is also where you will find the gazette details. The Endnotes will show you when the act was amended, which sections or parts were amended and point you to the amending legislations title, number and year.

In addition, the [Chorological Tables](#) on the NT Legislation Website will assist you with locating legislation number, year, title, and commencement date.

## Using Secondary Sources for NT Legislation

When searching for information on NT legislation, understanding the history can assist you in tracking down sources. Several books can assist you:

- Mildren, Dean. *Big Boss Fella All Same Judge: A History of the Supreme Court of the Northern Territory* (Federation Press, 2011)- this book provides the NT Supreme Court's history and useful information on legislative developments.
- Cross, Jack. *Great Central State: The Foundation of the Northern Territory* (Wakefield Press, 2011)- this book is useful for information on the early stages of South Australia's administration of the Northern Territory.

- Gray, Stephen, Jenny Blokland and Ben Grimes, *Criminal Laws Northern Territory*. (Federation Press, 3rd ed., 2021)- this book is useful for finding and tracing criminal laws over time.

Similarly, [NT Law Reform Committee Publications](#) also cover topics that include information on legislation development, history, and reform.

## Finding bills

The [NT Legislation](#) site has bills as introduced and as passed from 1975 onwards. You can search for a bill, by session, sponsor, title, or those bills that are currently before the Legislative Assembly. You can also search for bills in a similar way to acts in force, simply use the Advanced Search, and then under style select bill by ticking 'As Introduced' and/or 'As Passed'. In addition you can also find NT bills:

- 1975-1978- NT Library [Territory Stories](#)
- 1998-currently- [Austlii](#)

## Finding explanatory statements

Have been produced from February 2005 onwards, they are available on the [NT Legislation](#) website or [Austlii](#).

To find the speech on the [NT Legislation site](#), first select find the bill from the NT Legislation site, then under the title 'Related' you will find the Explanatory Statement.

## Finding second reading speeches/explanatory speeches

Second Reading Speeches are available in [Hansard](#) and from [Austlii](#).

For example, if we wanted to use Hansard to find the second reading speech for the Teacher Registration (Northern Territory) Amendment Bill 2009. First, we would need the introduction date on the bill from the [NT Legislation](#) website, then we can use the Hansard site to find it. On the bill we can see that it was introduced on 26 November 2009. In Hansard we can use the date to find that this comes under the 11th Assembly. You can then search by the date 26 November 2009 to find the second reading speech.

## Finding gazettes

From 2017 to present Gazettes are available from the [NT Legislation](#) website.

Older Historical Gazettes can be found on the [Territory Stories](#) website, and the Northern Territory Times and Gazettes from 1873-1927 are available in [Trove](#).

It is also possible to search by series for example:

- General collection – [G series](#)
- Special collection- [S series](#)
- Mineral collection- [M series](#)
- Registration collection- [R series](#)

You can also [subscribe](#) to the Gazettes.

## Finding Hansard

The parliamentary record, Hansard, is available from the [Legislative Assembly of the NT website](#), there is a short guide on [How to search information](#).

27.

## FINDING COMMONWEALTH LEGISLATION

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The [Federal Register of Legislation](#) provides access to authorised Commonwealth Acts and subordinate legislation.

### Finding current Acts

To find current Acts on the Federal Register of Legislation when browsing, ensure you select [Acts In Force](#).

### Finding point-in-time Acts

The Federal Register of Legislation provides access to historical versions of the Acts by Selecting **View series** from an Act homepage. The Series table will include version start and end dates you can use to find the correct version.

### Finding historical Acts

Access Acts as made from federation (1901) onwards from the Federal Register of Legislation.



28.

## TRACKING CHANGES IN LEGISLATION

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### Abbreviations

It can be valuable to understand how an Act has changed over time. Most Acts indicate these changes using a system of abbreviations.

**Table 9: Abbreviations and their meanings**

Abbreviation	Meaning
<b>ad</b>	added
<b>amd (or am)</b>	amended
<b>ins</b>	inserted
<b>om</b>	omitted
<b>renum</b>	renumbered
<b>rep</b>	repealed

### How to track changes

Traditionally, these abbreviations have been used to indicate changes to an Act in the **Endnotes** or **Notes** section found at the back of the Act. For Commonwealth Acts, for instance, turn to the **Endnotes 4 — Amendment history**.

The Amendment history for Section 69P of the Family Law Act 1975 (Cth) is:

s69P.....ad. No. 167, 1995; am. No 98, 2005.

This information tells you that:

- Section 69P was added in 1995 and amended in 2005
- The Act number and year of assent of the amending legislation.

For a fuller picture of the amendments, find the amending Act (Family Law Amendment Act 2005 No. 98, 2005) using the information provided.

Some websites incorporate the amendment information in a more accessible way. For instance, the

Queensland and New South Wales legislation websites allow users to use an option to **Turn history notes on** to see the amendment history while viewing the Act.

29.

## REVIEW QUIZ - LEGISLATION

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### Check your legislation research knowledge

Take the below review quiz to test your understanding of the content covered in this section.



*An interactive H5P element has been excluded from this version of the text. You can view it online here:*

<https://oercollective.caul.edu.au/legal-research-skills-an-australian-law-guide-2024-edition/?p=100#h5p-18>

## PART IV

# SECONDARY SOURCES

30.

## INTRODUCTION TO SECONDARY SOURCES

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Secondary sources are a useful starting point when researching an unfamiliar area of law or legal concept. They provide background information, context, topic and concept overviews, expert analysis, and references to key primary sources. While secondary sources are not authoritative versions of the law, they are beneficial for developing your understanding of legal concepts. Examples of secondary sources include:

- legal dictionaries and encyclopaedias
- books
- looseleaf services (commentaries)
- journal articles
- newspaper articles, reports and some material found on websites, blogs etc.

### Evaluating Secondary Sources

You are expected to use high quality, reputable and scholarly information sources throughout your university law study. Consequently, it is important to critically evaluate secondary sources, especially web-based sources, to determine whether the information is credible and suitable for academic use. Currency, authority and jurisdiction are of particular relevance for law resources. Refer to your university library's resources for more help and specific criteria for evaluating information.

## 31.

# DICTIONARIES AND ENCYCLOPAEDIAS

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## Legal dictionaries

Legal dictionaries assist with clarifying the meaning of legal jargon and other terms/phrases. They may provide references to legislative provisions defining the term and/or cases that have considered the term. Legal dictionaries can help you:

- identify terms relevant to a particular area of law
- understand specific legal meanings for everyday words
- locate words and phrases defined in legislation or judicially interpreted.

Your university may prescribe an official dictionary to use as part of your law studies. Use your university library search to find other law dictionaries available in print or online. In the Lexis Advance law database, use the **Quick Find – Defined Terms** search to quickly locate the definition of a term or phrase.

## Legal encyclopaedias

Legal encyclopaedias contain more extensive information than dictionaries and provide:

- a concise introduction to the topic
- key case and legislation references
- coverage across all Australian jurisdictions.

They are a useful starting point when researching an unfamiliar area of law or legal topic. The table of contents is organised by *title* (field of law/subject) and then structured into chapters > subheadings > [paragraphs]. Encyclopaedias provide basic overview information for legal concepts, including references to key legislative provisions and case law in the notes area beneath each paragraph. To find information in legal encyclopaedias, browse through the table of contents topics using the + symbols, search across an entire encyclopaedia by keyword/s, or limit a search to within headings/titles only.

Two online Australian legal encyclopaedias are available:

1. *The Laws of Australia* in the Westlaw Australia database – view the publisher’s [training video](#) [2:12].
2. *Halsbury’s Laws of Australia* in the Lexis Advance/Lexis+ database – view the publisher’s [training video](#) [2:33] for Lexis Advance.

32.

## BOOKS

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Books are an invaluable source of information for legal research. Books can provide you with:

- an in-depth understanding of a particular practice area, topic, or concept
- leading case references
- key legislation references
- related journal article references.

Use your university library search to find books by title, author, or topic. Use filters, such as publication date, to refine a large results list, or use the advanced search options. Consider currency and jurisdiction when selecting books to use.

Some titles will be available electronically as eBooks. However, publishers may set restrictions on the number of simultaneous users and the permitted print/download amount.

33.

## LOOSELEAF SERVICES (COMMENTARIES)

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Looseleaf services are publications used by legal practitioners who specialise in a particular area of law. They are also known as commentaries or reporters and typically include:

- legislative extracts
- annotations to legislation
- recent case law
- commentary (an analysis of the law written in a similar style to a textbook).

The term 'looseleaf' refers to the traditional print versions of these sources, which are comprised of loose leaves (pages) of paper in a folder or ring binder. This format enables regular updating throughout the year by removing, replacing and/or adding individual 'leaves' to reflect changes in the law. Consequently, they are organised and referenced by paragraph numbers rather than page numbers.

The benefits of looseleaf services include:

- currency — regularly updated to reflect new developments
- insight — contains expert analysis of legal concepts and legislative provisions
- comprehensive coverage
  - assemble important information relevant to a field of law within the one product
  - include relevant legislation and key case law in full-text or extract format (or link to these primary sources).

### Using looseleaf services

Check your university library for access to looseleaf services; many will be available online in key law databases. Online looseleaf services continue to be regularly updated so they are a good source to check for any changes to the law in a particular practice area. They are particularly useful for problem questions involving factual scenarios. For example, for explanations of the elements of criminal offences, an outline of



the effects of specific contractual terms or discussion of the courts' interpretation/application of complex sections of legislation.

To use online looseleaf services, browse the table of contents or index as a starting point, or search across these products using keywords. Watch the Westlaw Australia video on [Find and annotate commentary publications](#) [2:24] for an example of using these resources.

## 34.

## JOURNAL ARTICLES

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Journal articles provide a topical discussion of legal issues, cases, and legislative developments. While journal articles can provide in-depth coverage of a legal issue, it is important to keep in mind that they may not always reflect current law. Scholarly law journal articles are written by legal experts (academics, researchers, members of the judiciary or legal profession) for an academic audience and are supported by research, theory, and references.

### Peer review

You may be required to use information from academic journal articles that are **peer reviewed**. Peer review (also known as refereeing) is a process where other scholars in the same field (peers) evaluate the quality of an article and make suggestions for revision prior to publication. The aim is to ensure that the work is rigorous, coherent and based on sound research.

### Interpreting journal article citations

The example below will help you identify the parts of a journal article citation.

Anita Mackay and Lola Akin Ojelabi, 'A Beginner's Guide to Academic Integrity and Legal Referencing using the AGLC' (2022) 47(1) *Alternative Law Journal* 74.

- **Author/s:** Anita Mackay and Lola Akin Ojelabi
- **Article title:** A Beginner's Guide to Academic Integrity and Legal Referencing using the AGLC
- **Year of publication:** 2022
- **Volume number:** 47
- **Issue number:** (1)
- **Journal title:** *Alternative Law Journal*
- **Commencing page number:** 74

### Searching for law journal articles

Journals are published in regular instalments with each issue containing several individual articles. There are hundreds of law journals varying by jurisdiction and subject focus. To find law journal articles on a legal

topic, start with your university library search. Law databases and other sources, such as [Google Scholar](#), will also help you locate relevant journal articles.

35.

## OTHER SOURCES

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### Law reform materials

Each jurisdiction in Australia has a Law Reform Commission. The function of the Commission in each state is to review and reform the law. For example, in Queensland, the *Law Reform Commission Act 1968* (Qld) s 10 states that:

The function of the Commission shall be to take and keep under review all the law applicable to the State with a view to its systematic development and reform, including in particular—

- (a) the codification of such law
- (b) the elimination of anomalies
- (c) the repeal of obsolete and unnecessary enactments
- (d) the reduction of the number of separate enactments
- (e) generally the simplification and modernisation of the law.

Law reform committees undertake reviews, research and consultation. Each Commission has a website that provides the most recent law reform reports and papers. The AustLII website also contains an [Australasian Law Reform Library](#). In certain circumstances, law reform materials along with the relevant parliamentary documents may be used to help interpret legislation.

### Example of law reform in action

The recommendations found in Report No. 76 by the Queensland Law Reform Commission — *Review of Termination of Pregnancy Laws* — were tabled in Parliament in June 2018, and used to formulate the *Termination of Pregnancy Act 2018* (Qld).

### Non-legal materials

Depending on your assignment topic, your research may be enhanced by using non-legal sources. You may find supporting data or information in other fields, for example in the fields of criminology, statistics or health science.

### News

News articles and media report on and discuss the latest legal developments. Access news articles via your university library, news websites and archives such as [Google news](#) and TROVE [digitised newspapers](#).

## Company and Industry Information

Use company reports and industry profiles to locate information on the legal industry, law firms and legal practice. This type of business and financial information also provides background information on clients and competitors and is generally available on company websites and via your university library's databases.

## Statistics

Statistical data can help you learn more about geographic regions and the current economic and social climate. There are a number of Australian and international government and non-profit organisations that collect economic, industry, and population data and make it freely available online. For example, the [Australian Bureau of Statistics](#), [Organisation for Economic Co-operation and Development](#) and the [World Bank](#).

## Policy documents

Public policy documents such as reports, discussion papers and working papers may refer to key legislation and statistical data and provide valuable background on matters relating to justice, social issues, international relations, government regulation and more. Find policy documents on government and non-profit organisation websites.

The [Analysis & Policy Observatory](#) (APO) repository contains material on public policy issues from Australia and New Zealand. [Browse](#) by subject or [collections](#) or search using keywords.

36.

## REVIEW QUIZ - SECONDARY SOURCES

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### Check your secondary sources research knowledge

Take the below review quiz to test your understanding of the content covered in this section.



*An interactive H5P element has been excluded from this version of the text. You can view it online here:*

<https://oercollective.caul.edu.au/legal-research-skills-an-australian-law-guide-2024-edition/?p=116#h5p-19>