Referencing using law style

Law style

This resource explains some of the more common applications of law style. It is based on the *Australian Guide to Legal Citation* (3rd ed, 2010) (*AGLC*).

> You should always check your unit guide and/or with academic staff (unit chair, lecturer or tutor) to make sure that this is the recommended style for your unit.

You must reference *all* material you use from *all* sources and acknowledge your sources in the body of your paper each time you use the law, commentary on the law, conclusions, ideas or findings from someone's work.
It is necessary to cite your sources each time you:

- reproduce an author's exact words (quote), that is, copy word for word directly from a text
- use your own wording (summarise or paraphrase) to explain or discuss what someone has said.

If you copy an entire table, chart, diagram or graph or if you take only some of the data contained in such sources, you must provide a reference.

Sources such as journals, books, encyclopedias, computer programs and software, information from the internet, reports, newspapers, interviews, radio and television must be acknowledged.

Law style consists of the following elements:

(1) *citations in the body of the paper,* using a superscript (raised) number, following the text to which the superscript number refers

(2) *a list of footnotes at the bottom (foot) of each page*, for all citations on that page

(3) *possibly a bibliography*. If a bibliography is required it should be provided at the end of the paper and give details of each source mentioned in the text, as well as details of other sources consulted in preparing the paper.

Part 1 of this resource deals with citing sources in the body of the paper. Part 2 discusses how to set out footnotes. It gives examples of a range of common types of sources that you are likely to use in your assignments. Part 3 of this resource shows how to present a bibliography.

Part 1: Citing sources

Superscript numbers with corresponding footnotes should be used whenever information or ideas from sources are discussed. Sources such as legislation, cases, books, journals, reports, newspapers, interviews, radio, television and information from the internet must be acknowledged in text and detailed in footnotes. Information from Deakin readers must also be referenced. (Deakin study guides are not generally considered an authoritative source for legal research.)

Footnotes are also used to provide extra information that is not appropriate to include in the body of the text. Additionally, they are used to back up an argument as well as to acknowledge a source that has contributed to an argument.

The superscript number should be placed at the end of the portion of text to which the corresponding footnote refers. The number should appear after any relevant punctuation (usually a full stop or a comma).

Summarising and paraphrasing

Writers can discuss ideas and findings from sources by using their own words in summaries and paraphrases. Summarising is condensing a text; paraphrasing is conveying all the information in a short stretch of text.

When summarising or paraphrasing material from a source, a superscript number should be used as follows:

> If the clause creates an equitable charge, it is unregistered and unenforceable against prior and later created registered floating charges.[1]

Quoting

This is how a direct quote would appear:

> Note the broad definition of security arrangements by the Australian Law Reform Commission: 'an interest in property which is held by one person to ensure the performance of an obligation by another'.[1]

If a quote is longer than three lines, omit the quotation marks, start the quote on a new line, in a smaller font size and indent the quote about 1 cm from the left-hand margin of the page. A superscript number is used and a footnote is necessary to indicate the source of the quote.

> Hoffmann J concluded that:
>
> > The public interest requires a balancing of the advantages to the economy of facilitating the borrowing of money against the possibility of injustice to unsecured creditors. These arguments for and against the floating of charges are matters for Parliament rather than the courts and have been the subject of public debate in and out of Parliament for more than a century.[1]

Part 2: Footnotes

At the bottom of the page you would have a short line separating the body of the text from the footnotes relating to the superscript numbers. The numbers in the footnotes at the bottom of the page should also be superscripted. (Many word processing programs have an automatic footnoting facility.)

- Authors' names should appear exactly as they do on the source. This may require the same author's name to appear differently in citations of several of their works.
- Where there are two or three authors, the names of all the authors should be included and the word 'and' should separate the names of the last two authors.
- Where there are more than three authors, the family name of the author appearing first on the source should be included followed by 'et al.'.
- Initials in names should be separated by a space and should not be followed by full stops.
- Each footnote should end with a full stop.

Examples of first citations of common footnote types are shown below. The first time a source is cited, the footnote must provide full bibliographic details. The footnotes for subsequent references to the same source do not repeat all the details but use a shortened form. See the section that follows on repeat citations.

A *pinpoint reference* in a footnote is one that directs the reader to a particular place in the cited work. A pinpoint reference can be provided for a first citation or a repeat citation of a source. For a source like a case, a book or a journal article, a pinpoint reference, if provided, refers the reader to a particular page or paragraph. For legislation, pinpoint references are to chapters, parts, sections, subsections, divisions and the like. A pinpoint reference is provided after the work is identified, that is, after the full bibliographic details for a first citation of a source, and after the shortened form in a repeat citation.

- A pinpoint reference to a page is indicated by the number of the page (no use of p or pg).
- A pinpoint reference to a paragraph is indicated by the paragraph number in square brackets.
- A pinpoint reference to a section is indicated by the abbreviation 's', followed by the section number.
- A pinpoint reference to a chapter is indicated by the abbreviation 'ch', followed by the chapter number.

The footnotes that follow provide examples of a **case** (1), a **book** (2), **legislation** (3), a **journal article** (4) and an **internet document** (5).

In addition, examples 2 and 3 each include a pinpoint reference. In example 2 the pinpoint reference is to a page number and in example 3 the pinpoint reference is to a section of an Act.

Examples

[1] *Victoria Park Racing and Recreation Grounds Co Ltd v Taylor* (1937) 58 CLR 479.

[2] Joycey Tooher and Bryan Dwyer, *Introduction to Property Law* (LexisNexis Butterworths, 5th ed, 2008) 91.

[3] *Banking Act 1959* (Cth) s 5.

[4] Elizabeth Boros, 'Virtual Shareholder Meetings: Who Decides How Companies Make Decisions' (2004) 28 *Melbourne University Law Review* 265.

[5] The Financial Ombudsman Service, 'Insurance Policy Excesses and Financial Difficulty' (2010), *Circular Edition 3* <http://fos.org.au/circular3/Excesses.html>.

Repeat citations

When a particular source is cited more than once in a paper, the full bibliographic details should not be provided each time in a footnote. The terms 'ibid' and 'above n' are used to refer to previous citations.

Note that repeat citations of legislation and of cases may be indicated using 'ibid' but not 'above n'.

Ibid

'Ibid' is an abbreviation of the Latin term 'ibidem', meaning 'in the same place'. Use 'ibid' to refer to a source if it is the only source cited in the immediately preceding footnote. 'Ibid' should always be capitalised when it appears at the start of a footnote.

If there is a pinpoint reference, that is, a reference to a specific place in the cited text, and the next footnote is to the same work **and** to the same place in the cited text, use 'ibid'. The pinpoint reference should not be repeated.

If you refer to the same source as in the immediately preceding footnote but to a different page or section, use 'ibid' followed by the pinpoint reference, that is, the different page or section number. See the examples of repeat citations using 'ibid' provided later in this resource.

Above n
Use 'above n' to refer to a source that has been cited in a previous footnote other than the immediately preceding one. However, use 'above n' to refer to an immediately preceding footnote, if that footnote lists more than one source.

Legislation, cases, treaties and certain other documents must be cited in full each time. Please refer to *AGLC* for further details <http://mulr.law.unimelb.edu.au/go/aglc>.

Examples of repeat citations

[1] *Victoria Park Racing and Recreation Grounds Co Ltd v Taylor* (1937) 58 CLR 479.

[2] Joycey Tooher and Bryan Dwyer, *Introduction to Property Law* (LexisNexis Butterworths, 5th ed, 2008)

[3] Ibid.

[4] Ibid 52–3.

[5] *Victoria Park Racing and Recreation Grounds Co Ltd v Taylor* (1937) 58 CLR 479.

[6] Ibid.

[7] *Banking Act 1959* (Cth).

[8] Ibid.

[9] Tooher and Dwyer, above n 2, 15.

[10] Ibid 20.

[11] The Financial Ombudsman Service, 'Insurance Policy Excesses and Financial Difficulty' (2010), *Circular Edition 3* <http://fos.org.au/circular3/Excesses.html>.

[12] Ibid.

[13] *Banking Act 1959* (Cth) s 5.

[14] The Financial Ombudsman Service, above n 11.

First citations

This section provides examples of first citations for a range of sources commonly used by students in law assignments. In these examples, pinpoint references are provided in footnotes 1, 3, 7, 8, 9, 12, 13, 15, 16 and 17.

Please refer to *AGLC* for more examples of a wide range of sources: <http://mulr.law.unimelb.edu.au/go/aglc>.

Book

No. First Author and Second Author, *Title of Book* (publisher, edition number other than the first, year) pinpoint reference.

[1] W S Weerasooria, *Bank Lending and Securities in Australia* (Butterworths, 1998) 230.

[2] Alan L Tyree, *Australian Law of Cheques and Payment Orders* (Butterworths, 1988).

[3] Edward I Sykes and Sally Walker, *The Law of Securities* (Lawbook, 5th ed, 1993) 39.

[4] E L G Tyler, P W Young and Clyde Croft, *Fisher and Lightwood's Law of Mortgage* (LexisNexis Butterworths, 2nd Australian ed, 2005).

[5] Robert Baxt, Keith Fletcher and Saul Fridman, *Corporations and Associations: Cases and Materials* (LexisNexis Butterworths, 10th ed, 2009).

Case

No. *Case Name* (year) volume Abbreviation of report series first page of case, pinpoint reference.

[6] *Uniting Church in Australia Property Trust (NSW) v Mimer (Ion 145) Pty Ltd* (1991) 24 NSWLR 510.

[7] *Breen v Williams* (1995) 186 CLR 71, 113.

Chapter or article in an edited book

No. First Author and Second Author, 'Title of Chapter' in First Editor and Second Editor (eds), *Title of Book* (publisher, edition number other than the first, year) first page of chapter or article, pinpoint reference.

[8] William Gough, 'Securities over Debts' in Gregory Burton (ed), *Directions in Finance Law* (Butterworths, 1990) 220, 223.

Group author

No. Author, *Title of Book* (publisher, edition number other than the first, year) pinpoint reference.

[9] Mallesons Stephen Jaques, *Australian Finance Law* (Lawbook 6th ed, 2008) 21.

Internet document

A source should be cited as an internet document only if it does not exist in a published form. Where available, the full date of the last update of the web page should be included. Where the full date is not provided, include as much of the full date as appears. The date of retrieval should not be included in the citation.

No. First Author and Second Author, *Title of Document* (full date) web site name if different from author's name, pinpoint reference <URL>.

[10] International Whaling Commission, *IWC Information* (4 August 2010) <http://www.iwcoffice.org/commission.iwcmain.htm>.

Journal article

No. First Author and Second Author, 'Title of Article' (year) volume(issue if journal does not have continuous pagination through volume) *Journal Title* first page of journal article, pinpoint reference.

[11] Greg Rooney, 'Mediation and the Rise of Relationship Contracting: A Decade of Change for Lawyers' (2002) 76(10) *Law Institute Journal* 40.

[12] Sharon Rodrick, 'Forgeries, False Attestations and Impostors: Torrens Systems Mortgages and the Fraud Exception to Indefeasibility' (2002) 7 *Deakin Law Review* 97, 106.

Article published in electronic journal

Articles from electronic journals should only be cited where a printed edition (of the journal or the article cited) does not exist. Articles in journals that are only available online should, as far as possible, be cited in the same manner as articles in printed journals. However, volume number, issue number and starting page may not be provided. The date of retrieval should not be included in the citation. If an article appears in a printed journal, even where a similar version is available online, the printed journal should be cited instead.

[No.] First Author and Second Author, 'Title of Article' (year) volume(issue if journal does not have continuous pagination through volume) *Journal Title* first page of journal article, pinpoint reference <URL>.

[13] Kate Lewins, 'What's the *Trade Practices Act* Got to Do with It? Section 74 and Towage Contracts in Australia' (2006) 13(1) *eLaw Journal: Murdoch University Electronic Journal of Law* 58, 59 <https://elaw.murdoch.edu.au/archives/issues/2006/1/eLaw_Lewins13_2006_05.pdf>.

Legislation

[No.] *Title of Legislation year* (Abbreviation of jurisdiction) pinpoint reference.

[14] *Transfer of Land Act 1958* (Vic) s 74.

[15] *Chattel Securities Act 1987* (Vic) s 7(5).

Newspaper article (authored)

[No.] First Author and Second Author, 'Title of Article', *Newspaper* (Place of Publication), full date, pinpoint reference.

[16] Ellen Whinnett, 'Industry Poll Reverses Greens' Survey Forestry Offensive', *The Mercury* (Hobart), 25 September 2004, 3.

Note: If an article appears in a named section of a newspaper and the newspaper is not consecutively paginated, the name of the section should be included before that of the newspaper. See example that follows.

Newspaper article (no author)

[No.] Title of Article', *Newspaper* (Place of Publication), full date, pinpoint reference.

[17] 'Little Corporate Appeal in Green Bottom Line', *Business, The Age* (Melbourne), 6 June 2005, 4.

Newspaper article (electronic)

Electronic newspapers should only be cited where an identical printed edition (of the newspaper or the article cited) does not exist. The date of retrieval should not be included in the citation.

[No.] First Author and Second Author, 'Title of Article', *Newspaper* (online), full date, pinpoint reference <URL>.

[18] Farrah Tomazin, 'Kinder Wages Breakthrough', *The Age* (online), 19 May 2009 <http://www.theage.com/au/national/education/kinder-wages-breakthough-20090519.bcwh.html>.

Part 3: Bibliography

If you are required to present a bibliography, list all works referred to in the body of your assignment and in footnotes, as well as all works that you consulted in writing your assignment.

Sources should be presented under the following sections where applicable:

A *Articles/Books/Reports*
B *Cases*
C *Legislation*
D *Treaties*
E *Other*. These include:

- government documents like parliamentary debates, parliamentary committee reports, royal commission reports and the like
- newspaper articles
- television and radio transcripts
- press releases
- legal encyclopedias
- loose-leaf services
- theses
- working papers
- conference papers
- speeches
- interviews
- letters
- email
- internet materials.

In a bibliography:

- An author's family name comes first, followed by a comma and the given name or initials. (This is different from footnotes, where the given name or initials appear first, followed by the family name, and no comma is used.)

- For works by two or more authors, only the first author's given name or initials and family name should be inverted.

- No full stop is used at the end of each entry in a bibliography, whereas each footnote entry should end with a full stop.

- Works should be listed in alphabetical order according to the family name of the first-listed author.

- Where the author is an institution, the work is listed according to the first word of the name of the institution, disregarding 'the' at the beginning of the name.

- Works listed by their title are listed according to the first word of the title, disregarding 'a' or 'the' at the beginning of the title.

Sample bibliography in law style

BIBLIOGRAPHY

A *Articles/Books/Reports*

Boros, Elizabeth, 'Virtual Shareholder Meetings: Who Decides How Companies Make Decisions' (2004) 28 *Melbourne University Law Review* 265

Rooney, Greg, 'Mediation and the Rise of Relationship Contracting: A Decade of Change for Lawyers' (2002), 76(10) *Law Institute Journal* 40

Tooher, Joycey, and Bryan Dwyer, *Introduction to Property Law* (LexisNexis Butterworths, 5th ed, 2008)

Weerasooria, W S, *Bank Lending and Securities in Australia* (Butterworths, 1998)

B *Cases*

Breen v Williams (1995) 186 CLR 71

Hospital Products Ltd v United States Surgical Corporation (1984) 156 CLR 41

Uniting Church in Australia Property Trust (NSW) v Mimer (Ion 145) Pty Ltd (1991) 24 NSWLR 510

Victoria Park Racing and Recreation Grounds Co Ltd v Taylor (1937) 58 CLR 479

C *Legislation*

Banking Act 1959 (Cth)

Supreme Court Act 1986 (Vic)

D *Treaties*

Treaty on the Non-Proliferation of Nuclear Weapons, opened for signature 1 July 1968, 729 UNTS161 (entered into force 5 March 1970)

E *Other*

The Financial Ombudsman Service, 'Insurance Policy Excesses and Financial Difficulty' (2010), *Circular Edition 3* <http://fos.org.au/circular3/Excesses.html>

'Little Corporate Appeal in Green Bottom Line', *Business, The Age* (Melbourne), 6 June 2005, 4

Whinnett, Ellen, 'Industry Poll Reverses Greens' Survey Forestry Offensive', *The Mercury* (Hobart) 25 September 2004, 3

Further reading

Australian Guide to Legal Citation (3rd ed, 2010)

Referencing using law style can be accessed online at <www.deakin.edu.au/referencing >. Other resources available at this web address include:

Avoiding plagiarism and collusion
Summarising, paraphrasing and quoting
Why reference?

See also: <http://mulr.law.unimelb.edu.au/go/aglc>.