SLSS1001 Introduction to Legal Research

**AIM:** Develop legal research skills using AustLii and case citators (specifically CaseBase)

<table>
<thead>
<tr>
<th>SESSION OUTCOMES</th>
<th>SKILL AREA(S)</th>
<th>LEVEL(S)</th>
</tr>
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<tbody>
<tr>
<td>• Locate legislation using the AustLii Database</td>
<td>Identify &amp; Find</td>
<td>1 2 3 4</td>
</tr>
<tr>
<td>• Locate case law using the AustLii Database</td>
<td>Identify &amp; Find</td>
<td>1 2 3 4</td>
</tr>
<tr>
<td>• Locate a case law using CaseBase (via LexisNexis AU)</td>
<td>Identify &amp; Find</td>
<td>1 2 3 4</td>
</tr>
<tr>
<td>• Locate additional case citations and secondary materials using CaseBase</td>
<td>Identify &amp; Find</td>
<td>1 2 3 4</td>
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**Class content**
- Introduction and purpose
  - **Section 1**
    - Demonstrate a search for legislation on AustLii
    - Demonstrate search for cases on AustLii
    - Demonstrate casebase
  - **Section 2**
    - Students undertake practical exercises

**ACADEMIC LIBRARY LIAISON CONTACT**

<table>
<thead>
<tr>
<th>Name</th>
<th>Email</th>
<th>Phone</th>
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<tbody>
<tr>
<td>Karen Chilcott</td>
<td><a href="mailto:Karen.Chilcott@sydney.edu.au">Karen.Chilcott@sydney.edu.au</a></td>
<td>9351 7289</td>
</tr>
</tbody>
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**Presenters**

<table>
<thead>
<tr>
<th>Presenters</th>
<th>Times</th>
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<tbody>
<tr>
<td>Karen Chilcott</td>
<td>Tues 12-1pm, 2-3pm, 5-6pm; Wed 9-10am, 12-1pm; Thurs 12-1pm, 2-3pm, 4-5pm</td>
</tr>
<tr>
<td>Rosemary O’Donnell</td>
<td>Tues 1-2pm, 4-5pm; Wed 1-2pm; Thurs 10-11am</td>
</tr>
</tbody>
</table>

**SESSION FEEDBACK**

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Need help finding information for your assignments or research? The Library offers a wide range of services to help with your studies. Want to find out more? Visit our website and connect on social media.
AUSTLII

The Australasian Legal Information Institute (AustLII) is a joint facility of the UTS and UNSW Faculties of Law it provides free internet access to Australasian public legal information -- that is, primary legal materials (legislation, treaties and decisions of courts and tribunals); and secondary legal materials created by public bodies for purposes of public access (law reform and royal commission reports for example) and a substantial collection of law journals. It also provides access to the Law of other countries.

The Commonwealth and NSW governments also have web pages providing public legal information. These are the Federal Register of Legislation (formerly ComLaw) (https://www.legislation.gov.au/) and the New South Wales Parliamentary Counsel’s Office (http://www.pco.nsw.gov.au/).

This is the AustLII home page. - You can return to this page at any time by clicking on the AustLII icon.

1. New resources are listed on the centre of the Austlil webpage. Quick way of locating recent cases, legislation and bills in the news
2. Browse or search within a specific jurisdiction eg state or court
3. Austlil also includes “Libraries” which brings together legal material on a specific topic
4. Searches all collections also uses the AustLii Autosearch feature which recognises AND or OR for combining search terms eg land rights and traditional law, a search for a section of an act eg s 248a native title act 1993, or a case name Mabo v Queensland
5. Click on advanced search to locate legislation or cases by keyword, title, case name, phrase…
Search all collections or limit search to specific collection. For example cases from a specific
jurisdiction

6. The World Legal Information Institute (WorldLII) is a free, independent and non-profit global legal
research facility developed collaboratively by the following Legal Information Institutes and other
organisations: AustLII; BAILII; CanLII; HKLII; LII (Cornell); and PacLII. WorldLII provides a single
search facility for the databases of these Legal Information Institutes. WorldLII also includes as
part of this searchable collection its own databases not found on other LIIs. These include
databases of decisions of international
Courts and Tribunals, databases from a
number of Asian countries, and databases
from South Africa (provided by Wits Law
School). Over 270 databases from 48
jurisdictions in 20 countries are included in
the initial release of WorldLII. Databases of
case-law, legislation, treaties, law reform
reports, law journals, and other materials
are included.

Search for Legislation:

Use the basic Search box to search for legislation. This search option uses the AustLII “Autosearch”
function to search all collections. The Autosearch feature allows you to use AND or OR for combining
search terms eg land rights and traditional law, search for a section of an act eg. s 248a native title act
1993, or a case name Mabo v Queensland.

Search for the Native Title Act 1993

There are 2 entries because Acts are initially released in a numbered sequence within a specific year.
They are later consolidated along with any amendments into a single consolidated act.

Select the Consolidated Act.

The following introductory screen is displayed with a number of options to select to view information about
the act as well as the act itself.
[Index] - will take you back to the Index page for the collection within which an item is contained in this case Commonwealth Consolidated Acts.

[Table] - shows all of the different sections of the act. Click on one of these section number to view the particular details of that section of the act, sometimes these are only very short sometimes they are longer.

[Search] - Lets you perform an Advanced search over AustLII

[Search this act] allows you to locate specific words and phrases within the act (eg pastoral leases). This search will locate all occurrences of these words within the act. Various search options available autosearch, phrase, all the words.

[Notes]: generally provide information relating to the currency of legislation, amendment histories and other useful information such as commencement dates and dates of assent. Notes can be very long use the browser find option to move quickly locate terms that you are looking for example assent, commencement

[Noteup]: allows you to locate all other acts, regulations and cases which refer to a piece of legislation or specific section of an act or regulation. Results can be sorted by database/collection (useful for quickly locating cases); date, title and relevance (documents where your terms occur the most will be at the top of the list).

[Download]: The entire item will be downloaded to your computer. AustLii is a fulltext database you will be able to access or download a piece of legislation, a case or an article you are interested in. Remember some pieces of legislation are extremely long, think before you hit print. The Social Security Act and the Taxation Act for example comprise more than several large volumes when available in print.

[Context]: Clicking "Context" will take you to the first of the search terms for which you searched which occurs in the decision. Note that this option only appears when you have used the AustLII search engine to find the decision.

[No Context]: Clicking "No Context" removes the highlighted search terms from the current page so that you can print or view it without the highlighting of search terms. Note that this option only appears when you have used the AustLII search engine to find the decision.

Search for Cases:

Use the basic Search box to search for a case name. When searching for Cases Autosearch will recognise a search which contains v, vs, or re in the case name. The search results will be restricted to documents (usually cases or casenotes) containing the phrases on either side of these identifiers, or immediately after the re in the title. So, for example, the following searches all work: Mabo v Queensland, Queensland vs Mabo, re Lenah.
Search for Mabo v Queensland

The page displaying results of any AustLII search offers five different methods of display.

**By Relevance** – The default results display is by order of likely relevance to the search request, most relevant first.

**By Date** – The results are sorted by date order, most recent date displayed first. Legislation is displayed by the date the Act was passed or the Regulation made, not by the date on which a particular section or clause was amended.

**By Title** – The results are sorted alphabetically by the title of the document, and displayed from a-z.

**By Database** – The search results are displayed grouped into the databases on which they are located. The databases are displayed in the order in which they appear in AustLII’s menu. To view the results from only one database, click on the number of documents next to the name of the database.

**By Citation Frequency** – Results are sorted by the frequency with which items (cases, journal articles, treaties or law reform reports) are cited in the LawCite citator. The LawCite logo following each search result item is a link to that item’s citation record in LawCite. The number of stars (1-5) indicates the frequency with which the item is cited.

LawCite is an automatically generated international legal case citator. It is something you use to locate judgments and to see how these have been subsequently dealt with and commented upon. In many ways, LawCite is similar to the editorially produced commercial legal citators (such as CaseBase and First Point).

The ‘Collapse Multi-sections | Show All Sections’ option makes search results which contain numerous references to legislation more readable by reducing the number of sections of an Act or clauses of a Regulation which are visible.

AustLII Digital Signature

In 2015 AustLII, introduced a new feature - a digitally signed and watermarked print format which can be applied to most of the judgments from the more than 120 courts and tribunals, whose decisions are published on the AustLII database. AustLII is working with and encouraging courts and tribunals to “accept” this version as being able to be handed up in court.
The ‘Signed by AustLII’ format:
• is a PDF/A document
• has been digitally signed by AustLII and includes a digital certificate that can be independently verified.
• has an AustLII watermark background to make it more visually obvious that it is complete and unaltered
• is date-stamped as to when it was obtained from AustLII

Case Citators

❖ Case citators allow you to find out
  ▪ where cases have been reported
  ▪ cases that have considered the case you are researching.

❖ Case citators also:
  ▪ verify citations for cases
  ▪ record if cases have been reported in more than one Law report series
  ▪ effective tool for location partial citations
  ▪ trace cases where the main case has been considered

❖ Some citators include references
  ▪ secondary material such as journal articles which discuss a specific case.

❖ The Library subscribes to
  ▪ CaseBase via LexisNexis.au
  ▪ Firstpoint
  ▪ AustLii is developing a free case Citator called LawCite
Casebase

Casebase is an Australian case citator providing details of where a case has been reported and cases where the main case has been considered. It also provides subject access to cases and journal articles which discuss a specific case.

There are a variety of ways of searching in Casebase. Available search options are explained below;
1. **[Search Terms]**: To search generally across CaseBase, enter your search terms in this field. Keyword searching is useful for finding cases containing specific terms. You will need to use connectors (ie AND, OR) to show the relationship between the terms.
   For example: *birth and negligence; wrongful birth*

2. **[Case Name]**: This field is used to find a case or article. It searches case names and article titles only, and is useful when the name of the case is known.
   For example *magill and magill; mabo and queensland; r and milat* or popular name *Tasmania Dams case; War crimes case*

3. **[Sources]**: The default source to search is a combination of the Case and Journal entries within CaseBase. ie CaseBase Cases and Journal Articles. To search only the journal entries, choose CaseBase Journal Articles. To search only case entries, choose CaseBase Cases. To learn more about the contents of a source, click the icon to the left of the source links.
   Example: To locate cases dealing with the *Native Title Act 1993 and s 248a*: type *Native title act w/p 248a*

4. **[Act/Regulation]**: Use this field to find cases that have judicially considered specific legislation or articles discussing the legislation. Type in the *title of the legislation* and use the 'provision' box to enter a *section number* to search within a specific subsection of the legislation. For Example to find cases that have considered or discussed exclusive pastoral leases and the native title act *Native Title Act 1993 and s 248a*

5. **[Catchwords/Summary]**: The *Catchwords* are the main areas of law discussed in the case or article. The *Summary* is a brief outline of what the case involved, statements from judgment, and the outcome, or for journals, a brief outline of what the journal discusses. To restrict your search to the catchwords/summary information of the CaseBase entry, enter your search terms in this box.
   Example: To find cases dealing with occupiers and liability: type *occupier and liab!*
   Note: Due to the autosearch of plurals and 's, this search will find *occupier* and *occupier's*. The use of ! is to locate variable endings to the word. ie *liability, liable*

6. **[Words & Phrases]**: Use this field to search for cases where a word or phrase has been *judicially defined*. This is different to catchwords, as the catchwords are issues litigated upon in the case, where the words or phrases is where that particular word or phrase was given a definition by the judges in the case. This is useful when legislation is ambiguous.
   Example: *To locate cases defining the meaning of "public street": type public street*

7. **[Citation]**: Enter the case or article citation. You can ignore brackets and other punctuation. This can be used to locate a case by name if you only know its citation, and to also check whether the case is now reported if you only have the unreported citation or ALR reference.
   Example: To find the cases where the citation for the case is [1998] HCA 22: Type *1998 HCA 22*

8. **[Jurisdiction]**: Use this option to limit your search to a particular Jurisdiction, state, and/or court.

9. **[Judge]**: Use this field to restrict your search to cases heard by a particular judge or articles written by a particular author. Enter the judge's or author's surname in the panel.
   Example: *To locate judgments by Justice Kirby: Kirby*

10. **[Related Searches]**: To the left of the search form, you will find links to related searches, including Cases, *Australian Current Law - Reporter* and *Australian and New Zealand Citator to UK Reports*. Please note that these links will depend on your subscription entitlements.
NOTE: It is possible to use multiple search fields when looking for information in Casebase. For Example:
Examine the results from the following search
Search Terms: Aboriginal and heritage protection and hindmarsh
Catchwords: Constitutional Law
Jurisdiction: Commonwealth,
Courts: High Court of Australia

To view the details of a document select the highlighted title.
Information about the case will be provided along with links to the fulltext of the case.
Case details

1. **Primary case** - The top of the *CaseBase* entry displays details of the primary case such as the case name, citations, judge(s), court, judgment date and popular name.

2. **Links to Secondary Sources**
   - **Catchwords and digest** - The catchwords appearing in bold text identify the main areas of law dealt with and provide the legal context of the primary case or article.
   - **Cases referring to this case** - Decisions which have subsequently considered the primary case are listed here.
   - **Publications referring to this case** - Journal articles considering the primary case are listed under this heading. Clicking on the *CaseBase* signal appearing after the citation of an article will take you to the *CaseBase* entry for that article.
   - **Words and phrases** - Particular words or phrases considered in a case are listed here.
   - **Cases considered by this case** - Cases that were referred to or considered by the primary case are listed under this heading.
   - **Legislation considered by this case** - Listed here are the legislative provisions referred to in the primary case.

3. **Annotation** - The annotation appearing before the case name indicates how the primary decision was treated in each of these cases.
   - **Applied**: A principle of law articulated in the primary case is applied to a new set of facts by the court in the subsequent case.
   - **Approved**: The court in the subsequent case has approved the way the court in the primary case, being a court of inferior jurisdiction, has articulated a principle of law.
   - **Cited**: The primary case is merely cited by the court in the subsequent case, without comment.
   - **Considered**: The legal principles articulated in the primary case are considered or discussed without adverse reflection in the subsequent case.
   - **Disapproved**: The decision in the primary case is criticised by the court in the subsequent case.
   - **Distinguished**: The court in the subsequent case holds that the legal principles articulated by the primary case (usually otherwise persuasive or binding authority) do not apply because of some essential difference between the two cases in fact or law.
   - **Explained**: The decision reached in the primary case is justified by the court in the subsequent case, drawing attention to some feature of the primary case that may not be immediately obvious on its face.
   - **Followed**: This annotation is similar to 'applied', but is used in circumstances where the facts in the primary case resemble reasonably closely the facts in the subsequent consideration case.
   - **Not followed**: The court in the subsequent case has declined to apply the principles of law articulated in the primary case.
   - **Overruled**: The legal principles articulated in the primary case are held to be incorrect by the court in the subsequent case, which is a court of superior or equivalent jurisdiction.
   - **Questioned**: The court in the subsequent case has expressed doubt about the decision in the primary case, but does not actually determine that the principles of law in the primary case are incorrect.

4. **Filter by Annotation** - This drop-down list allows you to view cases based on the type of treatment they have given to the primary case. There are four options available: negative cases only, negative and cautionary cases only, positive cases only or all cases.
5. **CaseBase signals** - The CaseBase signal indicates whether the decision has received positive, negative, cautionary or neutral treatment in subsequent judgments. The signal is a summary of the annotation information available from the list of appeal proceedings and cases referring to this case.

<table>
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<tr>
<th>Signal</th>
<th>Precedence</th>
<th>Summary</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>☠</td>
<td>1</td>
<td>Negative treatment</td>
<td><strong>Warning – Negative treatment indicated.</strong> A negative (red) signal is given to decisions which have been subsequently reversed, not followed, disapproved or overruled.</td>
</tr>
<tr>
<td>⚠</td>
<td>2</td>
<td>Cautionary treatment</td>
<td><strong>Caution – Questioning or distinguishing treatment indicated.</strong> A cautionary (yellow) signal is given decisions which have been subsequently distinguished, explained, questioned or varied.</td>
</tr>
<tr>
<td>☀</td>
<td>3</td>
<td>Positive treatment</td>
<td><strong>Positive treatment indicated.</strong> A positive (green) signal is given to decisions which have been subsequently applied, approved, followed or affirmed.</td>
</tr>
<tr>
<td>⚫</td>
<td>4</td>
<td>Neutral treatment</td>
<td><strong>Neutral or citing treatment indicated.</strong> A neutral signal is given to decisions which been either considered or cited (also ‘referred to’ or ‘discussed’).</td>
</tr>
<tr>
<td>🔗</td>
<td>5</td>
<td>Citation information</td>
<td><strong>Link to CaseBase entry.</strong> A citation information signal is given to decisions for which there is only citation information available.</td>
</tr>
</tbody>
</table>

**NOTE:** Casebase has a much greater number of search options than have been shown in these notes. For further search options and operators please check the help pages.

6. **Related Cases** - Find similar cases that reference this case

7. **Help** – comprehensive explanation for casebase options, help with signals, annotations and journal abbreviations

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Need help finding information for your assignments or research? The Library offers a wide range of services to help with your studies. Want to find out more? Visit our website and connect on social media.