Referencing
Legal Sources

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1.0 Overview

Legal citation is complex and usually involves footnotes and endnotes. However, for your assignments, your lecturers recommend a modified, simpler referencing system.

To reference non-legal sources, such as textbooks, chapters in edited books, journal articles and websites, use the usual APA 6th conventions as described in the Monash University Library website: http://www.lib.monash.edu.au/tutorials/citing/apa.html; also downloadable in pdf format: http://www.lib.monash.edu.au/tutorials/citing/apa-a4.pdf

To reference legal sources, such as cases and acts of Parliament, the conventions to be followed are illustrated in this document.

1.1 Understanding legal references

1.1.1 Cases

Your textbook and other sources you may read, include references to cases. These consist of:

<table>
<thead>
<tr>
<th>Case name in italics</th>
<th>Year in which the decision was made</th>
<th>Volume</th>
<th>Report series</th>
<th>Starting page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rogers v Whitaker</td>
<td>(1992)</td>
<td>175</td>
<td>CLR (Commonwealth Law Reports)</td>
<td>479</td>
</tr>
<tr>
<td>Chappel v Hart</td>
<td>[1998]</td>
<td></td>
<td>HCA (High Court of Australia)</td>
<td>55</td>
</tr>
</tbody>
</table>

Note: Round brackets are used when the report series is organised by volume numbers. Square brackets are used when the reports are organised by year rather than volume. Therefore, observe the type of brackets used in your sources and use the same when you cite in your essay.

1.1.2 Legislation (Acts)

A reference to an Act includes:

<table>
<thead>
<tr>
<th>Title in italics</th>
<th>Year in which legislation was passed</th>
<th>Jurisdiction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sex Discrimination Act</td>
<td>1984</td>
<td>Cth (Commonwealth)</td>
</tr>
<tr>
<td>Drug Summit Legislative Response Act</td>
<td>1999</td>
<td>NSW</td>
</tr>
</tbody>
</table>

Note: The year is written in italics (it is considered to be part of the title of the Act).
1.2 Examples of references to cases and acts

The way in which you cite a case or an act in the body of your essay and in the reference list depends on whether you have read the actual case/legislation itself – in print or electronic form - or you have read about it in a secondary source.

1.2.1 PRINT FORM

If you read the case or the legislation in print form, for example, if you got it off the shelves of a law library, cite as follows:

In-text:
- Rogers v Whitaker (1992) – first time you refer to the case in your essay
- Rogers v Whitaker – subsequent times
- Medical Indemnity Act 2002 (Cth) – first time you refer to the Act
- Medical Indemnity Act 2002 – subsequent times

In Reference List:

List alphabetically by first letter of case name or title of legislation:

Chappel v Hart [1998] HCA 55
Medical Indemnity Act 2002 (Cth)
Rogers v Whitaker (1992) 175 CLR 479

1.2.2 ELECTRONIC FORM

If you retrieved the case/legislation from an online legal database, such as Austlii, an electronic address has to be added. However, the address to the actual case or Act may be too long or cumbersome to include in the reference list. Therefore, it is sufficient to give the URL of the database from where the case or Act can be retrieved. Use the words ‘available from’ to clarify that the given URL does not directly take the reader to the document but to a place from where the document can be downloaded. Note that the retrieval date is not necessary because you are referencing the final version of that particular document, which is not going to change.

Example:


1.2.3 SECONDARY SOURCES

If you did not read the actual case or act but only read about the case or Act in a textbook or website, then the case/act should be mentioned only in the body of the essay and not in the reference list. The book/website where you read about the case/act should be in the Reference List and listed according to APA 6th style:
Example

In-text:
Rogers v Whitaker [1992] (as cited in Forrester & Griffiths, 2010) or

Rogers v Whitaker [1992] (as quoted in Forrester & Griffiths, 2010, p. …)

The Medical Indemnity Act 2002 (Cth) (as quoted in Medicare Australia, 2009, para.1) was introduced “to strengthen the availability of medical services in Australia”.

In Reference List:


Note that the retrieval date is included here because the content of the document cited may be updated.

1.3 Building the reference list

1.3.1 DON’T SEPARATE!

Keep in mind that when preparing the reference list for an assignment where legal sources have been used, all sources – legal and non-legal – should be presented together. Do not separate by type of publication unless your tutor or lecturer advises you to do so. List the sources as usual, that is, alphabetically by first author. If there’s no author, such as in cases and legislation, the name of the publication should be used.

1.3.2 REFERENCE LIST EXAMPLE (Use the same line spacing as in the rest of your assignment. Single line spacing is used here only to save space)

Rogers v Whitaker (1992) 175 CLR 479