



GUIDE TO FOOTNOTING IN LAW

This guide is based on the style of the South African Law Journal

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WHY IS REFERENCING IMPORTANT?

- To acknowledge the sources of information you have used just as authors of books and journal articles list the sources they have used
- It is academic courtesy to acknowledge the work of others – none of us know everything and rely on rely on the work of others
- Your lecturers/readers need to see from where you obtained your information
- Your lecturers/readers need to see how widely you have read and whether you have used key sources and how up to date your information is
- Your lecturers/readers need to be able to check on the information you have used
- Plagiarism – using someone else's ideas as if they were your own is unacceptable and a punishable offence.

TERMINOLOGY USED IN THIS GUIDE

Citation – a reference to a particular source of information you used

Footnotes – brief details of sources of information used, recorded at the bottom of the page on which the information source is referred to

Source – the published or unpublished source of information to which you have referred.

FOOTNOTES

What are they

- When writing up an assignment you must acknowledge within the body of your assignment:
 - details of the sources of facts and information and quotes you have used.
 - the exact page/s on which the information came from
- Even when you put information in your own words the source must be acknowledged. Basically, any information that is not your own must be acknowledged
- Your footnotes must reflect the sources you have actually used; you may not simply copy or transfer footnotes from a source into your own work
- Footnotes are also used in legal writing to provide extra information on an idea from the main part of your assignment that would otherwise make the main part of your assignment too clumsy
- You need to provide sufficient details for the reader to locate the item you are footnoting

Format

- When you have written something that needs to be referenced, the details of the source are placed at the bottom or 'foot' of the page
- In the text, a superscript number is placed next to the information, fact or author's name and the corresponding footnote number at the bottom of the page has the details of the citation next to it
- Particular details must be recorded and recorded in a certain order

Text: Burchell¹ indicates that the writ of habeas corpus was available for the release of persons unlawfully detained.

Footnote: 1. JM Burchell. *Principles of criminal law*. 2 ed. (2005) 87

- Within the text of the assignment, references are numbered sequentially from 1 onwards to the end of the assignment. The footnotes at the bottom of the page are also numbered sequentially and in accordance with the in-text reference. (see example at end of guide)
- Items that are footnoted must be footnoted on the same page on which the references appear, not on the next page
- The details given in a footnote are usually briefer than in a bibliography: publisher details are excluded
- Author's initials appear first
- Authority eg cases and statutes are usually referred to in footnotes. If the name of the case/statute has been mentioned in text, the footnote will indicate only the citation, do not repeat the name of the case or statute
- Do not footnote indexes or databases.

EXAMPLES OF FOOTNOTES FOR DIFFERENT SOURCES

1. BOOKS – including dictionaries, encyclopedias, reports

Basic format:

Initials and surname(s) of author(s) or editor(s). *Title of book*. (title underlined or in italics)
Edition (only when other than the first edition). Year in brackets. Page/s. Publisher details are omitted in footnotes.

Examples:

Books by up to three authors

JM Burchell and JRL Milton. *Principles of criminal law*. 2 ed. (2000) 87

Books by more than three authors

E Du Toit ... et al. *Commentary on the Criminal Procedure Act*. (1987) 65

Books in multiple volumes

RD Claassen. *Dictionary of legal words and phrases*. 2 ed. (1997) Vol 4: 876

Chapters or essays in books where different authors are responsible for different chapters

EE Flynn. Jails. In: S H Kadish. *Encyclopedia of crime and justice*. (1983) 917

M Wiechers. Arson. In: (2000) 1 *LAWSA* 26

Corporate bodies as authors – companies, organizations, institutions

South African Law Commission. *Simplification of criminal procedure*. (1996) 8

Reports of government departments – including white papers, etc.

- **Annual report of a government department**

South Africa. Dept. of Justice. *Annual report*. (2002) 47

- **Commissions of inquiry and government committees**

Chairperson of the commission is the author

MM Katz. *Commission of inquiry into certain aspects of the tax structure of South Africa: eighth interim report*. (1994) 17

- **White papers**

South Africa. Dept. Envir. Affairs and Tourism. *White paper: the development and promotion of tourism in South Africa*. (1996) 124

2. PERIODICALS – including journals, magazines and newspapers

- Because all issues of a periodical have the same title, the volume, issue and page numbers must be indicated to differentiate between issues
- Titles of *periodicals* and not articles are in italics or underlined. This is because an article cannot be located if the journal in which it appears is unknown. Each word of the journal title starts with a capital letter. You may abbreviate journal titles
- Publisher details are not required for periodical references
- For newspapers, use the day and month instead of volume and part number.

Basic format:

Initial(s) and surname(s) of author(s); Title of article (in quotation marks); year (in brackets), volume and part number of journal; *title of journal* (italics or underlined); page/s from which information taken.

Examples:

Journal or magazine article

P Brown "The meaning of culpa." (1996) 89(1) *Oxbridge Law Quarterly* (or *Oxbr. LQ*) 107

It is common to find the article titles excluded from a footnote.

Newspaper articles

Man probed over human trafficking. (2003) *Natal Witness* 27 May, p.3

3. CASES

- The first time you refer to a case in the text by its name, the citation must be in full in the footnotes as per footnote 22 below
- Thereafter when referring again to the case in the text it is acceptable to refer to it in an abbreviated form eg *Khumalo v Chetty* can be referred to as *Khumalo's case*. In the footnotes you may also use the short cut **supra** which means the afore- mentioned case (literally the above case)
- You may choose to put the full citation in text instead of a footnote
- Remember that the names of the parties of a case are always in italics when typed or underlined if writing.

Examples:

²² 1992 (4) SA 456 (CC)

...

²⁶ *Khumalo v Chetty supra* or *supra note 22*

4. LEGISLATION

- In text you usually refer to the statute in full the first time. If you are referring to a statute several times put in brackets after the first reference: (hereafter referred to as the Act)
- Statute citations must include the short name of the statute, its number and year and then the relevant section (s); subsection (ss); chapter (ch) etc. If you refer to the Act by its title only in the text, in the footnote refer to just its number and year. As each Act is unique, the first letter of each word of the Act must be capitalized.

Examples: Act 36 of 1994; s 34.

5. GOVERNMENT GAZETTE REFERENCES

The following details are required: notice number (GN), Gazette number (GG), date (day, month, year), and page/s:

Examples: GN 431 of GG 12703, 3/10/2001; 26

ONLINE ELECTRONIC PUBLICATIONS

- Follow the format for books, journal articles etc and add on two other pieces of information
- A) Where the item has its own URL, add the URL and the date the item was accessed at the end of the citation:

Books

South African Law Commission (or SALC). *Money laundering and related matters*. (1996) <http://wwwserver.law.wits.ac.za/salc/report/report.html>. (Accessed: 4 Dec 2003)

Journal and newspaper articles: direct link to journal/newspaper

- Gottschalk, P. "Law firm clients as drivers of law firm change." (2002) 1 *Journal of Information Law and Technology* (or JILT). <http://elj.warwick.ac.uk/jilt/02-1/gottschalk.html>. (Accessed: 18 Jul 2003)
 - Hefer Commission lures ANC factions into the open. *Mail and Guardian Online*. 17 Oct. 2003. <http://www.mg.co.za>. (Accessed: 24 Nov 2003)
- B) Where the item comes from a large multi-publication database (usually subscribed to by the Library), such as Westlaw or Ebscohost and only the database has an URL, or, the URL is very long, it is sufficient to add the following details: the name of the database and the date the item was accessed at the end of the citation:
- Clements, RV. "Medicine and public health: the changing role of the expert witness" (2003) 71(81) *Medico-Legal Journal*. LexisNexis (UK Journals). <http://www.lexis-nexis.com/professional/>. (Accessed: 7 May 2003)
 - "The death of death row". (2003) 168 (5) *Canadian Medical Association Journal* p. 1-2. EBSCOhost (Academic Search Premier). (Accessed: 6 June 2003)

SOME SHORTCUTS WHEN FOOTNOTING

Sometimes a particular source is cited repeatedly throughout a document. It is not necessary to repeat all the details of the source in each footnote. There are various short cut options.

Secondary sources

Put the author's name and then refer to the footnote where the source was **first** mentioned.

Example:

Footnotes 3 and 4 refer to the same source as footnote 1:

- 1 JM Burchell. *Principles of criminal law*. 2 ed. (2005) 87
- 2 CR Snyman *Criminal law*. 4th ed. (2002) 364
- 3 Burchell (see note 1; 89)
- 4 Burchell (see note 1; 243)

The new page number must be given in each instance.

Cases

It is common practice to use "supra" when referring to a case repeatedly. It is sometimes used when referring to statutes.

Example:

Footnote 3 refers to the same case as footnote 1:

- 1 *S v Eadie* 2002 (1) SACR 663 (SCA)
- 2 JM Burchell. *Principles of criminal law*. 2 ed. (2005) 87
- 3 *Eadie supra* OR *S v Eadie supra* OR *Eadie supra* note 2