Cases exercises

These questions relate to the following case:

*Cole v South Tweed Heads Rugby League Football Club*

1. Which online databases contain the full text of the above law report series?

2. Who were the dissenting judges in this case?

3. Did the respondent offer the appellant a lift home?

4. What piece of legislation was considered in this case?

5. A major legal issue dealt with in this case is whether clubs have a duty of care to monitor or moderate the consumption of alcohol by patrons. There is a case from the New South Wales Supreme Court in 2001 that also deals with this issue. Use CaseBase to find it.

6. Use FirstPoint to find cases dealing with a similar issue to *Cole v South Tweed Heads Rugby League Football Club*. Cite a similar case.
**Legislation exercises**

1. This question relates to the *Civil Liability Act 2002 (NSW).*
   
a) What is the last Act to have amended the *Civil Liability Act 2002 (NSW)*?

b) Which Act amended section 14 of the *Civil Liability Act 2002 (NSW)*?

c) What regulation is enabled under the *Civil Liability Act 2002 (NSW)*?

d) Which damages award did Bob Carr refer to in the first paragraph of his Second Reading speech to the Legislative Assembly to argue for the passing of this bill?

2. This question relates to the *Road Transport (Driver Licensing) Act 1998 (NSW).*
   
a) How many times was the *Road Transport (Driver Licensing) Act 1998 (NSW)* amended in 2000?

b) What was the title of the Act that repealed section 36 *Road Transport (Driver Licensing) Act 1998 (NSW)*?

c) Part 2, Division 2 of the *Road Transport (Driver Licensing) Act 1998 (NSW)* deals with the demerit points system. If a driver incurs 20 or more demerit points within a three year period, what is the period of licence suspension?

d) What is the definition of an “interlock device” according to this Act?

3. How could you quickly find all of the legislation in Australia relating to ambulance services?

4. Find cases and journal articles dealing with section 71 of the *Trade Practices Act 1974 (Cth)*
Secondary Sources exercises

Journal Title = Australian Journal of Family Law
Author = Kaye, Stubbs & Tolmie
Year = 2003  Volume = 17  Issue = 2
Page reference = 93 – 133

1. What is the title of the journal article?

2. Cite a journal article from AGIS Plus Text on the same topic. What search terms / search strategy did you use?

3. Cite a journal article from LegalTrac on the same topic. What search terms / search strategy did you use?

4. What is the call number on the Library Catalogue of an item on the same topic? What search terms / search strategy did you use?

Journal Title = Precedent
Authors = Brookes and Walsh
Year = 2007  Volume = 79
Page reference = 42-45

1. What is the title of the journal article?

2. Cite a journal article from AGIS Plus Text on the same topic. What search terms / search strategy did you use?

3. Cite a journal article from LegalTrac on the same topic. What search terms / search strategy did you use?

4. What is the call number on the Library Catalogue of an item on the same topic? What search terms / search strategy did you use?
Legal Encyclopaedias

1. What elements are used in the formula that determines child support payments?

2. What are the broad grounds that somebody can use to apply to the Australian Industrial Relations Commission alleging unfair dismissal?
Answers to Cases exercises

These questions relate to the following case:
Cole v South Tweed Heads Rugby League Football Club

1. Which online databases contain the full text of the above law report series?

   (2004) 217 CLR 469 = Lawbook Online
   (2004) 207 ALR 52 = LexisNexis AU
   (2004) 78 ALJR 933 = Lawbook Online
   (2004) 40 MVR 1 = LexisNexis AU

   To obtain online access to an Australian law report series, use the following steps:
   Law Library home page
   – Law Databases
   – Cases (under the heading Law Databases by Type)
   – Law Reports A to Z
   – Click on link to database for the law report series in your citation. You will be able to browse or search for the case once you have gone into the right database.

   This decision can also be contained in full text by going to AustLII and searching under High Court cases. However, unlike the above law reports, AustLII is simply a free web site and it does not provide an authoritative record of the decision. If you have access to a law report version of a decision, you should restrict your use of AustLII to finding cases that are ‘unreported’ – that is, cases where you have not been provided with a citation to access the case via a law report series.

2. Who were the dissenting judges in this case?

   McHugh and Kirby JJ – This information can be easily obtained from the head note for this case in each law report.

   Note that head notes are a very useful tool because they allow you to get a quick overview of the facts of the case and the legal reasoning of the court’s decision. These head notes are produced by the publishers of each law report.

3. Did the respondent offer the appellant a lift home?

   Yes – see head note.
4. What piece of legislation was considered in this case?

**Registered Clubs Act 1976 (NSW)**

CaseBase and FirstPoint are useful databases to obtain extra information of this kind about a case. Depending on the importance of the case, they also give you information such as a digest or summary of the case, cases that were considered in a case, subsequent legal history of cases, journal articles written about a case and a list of all law report series (if any) that have published the decision. Note that the information about a case within each database is not always consistent!

These databases are available via the Law Databases page under ‘Law Databases by Type’ – ‘Cases’.

To bring up a record for a case in either of these databases, you can enter the citation or the party names in the relevant search box. Once you have brought up the record for the case, there will be tabs near the top of the page directing you to the above information.

5. A major legal issue dealt with in this case is whether clubs have a duty of care to monitor or moderate the consumption of alcohol by patrons. There is a case from the New South Wales Supreme Court in 2001 that also deals with this issue. Use CaseBase to find it.

See instructions at Question 4 for accessing a case on CaseBase.

An effective search strategy to answer the above question using the search options in the CaseBase search screen would be as follows:

- Search terms = “duty of care” AND (alcohol OR intoxicat!) AND club!

There is no right or wrong answer here – these are suggested search terms. I have separated my search terms with the Boolean operator ‘AND’ and placed the search term “duty of care” in quotation marks to ensure that the database searches for these words as a phrase. The exclamation mark is a truncation symbol that can be used on CaseBase to obtain all variant endings of a particular word (intoxicated, intoxicating, intoxication; club, clubs, clubbing). I have nested (alcohol OR intoxicat!) to prioritise the ‘OR’ operator so that the search is performed by the database in the correct context.

- Sources = CaseBase Cases
Answer = *Cole v Lawrence* (2001) 33 MVR 159. This decision was actually reversed in *Cole v South Tweed Heads Rugby League Football Club*.

6. Use FirstPoint to find cases dealing with a similar issue to *Cole v South Tweed Heads Rugby League Football Club*. Cite a similar case.

See instructions at Question 4 for accessing a case in FirstPoint.

Each case in FirstPoint is assigned one or more subject classifications. The subject classification for *Cole v South Tweed Heads Rugby League Football Club* is:

Torts – Negligence – Essentials of action for negligence – Duty of care – Special relationships and duties – Other cases

Click on the end of this link and all other cases that have been assigned the same subject classification can be located – there are currently 137 cases.

You could narrow down these results to cases involving the relevant legal issue of intoxication (as in the *Cole* case) by using the ‘Refine Search’ box at the top of the screen. Enter the search term < intoxicat* >. The * will allow you to find the words ‘intoxicated’ or ‘intoxication’. Note the different truncation symbol used in FirstPoint (*) compared to CaseBase (!). Each database is different! The 137 results are reduced to 10 results.

Note that the full subject classification index on the left of screen can also be browsed to find cases on a topic.
Answers to Legislation exercises

Statutes and Delegated Legislation

1. This question relates to the Civil Liability Act 2002 (NSW).

You can find the Civil Liability Act 2002 (NSW) on either AustLII or the New South Wales Parliamentary Counsel’s Office website. The PCO website is the official (and the best) website for NSW legislation. The main advantage of AustLII is that you can search across all jurisdictions, not just NSW.

Finding the Civil Liability Act 2002 (NSW) on PCO site
- Law Library website
- Law Databases
- Legislation
- Choose ‘New South Wales Parliamentary Counsel’s Office’ from list of available legislation databases.
- Select ‘Browse’ from tool bar near top of page.
- In the ‘Browse in Force’ section, click on the letter ‘C’ under Acts. The ‘In Force’ section lists Acts in their current form, inclusive of all of the amendments that have been made to the Act since it was passed.
- Click on the link to the Civil Liability Act 2002 (NSW) from the alphabetical list.

Finding the Civil Liability Act 2002 (NSW) on AustLII
- Law Library website
- Law Databases
- Legislation
- Choose ‘AustLII’ from list of available legislation databases.
- Select ‘New South Wales’ from the jurisdictional menu on the left of screen.
- Scroll down to the ‘NSW Legislation’ section and select ‘New South Wales Consolidated Acts’ under Acts. The ‘Consolidated Acts’ section lists Acts in their current form, inclusive of all of the amendments that have been made to the Act since it was passed.
- Click on the letter ‘C’ from the alphabetical list.
- Click on the link to the Civil Liability Act 2002 (NSW) from the alphabetical list.

a) What is the last Act to have amended the Civil Liability Act 2002 (NSW)?

Civil Liability Legislation Amendment Act 2008 (NSW)
- In the PCO website, click on the ‘Historical Notes’ link near the top of the page within the Act. You will see a ‘Table of Amending Instruments’ listing
all of the Acts, in chronological order, that have been passed to amend the Civil Liability Act 2002 (NSW).

- In AustLII, click on the ‘Notes’ link near the top of the page within the Act. You will see a ‘Table of Amending Instruments’ listing all of the Acts, in chronological order, that have been passed to amend the Civil Liability Act 2002 (NSW).

b) Which Act amended section 14 of the Civil Liability Act 2002 (NSW)?

Civil Liability Amendment (Personal Responsibility) Act 2002 (NSW)

Via ‘Historical Notes’ link within the Act on NSW PCO site (see directions above)
Via ‘Notes’ link within the Act on AustLII (see directions above)

Scroll down the page and you will see a ‘Table of amendments’ listing the history of each section of the Act. You can cross-reference your result by going back to ‘Table of amending instruments’ and seeing the names of the Acts which amended each section.

c) What regulation is enabled under the Civil Liability Act 2002 (NSW)?

Civil Liability Regulation 2003 (NSW)

The answer to this question cannot be found easily on AustLII but is readily available on PCO site by clicking on the ‘Regulations’ link at the top of the page within the Act.

This is a good example of why it is often better to use a specialist website (in this example, a specialist legislation website for New South Wales) ahead of AustLII. There are more features available on a specialist website such as the NSW PCO site than there are on AustLII.

d) Which damages award did Bob Carr refer to in the first paragraph of his Second Reading speech to the Legislative Assembly to argue for the passing of this bill?

The New South Wales Parliament website has a Bills List where you can access bills and other parliamentary documents relating to bills (such as explanatory notes and memoranda as well as second reading speeches).

To access the second reading speech in the NSW Legislative Assembly relating to the Civil Liability Bill 2002 (NSW):

- Law Library website
- Law Databases
2. This question relates to the *Road Transport (Driver Licensing) Act 1998* (NSW).

See answer to question 1 for instructions on how to access NSW legislation.

a) How many times was the *Road Transport (Driver Licensing) Act 1998* (NSW) amended in 2000?

*Once*

– see answer to question 1a for instructions on how to answer this question

b) What was the title of the Act that repealed section 36 *Road Transport (Driver Licensing) Act 1998* (NSW)?

*Statute Law (Miscellaneous Provisions) Act (No 2) 2003* (NSW)

– see answer to question 1b for instructions on how to answer this question

c) Part 2, Division 2 of the *Road Transport (Driver Licensing) Act 1998* (NSW) deals with the demerit points system. If a driver incurs 20 or more demerit points within a three year period, what is the period of licence suspension?

*5 months* (see section 16)

d) What is the definition of an “interlock device” according to this Act?

An “interlock device” means a device designed to:
(a) analyse a breath sample for the presence of alcohol, and
(b) prevent a motor vehicle from being started if it detects more than a certain concentration of alcohol.

The answer to this question can be found in section 21 of the Act.
Both the PCO and AustLII websites give you an option to search within an Act so that you can quickly track down particular words or phrases.

**PCO**
- Click on ‘Search Title’ option near top of the page within the Act
- In the ‘Exact phrase’ search box enter “interlock device” and click on search
- all sections of the Act featuring the phrase “interlock device” will feature on the results list

**AustLII**
- Click on ‘Search this Act’ near top of the page within the Act
- Select ‘Find this phrase’ from drop down menu
- enter “interlock device” and click on search
- all sections of the Act featuring the phrase “interlock device” will feature on the results list

3. How could you quickly find all of the legislation in Australia relating to ambulance services?

The LAWLEX website has a very useful subject index to legislation. Go to:

- Law Databases
- Legislation
- LAWLEX
Login as University of Sydney user
- ‘Search Legislation’
- Keyword search (Title) – All Jurisdictions = ‘ambulance’
- 18 Acts and regulations across the Commonwealth and state jurisdictions are neatly listed.

Note that you can also ‘Browse Legislation’ to find legislation by subject (‘Ambulance Services’ is in the ‘Health’ folder)

You can also do advanced searching in AustLII:

- Law Databases
- Legislation
- AustLII
- Advanced Search (link near top of screen)
- Select ‘All Legislation Databases’ at drop-down menu
- From the drop-down list next to ‘Find’ select ‘Find this Document Title’. This will search for the word ‘ambulance’ across all of the legislation titles (including the titles of sections).
- To get a neater results list you can ‘Collapse Multi-Sections’ or sort ‘By Database’.
4. Find cases and journal articles dealing with section 71 of the *Trade Practices Act 1974* (Cth).

Two databases that could be used to find information of this kind are CaseBase and AustLII.

**CaseBase**
- Law Databases
- Select ‘Cases’ at Law Databases by Type
- CaseBase
- At CaseBase search screen you can search ‘Legislation Judicially Considered’ field – third search box from the top.
- The CaseBase Help section advises that the best method is to type in the legislation title and provision number separated by the w/p connector. The w/p connector means within the same paragraph. Where the jurisdiction is important you could also select a jurisdiction in combination with this search.
  - Example search: “trade practices act” w/p 71.
- You could further refine your search by adding a search term in the ‘Search Terms’ box on the main search page.
- Note that CaseBase only gives you a record with summary of a case or journal article. If you wanted to access the full text of the case you would need to use our ‘Law Reports A-Z’ link - [http://www.library.usyd.edu.au/libraries/law/atozlawreports.html](http://www.library.usyd.edu.au/libraries/law/atozlawreports.html) - to be directed to the relevant database holding the law report in which the case is reported. If the case is unreported and you only have a reference to a court you will need to use AustLII to find the case. Online access to journal articles is via the library catalogue – use the Journal search option and enter the title of the journal.

**AustLII**
- Law Databases
- Select ‘Cases’ at Law Databases by Type
- AustLII
- Select ‘Commonwealth’ at jurisdictional menu on left of screen.
- Select ‘Commonwealth Consolidated Acts’ under the heading Cth Legislation
- ‘T’ - Trade Practices Act 1974 - Click on the link to section 71
- Once you are in section 71, click on the Noteup feature at the top of the page. This will provide you with a list of all of the documents on AustLII which refer in some way to section 71 of the Trade Practices Act.
- Select ‘By Database’ tab near top of page to sort results into types of material and jurisdictions
**Answers to Secondary Sources exercises**

Note that these are suggested answers only using basic Boolean searching.

**Finding journal articles**

**When you already have a citation**
- ‘Journal’ search on library catalogue. Search title of journal NOT title of article

**Searching for journal articles by subject**

Law Databases – Journal Databases and News Services
- eg. AGIS Plus Text (Australian journal articles) and LegalTrac (international journal articles)

*Journal Title = Australian Journal of Family Law*
*Author = Kaye, Stubbs & Tolmie*
*Year = 2003  Volume = 17  Issue = 2*
*Page reference = 93 – 133*

1. What is the title of the journal article?

   **Domestic Violence and Child Contact Arrangements**
   *(full text in Lexis Nexis AU via Journal search on Library catalogue)*

2. Cite a journal article from AGIS Plus Text on the same topic. What search terms / search strategy did you use?

   **Suggested ‘Any field’ search = “domestic violence” AND child* AND contact***

3. Cite a journal article from LegalTrac on the same topic. What search terms / search strategy did you use?

   **Suggested ‘Keyword’ search = “domestic violence” AND child* AND contact***

4. What is the call number on the Library Catalogue of an item on the same topic? What search terms / search strategy did you use?

   **Suggested ‘Advanced’ search = “domestic violence” AND child* AND contact*– any field**
1. What is the title of the journal article?

**Damages for Wrongful Birth: Do These Claims Still Bear Fruit?**

2. Cite a journal article from AGIS Plus Text on the same topic. What search terms / search strategy did you use?

*Suggested ‘Any field’ search = “wrongful birth”*

3. Cite a journal article from LegalTrac on the same topic. What search terms / search strategy did you use?

*Suggested ‘Keyword’ search = “wrongful birth” OR
‘Document Title’ search = “wrongful birth”*

4. What is the call number on the Library Catalogue of an item on the same topic? What search terms / search strategy did you use?

*Suggested ‘Advanced’ search = “wrongful birth” – any field (full text in AGIS Plus Text via Journal search on Library catalogue)*

**Legal Encyclopaedias**

**Go to:**
Law Databases – Comprehensive Legal Research

**Two major legal encyclopaedias**
- Laws of Australia
- Halsbury’s Laws of Australia
1. What elements are used in the formula that determines child support payments?

**Using Laws of Australia:**

**Browsing**
- 17 – Family Law
- 17.11 - Child Support
- Formula Assessments
- See 1st result

**Free Text search**
- “child support” AND formula
- A range of results, include the above browsing result, are listed.

2. What are the broad grounds that somebody can use to apply to the Australian Industrial Relations Commission alleging unfair dismissal?

**Using Laws of Australia:**

**Free Text search**
- “unfair dismissal” AND “australian industrial relations commission”
- A range of results are listed – the second result being the most useful

**Browsing**

This is an example of a search where it would have been difficult to locate the best answer by browsing. ‘Labour Law’ seems the logical chapter to browse but the best answer is actually obtained using the following steps:

- 21 – Human Rights
- 21.5 – Work
- Rights Affecting Termination of Work
- Right Not To Be Unfairly or Unlawfully Dismissed