



SOUTH AFRICAN AND FOREIGN SOURCES

Basic guide to finding published legal material

ABOUT THE PUBLISHED LEGAL LITERATURE

The emphasis in law is on the difference between primary and secondary sources of information.

- Primary sources of law are those places where legal principles and rules originate and may be found. They are authoritative in supporting argument. Cases and statutes are examples
- The secondary sources are books of various kinds such as dictionaries, encyclopedias, text books, specialist texts; journals and newspapers and Law Commission reports to name but a few. These sources are *about* the law; they repackage the primary information into a more digestible form providing commentary, analysis and debate around the law. The secondary sources are not inferior to but rather complement the primary sources. The secondary sources are often a good starting point when little is known about the topic and the law relating to the topic
- Most sources of law substantiate argument with reference to legal and other literature, so these references provide useful leads to other relevant and related literature. Legal literature tends to favour the footnoting system for reflecting literature referred to
- Many sources of information such as statutes, law reports and journals are indexed to facilitate quick access in various ways across multiple years of the publications. The indexes to legal literature are generally very comprehensive
- Many sources of information are now available in electronic format and some full text. Whilst some information is freely available from the World Wide Web, much access has to be paid for and hence libraries subscribe to databases of academic information. Individual database may have usage restrictions.

SEARCH STRATEGY

At any level of study, the most important activity is to analyze the topic to determine the exact issues, focus, aspect, geographical or time parameters, area of law. Topic analysis also provides some idea about what you know and don't know, what kind of information you need and where to go to find it. Usually when researching a topic, a good starting point is the secondary sources because they provide a basic overview of the topic or subject area and lead you to other sources. You usually need to use a combination of primary and secondary sources.

SOURCES OF PUBLISHED LEGAL INFORMATION

South African law is not codified so can be found in a variety of sources. The UKZN law libraries house a wide variety of local and foreign materials in print as well as providing electronic access to major databases of statutes, law reports and journals for both South African and foreign jurisdictions.

The UKZN Library's catalogue, iLink, will indicate what is available in print within the Library. For electronic databases and materials, go to the UKZN Library's website.

PRIMARY SOURCES

STATUTES / ACTS / LEGISLATION

- a) In the first instance, South African acts of parliament (national) and accompanying regulations are published in the national Government Gazette (provincial ones in provincial gazettes). The Howard College and Pietermaritzburg campuses subscribe to these. The Gazette reflects the original and authoritative version of every act. Regulations are delegated legislation, providing the detail associated with implementation of provisions of an act and are published within the gazette series but as regulation gazettes. There are annual indexes to the Gazettes. Electronic access is available via *Sabinet legal* for gazettes post 1910.
- b) Between 1910 and 1969 the statutes were published annually in bound volumes
- c) LexisNexis (South Africa) and Juta, the two main commercial legal publishers in South Africa provide full text print and electronic access to the statutes (national and provincial) that are currently in force. The 'Butterworths' (LexisNexis) **printed** set comprises 33 volumes that are updated 2 times a year so the latest version of all acts are reflected. The acts are compiled alphabetically by topic or titles eg all acts to do with Education are kept together. There are indexes to the set located in the first volume. One is an alphabetical index by statute title, the other is chronological by year. In each case the indexes indicate the full details of every act, in which topic/title a particular act can be found, and whether it is still in force. There are contents pages for each title. Juta's set comprises 6 bound volumes, the content being arranged similarly to that of the 'Butterworths' set. It is published annually
- d) Both LexisNexis (South Africa) and Juta provide full text **electronic** access to the most recent versions of the statutes, LexisNexis provides limited text of repealed acts. Both are attempting to include related regulations. Access details for these sites are given at the end of this guide. Acts promulgated since 1994 are available full text via the Government's website. These however reflect the original versions or government gazette versions of acts
- e) Some full text South African statutes are freely available via: www.acts.co.za
- e) Foreign statutes are available electronically via the database Westlaw, which the Library subscribes to. There are numerous websites such as those of legal information institutes that provide access to collections of legal materials. See the list towards the end of this guide.

LAW REPORTS / CASES

- a) Prior to 1947 there were various sets of law reports for South Africa. Law report series were reported by name of the relevant judge eg Kannemeyer and district eg Natal Provincial Division, each with their own method of citation. These pre- 1947 law report series are indexed individually. These law reports are available in print and electronically from the LexisNexis (South Africa) site
- b) Since 1947 all these different series have been consolidated into the South African Law Reports with a standard citation eg *Smith v Jones* 1994 2 SA 345 (C). The court in which the case was heard is indicated at the end of the citation. This series includes some Namibian and Zimbabwean cases
- c) Since the 1990's several specialist series of South African law reports have emerged: Criminal Law Reports, Constitutional Law Reports, Labour Law Reports, Arbitration Law reports and the All South African Law Reports, each with its own index

- d) Printed cumulative indexes to the South African Law Reports (now including the All SA Law Reports) are available, the largest cumulation being 1947 – 2010. The indexes facilitate searching by case, subject, statute (legislation judicially considered), words and phrases, rules of court and annotations (where cases have been subsequently referred to).
- e) All South African law report series are available full text electronically on the LexisNexis (South Africa) and Juta e Publications sites; each publisher providing access to their own publications. Access is available from on and off campus
- f) The Library has a range of foreign law reports in printed form; many have indexes. Many of these series and others the library does not subscribe to are available full text electronically via the database Westlaw. Websites such as that of the Constitutional Court also provide access to law reports. The CC site provides summaries as well as full judgments of cases. Lloyds Law reports is one of the specialist series available. See the list towards the end of this guide for websites of foreign collections, some of which provide full text access
- g) Names of law report series are usually abbreviated or given as an acronym. Books of acronym explanations are available
- h) See the end of this guide for access to free resources.

SECONDARY SOURCES

BOOKS

- a) **Dictionaries** – subject specific legal dictionaries are available. Latin as well as other language dictionaries are kept in the libraries
- b) **Encyclopedias** – the legal encyclopedia for South Africa is ***Law of South Africa***, commonly known as ***LAWSA***. This is a multivolume work providing a synopsis of the law of South Africa, with reference to primary sources. The information is arranged alphabetically by area of law. Each volume is indexed and there is a separate index for the entire set facilitating quick access to the individual volumes and pages. *LAWSA* is updated by *Current Law*, a monthly publication. This is also indexed and includes commencement dates of statutes, a subject index and list of recent publications. A cumulative supplement to *LAWSA*, published annually, indicates which of the sections of information in the original volumes have changed and what those changes are. A copy of *LAWSA* is kept at the Issue Desk. *LAWSA* is also available full text electronically on the LexisNexis (South Africa) site
- c) **Textbooks and specialist texts** – the Libraries contain a wide range of general and specialist subject specific law books for South Africa and other jurisdictions. The most recent editions of key texts are kept at the Circulation Desk; the rest are arranged on the open shelves according to the Dewey Decimal Classification system and are available for loan. Some local texts are available electronically from the LexisNexis (South Africa) and Juta e Publications sites
- d) **The South African Law Reform Commission** – has produced a wide range of reports reviewing areas of law that are deficient, need updating or streamlining. Their reports provide consolidated overviews of the status of the law, the comparative picture, reference to primary and secondary literature and often a draft bill to change/make legislation is included. The Libraries receive printed copies of most of the reports. The SALRC also has a website from which the full text versions of more recent reports are

available. The Library also receives printed reports from the English and Scottish Law Commissions. Most Commissions have websites from which their publications are available full text. Some law commission reports for a range of jurisdictions are available on the World Legal Information Institute website

- e) **Theses and dissertations** – UKZN is digitizing its masters and PhD theses and making them available on the Library's website from the tab called ResearchSpace. All theses are listed in the Library's catalogue. Most South African universities are now digitizing their theses. Masters and PhD theses for South Africa, 1918 onwards are indexed in Sabinet under the collection UCTD. For foreign theses consult the database Proquest or use Google and Google Scholar.
- f) The Library's catalogue will indicate all print publications available at UKZN Library and where they are located.

JOURNALS

- a) A journal is an academic magazine. Like popular magazines most journals are subject specific, containing several parts or issues that are published throughout the year. Most countries produce journals that reflect local content. Journal articles are important for various reasons:
- because the issues are published frequently they provide current information
 - they reflect research and critical analysis and commentary on a range of topics including case comment
 - because articles are relatively short a wide variety of very specific topics or topics with a narrow focus can be accommodated.

Eventually such information makes its way into the books. Journals may cater for the practitioner or the academic

- b) As there are thousands of journals available on a wide range of subject areas, it is often difficult to know in which journals articles on a topic may appear. Consolidated indexes are the tool to use to trace articles for a given topic. Such indexes cover a wide variety of journals in a specific subject area eg Index to Legal Periodicals (the electronic version is called *Legal Periodicals Full Text*) which covers over 900 law journals. These indexes indicate the subject matter of the articles and articles can be traced by keyword or subject searching within the index. The relevant details, namely the author and title of an article and the details about the journal in which the article is located are provided. Some indexes provide just these bibliographic details and in order to obtain the article it is necessary to physically locate the journal. The Library does not possess all published journals
- c) Many indexes to the journal literature are now available electronically and some provide access to the actual articles full text. Most academic journals are not freely available on the World Wide Web, but via databases that the Library subscribes to. The databases *LexisNexis Professional* (UK), *HeinOnline*, *Legal Source* and *Westlaw* provide full text access to a wide range of American and English journals in particular
- d) Most journal indexes are produced outside South Africa and do not cover South African journals adequately if at all. When needing SA journal literature you need to access the electronic collection of South African databases known as *Sabinet* ISAP: Index to SA Periodicals indicates the contents of SA journals. ISAP covers all SA journals not just legal journals. Full text is not available on ISAP. Limited full text for some journals is available via SA Electronic and African Electronic Journals since 2001. A few journals are available full text via the Juta e Publications and LexisNexis (SA) databases
- e) Some indexes to journal literature are multidisciplinary in nature. One of the larger ones is Academic Search Complete accessed via the *Ebscohost Research Databases*

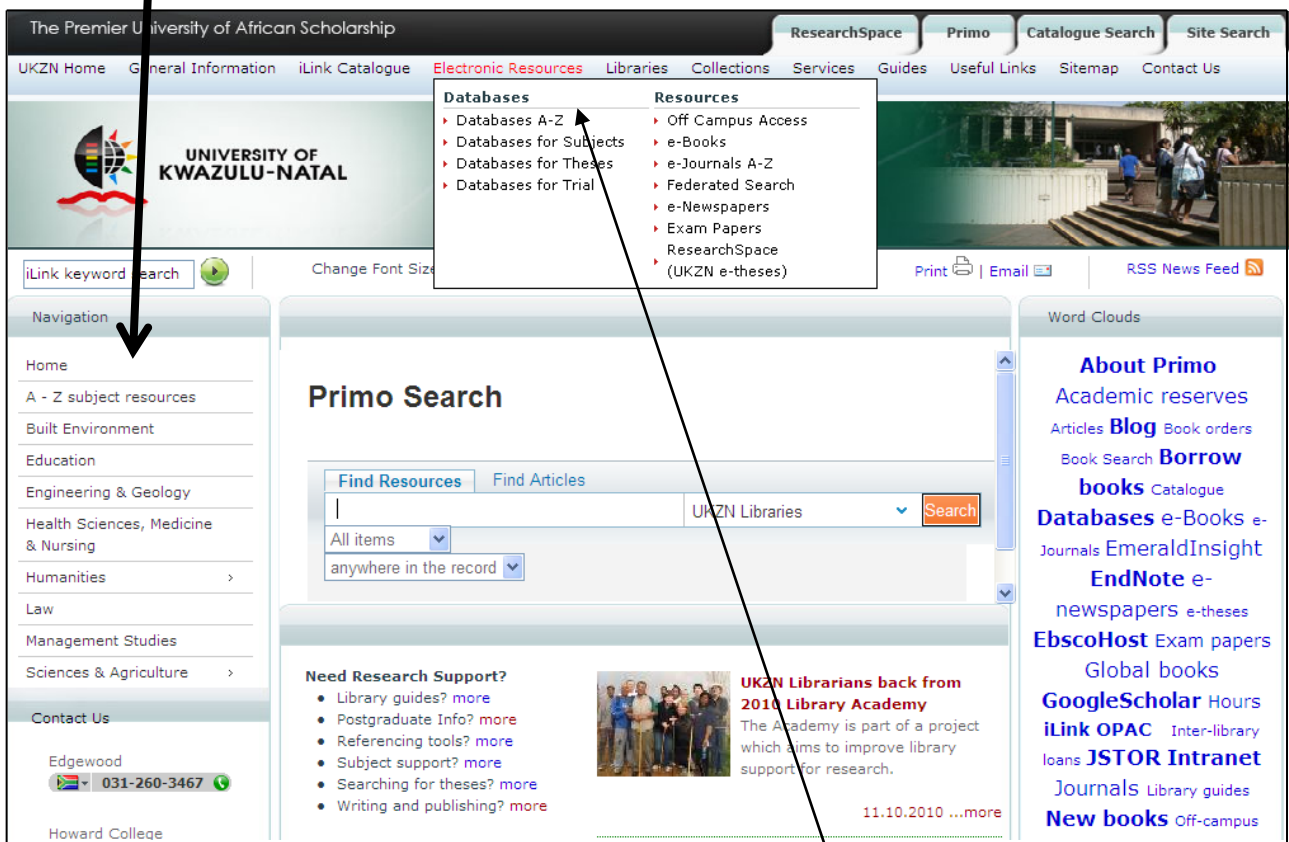
collection that the Library subscribes to. Many articles are available full text. This database is useful for many law related topics

- f) In order to establish whether UKZN has full text access to a particular journal, check the title on the Library's website in the e-journals option within the Electronic Resources tab. Please note that Westlaw journals are NOT included in this collection
- g) In law, journal names are often abbreviated or acronyms used to represent journal titles. Lists of these are available in the Library.

DATABASES SUBSCRIBED TO BY THE LIBRARY (for law resources)

All databases can be accessed via the Library's website:

<http://library.ukzn.ac.za>, OR, from the Law and Legal Studies subject support page under the Databases tab



a) To search a single database:

- Click on Electronic Resources and then databases A-Z. Choose the database you want from the list. OR Go to the Law and Legal Studies subject support page and find under the Databases tab.

South African databases

Juta e-publications – law reports, statutes, some journals and books – full text

Juta's unreported judgments

LexisNexis (South Africa) – law reports, statutes, some journals and books – full text

Sabinet – collection of databases of different South African publications:

ISAP – index only to all South African journals and magazines, including law Journals; 1987+

SA Gazettes – 1994+

SA e publications – limited subset of ISAP containing full text articles

SA Media – full text newspaper articles; 1978+

Foreign

Academic Search Premier (Ebscohost Research Databases) – Multidisciplinary. Some full text and includes some Southern African journals

Forensicnetbase

Heinonline – USA and foreign periodicals eg Australia, South Africa etc (Hein is excellent for full text of early journal articles)

Jstor – Full text of earlier issues of journals, multidisciplinary

Legal Source – United States; limited full text. Overlap with Westlaw

LexisNexis (UK) – United Kingdom and Europe – journals only - full text

Lloyds Law Reports

Westlaw – North America, UK and other – law reports, statutes, journals – full text

Wiley Interscience – some law journals

World Law Reform Commission Collection

Others: **Proquest**

Access to some of these databases is available from off campus.

- Click on the 'Off campus' access on the Library's website (under the Electronic resources option)
- You will be asked to login in using your university Novell login
- If you take this route you will not have to use logins and password for individual databases.

b) Google Scholar:

Google Scholar is a subset of Google and indexes 'scholarly' literature available in the public domain and includes Google Books and non-journal literature. Google Scholar does not have the rights to provide full text to subscription journals but where such access is paid for by UKZN, a link to that full text will be provided.

SOME ELECTRONIC RESOURCES FREELY AVAILABLE VIA THE WORLD WIDE WEB

a) South Africa and Africa

Constitutional Court : www.constitutionalcourt.org.za/site/home.htm

Full text and summaries of judgments

Google search engine and others can be used to topic search and find commentary on legal matters from organizations as well as case and legislation commentary. Experiment

South African Government Online: www.gov.za

Full text acts and bills post 1994 and a wide range of government documents

South African Law Reform Commission: www.doj.gov.za/salrc/index.htm

Southern African Legal Information Institute (SAFLII): <http://www.saflii.org.za/>

University of the Witwatersrand: <http://www.law.wits.ac.za/>

Full text judgments for SCA; Land Claims Court; Constitutional Court and links to the international Human Rights library of the University of Minnesota

b) International

ECOLEX: Gateway to environmental law: <http://ecolex.org/>. Access to treaties, legislation; judicial decisions and secondary literature. Operated by FAO, UNEP and IUCN.

EISIL: Electronic Information System for International Law : <http://www.eisil.org/>
Access to a wide range of documents and information on topics in international law

Google search engine and others can be used to topic search and find commentary on legal matters from organizations as well as case and legislation commentary.
Experiment

Legal Information Institutes

World Legal Information Institute: WorldLII: <http://www.worldlii.org/>

The purpose of this coalition of legal information institutes is to promote free access to public legal information across the world. From this site can be accessed nearly 700 databases from more than 86 countries as well as a range of international databases. Individual institutes include:

- [Australasia \(AustLII\)](http://www.austlii.edu.au/) : <http://www.austlii.edu.au/>
- [UK & Ireland \(BAILII\)](http://www.bailii.org/) : <http://www.bailii.org/>
- [Canada \(CanLII\)](http://www.canlii.org/) : <http://www.canlii.org/>
- [The Commonwealth \(CommonLII\)](http://www.commonlii.org/) : <http://www.commonlii.org/>
- [Cyprus \(CyLaw\)](http://www.cylaw.org/) : <http://www.cylaw.org/>
- [Hong Kong \(HKLII\)](http://www.hklii.org/) : <http://www.hklii.org/>
- [New Zealand \(NZLII\)](http://www.nzlii.org/) : <http://www.nzlii.org/>
- [Pacific Islands \(PacLII\)](http://www.pacii.org/) : <http://www.pacii.org/>
- [Southern Africa \(SAFLII\)](http://www.saflii.org/) : <http://www.saflii.org/>
- [USA \(LII Cornell\)](http://www.law.cornell.edu/): <http://www.law.cornell.edu/>

Social Sciences Research network (SSRN) : choose Legal Scholarship Network from the left hand side: www.ssrn.com/

United Nations: <http://www.un.org/>. Provides access to the spectrum of UN documents including such items as the Universal Declaration of Human Rights

ScienceDaily keeps abreast of the latest research across the sciences

PUBLICATIONS AVAILABLE ELECTRONICALLY AND FULL TEXT ON THE LEXISNEXIS (SOUTH AFRICA) - B - AND JUTA E LAW SITES – J - that UKZN subscribes to

LAW REPORT SERIES

1828 – 1946 All South African Law Reports – B

African Human Rights Law Reports - J

All England Law Reports (All ER) – B

All South African Law Reports (All SA) – J

All South African Law Reports 1828 – 1946 - B

Butterworths Arbitration Awards Reports (BAAR) – B

Butterworths Constitutional Law Reports (BCLR) - B

Butterworths Labour Law Reports (BLLR) – Competition Law Reports (CPLR) - B

Competition Law Reports (CPLR) - B

Indexes to the South African Law Reports – B

Industrial Court Digest - J

Judgments On Line (JOL) – B
Labour Court Digest - J
Labour Law Digest - J
Pension Law Reports (BPLR) – B
South African Appellate Division Reports - J
South African Criminal Reports (SACR) – J
South African Law Reports (SA) 1947 + - J
South African Tax Board Decision Reports - B
South African Tax Cases Reports (SATC) – B

STATUTES

South African statutes and regulations – national – 1910 + - B; J
Provincial statutes – B; J

JOURNALS

African Human Rights Law Journal – J
De Jure - B
De Rebus - B
Employment Law Journal – B
Income Tax Reporter – B
Industrial Law Journal - J
Insurance and Tax Journal – B
Juta's Quarterly Review of SA Law – J (under SALR option)
Juta's Tax Law Review - J
Property Law Digest – B
South African Journal on Human Rights - J
Taxgram – B
Tydskrif vir Hedendaagse Romeins-Hollandse Reg - B

BOOKS

Administration of estates / NJ Wiechers - B
Amlers precedents of pleadings / LTC Harms - B
Bill of Rights compendium – B
Burrells SA patent and design law - B
Capital gains tax / M Stein – B
Civil practice of the magistrates' courts / Jones and Buckle - J
Civil procedure in the magistrates' courts / LTC Harms – B
Civil procedure in the superior courts / LTC Harms – B
Close Corporations commentary / HS Cilliers – B
Commentary on the Criminal Procedure Act - J
Competition law / L Reyburn – B
Conveyancing guide / J Christie - B
Corporate and personal financial planning / M Botha – B
Corporate financial reporting / HS Cilliers - B
Credit law commentary / JM Otto – B
Deloitte and Touche VAT handbook - B
Dictionary of legal words and phrases / R D Claassen - B
Environmental auditing in South Africa / I Sampson - B
Estate planning / EM Davis – B
Explaining the OHASA / J Louw - B
Family law service / B Clark - B
Henochsberg on the Close Corporations Act - B
Henochsberg on the Companies Act – B
Income tax practice manual / RH Zulman- B

Insolvency law / PM Meskin – B
Law of costs / AC Cilliers – B
MMF – RAF: the practitioners guide - B
LAWSA and Current Law – B
Practical guide to fringe benefits – B
Practical guide to patrimonial litigation in divorce proceedings / PA van Niekerk – B
Property law digest – B
Sectional titles – B
Sexual offences commentary - J
Silke on SA income tax / De Koker - B
South African income tax act: legislation and commentary / D Davis et al – J
South African law of trademarks / GC Webster - B
South African value-added tax: legislation and commentary / M Botes - J
Superior court practice / HJ Erasmus - J
VAT in South Africa / AP de Koker - B
Wills and trusts / RP Pace – B
Workplace law / J Grogan - J

OTHER

Codes of good practice (see Labour library) – J
DWAf minimum requirements (see Environmental library) - J
Forms and precedents – B
Gazettes: National and provincial since 2004 – B; J
Indexes to the South African Law Reports - B
International Conventions (see Persons and the family) - B
International Conventions (see Environmental library) – J
Labour courts and CCMA rules – J
Public records – Deeds search - B
White papers (see Environmental library) - J