

# SUPREME COURT OF TASMANIA

## PRACTICE DIRECTION

No. 3 of 2014

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The following Practice Direction is published by direction of the Chief Justice, the Honourable Justice A M Blow OAM.

This Practice Direction replaces Practice Direction 4/2009.

### CITATION OF JUDGMENTS

- 1 This Practice Direction concerns the citation of judgments in lists of authorities and written or oral submissions.

#### Purpose

- 2 The purpose of the Practice Direction is:
  - (a) to ensure that the Court is provided with or referred to the most authoritative and functional versions of the relevant authorities; and
  - (b) to encourage parties to limit their citation of authority to those judgments which will assist the Court materially in resolving the real matters in dispute.

#### Citation

- 3 When citing a judgment to the Court:
  - (a) A citation of the judgment from a set of **authorised reports** is to be preferred. The authorised reports are listed in clause 6 below. If a party does not have access to the authorised report of a case, the citation in the authorised reports should be found and provided to the Court. If a reference is provided to the medium neutral AustLII citation, the citation for the authorised reports should also be provided, as follows:

*Jackson v Building Appeal Board* [2010] TASSC 29; (2010) 20 Tas R 1.
  - (b) If no authorised report is available, a citation of the judgment from another set of **accredited reports** is to be preferred.

- (c) If no such reports are readily available, an unreported version of the judgment may be cited.
- (d) The **medium neutral citation** of a judgment (if any) should be provided.
- (e) The particular passages in the judgment which are relied upon should be identified. If a judgment has been published in an authorised report with consecutively numbered paragraphs, it should be referred to by paragraph numbers rather than page numbers. (This applies to the Commonwealth Law Reports from 1998 onwards, and the Tasmanian Reports from 1999 onwards.) Otherwise page numbers should be used.
- (f) Reference should also be made to any subsequent judgment which has doubted, or not followed, the cited judgment in a relevant respect.

### **Selectivity**

- 4 In selecting the authorities to be cited to the Court, parties are encouraged:
  - (a) to limit their citation to the authorities which are necessary to establish the principles or propositions which are relied upon;
  - (b) to avoid citing authorities which merely rephrase, illustrate or apply those principles or propositions in a way which does not assist the Court materially in resolving the real matters in dispute.
- 5 An unreported judgment should not usually be cited unless it contains a statement of legal principle, or a material application of principle, which is not found in reported authority.

### **Authorised Reports**

- 6 A set of authorised reports is one which has been approved, by a relevant court, to publish the authoritative version of its judgments. For judgments of Australian courts, the authorised reports are currently:
  - Commonwealth Law Reports (High Court of Australia)
  - Tasmanian Reports (Supreme Court of Tasmania)
  - Australian Capital Territory Law Reports (Supreme Court of the ACT)
  - Federal Court Reports (Federal Court of Australia)
  - New South Wales Law Reports (Supreme Court of NSW)
  - Northern Territory Law Reports (Supreme Court of NT)

- Queensland Reports (Supreme Court of Queensland)
- South Australian State Reports (Supreme Court of SA)
- Victorian Reports (Supreme Court of Victoria)
- Western Australian Reports (Supreme Court of WA).

7 Citations for authorised reports of judgments can be obtained from LawCite (AustLII), Case Base (Lexis Nexis), and Jade BarNet.

### **Accredited Reports**

8 A set of accredited reports is any set of published reports or notes of judgments which is accepted by the Court as providing a reliable record of the relevant judgment.

### **Tasmanian unreported judgments:**

9 For judgments delivered prior to 2000, the numbering system used by AustLII may not correspond with the systems used by this Court when the judgment was delivered. For example, a judgment which was handed down in December 1997 as number 158/1997 was given the medium neutral citation [1997] TASSC 161 when made available on AustLII.

10 To assist in citing judgments in electronic form, unreported judgments of this Court, whether at first instance or appellate level in the Full Court or Court of Criminal Appeal, should be cited in the following form:

*Smith v Brown* [1997] TASSC 161

11 If the medium neutral reference is not the same as the Court's original reference, the Court's original reference should be included. For example:

*Smith v Brown* [1997] TASSC 161 (Judgment No 158/1997)

12 If a judgment has consecutively numbered paragraphs, it should be referred to by paragraph numbers rather than page numbers. The use of square brackets enclosing the paragraph number is a convenient method of distinguishing references to paragraphs from page references. The citation of a specific paragraph may be in the following form:

*Smith v Brown* [1997] TASSC 161 at [15]

**Full Court and Court of Criminal Appeal judgments:**

13 From 1 January 2010, these judgments have been published using citations which identify the relevant court. For example,

Full Court:

*Smith v Jones* [2010] TASFC 1

Court of Criminal Appeal:

*State of Tasmania v Smith* [2010] TASCCLA 1