

PARLIAMENTARY COUNSEL

Drafting Direction No. 3.13 References to cases in notes

Note: This Drafting Direction contains references to the “head drafter”. It is a reference to the senior person who is responsible for matters of drafting policy. This form is used to enable the Drafting Directions to be applied in other organisations. In OPC the head drafter is FPC for Bills and the PLC for instruments.

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- 1 In the course of drafting legislation or parliamentary amendments, you may be asked to include a note referring to a case to explain a particular provision.
- 2 There is no objection in principle to including case references in notes.
- 3 You should generally use the form used in section 75A of the *Telecommunications (Interception) Act 1979*.

75A Evidence that has been given in exempt proceeding

If information is given in evidence (whether before or after the commencement of this section) in an exempt proceeding under section 74 or 75, that information, or any part of that information, may later be given in evidence in any proceeding.

Note: This section was inserted as a response to the decision of the Court of Appeal of New South Wales in *Wood v Beves* (1997) 92 A Crim R 209.

- 4 The form “as a response to [the decision]” should generally be preferred over forms like “to overcome” or “to confirm” which could be read as involving an attempt to identify the effect of the case in the legislation. It is sufficient to say that there is a relationship between the court’s decision and the enactment of the provision concerned, without going on to say what we think is the exact nature of that relationship.
- 5 You should give the best available citation (or citations) for the case. If an authorised report is available, it should be cited.

6 You should show the head drafter any note you propose to include that is in a different form from the above note.

Peter Quiggin
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2 October 2012

Document History		
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1.0	1 May 2006	s06rd389.v01.doc
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Note: Before the issue of the current series of Drafting Directions, this Drafting Direction was known as Drafting Direction No. 13 of 1994.