

PARLIAMENTARY COUNSEL

Drafting Direction No. 3.13 References to cases in notes

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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.

- 1 In the course of drafting a Bill or parliamentary amendments, you may be asked to include a note referring to a case to explain a particular provision.
- 2 I do not have any 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. I think 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 First Parliamentary Counsel any note you propose to include that is in a different form from the above note.

Peter Quiggin

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First Parliamentary Counsel
1 May 2006