

Obiter Stylistic guidelines

1 Layout and presentation

Note that there are some differences in layout and presentation depending on whether a contribution is published as an "article" on the one hand, or as a "case note" or "note" on the other.

1 1 Font and size

- a) Text to be in Arial 10 and single spacing and justified.
- b) Headings to be in Arial 12.
- c) Footnotes to be in Arial 8 and single spacing (justified).
- d) Direct quotations to be in Arial 9 with 0.5cm indent on either side.

1 2 Headings and numbers

- a) Make use of subheadings in order to subdivide assignment into logical units.
- b) Note that headings are not indented and do not use full stops between numerals.
- c) If further subdivision is necessary, then lower case Roman numerals are preferable eg (i) (ii) (iii) (iv).

ARTICLES

Main Heading

1 SOCIO-ECONOMIC RIGHTS

Subheading

1 1 The right to access to adequate housing

Further subheading

1 1 1 Content of the right

CASES and NOTES

Main Heading

1 Socio-Economic rights

Subheading

1 1 The right to access adequate housing

Further subheading

1 1 1 Content of the right

1 3 Capital letters

- a) For articles, main headings are in capital letters and bold font.
- b) For case notes and notes, headings are in lowercase and only the first word should start with a capital letter.
- c) Words like section, applicant, court and respondent do not start with capital letters but Labour Court, High Court, Industrial Court, Labour Appeal Court and Act are capitalised.
- d) Capitalisation of 'State': 'State' (and other similar abstract nouns) are capitalised when used in an abstract or legal sense – e.g. 'separation between Church and State', or 'The State has a duty to its citizens.'

In articles, footnotes are used for references. In notes and case notes, the information that would be contained in footnotes, must be inserted in brackets in the text.

2 Language and writing style

2 1 Language

- a) Where possible, use the active voice instead of the passive voice, e.g. rather don't write, "Factors that were considered by the court were ..."; instead, write, "The court considered the following factors: ..."
- b) South African English should be used for all written work and not American English. In other words, "ise" should be used rather than "ize":

Acceptable

The state is required to utilise all available resources.

Unacceptable

The state is required to utilize all available resources.

- c) Also note that "while" should be used instead of "whilst".
- d) In English, you would only use an apostrophe for plurals to correct pronunciation (very rare), but otherwise plurals DON'T take an apostrophe. Centuries and dates also do not take apostrophes - e.g. '1980s' and 'the 1800s' is correct.
- e) Don't make use of very long, complicated sentence structures.
- f) Make use of the present tense and not the future tense when discussing contents of an article.

2 2 The use of Italics

Words from any language other than that in which the contribution is written should be in italics. For example:

Court *a quo* – the "*a quo*" must be in italics

2 3 Abbreviations/Acronyms

- a) Abbreviations are not to be used in text; they are only used in footnotes¹ and references/citations.
- b) Acronyms can be used in the text.
- c) Abbreviations and acronyms are without punctuation, except for e.g. and i.e.
- d) Use of abbreviations/acronyms must be consistent.
- e) The following abbreviations are accepted in footnotes (articles) and references/citations in brackets (cases and notes):
 - for a section – s 138(5)(b) [in text – section 138(5)(b)]
 - for sections – ss 138-139 [in text – sections 138–139]
 - for paragraph – par 31 Note: The plural “pars” is not used; use par 31–33
 - for chapter – ch
 - for example – for e.g.,
- f) Italicise paragraph lettering in legislation – s 138(5)(b)

2 4 Punctuation

Where words appear in brackets, punctuation marks (full stops, commas, colons etc) must always be placed after the final bracket, but if a complete sentence appears in brackets, the full stop must be placed before the last bracket.

2 5 Quotations and quotation marks

- a) Direct quotations should be used sparingly and be as brief as possible.
- b) A direct quotation must correspond exactly with the original text.
- c) When a complete sentence is quoted, the quotation must appear as a separate paragraph with a 0.5 cm indent on either side, in smaller font (Arial 9), and single spacing.
- d) Any changes or additions to quotations are placed in square brackets [].
- e) Quotations should not start or end with ellipses (...) but may contain ellipses to indicate omissions from quotations in between.
- f) Do not italicise quotations.
- g) Quotations should be clearly indicated by double quotation marks. Single quotation marks are used for quotes within quotes.

¹ An abbreviation is typically a shortened form of a word used to represent the whole (such as Dr or Prof) while an acronym contains a set of initial letters from a phrase that usually forms another word (such as AIDS).

3 Footnotes (Articles only)

Note that footnotes are only used in journal articles, not in contributions published as Case Notes and Notes. In the latter cases, citations are placed in parentheses in text rather than in footnotes. Apart from this difference in placement, citations in Case Notes and in Notes should follow the same layout as indicated for footnotes.

3.1 Layout and punctuation in footnotes

- a) All footnotes end with a full stop.
- b) Footnotes are to be justified.
- c) References to footnote numbers should appear after punctuation and quotation marks, for example " 1, 2? 3 and not " 1" 2, 3?"

Acceptable

The death penalty was abolished in South Africa.²

Unacceptable

The death penalty was abolished in South Africa³.

- d) Multiple sources in footnotes are separated by semicolons (;)
- e) *Ibid* may be used **only** if the reference in the footnote above is **exactly** the same, i.e. the same author, book/article **and** page numbers.

3.2 Page references

- a) Reference to page numbers should be in footnotes only and not in the text.
- b) Only the number of the page should be included. The page number should not be preceded by a "p". For example:

Acceptable

Grogan *Dismissal* (2010) 10.

Unacceptable

Grogan *Dismissal* (2010) p 10.

- a) Consecutive pages must be referenced as follows: 325–334.
- b) Avoid cross-referring to other footnotes as errors proliferate easily with this practice. If unavoidable:
- c) Reference to a footnote below:

See fn 15 above.

d) Reference to a footnote below:

See fn 47 below.

4 Books

4 1 Books (authors, no editors)

- a) Use surname(s) of authors without initials.
- b) Use Title Case: Capitalise (i) the first and last word of the title/heading and of any subtitle; (ii) all major words (nouns, verbs, adjectives, adverbs, and pronouns) in the title, including the second part of hyphenated major words (e.g., Self-Report not Self-report; (iii) all words of four letters or more. Lower case for a, an, the, to, of, for, in, and, at, on, by.
- c) The title of the book must be in italics.
- d) The year of publication must be in brackets ().
- e) Where reference is made to a page number, the page number must not be preceded with a “p” (see above under 3 2).
- f) Edition number is only used in first reference.
- g) If it is the first edition of a book, the word edition is not included.

First reference:

Grogan *Dismissal* (2010) 10.

Subsequent references:

Grogan *Dismissal* 15.

Where the book is not a first edition:

Fouché *Practical Guide to Labour Law* 3ed (2009) 109.

h) First reference where there are more than two authors:

First reference:

Basson, Christianson, Garbers, le Roux, Mischke and Strydom *Essential Labour Law* (1998) 80-88.

Subsequent reference:

Basson *et al* *Essential Labour Law* 80–88.

- i) *et al* is in italics.
- j) Two authors separated by “and” in text and footnote.
- k) Use a shortened title for the book in subsequent references where possible, for example:

First reference:

Grogan *Employment Rights in South Africa* (2010) 12.

Subsequent reference – shortened title and no reference to year:

Grogan *Employment Rights* 15.

4 2 Books with editors

- a) The abbreviations (ed) or (eds) to follow after surnames of editor/s if a collective work:

Smith and Swart (eds) *Human Rights in South Africa* (2007) 212.

- b) Reference can be made to a specific author who has contributed to a collective work which has one or more editors:

First reference:

Nair "The Right to Equality" in Smith and Swart (eds) *Human Rights in South Africa* (2007) 212.

Subsequent reference:

Nair in Smith and Swart (eds) *Human Rights in SA* 212.

5 Loose-leaf publications

- a) Use author's surname without initials.
b) The title of section must be in double quotation marks.
c) The title of a loose-leaf publication must be in italics followed by the date and page.

First reference:

Dean "Performers' Protection" in *Handbook of South African Copyright Law* (2003) 112.

Subsequent reference:

Dean *Handbook of South African Copyright Law* 112.

6 Conference papers

- a) Use author's surname without initials.
b) The title of the paper must be in italics followed by the name of conference and the date of conference (in brackets) and page number.
c) For subsequent references, include the author's surname, name of conference and page.

First reference:

Du Toit *When does Affirmative Action in Favour of Certain Employees Become Unfair Discrimination Against Others?* Paper presented at conference on Equality: Theory and Practice in SA and Elsewhere, University of Cape Town, (January 2001) 14.

Subsequent reference:

Du Toit paper presented at conference on Equality: Theory and Practice in SA and Elsewhere 14.

7 Dissertation, thesis, treatise

- a) Use author's surname without initials.
b) The title of thesis must be in italics.

- c) The type of document and institution (in brackets), followed by the year, and page.
- d) The subsequent reference must include author, shortened title, and page.

First reference:

Buchan *Franchisor Failure: An Assessment of the Adequacy of Regulatory Response* (doctoral thesis, Queensland University of Technology) 2010 23.

Subsequent reference:

Buchan *Franchisor Failure* 23.

8 Case notes

- a) Footnotes are not used in *Obiter* case notes (only in its journal articles). Citations are indicated in parentheses in the text of contributions published as Case Notes.

In text of a case note:

A decision of the Supreme Court of Appeal (SCA) in *Mbungela v Mkabi* ((820/2018) [2019] ZASCA 134) adds to what is fast becoming a jurisprudence ...

- b) When names of parties are referred to in the text, do not repeat names in parenthesis just the citation.
- c) Always indicate specific page and/or paragraph of case referred to.
- d) Different publishers of cases make use of different brackets or no brackets at all. Set out the citation exactly as provided for by the publisher (e.g. Juta or LexisNexis etc.).
- e) Case names are always in italics – in main text and in references/citations.
- f) Please note that “and Another”/“and Others” are left out in the references of case names.
- g) When referring to previously cited cases, use *supra* for a subsequent reference of a case.

First reference:

National Union of Metalworkers of South Africa v Total Service Station (2002) 23 ILJ 1835 (LC) 1837D.

Strydom v Van der Walt 2004 (1) SA 335 (A) 342G.

Subsequent reference:

NUMSA v Total Service Station supra 1841F.

Strydom v Van der Walt supra 344B.

8 1 Unreported cases

For unreported cases, include the following details:

- a) name of the case
- b) court

- c) (unreported)
- d) date on which the judgment was given in the form yy-mm-dd
- e) case number

Waks v Jacobs & die Stadsraad van Carletonville TPD (unreported) 1989-10-30 Case no 5971/89 par 5.

8 2 Foreign cases

First reference – provide full citation.

Subsequent reference – use acronyms/abbreviations.

9 Articles

- a) The author's surname without initial must be used.
- b) The title of article must be in double quotation marks , using Title Case (see 4 1 (b) above).
- c) The year of publication of journal article is **not** in brackets.
- d) The volume number should **not** be preceded by "vol".
- e) The title of journal must be in italics.
- f) The page number on which article starts, as well as the page number being referred to, must be indicated in the first reference.

First reference:

Le Roux "The Impact of the 2002 Amendments on Residual Unfair Labour Practices" 2002 23(1) *Obiter* 311 314.

Subsequent reference:

Le Roux 2002 *Obiter* 325.

10 Notes

- a) Footnotes are not used for contributions published as Notes in *Obiter*. References/citations are put in parenthesis in text.
- b) Multiple sources must be separated by semicolons (;).
- c) When referring to the short title of an Act, it should be reflected as Child Care Act (74 of 1983) and then thereafter just reference to the short title: Child Care Act.
- d) *Ibid* is not used in subsequent references.

11 Newspapers and magazines

- a) Use the author's surname without initials in text.
- b) The title of article must be in double quotation marks, using Title Case (see 4 1 (b) above).
- c) Publication date must be in brackets (yyyy-mm-dd).

- d) The title of the newspaper in which the article appears must be italicised and followed by the page number of the article.

First reference:

Bisseker "New Laws for FIFA 2010" (2009-12-21) *Herald* 3.

Subsequent reference:

Bisseker (2009-12-21) *Herald* 3.

12 LAWSA

Paragraph references instead of page numbers should be used for references to LAWSA.

First reference:

LAWSA XVII Mortgage and Pledge par 398–402.

Subsequent references:

LAWSA XVII par 398–402.

13 Legislation

- a) Short titles should not be in italics and no punctuation marks should be used – Interpretation Act 33 of 1957.
- b) Where the short title of the Act is used in the text, the number and the year should be in a footnote, for example:

Text:

As set out in the Interpretation Act.¹

Footnote:

¹ 33 of 1957.

13 1 Referencing a section of an Act:

Text:

A court may grant a decree of divorce on the ground of an irretrievable breakdown of the marriage if the marriage has deteriorated to such an extent that it cannot be restored.¹ The court may accept evidence that the parties have not lived together as husband and wife for a continuous period of at least one year immediately prior to the date of the institution of the divorce action.¹

Footnote:

¹ S 4(1) and (2)(a) of the Divorce Act 70 of 1979.

Subsequent reference in footnote:

² S 4(1) and (2)(a) of 70 of 1979.

- c) Please note: reference to (a), (b), (c), etc. must be in italics in both the text and the footnote.

13 2 The Constitution

- a) Referencing the Constitution:

The Constitution of the Republic of South Africa, 1996 (the Constitution).

- b) Referencing the interim Constitution:

Text:

The Constitution of the Republic of South Africa¹ (the interim Constitution).

Footnote:

¹ 200 of 1993

14 Government notices/policies

- a) The following examples may be used:

Proc R138 in GG 8331 of 1982-08-06.

GN R3 in GG 7356 of 1981-01-02. (for regulations)

- b) The following abbreviations may be used:

AN – administrator’s notice

reg – regulation

GN – government notice

Proc – proclamation

GG – Government Gazette.

15 International instruments

15 1 International law measures

International law measures can take the form of (1) binding, hard law measures and (2) non-binding, soft law measures, both of which are generally divided into global measures (which apply to the world) and regional measures (which apply to specific regions).

1 Binding, hard law measures

1 1 Global measures

- (i) First reference in footnote if the name of the measure is not used in the text

Provide the name/acronym of the body responsible for administering the measure, the full name of the measure in italics, the depositary number/document number and the date in brackets. This is then followed by the date the measure was adopted and the date the measure entered into force.

Example of footnote:

UNEP *Convention on Biological Diversity* 1760 UNTS 79; 31 ILM 818 (1992). Adopted: 05/06/1992; EIF: 29/12/1993.

(ii) First reference in footnote if the name is used in the text

When the name of the measure is used in the text, the full name should be used if it is the first time the measure is being referred to. This can be followed in brackets by the acceptable acronym or abridged name, should this be applicable, such as: *Convention on Biological Diversity (CBD)*. All subsequent references to the measure should use the abridged name/acronym, whether in the text or in the footnotes. Note that it is not necessary to put the full name of the measure or the abridged name/acronym in italics when using it in the text or footnote.

Example of footnote:

1760 UNTS 79; 31 ILM 818 (1992). Adopted: 05/06/1992; EIF: 29/12/1993.

(iii) Subsequent references in footnotes

Reference the relevant article/section/regulation and the abridged name/acronym. It is not necessary to put the abridged name/acronym in italics.

Example of footnote:

Article 5(1) of the CBD.

1 2 Regional measures

Regional measures can take different forms. Those that resemble the international measures described above, can be referenced in the same way. This applies to the first reference in the footnote if the name of the measure is not used in the text, the first reference in the footnote where the name is used in the text and any subsequent references.

Those regional measures that do not resemble the international measures described above should be referenced the way they are headed in the measure itself.

(i) First reference in footnote if the name is not used in the text

Example of footnote:

Directive 2006/115/EC of the European Parliament and of the Council of 12 December 2006 on Rental Right and Lending Right and on Certain Rights Related to Copyright in the Field of Intellectual Property.

(ii) First reference in footnote if the name is used in the text

When the name of the measure is used in the text, the full name should be used if it is the first time the measure is being referred to. This can be followed in brackets by the

acceptable acronym or abridged name, should this be applicable, such as: Directive on Rental Right and Lending Right and on Certain Rights Related to Copyright in the Field of Intellectual Property (Rental Directive).

Example of footnote:

Directive 2006/115/EC.

(iii) Subsequent references in footnotes

Reference the relevant section/article/regulation and the abridged name/acronym.

Example of footnote:

Section 2(a) of the Rental Directive.

2 Non-binding, soft law measures

2.1 Global measures

Some global soft law measures are self-standing measures, while others form part of an adopted document, such as a report, recommendation, decision or resolution of a global body.

(i) First reference in footnote if the name of the measure is not used in the text

For self-standing soft law measures, provide the name/acronym of the body responsible for administering the measure, the full name of the measure in italics and the date in brackets. For soft law measures that form part of an adopted document of a global body, provide the name/acronym of the body responsible for administering the measure, the full name of the measure in quotation marks, the name of the adopted document of which the measure forms a part in italics, the date in brackets and the document reference number.

Example of footnote of a self-standing measure:

Secretariat of the CBD *Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of the Benefits Arising out of their Utilization* (2002).

Example of footnote of a measure that forms part of an adopted document:

UNGA "Rio Declaration on Environment and Development" *Report of the United Nations Conference on Environment and Development* (14 June 1992) A/Conf.151/26.

(ii) First reference in footnote if the name is used in the text

When the name of the measure is used in the text, the full name should be used if it is the first time the measure is being referred to. This can be followed in brackets by the acceptable acronym or abridged name, should this be applicable, such as: Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of the Benefits Arising out

of their Utilization (Bonn Guidelines) or Rio Declaration on Environment and Development (Rio Declaration).

Example of footnote of a self-standing measure:

Secretariat of the CBD (2002).

Example of footnote of a measure that forms part of an adopted document:

UNGA (14 June 1992) A/Conf.151.26.

(iii) Subsequent references in footnotes

Reference the relevant guideline/section/paragraph/article/principle and the abridged name/acronym.

Example of footnote of a self-standing measure:

Guideline 4 of the Bonn Guidelines.

Example of footnote of a measure that forms part of an adopted document:

Principle 16 of the Rio Declaration.

2.2 Regional measures

Regional soft law measures are referenced in the same way as global soft law measures. This applies to the first reference in the footnote if the name of the measure is not used in the text, the first reference in the footnote where the name is used in the text and any subsequent references.

15.2 International cases

(i) First reference in footnote if the name of the case is not used in the text

Judgments of international tribunals should be referenced by providing the full name of the case in italics, an indication of whether it is a judgment/advisory opinion/order in brackets, the name of the tribunal/reporting body and the date the judgment/advisory opinion/order was delivered.

Example of footnote:

Pulp Mills on the River Uruguay (Argentina v Uruguay) (Judgment) ICJ Reports 14 (20 April 2010).

(ii) First reference in footnote if the case name is used in the text

When the name of the case is used in the text, the full name should be used if it is the first time the case is being referred to. This can be followed in brackets by the acceptable abridged name, should this be applicable, such as: *Pulp Mills on the River Uruguay (Argentina v Uruguay)* (*Pulp Mills case*).

Example of footnote:

(Judgment) ICJ Reports 14 (20 April 2010).

(iii) Subsequent references in footnotes

Reference the relevant paragraph of the judgment and the abridged name.

Example of footnote:

At par 44 of the *Pulp Mills* case.

15 3 Decisions/resolutions of international bodies

(i) First reference in footnote if the title of the decision/resolution is not used in the text

Provide the name/acronym of the body that made the decision/resolution, the full title of the decision/resolution in quotation marks, the forum in which the decision/resolution was made in italics, the date of the decision/resolution and the document reference number.

Example of footnote:

UNEP “Measures for Implementing the Convention on Biological Diversity” *Decision of the COP to the CBD at its Fourth Meeting* (15 May 1998) UNEP/CBD/COP/DEC/IV/10.

(ii) First reference in footnote if the title is used in the text

When the title of the decision/resolution is used in the text, the full title should be used if it is the first time the decision/resolution is being referred to. This can be followed in brackets by the acceptable abridged name, should this be applicable, such as: Transforming our World: The 2030 Agenda for Sustainable Development (Agenda 2030).

Example of footnote:

Decision of the COP to the CBD at its Fourth Meeting (15 May 1998)
UNEP/CBD/COP/DEC/IV/10.

(iii) Subsequent references in footnotes

Reference the relevant paragraph/page and the abridged name.

Example of footnote:

At par 54 of Agenda 2030.

If not covered above, please consult <https://www.refworld.org> for the preferred referencing style.

16 Websites

The following details must be included when referencing websites:

- a) surname(s) of author(s) or editor(s), or the name of the institutional author, editor or compiler
- b) full title of the document in double quotation marks
- c) date of electronic publication or latest update of website (in brackets), if no date available then insert (undated) after the title of the article
- d) URL of particular webpage (identical)
- e) date accessed (yyyy-mm-dd)
- f) pages are usually non-existent but indicate if available.
- g) for subsequent references, include the surname(s) of author(s) or editor(s), or the name of the institutional author, editor or compiler, URL of particular webpage (identical) and the page number (usually non-existent but indicate if available).

First reference:

Keene and Yang "PRC Passes Labour Contract Law" (10 July 2007)
<http://www.allens.com.au/pubs/pdf/asia/fochempjul07.pdf> (accessed 2009-03-27) 3.

Subsequent reference:

Keene and Yang <http://www.allens.com.au/pubs/pdf/asia/fochempjul07.pdf>