

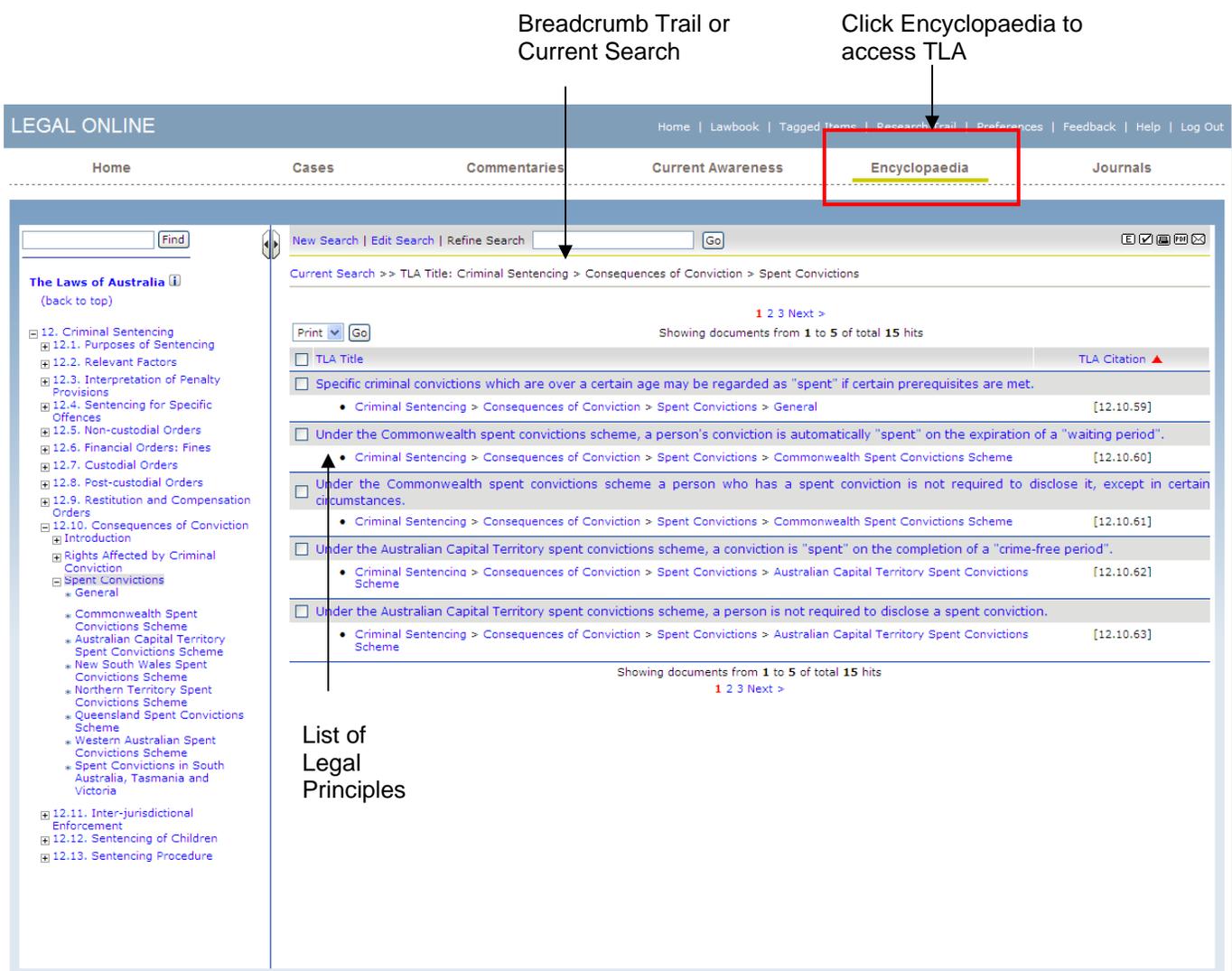
THE LAWS OF AUSTRALIA QUICK GUIDE

The Laws of Australia (TLA) is Thomson Reuter’s legal encyclopaedic work using over 38,000 legal statements to summarise virtually all areas of law covering all Australian jurisdictions. With TLA Online you can choose to browse the 36 TLA titles or search to locate the principles of law relevant to your practice. Extensively integrated with Thomson publications you can link to digest summaries in FirstPoint and full text cases.

**1. Browsing the TLA Titles**

Browsing allows you to drill down through the subject titles to display a list of legal principles and authorities.

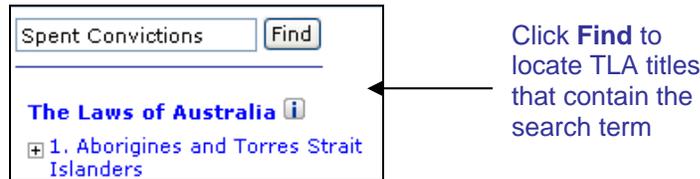
**Example 1: Criminal Sentencing > Consequences of conviction > Spent convictions**



The screenshot shows the 'LEGAL ONLINE' interface. At the top, there is a navigation bar with links for Home, Lawbook, Tagged Items, Research Trail, Preferences, Feedback, Help, and Log Out. Below this is a secondary navigation bar with Home, Cases, Commentaries, Current Awareness, Encyclopaedia, and Journals. The 'Encyclopaedia' link is highlighted with a red box and labeled 'Click Encyclopaedia to access TLA'. Below the navigation is a search bar with a 'Find' button and a search input field. The breadcrumb trail is shown as 'Current Search >> TLA Title: Criminal Sentencing > Consequences of Conviction > Spent Convictions'. The search results show a list of legal principles, with the first one being 'Specific criminal convictions which are over a certain age may be regarded as "spent" if certain prerequisites are met.' A label 'Breadcrumbs Trail or Current Search' points to the breadcrumb trail. A label 'List of Legal Principles' points to the search results. The interface also shows a 'Print' button and a 'Go' button.

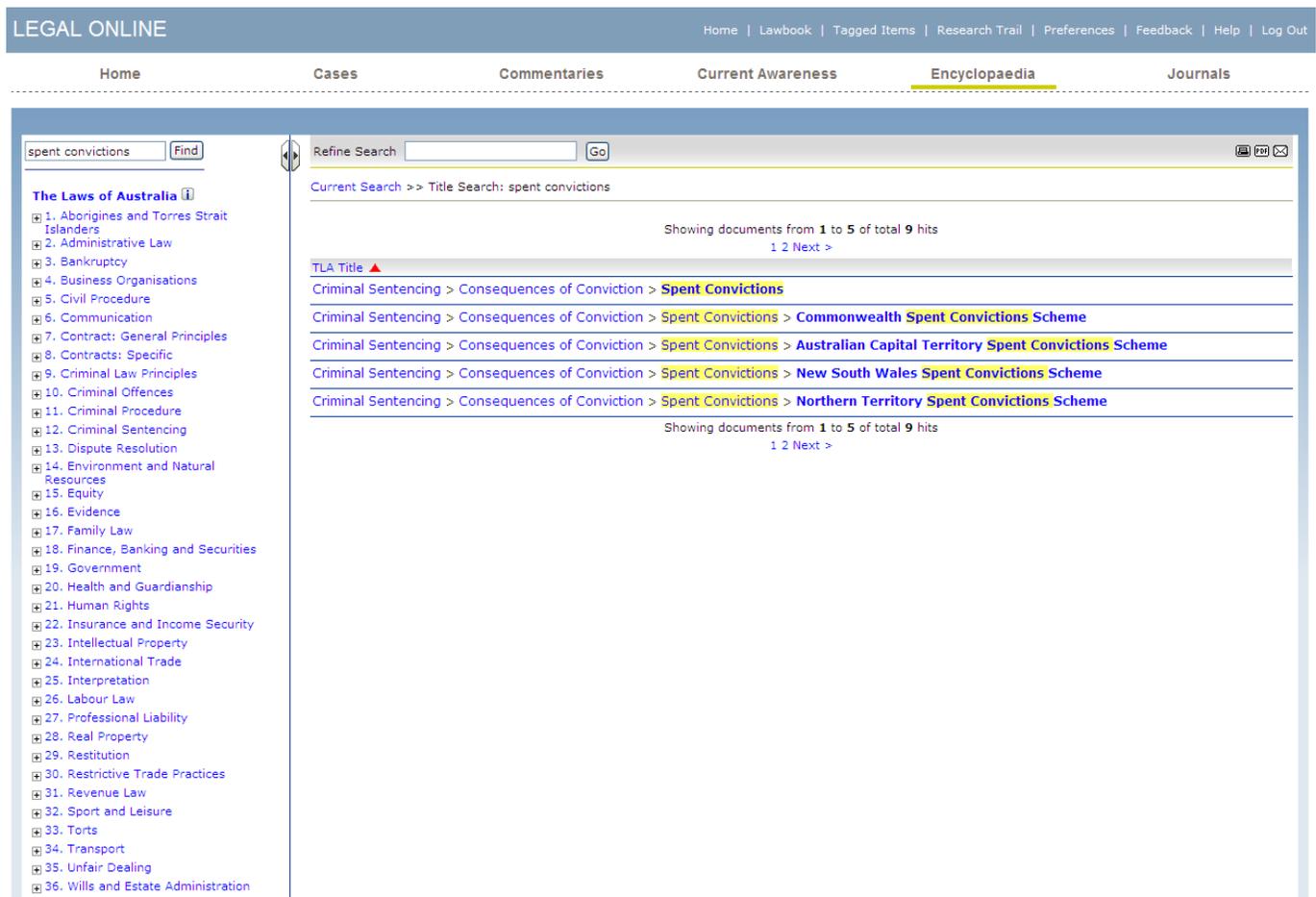
## 2. Finding Terms in the TLA Heading List

To search for terms located within a TLA heading use the **Find box** located above the list of TLA Titles:



**Example:** To locate all TLA headings containing the term *spent convictions*

**Step 1:** Enter **spent convictions** into the Find box and click Find. A list of Titles and Subtitles containing your term(s) will be displayed.



**Step 2:** Click on any of these links to display a list of Legal Principles under this heading.

**TIP:** Use the breadcrumb trail as a reference to your location within the list of titles and headings

### 3. Searching In TLA

There are two search options available in The Laws of Australia – Free Text and Field Searching.

#### Free Text Searching

This will search all areas within the TLA record including, the legal principle (bold text), commentary (paragraph), footnotes, cases mentioned, legislation mentioned and words & phrases. Enter search term(s) into the **Free Text Search** box and click Search to display a list of relevant legal principles within TLA.

**Example:** To find TLA records containing the term **professional negligence**

**Step 1:** Enter the terms **professional negligence** into the Free Text Search box and click search. This will find TLA records where both words appear in a TLA record, although not necessarily as a phrase. If you wish to search for the exact phrase, enclose the term in quotes (eg “professional negligence”).



Search The Laws of Australia for detailed legal principles

Free Text Search

Legal Principle

Words and Phrases

Case Name

Case Citation

Legislation

TLA Title

TLA Paragraph Number

Results Per Page

Enter your **search term(s)** into the Free Text Search box and click **Search**

#### Field Searching

This will restrict the search to one or more of the specific fields within a TLA record. For example, if you want to locate a case that has been considered or referred to in a title of TLA, enter the case citation in the Case Citation field or party names in the Case Name field and click Search.

**Example 1:** To search for **R v Crimmins**

**Step 1:** Enter **Crimmins** into the Case Name box and click Search.

#### TIPS:

- When searching case names, enter the individual party names with spaces between them. You do not need to include “v” or “and” between party names.
- For cases involving the Crown as one of the parties, you can leave out “R” and just enter the other party name(s).

**Example 2:** To search for references to the **Fair Trading Act (NSW) section 42**

**Step 1:** Enter **Fair Trading Act NSW 42** into the Legislation box and click Search.

**TIP:** When searching for sections of legislation, enter the name of the Act and the section number – do not include “s” or “ss” in front of the section number(s).

4. The TLA Hitlist

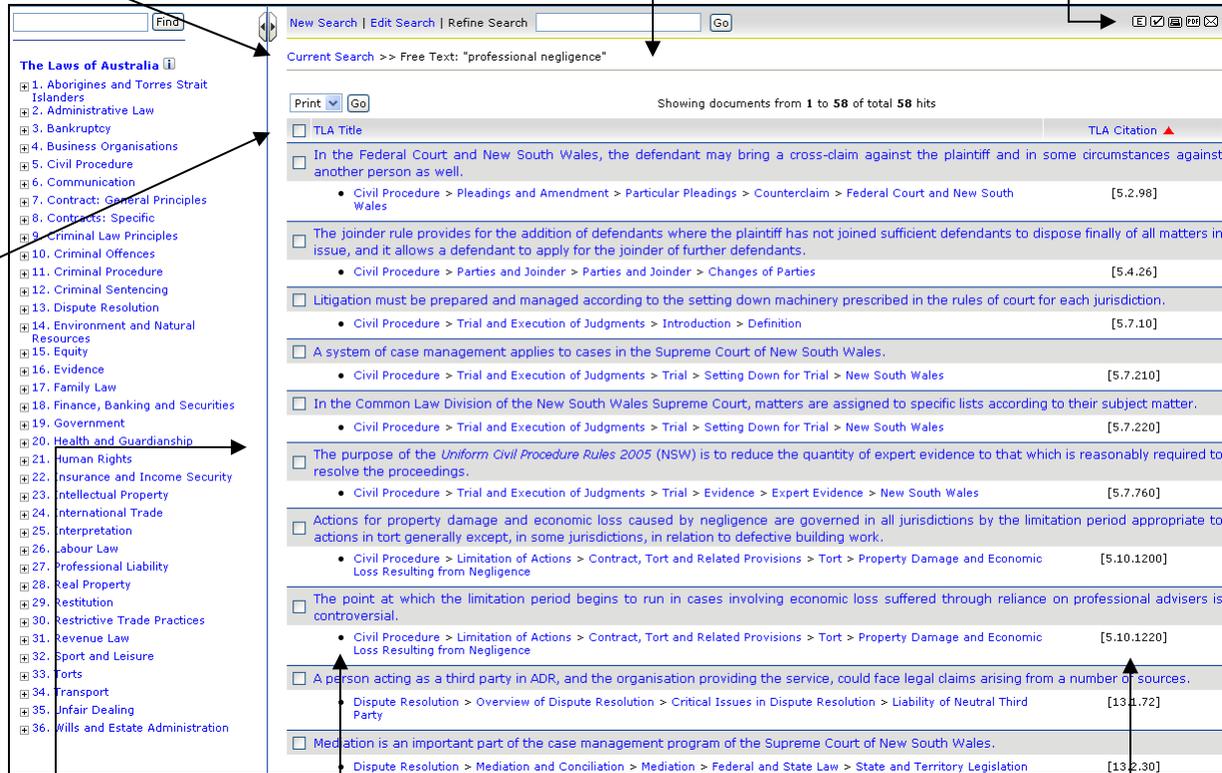
The TLA Hitlist contains the following information and features:  
 In the example below the results are displayed for the search “*professional negligence*”.

Current Search is displayed at the top of the Hitlist

Use Refine Search to narrow the scope of your search

Use the Repeat Search to repeat the current search in FirstPoint

Edit, Tag, Print, PDF and Email tools



The screenshot shows a search interface with a search bar at the top containing "Free Text: 'professional negligence'". Below the search bar are buttons for "Print" and "Go". The main area displays a list of search results, each with a checkbox, a snippet of text, and a "TLA Citation" column. On the left side, there is a sidebar titled "The Laws of Australia" with a list of legal principles, each with a checkbox. The results list includes items like "In the Federal Court and New South Wales, the defendant may bring a cross-claim against the plaintiff..." and "The joinder rule provides for the addition of defendants where the plaintiff has not joined sufficient defendants...".

To print or tag a TLA record from use the Print and Go method. See instructions below.

The Legal Principle appears shaded grey at the top of each result in the Hitlist. Click to display the full TLA record

The bullet point displays the relevant Title and Heading structure within TLA

The TLA Citation column displays the specific TLA citation for the Legal Principle

TIPS:

- The list of Legal Principles are displayed by default in citation order.
- The Tag, Print and Email tools located in the top right hand corner of the screen will print and tag the Hitlist/Results only. The Email option will insert the url for this page into an email. The recipient will need to be a TLA subscriber to view the page link.

Print and Go

Use the Print and Go feature to print or tag multiple TLA records from the search results list “hitlist”.

- Step 1. Place a tick in the corresponding check box(s) from the hitlist
- Step 2. Select **Print**, **PDF** or **Tag** from the dropdown list
- Step 3. Click **Go**

**Note:** The full record will be printed. This includes the legal principle, commentary, footnotes, cases mentioned, legislation mentioned and related content.

5. TLA Record

A TLA record contains the following information:

Select a quick link to navigate the record

<< Hitlist | Commentary | Footnotes | Cases Cited | Legislation Cited | Next Hit >> 1 of 5

Current Search >> Free Text: "professional negligence", Tla Title: Civil Procedure > Pleadings and Amendment > Particular Pleadings > Counterclaim > Federal Court and New South Wales

In the Federal Court and New South Wales, the defendant may bring a cross-claim against the plaintiff and in some circumstances against another person as well.

Civil Procedure > Pleadings and Amendment > Particular Pleadings > Counterclaim > Federal Court and New South Wales

Citation: TLA [5.2:98]  
 Title Editor(s): Federal Magistrate Grant T Riethmuller (2001 - ), Associate Professor BC Cairns (1993 - 1999)  
 Current Updating Author(s): Andrew West  
 Current as at: 1 January 2002

The Edit, Tag, Print, PDF, Email and Book View tabs

Bold text states the Legal Principle discussed within the commentary

Commentary | Top

In the Federal Court and New South Wales, the defendant may bring a cross-claim against the plaintiff and in some circumstances against another person as well. <sup>1</sup> A cross-claim in the Federal Court and New South Wales is equivalent to a counterclaim in the other jurisdictions.

The Federal Court and the New South Wales Supreme Court may grant to the respondent or the defendant respectively any relief against any person that it could grant if the respondent or defendant sued that person separately. A cross-claim lays against a stranger to the original proceeding only if the relief sought against the stranger is related to, or is connected with, the subject matter of the original proceeding.<sup>2</sup> The ability these procedures confer on a defendant to bring a cross-claim is procedural only; they do not extend the court's jurisdiction.

In *Obacelo Pty Ltd v Taveraft Pty Ltd* (1985) 5 FCR 210 [PDF], 49 ALR 571, Wilcox J in the Federal Court had to examine the scope that the rules conferred on a respondent to mount a cross-claim. The applicant sued for relief under the *Trade Practices Act 1974* (Cth) because of misrepresentations which it alleged the respondent made in the course of negotiating a contract for the sale of a caravan park. It alleged that representations about the takings and similar matters were false. The respondent made a cross-claim in negligence against its solicitors. It alleged that they failed to include contractual stipulations negating any reliance by the applicant as the purchaser on any representation the respondent may have made as the vendor. The solicitors applied to be dismissed from the proceeding as there was no basis for joining them as cross-respondents. Wilcox J accepted this contention.

Search term appears highlighted in yellow

The Footnotes list the relevant common law authorities from Australian case law and legislation

While a cross-respondent cannot be dismissed merely because it is not a party to the original proceeding, the subject matter of the cross-claim must be otherwise within the court's jurisdiction. When this case fell for decision, the Federal Court had no jurisdiction over matters of contract otherwise than pursuant to the *Trade Practices Act 1974*. It could not adjudicate on professional negligence claims against solicitors.<sup>3</sup> The cross-claim was therefore struck out. According to Wilcox J, a non-federal matter may form the subject matter of a cross-claim only if it is so closely associated with a federal matter that they both form an indivisible whole.<sup>4</sup>

The nature of a cross-claim was explored in the Court of Appeal in New South Wales in *Stehar Knitting Mills Pty Ltd v Southern Textile Converters Pty Ltd* [1980] 2 NSWLR 514 [PDF]. The plaintiff and the defendant owed each other unrelated debts of the same amount. The defendant in its defence pleaded a set-off of its debt to the plaintiff. In reply, the plaintiff contended that mutual debts could not be set off against each other because s 8 of the *Imperial Acts Application Act 1969* (NSW) repealed the statutes of set-off.<sup>5</sup> Any right of the defendant to recover its debt from the plaintiff had to be asserted in a separate action. However, the Court of Appeal was of opinion that the rights of set-off created by the statutes of set-off were procedural only, and any rights they established were replaced by the cross-

Footnotes

- This jurisdiction is created by statute: see *Federal Court of Australia Act 1976* (Cth), s 22; *Supreme Court Act 1970* (NSW), s 78. The *Federal Court of Australia Act* provision confers a general power on the court to grant all remedies to which the parties appear to be entitled in a claim brought forward in the proceeding, so that all matters between the parties are finally determined and all multiplicity of proceedings concerning any of those matters are avoided. The section does not specifically refer to granting the respondent relief against the applicant. The rules do, however, have a specific provision to this effect: see *Federal Court Rules* (Cth), O 5 r 1. In New South Wales, the Act authorises the court to grant relief against the plaintiff in a cross-claim by the defendant.
- Federal Court Rules* (Cth), O 5 r 1; *Supreme Court Act 1970* (NSW), s 78. See 5.4 "Parties and Joinder".
- Following the establishment of the cross-vesting scheme pursuant to the *Jurisdiction of Courts (Cross-vesting) Act 1987* (Cth), the court could entertain a similar cross-claim if it was the "appropriate" court. See 5.11 "Private International Law".
- Obacelo Pty Ltd v Taveraft Pty Ltd* (1985) 5 FCR 210 [PDF], 49 ALR 571, Wilcox J at 216-217 (FCR).
- Insolvent Debtors Relief Act 1728* (Imp) 2 Geo II c 22; *Insolvent Debtors Relief Amendment Act 1734* (Imp) 8 Geo II c 24.
- Supreme Court Act 1970* (NSW), Pt 6.
- Stehar Knitting Mills Pty Ltd v Southern Textile Converters Pty Ltd* [1980] 2 NSWLR 514 (CA), Glass JA at 523 [PDF]. See also *Dillingham Constructions Pty Ltd v Steel Mains Pty Ltd* (1975) 132 CLR 323 [PDF], 49 ALJR 233; 6 ALR 171.
- Stehar Knitting Mills Pty Ltd v Southern Textile Converters Pty Ltd* [1980] 2 NSWLR 514 (CA), Glass JA at 516 [PDF].
- AWA Ltd v Exicom Australia Pty Ltd* (1990) 19 NSWLR 705 [PDF].

Click the Case Citation or PDF link to display the full text

Click the Case Name to display the FirstPoint record

Click the Legislation reference to display the full text.

Cases Mentioned

- AWA Ltd v Exicom Australia Pty Ltd* (1990) 19 NSWLR 705 [PDF]
- Dillingham Constructions Pty Ltd v Steel Mains Pty Ltd* (1975) 132 CLR 323 [PDF], 49 ALJR 233; 6 ALR 171
- Obacelo Pty Ltd v Taveraft Pty Ltd* (1985) 5 FCR 210 [PDF], 49 ALR 571
- Stehar Knitting Mills Pty Ltd v Southern Textile Converters Pty Ltd* [1980] 2 NSWLR 514 [PDF]

Note: The links are disabled by default. Click Preferences and select Yes from Show Legislation Links to display and provide access to Austlii.

Legislation Mentioned

- Commonwealth**
- Federal Court of Australia Act 1976*, s 22
  - Federal Court Rules*, O 5 r 1
  - Jurisdiction of Courts (Cross-vesting) Act 1987*
  - Trade Practices Act*
  - Trade Practices Act 1974*
- New South Wales**
- Federal Court of Australia Act*
  - Imperial Acts Application Act 1969*, s 8
  - Supreme Court Act 1970*, s 78, Pt 6
- Imperial**
- Insolvent Debtors Relief Act 1728*
  - Insolvent Debtors Relief Amendment Act 1734*

Use the Symbols to establish the status of a case. For example a Red Flag warns the case has been reversed or overruled on at least one of the points it contains.

To display a full list of symbols click Help.

6. Edit Search, Tag, Print, PDF, Email and the TLA Book View

These tools are located in the top right hand corner of the Hitlist and TLA Record



Select one of the first five buttons (located in the top right hand corner of the grey toolbar) to Edit your search, Tag a record or Hitlist, Print a record or Hitlist, Print in PDF format, and Email a record or Hitlist.

The TLA Book View button is described below.

7. The TLA Book View

The TLA Book View allows you to view TLA paragraphs in context of surrounding paragraphs. To switch the Research view to Book view click on the **Book View** button located in the top right hand corner of the TLA record.



To return to the research view click on the **Research View** link or click on the **Paragraph Number**

Click on the blue **Paragraph Citation** to display a related Legal Principle. Use the **Back** button to return to this page

Click **Previous Page** or **Next Page** located at the top and bottom of the page to move to the previous or next section

<< Research View for 5.2.97 >> << Previous Page | Next Page >> [Book View] [Tag] [Print] [PDF] [Email]

Civil Procedure > Pleadings and amendment > Particular pleadings > Set-off

[5.2.97]

**Being a ground of defence, a set-off is pleaded as part of the defence.** The set-off must specifically plead the debt or other claim raised as the set-off. This must be done with particularity so that all the facts upon which the defendant intends to rely in establishing the set-off are adequately pleaded and the plaintiff is not taken by surprise;<sup>1</sup> see [5.2.24] – [5.2.36].

If the plaintiff does not intend to raise any new matter in reply to a set-off, there is no need for a reply merely traversing the matters alleged in support of the set-off. When the pleadings close there is an implied joinder of issue on the last pleading, and a reply which simply denies the defence is neither necessary nor permitted: see [5.2.65] and [5.2.108]. This allows the plaintiff to contest the set-off as a matter of denial. It would not, however, allow the plaintiff to raise an affirmative case against the set-off unless the affirmative matters were pleaded in a reply. If the plaintiff intends to rebut the allegation of the set-off by raising any matter which would surprise the defendant if it were not pleaded, it must be raised in a reply: see [5.2.23].

<sup>1</sup> *Federal Court Rules* (Cth), O 11 r 10; *Supreme Court Rules* (ACT), O 23 r 15; *Supreme Court Rules 1970* (NSW), Pt 15 r 13; *Supreme Court Rules 1987* (NT), O 13 r 7; *Uniform Civil Procedure Rules 1999* (Qld), r 150(4); *Supreme Court Rules 1987* (SA), RR 46.12(4)(a), 47.01; *Supreme Court Rules 2000* (Tas), r 251; *Supreme Court (General Civil Procedure) Rules 1996* (Vic), r 13.07; *Rules of the Supreme Court 1971* (WA), O 20 r 9.

**Counterclaim**

Federal Court and New South Wales

[5.2.98]

**In the Federal Court and New South Wales, the defendant may bring a cross-claim against the plaintiff and in some circumstances against another person as well.**<sup>1</sup> A cross-claim in the Federal Court and New South Wales

<< Previous Page | Next Page >>

**Book View tools**  
Tag, Print, Email and Research

**8. Printing in Book View**

The Book View provides the ability to print selected legal principles classified in a title.

**Example:** To Print a selection from the Book View

- Step 1.** From the Research View click the **Book View** button located in the top right hand corner of the page
- Step 2.** Click the **Print** button located in the top right hand corner
- Step 3.** Select a **Section** from the “Which section would you like to print?” box and click **Print**
- Step 4.** From the Print dialog box select **Print**
- Step 5.** Click << **Back** to return to the Book View

Tag, Print, Email and Research View buttons

Use the TLA title list to assist in selecting a section to print.



**9. Getting Help**

**Technical Support**

Call Digital Support on 1800 020 548 (8am-8pm Sydney Time) or email [LRA.Digital.Support@thomson.com](mailto:LRA.Digital.Support@thomson.com)

**Training Support**

Call 1800 020 548 or email [LRA.Trainers@thomson.com](mailto:LRA.Trainers@thomson.com)

**Customer Support**

Call 1300 304 195 for account inquiries or email [LRA.Service@thomson.com](mailto:LRA.Service@thomson.com)