

OSCOLA

The OXFORD UNIVERSITY
STANDARD *for* CITATION
of LEGAL AUTHORITIES

FOURTH EDITION

Faculty of Law
University of Oxford

EDITED BY

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ISBN 978-1-8494-6367-6



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OSCOLA

Oxford University Standard for the Citation of Legal Authorities

Fourth Edition



Faculty of Law, University of Oxford

www.law.ox.ac.uk/oscola

Contents

Introduction	1
1 General notes	3
1.1 Citations and footnotes	3
1.1.1 Citing cases	3
1.1.2 Citing legislation	4
1.1.3 Citing secondary sources	4
1.1.4 Order of sources in footnotes	4
1.2 Subsequent citations, cross-references and Latin 'gadgets'	5
1.2.1 Subsequent citations	5
1.2.2 Cross-references	6
1.2.3 Latin 'gadgets'	7
1.3 Punctuation, ranges of numbers and years, and foreign words	7
1.3.1 Punctuation	7
1.3.2 Ranges of numbers and years	7
1.3.3 Foreign words	8
1.4 Citing foreign materials	8
1.5 Quotations	8
1.6 Tables and lists of abbreviations	10
1.6.1 Lists of abbreviations	10
1.6.2 Tables of cases	10
1.6.3 Tables of legislation and other tables	11
1.7 Bibliographies	11
2 Primary Sources	13
2.1 Cases from England and Wales	13
2.1.1 General principles	13
Case citations including neutral citations	13
Case citations without neutral citations	13
2.1.2 Case names	14
Short forms of case names	14
Judicial review applications	15
Attorney General's references	16
Variations in the name of a case	16
2.1.3 Neutral citations	16
2.1.4 Law reports	17

The 'best report'	17
Heavily edited reports	18
Unreported cases	18
Reports using case numbers in the citation	18
2.1.5 Courts	18
2.1.6 Pinpoints	19
2.1.7 Judges' names	19
2.1.8 Subsequent history of a case	20
2.1.9 Cases before 1865	20
The English Reports	20
Other older cases	21
2.2 Cases from Scotland	22
2.3 Cases from Northern Ireland	23
2.4 UK primary legislation	23
2.4.1 Names of statutes	23
2.4.2 Parts of statutes	24
2.4.3 Older statutes	25
2.4.4 Explanatory notes to statutes	25
2.4.5 Bills	25
2.4.6 Wales	25
2.4.7 Scotland	26
Acts	26
Bills	26
2.4.8 Northern Ireland	26
2.5 UK secondary legislation	26
2.5.1 Statutory instruments	26
2.5.2 Rules of court	27
2.5.3 Parts of statutory instruments	27
2.5.4 Wales	28
2.5.5 Scotland	28
2.5.6 Northern Ireland	28
2.6 European Union legal sources	28
2.6.1 EU legislation	29
Short forms and pinpoints	29
Older EU legislation	29
2.6.2 Judgments of the European Court of Justice and General Court	30
Opinions of Advocates General	30
2.6.3 Decisions of the European Commission	31
2.7 The European Court of Human Rights	31

2.7.1	Judgments of the European Court of Human Rights.....	31
2.7.2	Decisions and reports of the European Commission on Human Rights.....	31
2.8	Cases and legislation from other jurisdictions	32
2.8.1	Cases	32
2.8.2	Legislation	32
3	Secondary sources	33
3.1	General principles	33
3.1.1	Authors' names	33
3.1.2	Titles	33
3.1.3	Parts, chapters, pages and paragraphs	33
3.1.4	Electronic sources	33
3.1.5	Subsequent citations and short forms	34
3.2	Books.....	34
3.2.1	Authored books.....	34
3.2.2	Edited and translated books	35
3.2.3	Contributions to edited books.....	35
3.2.4	Older works	35
3.2.5	Books of authority and institutional works.....	36
3.2.6	Encyclopedias	36
3.2.7	Looseleaf services	36
3.3	Articles	37
3.3.1	Hard copy journals	37
3.3.2	Case notes.....	37
3.3.3	Forthcoming articles.....	38
3.3.4	Online journals	38
3.3.5	Working papers	38
3.4	Other secondary sources	39
3.4.1	General principles.....	39
3.4.2	<i>Hansard</i> and parliamentary reports	39
3.4.3	Command papers	40
3.4.4	Law Commission and Scottish Law Commission reports.....	41
3.4.5	European Commission documents	41
3.4.6	Conference papers.....	41
3.4.7	Theses	42
3.4.8	Websites and blogs	42
3.4.9	Newspaper articles	42
3.4.10	Interviews.....	42
3.4.11	Personal communications	43

4 Appendix 44

4.1 Guide to neutral citations..... 44

4.1.1 United Kingdom 44

4.1.2 England and Wales 44

4.1.3 Scotland 44

4.1.4 Northern Ireland 44

4.1.5 Tribunals..... 45

4.2 Abbreviations..... 45

4.2.1 Abbreviations of the names of law reports and journals 45

 Law reports 45

 Journals 46

4.2.2 Abbreviations used in legal historical works..... 47

4.2.3 Abbreviations of the titles of books of authority..... 47

4.2.4 Abbreviations in case names 47

4.2.5 Abbreviations of words and phrases in footnotes..... 48

4.3 Guides for other jurisdictions 49

4.4 Other useful sources 50

Index 53

Oscola Quick Reference Guide..... back cover

Introduction

There are two golden rules for the citation of legal authorities. One is consistency. The other is consideration for the reader. Legal writing is more persuasive when the author refers to legal materials in a clear, consistent and familiar way. When it is easy to identify and to find the author's sources, it becomes easier for the reader to follow the argument. The Oxford University Standard for Citation of Legal Authorities (OSCOLA) is designed to help the author to achieve consistency and to make life easier for the reader.

OSCOLA does not purport to be comprehensive, but gives rules and examples for the main UK legal primary sources, and for many types of secondary sources. As far as possible, the guidelines in OSCOLA are based on common practice in UK legal citation, but with a minimum of punctuation. When citing materials not mentioned in OSCOLA, use the general principles in OSCOLA as a guide, and try to maintain consistency.

OSCOLA is a guide to legal citation, not a style guide. For advice on punctuation, grammar and writing style, use the most recent editions of *Fowler's Modern English Usage*, *The Oxford English Dictionary*, and *Hart's Rules*. *Hart's Rules* is particularly useful for information about typographical conventions, but note that the legal citation section is not always consistent with OSCOLA.

OSCOLA was first devised by Peter Birks in 2000, in consultation with law students and faculty at Oxford University, and with Oxford University Press and Hart Publishing. It is used by the *Oxford University Commonwealth Law Journal*, and the editors of that journal have also played an important role in its development. Subsequent editions of OSCOLA were produced in 2002 (by Professor Birks) and in 2004 (revised 2006, both by Timothy Endicott and Sandra Meredith). This latest revision of OSCOLA provides more detailed coverage of domestic legal sources, and in particular the treatment of Welsh, Scottish and Northern Irish sources has been considerably expanded.

Although originally designed for use within Oxford University, OSCOLA is now used by law schools throughout the UK and overseas, and by a number of legal journals and publishers. In recognition of the wider usage of OSCOLA, an editorial advisory board was established in advance of this revision. We are grateful to the members of the advisory board (Ruth Bird, Naomi Chapman, Peter Clinch, Timothy Endicott, Richard Hart, Barbara Lauriat, John Louth and Tracey Varnava) for their invaluable assistance. Peter Clinch, in particular, was very helpful. Others to whom we are grateful for their advice on aspects of this revision are Paul Brand, Mike Macnair, Gareth Ryan, Adrian Zuckerman, and those users of OSCOLA who wrote

to us with comments during the revision. Any errors and omissions remain entirely our responsibility. Finally, we would like to thank Hart Publishing for their generous help with the design.

We are also grateful to Hart Publishing for agreeing to publish OSCOLA while allowing us to continue to make the online version available free of charge from the OSCOLA website. We hope that users of OSCOLA will find the published version to be a useful resource. Some small changes were made when preparing OSCOLA for publication, and an index was added, but the current online version and the published version are the same.

We hope that the revised standard shows the consideration for authors and readers that motivated Professor Birks to devise a uniform standard for the citation of legal authorities.

Sandra Meredith and Donal Nolan

February 2012

OSCOLA is updated every two to three years. Please send feedback to oscola@law.ox.ac.uk.

The OSCOLA website (www.law.ox.ac.uk/oscola) provides support materials for Endnote and other bibliographic software, a link to Cardiff University's online tutorial for OSCOLA, and other materials.

1 General notes

1.1 Citations and footnotes

When writing for an academic or professional audience, provide evidence for your claims by citing your sources in footnotes. Legal writing cites primary legal sources (cases, statutes and so on), as well as secondary sources such as books, journal articles, websites and policy statements.

OSCOLA is a footnote style: all citations appear in footnotes. OSCOLA does not use endnotes or in-text citations, such as '(Brown, 2007)'. Longer works, such as books and theses, also include citations in tables of cases and legislation, and bibliographies.

When citing any source, either directly (as a quotation) or indirectly (by paraphrasing or referring to ideas in a source), cite the reference in a footnote, in the style indicated in OSCOLA.

Indicate footnotes with a superscript number which should appear after the relevant punctuation in the text (if any). Put the footnote marker at the end of a sentence, unless for the sake of clarity it is necessary to put it directly after the word or phrase to which it relates. If the word or phrase to which the footnote marker relates is in brackets, put the marker before the closing bracket. A quotation need not be footnoted separately from the name of the source from which it is derived if the two appear in the same sentence. Otherwise, separate notes should be used.

Close footnotes with a full stop (or question or exclamation mark). Where more than one citation is given in a single footnote reference, separate them with semi-colons.

1.1.1 Citing cases

When citing cases, give the name of the case, the neutral citation (if appropriate), and volume and first page of the relevant law report, and where necessary the court. If the name of the case is given in the text, it is not necessary to repeat it in the footnote.

It is well represented in the case law, perhaps most notably in the expression of the no-conflict rule advocated by Lord Upjohn in *Phipps v Boardman*,³¹ and in the earlier Court of Appeal decision in *Boulting v Association of Cinematograph, Television and Allied Technicians*.³² In *Boulting* [or 'in the Boulting case'], Upjohn LJ said that the rule 'must be applied realistically to a state of affairs which discloses a real conflict of duty and interest and not to some theoretical or rhetorical conflict'.³³ In *Phipps*, Lord Upjohn developed his view of the rule further by adding that there must be a 'real sensible possibility of conflict'.³⁴

The relevant footnotes would appear as follows:

³¹ [1967] 2 AC 46 (HL).

³² [1963] 2 QB 606 (CA).

³³ *Boulting* (n 32) 638. OR ³³ *ibid* 638.

³⁴ *Phipps* (n 31) 124.

The numbers at the end of footnotes 33 and 34 are called 'pinpoints'; they give the page on which the quotation can be found. It is also acceptable to include the full case reference in all footnotes.

1.1.2 Citing legislation

A citation in a footnote is not required when citing legislation if all the information the reader needs about the source is provided in the text, as in the following sentence:

This case highlights the far-reaching judicial role ushered in by the Human Rights Act 1998.

Where the text does not include the name of the Act or the relevant section, this information should be provided in a footnote.

British courts must only consider Strasbourg jurisprudence: they are not bound by it.¹

¹ Human Rights Act 1998, s 2.

1.1.3 Citing secondary sources

If relying on or referring to a secondary source, such as a book or an article, provide a citation for the work in a footnote.

Hart wrote that the doctrine of precedent is compatible with 'two types of creative or legislative activity': *distinguishing* the earlier case by 'narrowing the rule extracted from the precedent', and *widening the rule* by discarding 'a restriction found in the rule as formulated from the earlier case'.³⁴

³⁴ HLA Hart, *The Concept of Law* (2nd edn, Clarendon Press 1994) 135.

1.1.4 Order of sources in footnotes

When citing more than one source of the same kind for a single proposition, put the sources in chronological order, with the oldest first. Separate the citations with semi-colons, and do not precede the final citation with 'and'. If one or more of the sources are more directly relevant than the others, cite these first, and then cite the less relevant ones in a new sentence, beginning 'See also'. If citing legislation and case law for a single proposition, put the legislation before the cases, and if citing primary and secondary sources for a single proposition, put the primary sources before the secondary ones.

¹ FH Newark, 'The Boundaries of Nuisance' (1949) 65 LQR 480; Richard Kidner, 'Nuisance and Rights of Property' [1998] Conv 267; Ken Oliphant, 'Unblurring the Boundaries of Nuisance' (1998) 6 Tort L Rev 21; Paula Giliker, 'Whither the Tort of Nuisance? The Implications of Restrictions on the Right to Sue in *Hunter v Canary Wharf*' (1999) 7 Torts LJ 155.

² *Brent v Haddon* (1619) Cro Jac 555, 79 ER 476; *Broder v Saillard* (1876) 2 Ch D 692 (Ch); *Pemberton v Bright* [1960] 1 All ER 792 (CA). See also *Torette House Pty Ltd v Berkman* (1939) 62 CLR 637, 659 (Dixon J).

Further details of how to cite cases, legislation and secondary sources can be found in parts 2 and 3 of OSCOLA. The appendix includes lists of abbreviations that can be used in footnotes.

1.2 Subsequent citations, cross-references and Latin 'gadgets'

1.2.1 Subsequent citations

In a subsequent citation of a source, briefly identify the source and provide a cross-citation in brackets to the footnote in which the full citation can be found. If the subsequent citation is in the footnote immediately following the full citation, you can generally use 'ibid' instead.

For subsequent citations of cases, a short form of the case name is sufficient to identify the source. Subsequent citations of legislation may use abbreviations or other short forms. Subsequent citations of secondary sources require only the author's or authors' surname(s), unless several works by the same author are being cited, in which case the surname and the title of the work (or a short form of the title) should be given.

Note that it is also acceptable to give the full citation every time a source is cited, and some publishers and law schools may prefer this to the use of short forms. You should always do this if the previous citation was in an earlier chapter.

EXAMPLE of subsequent citation of a case

In this example, a citation for *Austin v Commissioner of Police for the Metropolis* is provided in footnote 1. As the name of the case is given in the text, it is not given in the footnote. The second citation at footnote 2 pinpoints several paragraphs in the case with an attribution to the relevant judge in brackets. The third citation at footnote 7 gives a short form of the case name and a cross-citation to the full citation.

¹ [2009] UKHL 5, [2009] AC 564.

² *ibid* [34] (Lord Hope), [39] (Lord Scott), [43]–[47] (Lord Walker), [58]–[60] (Lord Neuberger).

...

⁷ *Austin* (n 1).

EXAMPLE of subsequent citation of legislation

This example shows legislation for which a short form could be used in a subsequent citation. The short form is indicated in brackets at the end of the full citation. In such cases, the short form can be used without a cross-citation to the full citation where the proximity of the full citation enables this to be done without confusing the reader. Where that is not the case, a further full citation should be provided, with the result that cross-citation is never necessary.

³² Council Directive (EC) 93/104 concerning certain aspects of the organisation of working time [1993] OJ L307/18 (Working Time Directive).

...

⁴⁰ Working Time Directive, art 2.

EXAMPLE of subsequent citation of a book

This example shows a citation of a book which is first cited (in full) at footnote 1, cited again in footnote 26 with a cross-citation to footnote 1, and then cited again at footnote 27.

¹ Robert Stevens, *Torts and Rights* (OUP 2007).

...

²⁶ Stevens (n 1) 110.

²⁷ *ibid* 271–78.

EXAMPLE of subsequent citation of two works by the same author

In this example, two different works by the same author are cited. The subsequent citation provides the author's surname and the title of the work, or a short form of the title.

²⁷ Andrew Ashworth, 'Testing Fidelity to Legal Values: Official Involvement and Criminal Justice' (2000) 63 MLR 633, 635.

²⁸ Andrew Ashworth, *Principles of Criminal Law* (6th edn, OUP 2009) 68.

...

³⁵ Ashworth, 'Testing Fidelity to Legal Values' (n 27) 635–37.

...

⁴⁶ Ashworth, *Principles of Criminal Law* (n 28) 73.

1.2.2 Cross-references

Cross-references direct the reader to points of substantive discussion elsewhere in your work. Avoid sending the reader off to another part of the text when a short point could as easily be restated. Never make a cross-reference that will be difficult for the reader to find, such as 'See above'. A good cross-reference takes the reader straight to the very place: 'n 109' or, within the same chapter, 'text to n 32'. Do not cross-refer to 'Chapter 6A2(c)' unless you have running headers on each page showing the

sequence of sub-headings. Use 'See ...' only when you actually want the reader to look at the place indicated, for example 'See n 109'.

Pagination may change from draft to draft, especially in preparation for publication. It is therefore easiest to cross-refer to footnote markers, for example 'Text to n 107 in ch 7'. Cross-reference functions in word processors can help you keep track of changes in footnote numbers.

1.2.3 Latin 'gadgets'

Avoid the use of 'Latin gadgets' such as *supra*, *infra*, *ante*, *id*, *op cit*, *loc cit*, and *contra*, which are not widely understood. The abbreviation 'ibid', which is short for *ibidem*, meaning 'in the same place', can be used to repeat a citation in the immediately preceding footnote. Standing alone, 'ibid' means strictly 'in the very same place' while 'ibid 345' means 'in the same work, but this time at page 345'. It is equally acceptable to repeat the immediately preceding citation without using 'ibid': 'Ashworth (n 27) 635–37' thus does the trick even in n 28. Do not switch back and forth from one to the other. If there is more than one citation in the preceding footnote, use 'ibid' only if you are referring again to all the citations in that footnote. Note that the abbreviation 'cf' is short for *confer*, meaning 'compare'; it does not mean the same thing as 'see'. Never italicize or capitalise 'ibid' or 'cf'.

²⁸ Joseph Raz, *The Authority of Law: Essays on Law and Morality* (2nd edn, OUP 2009).
²⁹ *ibid* 6.
...
³² *cf* Raz (n 28) 233–36.

1.3 Punctuation, ranges of numbers and years, and foreign words

1.3.1 Punctuation

OSCOLA uses as little punctuation as possible. Abbreviations and initials in author's names do not take full stops. For example, *Appeal Cases* is cited as 'AC' and the Director of Public Prosecutions is abbreviated to 'DPP'. Insert commas to separate items that may otherwise run together and cause confusion, such as runs of numbers or authors and titles.

Malcolm v DPP [2007] EWHC 363 (Admin), [2007] 1 WLR 1230
JG Fleming, 'Remoteness and Duty: The Control Devices in Liability for Negligence' (1953) 31 Can Bar Rev 471

When citing authorities from other jurisdictions, do not include full stops in the citation.

1.3.2 Ranges of numbers and years

When referring to ranges of numbers, use both figures for numbers between ten and

twenty, and thereafter use as few figures as possible, but always use at least two for the final number.

1-6 11-17 21-26 22-32 121-221 1782-83 1782-812

If the range of numbers indicates years, and the years span centuries, give the final year in full.

1871-1914 1925-27 1965-75 1989-2001

1.3.3 Foreign words

In the text, italicize foreign words and phrases, but not quotations. Provide a translation immediately afterwards in brackets, or in a footnote, if required. Do not italicize words that are in common usage in legal English, such as *ultra vires*, *stare decisis*, *obiter dicta*, *ratio decidendi*, *a priori* and *a fortiori*. Commonly used abbreviations, such as *ie* and *eg*, are not italicized and have no full stops.

1.4 Citing foreign materials

When referring to foreign materials, cite primary sources as in their home jurisdiction, with the exception that full stops in abbreviations should be dropped. Guides for other jurisdictions can be found in section 4.3 of the appendix. Cite secondary sources in accordance with the OSCOLA rules governing the citation of secondary sources.

1.5 Quotations

Quotations from other works, cases, statutes and so on must be faithful to the original, except where it is necessary to change quotation marks from single to double, or vice versa. Any comments on the quotation, such as 'emphasis added', should be in a footnote.

Incorporate quotations of up to three lines into the text, within single quotation marks (examples 1 and 2). Quotations within short quotations take double quotation marks. Punctuation follows the closing quotation mark, unless it is an essential part of the quotation, as a question or exclamation mark might be (example 2), or unless the whole sentence is a quotation. The footnote marker comes last, after both the closing quotation mark and the punctuation.

Present quotations longer than three lines in an indented paragraph, with no further indentation of the first line (examples 3 and 4). Do not use quotation marks, except for single quotation marks around quotations within quotations (example 3). Leave a line space either side of the indented quotation.

When a quotation begins in the middle of a sentence in the text, the first letter of the quotation should be capitalized if the quotation itself is a complete sentence, but not otherwise. When a quotation begins at the start of a sentence in the text, the first letter should be capitalized, and square brackets placed around it if it was not capitalized in the original text (example 3). When intervening text is missing from

the quotation, or if it ends mid-sentence in the original text, use an ellipsis (...) to indicate that some of the original text is missing. Leave a space between an ellipsis and any text or punctuation, except quotation marks.

If a quotation is incorporated into the text, then no more than a comma (at most) is required to introduce it (examples 1 and 2). Generally, a colon is used to introduce an indented quotation (example 4).

When it is necessary to attribute a quotation or citation within a quotation to its original source, omit the footnote marker from the original text in your quotation, and give the original author's citation in your footnote (example 3). If it is not necessary to attribute such a quotation or citation because it is either implicit or irrelevant, omit the footnote markers or citations and add '(footnotes omitted)' or '(citations omitted)' after the citation in your own footnote. Similarly, if you add emphasis to a quotation put '(emphasis added)' after the footnote citation (example 4).

EXAMPLE 1

The Chief Justice explained that this power 'is not limited to defence against aggression from a foreign nation'.⁶¹

EXAMPLE 2

Bix raises the question, 'What is the point of a dissent, after all, at least on the highest court of the jurisdiction, if the law simply is whatever the majority on that court says it is?'²²

EXAMPLE 3

[T]he House of Lords also concluded that the civil standard of proof (on the balance of probabilities) should be applied in such a way as to be sensitive to the 'seriousness of the matters to be proved and the implications of proving them', which in effect means proof beyond reasonable doubt (ie the criminal standard).²⁷

²⁷ Andrew Ashworth, 'Social Control and "Anti-Social Behaviour": The Subversion of Human Rights' (2004) 120 LQR 263, 276, citing *Clingham and McCann* [2002] UKHL 39, [2003] 1 AC 787 [83] (Lord Hope).

EXAMPLE 4

Lord Hoffmann reasoned as follows:

It seems to me logical to found liability for damages upon the intention of the parties (objectively ascertained) because all contractual liability is voluntarily undertaken. It must be in principle wrong to hold someone liable for risks for which people

entering into such a contract *in their particular market*, would not reasonably be considered to have undertaken.¹²

¹² *Transfield Shipping Inc v Mercator Shipping Inc (The Achilles)* [2008] UKHL 48, [2009] 1 AC 61 [12] (Lord Hoffmann) (emphasis added).

1.6 Tables and lists of abbreviations

A longer legal work, such as a book or a thesis, generally has a list of abbreviations and tables of all the cases, legislation and other primary legal sources cited in the work in the preliminary pages. Shorter works, such as articles and essays, generally only require footnotes. Tables should be indexed, so that each entry indicates on what page or pages the primary source in question is mentioned. The list of abbreviations should come before the tables, and the order of the tables should generally be: table of cases; table of legislation; other tables.

1.6.1 Lists of abbreviations

In an article or essay, define unfamiliar abbreviations in a footnote or in the text. In a book or thesis, define unfamiliar abbreviations in a list of abbreviations in the preliminary pages. Do not define abbreviations that are part of everyday legal usage, such as 'DPP'. For lists of common abbreviations that need not be defined, see section 4.2 of the appendix.

1.6.2 Tables of cases

In a table of cases, case names are not italicised. Unless there are very few cases, divide the table into separate sections for different jurisdictions. Cases should be listed in alphabetical order of first significant word. Thus, *Re Farquar's Estate* should be tabled as 'Farquar's Estate, Re'. Cases identifying parties by initial only should be listed under the initial, so *Re F (mental patient: sterilisation)* becomes 'F (mental patient: sterilisation), Re'. When listing cases with names such as *R v Smith* in works on criminal law, drop the 'R' and list the case as 'Smith', but if citing such cases in a work primarily concerned with another area of law, list them by their full names, under 'R', and also do this when citing judicial review cases with the Crown as the first-named party.

List trade-mark cases and shipping cases under the full case name, but insert an additional entry in the table under the trade mark or the name of the ship (again using the first significant word, so that *The Starsin* becomes 'Starsin, The'), with a cross-reference to the full name.

Starsin, The. See *Homburg Houtimport BV v Agrosin Private Ltd*

If not listed separately, EU cases should be arranged alphabetically by first party name in the table of cases, with the case number following the name of the case in brackets, so that 'Case T-344/99 *Arne Mathisen AS v Council* [2002] ECR II-2905' is cited in the table of cases under 'A' as 'Arne Mathisen AS v Council (T-344/99)

[2002] ECR II-2905'. If the table of cases is divided by jurisdiction, list ECJ, CFI and Commission decisions separately, in chronological and numerical order, citing the cases as in footnotes, with the case number first, but omitting the word 'Case'. If a large number of such cases are cited, it may be helpful to compile a separate table of the cases in alphabetical order.

1.6.3 Tables of legislation and other tables

Tables of legislation and other tables, such as tables of international treaties and conventions, UN documents, official papers and policy documents, should follow the table of cases. A table of legislation should list every statute cited in the work, with the entry for each statute being sub-divided to show which parts of the statute (sections, sub-sections and so on) are cited where. Statutory instruments should be listed separately, at the end of the list of statutes. If there are a large number of citations of statutory instruments, it may be helpful to have wholly separate tables of statutes and statutory instruments. In tables of legislation, legislation should be listed in alphabetical order of first significant word of the title, not chronologically by date of enactment. If legislation from more than one jurisdiction is cited, it may be helpful to have separate lists for each jurisdiction.

1.7 Bibliographies

In longer works, such as theses and books, a bibliography listing secondary sources should be provided after the main body of text and any appendices. It should include all such sources cited in the work and need not be indexed.

Items in bibliographies take the same form as all other citations in OSCOLA, with three exceptions: (1) the author's surname should precede his or her initial(s), with no comma separating them, but a comma after the final initial; (2) only initials should be used, and not forenames; and (3) the titles of unattributed works should be preceded by a double em-dash. Works should be arranged in alphabetical order of author surname, with unattributed works being listed at the beginning of the bibliography in alphabetical order of first major word of the title.

CITATION in a footnote

¹⁵ Elizabeth Fisher, *Risk Regulation and Administrative Constitutionalism* (Hart Publishing 2007).

CITATION in a bibliography

Fisher E, *Risk Regulation and Administrative Constitutionalism* (Hart Publishing 2007)

If citing several works by the same author in a bibliography, list the author's works in chronological order (starting with the oldest), and in alphabetical order of first major word of the title within a single year. After the citation of the first work, replace the