

TRESPASS NOTES

In Australia, a private land owner has the paramount right of possession. This is highly evidenced by the right to refuse entry. 1

A person renting land also has legal possession for the purpose of evicting a trespasser. 2

There are only two ways of legally entering private property; 3

1. Implied Right of Entry
2. Lawful Right of Entry

The reason for entering determines whether or not entry is trespass. Any entry for a purpose outside of these 2 points and without permission is trespass.

The burden of proof lies on the trespasser to show there was no criminal purpose 4

1. A reasonable excuse is not acceptable as a lawful excuse
2. A mistake is not acceptable as a lawful excuse
3. Entering to fulfil a purpose outside of an Implied and Lawful Right of Entry can not be accepted at law.

Any person who enters using a lawful right of entry and abuses that right, becomes a trespasser *ab initio* (from the beginning). A person must enter land lawfully. 5

In order to refuse entry to any person **prior** to entry, the land owner must 6

1. Notify that person or persons that all right of entry has been removed and/or
2. Lock the gates and/or
3. Place a No Trespass sign at all entry points

In order to refuse entry to any person at the time of entry, the land owner must 7

1. Ask and/or indicate to the person that they must leave.

For legal purposes, the No Trespass sign is required to state “No Trespass, Private Property” 8

For the purposes of the landowner – it is wise to include the words “any persons or entities” . An entity being a representative of a body, ie corporation, government, business, etc.

In the event the land includes rented/leased land, it may be wise to include the fact that permission has been removed from that land also.

The land owner does not require justification for refusing entry. It is not up to the land owner to anticipate the entry of a trespasser. The law does not require the occupier to speculate about or foresee the movements of a trespasser. 9

A. IMPLIED RIGHT OF ENTRY

When a property does not have a locked gate and/or a No Trespass sign and/or that person has not been notified of the revocation of entry in any other way – a person wishing to enter has an implied right of entry. See 3

The courts specifically have stated that entry under these circumstances must be along a path or driveway leading to the entrance of the home. In the absence of the land owner, the visitor must leave immediately. There is no permission to move around a property in the absence of the land-owner or renter included. 10

A sign stating **only** “Private Property” does not remove the Implied right of entry. 11

Implied Right of Entry is defined as 12

1. Invitation and/or consent
2. Inevitable accident as opposed to a mistake
3. Incapacity, illness, etc
4. Necessity
5. A limited right to recapture chattels

Invitation and/or consent – authorization given by the land owner or renter. Either / and / or by words (*parol*) or in writing.

Inevitable accident – where some manner of “force” or “inducement” has caused entry. A mistake can not be used as defence.

Incapacity, illness – where a person may require medical assistance or the use of a phone to call for medical assistance.

Necessity – to fight a fire, etc

To recapture chattels – where stock or some object belonging to another have entered private land and require removal.

Outside of Invitation – all the implied rights of entry are for a specific purpose and for a limited period of time. See 3

Invitation and/or consent – at the point of entry, can not be assumed. Nor can further entry onto land be assumed even with that invitation existing. 13

Revocation of Implied Right of Entry

No Implied Right of Entry exists where permission has been removed through a sign and/or a locked gate and/or notification that entry is refused – meaning that any entry at that time may be trespass.14

In the event that an Implied Right of Entry exists however, at any point the land owner can revoke the Implied Right verbally.15

If an invitation exists at the very moment it is offered, the revocation of that invitation also exists from the very moment it is removed. 16

A person holding an Implied licence to enter becomes a trespasser when 17

1. the licence has been countermanded
2. a reasonable time has elapsed to allow his/her removal
3. he/she removes whatever property he/she brought onto the property

B. LAWFUL RIGHT OF ENTRY

A Lawful Right of Entry is an entry authorized or excused by law. 18

1. Generally involving a warrant

Except for in cases provided for by common law and statute circumstances, police officers have no special rights to enter land. The principle of the invasion of private property being trespass applies to officers of the government and private persons equally. 19

It should be noted that Government legislation does not authorize the commission of trespass to apply the legislation. Where a judge can authorize a warrant, he cannot authorise that it be used in contradiction to the law. 20

Revocation of Lawful Right of Entry

In all circumstances, once the legitimate entry has been concluded, the persons in question must leave.

C. SIGN

There is no legislation dealing with the details of a trespass sign, however the police have indicated, as previously mentioned, that it must include the words “Private Property” and “No trespass.”

Specifically, the High Court discussed in *Roads & Traffic Authority of NSW v Dederer* that

- 1 A sign of prohibition does constitute a warning
- 2 Even reasonable signs can fail, but the question is always the reasonableness, not the failure.
- 3 In the event the sign proves inefficient, the owner of the sign has the responsibility to improve it.
- 4 In the circumstances, the law demands no more and no less.

D. ASSAULT

In the event the trespasser ignores your requests to leave and moves towards you, this can be deemed assault and / or the apprehension of assault. 21

E. FURTHER INFORMATION – OTHER ELEMENTS OF TRESPASS

The right to refuse entry also gives the right to refuse permission to photograph.²²

F. DUTY OF CARE

In the event, the trespasser is acting for someone else – ie a process server - their employer may be held liable for trespass also.

They may state the trespasser was working as an independent contractor, however the following applies.

The General rule governing a principal and an independent contractor is

- **Hetherington v Mirvac Pty Ltd & Ors [1999] NSWSC 443 (12 May 1999)**
 - a principal is not liable for negligent conduct of an independent contractor
- **Hollis v Vabu Pty Ltd [2001] HCA 44; 207 CLR 21; 75 ALJR 1356; 106 IR 80; 181 ALR 263 (9 August 2001)**
 - An employer is vicariously liable for the tortious actions of an employee
 - But not for the tortious actions of an independent contractor
- **Kondis v State Transit Rail Authority [1984] HCA 61; (1984) 154 CLR 672 (16 October 1984)**
 - An employer is not liable for the negligence of an independent contractor
- **Leighardt Municipal Council v Montgomery [2007] HCA 6; (2007) 233 ALR 200; (2007) 81 ALJR 686 (27 February 2007)**
 - A person can not be held responsible for the actions of an independent contractor
- **Stoneman v Lyons [1975] HCA 59; (1975) 133 CLR 550 (17 December 1975)**
 - A person is not liable for the negligence of his independent contractor
- **Torette House Pty Ltd v Berkman [1940] HCA 1; (1940) 62 CLR 637 (19 February 1940)**
 - An employer is not liable for the act of his independent contractor

However, there are two major exceptions

1. a non-delegable authority

- **Hetherington v Mirvac Pty Ltd & Ors [1999] NSWSC 443 (12 May 1999)**
 - Where the principal engages an independent contractor
 - to perform a duty resting on him
- **Hollis v Vabu Pty Ltd [2001] HCA 44; 207 CLR 21; 75 ALJR 1356; 106 IR 80; 181 ALR 263 (9 August 2001)**
- The person acts as an employee
 - if they are carrying out a contractual obligation of the employer
- The employer is liable if they delegate to the contractor
 - a task they are contract to perform

- The contractor is acting within the scope of authority
 - conferred by the employer
- The employer allocates the work,
 - there being no scope for tendering
- The contractor operates as part of the employer's organization
- The contractor is operating for the financial benefit of the employer
- **Kirkpatrick v Kotis [2004] NSWSC 1265 (23 December 2004)**
 - When the function entrusted is that of or representing the person who request its performance
 - And is in essence, standing in the place of the employer
 - Assuming to act in his right
 - He is not an independent contractor
- **Kondis v State Transit Rail Authority [1984] HCA 61; (1984) 154 CLR 672 (16 October 1984)**
 - A person causing something to be done
 - The doing of which casts on him a duty
 - Cannot escape from the responsibility attached of seeing that duty is performed
 - By delegating it to an independent contractor
- **Leighhardt Municipal Council v Montgomery [2007] HCA 6; (2007) 233 ALR 200; (2007) 81 ALJR 686 (27 February 2007)**
 - A person causing something to be done
 - The doing of which casts on him a duty
 - Cannot escape from the responsibility of seeing that duty performed
 - By delegating it to a contractor
 - Therefore, he cannot relieve himself from the attached liability
- **Stoneman v Lyons [1975] HCA 59; (1975) 133 CLR 550 (17 December 1975)**
 - The principal
 - Who owes a duty to a third party
 - Cannot avoid responsibility for discharging that duty
 - By delegating performance of it
 - To an independent contractor

2. *hiring to do an illegal act*

- **Hetherington v Mirvac Pty Ltd & Ors [1999] NSWSC 443 (12 May 1999)**
 - where the principal directly authorises the tortious act
- **Hollis v Vabu Pty Ltd [2001] HCA 44; 207 CLR 21; 75 ALJR 1356; 106 IR 80; 181 ALR 263 (9 August 2001)**
 - an employer is vicariously liable for the tortious actions of an employee
 - The employer puts the contractor in the situation to perform the act
 - and must be answerable for the manner in which it is carried out
- **Torette House Pty Ltd v Berkman [1940] HCA 1; (1940) 62 CLR 637 (19 February 1940)**
 - The employer is liable if that contractor was hired to do an illegal act

G. FURTHER COMMENTS

Be **very** specific in each step of protecting your land , home and business.

In the situation of the mines, electricity companies, local council and etc –

- 1 Write to the very head of **every** corporate body you wish to notify and any relevant department bosses – giving them a definite Private Property No Trespass Notice and using the statement - Notice to Principal is Notice to Agent, Notice to Agent is Notice to Principal. (In one case, a Sydney council was found to be not responsible for damaging potholes unless the head of the relevant department had received definite complaints.)
- 2 Use the terms “persons” and “entities”, as a person in a governmental/ corporate role is an entity. The lack of this word may be used against your sign.
- 3 If you rent land, make sure that it is included on your sign – ie. land owned and rented...In one case, the judge ruled that the rented edges of the public road were exempt as they were not on the sign.
- 4 If you are farming, use the words “Bio-security Hazard” on your sign, in some context. Many entities, such as electricity pole inspectors are driving from property to property.
- 5 Make sure your sign is simple, to the point, in reflective paint and situated NOT only on the gate/s, BUT also beside them on the driver’s side. (This means that an open gate can not be used as a point of ignorance or an implied invitation).
- 6 Make sure you have a sign at every entrance.
- 7 If you have a gate, chain and padlock it.
- 8 If you suffer trespass, do not discuss anything with that person. Do get the licence plate numbers and if possible, the person’s name.
- 9 Simply state, “You are trespassing, leave now.”
- 10 Repeat that statement until they go.
- 11 Make no other comments if possible.
- 12 Make immediate contemporaneous notes – get all details down within a **very** short time. After 24 hours you are deemed to be outside of contemporaneous notes and your notes can be ignored.
- 13 If you have a portable recording device, use it as your **contemporaneous note taker**. Under the the Surveillance Devices Act NSW 2007 a person can record a conversation if they are a principal party to that conversation, using either/and an audio or audio/visual recording device to make comment during the trespass
 - a. Comments such as – do not come close to me, you have been asked to leave – you must not walk towards me, etc. – would be important in establishing a tortious case
- 14 If the trespass occurs at night, try and get a photograph of the vehicle used in the daylight – it has come to our notice that in one case the trespasser may have changed the rego on the vehicle used in order to make the land owners appear to have defective memories.
- 15 Get photos if possible - get them printed from the memory through a printing agency, rather than through a personal computer, so they can be proven as genuine and not photoshopped.
- 16 Have the date on your camera, to make your photos part of your contemporaneous notes.

H. ADDITIONAL NOTES 1

Surveillance Devices Act NSW 2007

S7 Prohibition on [installation](#), use and maintenance of [listening devices](#)

- (1) A person must not knowingly [install](#), use or cause to be used or [maintain](#) a [listening device](#):
 - (b) to [record](#) a [private conversation](#) to which the person is a [party](#).
- (3) Subsection (1) (b) does not apply to the use of a [listening device](#) by a [party](#) to a [private conversation](#) if:
 - (b) a [principal party](#) to the conversation consents to the [listening device](#) being so used and the [recording](#) of the conversation:
 - (i) is reasonably necessary for the protection of the lawful interests of that [principal party](#),

"principal party", in relation to a [private conversation](#), means a person by or to whom words are spoken in the course of the conversation.

"private conversation" means any words spoken by one person to another person or to other persons in circumstances that may reasonably be taken to indicate that any of those persons desires the words to be listened to only:

- (a) by themselves, or
- (b) by themselves and by some other person who has the consent, express or implied, of all of those persons to do so,

but does not include a conversation made in any circumstances in which the parties to it ought reasonably to expect that it might be overheard by someone else.

"record" includes the following:

- (a) an audio, visual or audio visual [record](#),
- (b) a [record](#) in digital form,

There should be a similar act in all other states.

Please note – this is excerpts from the Act – always read the whole act.

I. ADDITIONAL NOTES 2

Inclosed Lands Protection Act (NSW) 1901

S4 Unlawful entry on [inclosed lands](#)

(1) Any person who, without lawful excuse (proof of which lies on the person), enters into [inclosed lands](#) without the consent of the owner, occupier or person apparently in charge of those lands, or who remains on those lands after being requested by the owner, occupier or person apparently in charge of those lands to leave those lands, is liable to a penalty not exceeding:

- (a) 10 penalty units in the case of [prescribed premises](#), or

(b) 5 penalty units in any other case.

There should be a similar act in all other states.

Information from the Environmental Defenders Office

http://www.edo.org.au/edonsw/site/campaigning/campaigning_07.php

The (NSW) *Inclosed Lands Protection Act 1901* applies to both private and public land and facilities. Inclosed land is defined in two ways. First, it is any land surrounded by a fence, wall or other erection, or partly by a fence and partly by a natural feature (like a river or cliff) that makes the land's boundaries recognisable.¹ Second, certain facilities - such as schools, child care services and hospitals and nursing homes - are defined to be inclosed lands and are known as prescribed lands in the legislation. Again, these do not discriminate between public and private facilities.²

The (NSW) *Inclosed Lands Protection Act 1901* creates two separate offences of remaining on inclosed lands,³ or engaging in "offensive" conduct,⁴ after being asked to leave by the owner, occupier or person apparently in charge of those lands.

It is an offence under the *Inclosed Lands Protection Act 1901* to enter inclosed lands without the consent of the owner or occupier of the land.¹¹ The offence is often used against demonstrators and activists to protect property and maintain public order. There has been a steady increase in trespass charges over the last 20 years, with over 9,000 people charged with trespass in 2008.¹

You do generally have a right to lawful assembly in public spaces (see 8.4 below). This does not, however, extend to inclosed spaces. In *O'Donohue v Wille* [1999] NSWSC 661, three protestors were charged with trespass under the *Inclosed Lands Protection Act 1901* as a result of entering an area of public parkland enclosed by barbed wire fencing that had been licenced to the RTA to construct the Eastern Distributor tunnel. The protestors argued that they had a lawful excuse for being on the inclosed lands occupied by the RTA since they were protesting against the construction of the Eastern Distributor and the associated tree destruction and reduction of public recreation space in Moore Park. At first instance, Magistrate Pat O'Shane dismissed the charges on the basis that the protestors "had a right to protest peacefully".

This decision was overturned on appeal. Justice Kirby of the Supreme Court of NSW held that entering land for a purpose that is not unlawful, does not constitute a lawful excuse.

J. COURT CASES re Trespass with reference to the previous sections

1. * *Coco v R* [1994] HCA 15; (1994) 179 CLR 427; (1994) 120 ALR 415; (1994) Aust Torts Reports 81-270; (1994) 68 ALJR 401; (1994) 72 A Crim R 32 (13 April 1994)

2. * *Hill v O'Brien* [1938] HCA 48; (1948) 61 CLR 96 (4 October 1938)
* *Hutchinson v Scott* [1905] HCA 59; (1905) 3 CLR 359 (21 December 1905)
* *O'Keefe v Williams* [1910] HCA 40; (1920) 11 CLR 171 (26 August 1901)
* *Western Australia v Ward* [2002] HCA 28; 213 CLR 1; 191 ALR 1; 76 ALJR 1098 (8 August 2002)
* *Yandama Pastoral Company v Mundi Mundi Pastoral Co Ltd* [1925] HCA 38; (1925) 36 CLR 340 (26 October 1925)

3. * *Barker v R* [1983] HCA 18; (1983) 153 CLR 338 (7 June 1938)
* *Coco v R* [1994] HCA 15; (1994) 179 CLR 427; (1994) 120 ALR 415; (1994) Aust Torts Reports 81-270; (1994) 68 ALJR 401; (1994) 72 A Crim R 32 (13 April 1994)
* *Commissioner for Railways (NSW) v Cardy* [1960] HCA 45; (1960) 104 CLR 274 (25 July 1960)
* *Cowell v Rosehill Racecourse Co Ltd* [1937] HC 17; (1937) 56 CLR 605 (22 April 1937)
* *Halliday v Nevill* [1984] HCA 80; (1984) 155 CLR 1 (6 December 1984)
* *Johnston v ANZ Banking Group Ltd and Ors* [2004] NSWSC 1250 (22 December 2004)
* *Kuru v State of New South Wales* [2008] HCA 26 (12 June 2008)
* *NSW v Ibbett* [2005] NSWCA 445 (13 December 2005)
* *NSW v Ibbett* [2006] HCA 57; (2006) 231 ALR 485; (2006) 81 ALJR 427 (12 December 2006)
* *O'Donohue v Wille & Ors* [1999] NSWSC 661 (6 July 1999)
* *Plenty v Dillon* [1991] HCA 5; (1991) 171 CLR 635 (7 March 1991)
* *TCN Channel Nine Pty Ltd v Ilvari Pty Ltd* [2008] NSWCA 9 (19 February 2008)
* *Thompson v Vincent* [2005] NSWCA 219 (30 June 2005)
* *Yandama Pastoral Company v Mundi Mundi Pastoral Co Ltd* [1925] HCA 38; (1925) 36 CLR 340 (26 October 1925)

4. * *Barker v R* [1983] HCA 18; (1983) 153 CLR 338 (7 June 1938)
* *Commissioner for Railways (NSW) v Cardy* [1960] HCA 45; (1960) 104 CLR 274 (25 July 1960)
* *Halliday v Nevill* [1984] HCA 80; (1984) 155 CLR 1 (6 December 1984)
* *Johnston v ANZ Banking Group Ltd and Ors* [2004] NSWSC 1250 (22 December 2004)
* *Kuru v State of New South Wales* [2008] HCA 26 (12 June 2008)
* *Mills v Perras* [2005] NSWSC 1184 (24 November 2005)
* *O'Donohue v Wille & Ors* [1999] NSWSC 661 (6 July 1999)

- * *Plenty v Dillon* [1991] HCA 5; (1991) 171 CLR 635 (7 March 1991)
 - Proprietors of SP 20297 v G and S Developments P L 2008
 - * *TCN Channel Nine Pty Ltd v Ilvari Pty Ltd* [2008] NSWCA 9 (19 February 2008)
 - * *Thompson v Vincent* [2005] NSWCA 219 (30 June 2005)
5. *
- * *Barker v R* [1983] HCA 18; (1983) 153 CLR 338 (7 June 1938)
 - * *Commissioner for Railways (NSW) v Cardy* [1960] HCA 45; (1960) 104 CLR 274 (25 July 1960)
6. *
- * *Cowell v Rosehill Racecourse Co Ltd* [1937] HC 17; (1937) 56 CLR 605 (22 April 1937)
 - * *Halliday v Nevill* [1984] HCA 80; (1984) 155 CLR 1 (6 December 1984)
 - * *Hill v O'Brien* [1938] HCA 48; (1948) 61 CLR 96 (4 October 1938)
 - * *Kuru v State of New South Wales* [2008] HCA 26 (12 June 2008)
 - * *O'Donohue v Wille & Ors* [1999] NSWSC 661 (6 July 1999)
 - * *Plenty v Dillon* [1991] HCA 5; (1991) 171 CLR 635 (7 March 1991)
 - * *Roads & Traffic Authority of NSW v Dederer* [2007] HCA 42 (30 August 2007)
 - * *TCN Channel Nine Pty Ltd v Ilvari Pty Ltd* [2008] NSWCA 9 (19 February 2008)
 - * *Thompson v Vincent* [2005] NSWCA 219 (30 June 2005)
7. *
- * *Coco v R* [1994] HCA 15; (1994) 179 CLR 427; (1994) 120 ALR 415; (1994) Aust Torts Reports 81-270; (1994) 68 ALJR 401; (1994) 72 A Crim R 32 (13 April 1994)
 - * *Commissioner for Railways (NSW) v Cardy* [1960] HCA 45; (1960) 104 CLR 274 (25 July 1960)
 - * *Halliday v Nevill* [1984] HCA 80; (1984) 155 CLR 1 (6 December 1984)
 - * *Kuru v State of New South Wales* [2008] HCA 26 (12 June 2008)
 - * *Plenty v Dillon* [1991] HCA 5; (1991) 171 CLR 635 (7 March 1991)
 - * *TCN Channel Nine Pty Ltd v Ilvari Pty Ltd* [2008] NSWCA 9 (19 February 2008)
8. *
- * *Thompson v Vincent* [2005] NSWCA 219 (30 June 2005)
9. *
- * *ABC v Lenah Game Meats Pty Ltd* [2001] HCA 63; 208 CLR 199; 185 ALR 1; 76 ALJR 1 (15 November 2001)
 - * *Commissioner for Railways (NSW) v Cardy* [1960] HCA 45; (1960) 104 CLR 274 (25 July 1960)
 - * *Hackshaw v Shaw* [1984] HCA 84; (1984) 155 CLR 614 (11 December 1984)
 - * *Halliday v Nevill* [1984] HCA 80; (1984) 155 CLR 1 (6 December 1984)
 - * *Roads & Traffic Authority of NSW v Dederer* [2007] HCA 42 (30 August 2007)
 - * *TCN Channel Nine Pty Ltd v Ilvari Pty Ltd* [2008] NSWCA 9 (19 February 2008)

10. * *Halliday v Nevill* [1984] HCA 80; (1984) 155 CLR 1 (6 December 1984)
 * *Kuru v State of New South Wales* [2008] HCA 26 (12 June 2008)
 * *TCN Channel Nine Pty Ltd v Ilvari Pty Ltd* [2008] NSWCA 9 (19 February 2008)
11. * *Thompson v Vincent* [2005] NSWCA 219 (30 June 2005)
12. * *Barker v R* [1983] HCA 18; (1983) 153 CLR 338 (7 June 1983)
 * *O'Donohue v Wille & Ors* [1999] NSWSC 661 (6 July 1999)
13. * *Commissioner for Railways (NSW) v Cardy* [1960] HCA 45; (1960) 104 CLR 274 (25 July 1960)
 * *Halliday v Nevill* [1984] HCA 80; (1984) 155 CLR 1 (6 December 1984)
 * *Kuru v State of New South Wales* [2008] HCA 26 (12 June 2008)
 * *TCN Channel Nine Pty Ltd v Ilvari Pty Ltd* [2008] NSWCA 9 (19 February 2008)
14. * *Coco v R* [1994] HCA 15; (1994) 179 CLR 427; (1994) 120 ALR 415; (1994) Aust Torts Reports 81-270; (1994) 68 ALJR 401; (1994) 72 A Crim R 32 (13 April 1994)
 * *Cowell v Rosehill Racecourse Co Ltd* [1937] HC 17; (1937) 56 CLR 605 (22 April 1937)
 * *Halliday v Nevill* [1984] HCA 80; (1984) 155 CLR 1 (6 December 1984)
 * *Kuru v State of New South Wales* [2008] HCA 26 (12 June 2008)
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 * *TCN Channel Nine Pty Ltd v Ilvari Pty Ltd* [2008] NSWCA 9 (19 February 2008)
 * *Thompson v Vincent* [2005] NSWCA 219 (30 June 2005)
15. * *ABC v Lenah Game Meats Pty Ltd* [2001] HCA 63; 208 CLR 199; 185 ALR 1; 76 ALJR 1 (15 November 2001)
 * *Coco v R* [1994] HCA 15; (1994) CLR 427; (1994) 120 ALR 415; (1994) Aust Torts Reports 81-270; (1994) 68 ALJR 401; (1994) 72 A Crim R 32 (13 April 1994)
 * *Cowell v Rosehill Racecourse Co Ltd* [1937] HC 17; (1937) 56 CLR 605 (22 April 1937)
 * *Halliday v Nevill* [1984] HCA 80; (1984) 155 CLR 1 (6 December 1984)
 * *Kuru v State of New South Wales* [2008] HCA 26 (12 June 2008)
 * *Plenty v Dillon* [1991] HCA 5; (199) 171 CLR 635 (7 March 1991)
 * *TCN Channel Nine Pty Ltd v Ilvari Pty Ltd* [2008] NSWCA 9 (19 February 2008)

16. * *Coco v R* [1994] HCA 15; (1994) 179 CLR 427; (1994) 120 ALR 415; (1994) Aust Torts Reports 81-270; (1994) 68 ALJR 401; (1994) 72 A Crim R 32 (13 April 1994)
 * *Cowell v Rosehill Racecourse Co Ltd* [1937] HC 17; (1937) 56 CLR 605 (22 April 1937)
 * *Kuru v State of New South Wales* [2008] HCA 26 (12 June 2008)
 * *Plenty v Dillon* [1991] HCA 5; (1991) 171 CLR 635 (7 March 1991)
17. * *Cowell v Rosehill Racecourse Co Ltd* [1937] HCA 17; (1937) 56 CLR 605 (22 April 1937)
18. * *Barker v R* [1983] HCA 18; (1983) 153 CLR 338 (7 June 1938)
 * *Coco v R* [1994] HCA 15; (1994) 179 CLR 427; (1994) 120 ALR 415; (1994) Aust Torts Reports 81-270; (1994) 68 ALJR 401; (1994) 72 A Crim R 32 (13 April 1994)
 * *Kuru v State of New South Wales* [2008] HCA 26 (12 June 2008)
 * *O'Donohue v Wille & Ors* [1999] NSWSC 661 (6 July 1999)
 * *Plenty v Dillon* [1991] HCA 5; (1991) 171 CLR 635 (7 March 1991)
 * *TCN Channel Nine Pty Ltd v Ilvari Pty Ltd* [2008] NSWCA 9 (19 February 2008)
 * *Thompson v Vincent* [2005] NSWCA 219 (30 June 2005)
19. * *Kuru v State of New South Wales* [2008] HCA 26 (12 June 2008)
 * *Plenty v Dillon* [1991] HCA 5; (1991) 171 CLR 635 (7 March 1991)
 * *O'Donohue v Wille & Ors* [1999] NSWSC 661 (6 July 1999)
20. * *Coco v R* [1994] HCA 15; (1994) 179 CLR 427; (1994) 120 ALR 415; (1994) Aust Torts Reports 81-270; (1994) 68 ALJR 401; (1994) 72 A Crim R 32 (13 April 1994)
 * *Halliday v Nevill* [1984] HCA 80; (1984) 155 CLR 1 (6 December 1984)
21. * *NSW v Ibbett* [2005] NSWCA 445 (13 December 2005)
 * *NSW v Ibbett* [2006] HCA 57; (2006) 231 ALR 485; (2006) 81 ALJR 427 (12 December 2006)
22. * *ABC v Lenah Game Meats Pty Ltd* [2001] HCA 63; 208 CLR 199; 185 ALR 1; 76 ALJR 1 (15 November 2001)
 * *TCN Channel Nine Pty Ltd v Ilvari Pty Ltd* [2008] NSWCA 9 (19 February 2008)

All these cases can be found at AustLii - <http://www.austlii.edu.au/>
 High Court decisions - <http://www.austlii.edu.au/au/cases/cth/HCA/>
 Supreme Court decisions – <http://www.austlii.edu.au/> click on the relevant state link, then Supreme Court or Supreme Court of Appeals.