

Sixth Edition

# A PRACTICAL GUIDE TO LEGAL RESEARCH

DROSSOS STAMBOULAKIS • ASHLEY PEARSON  
DALE MITCHELL • JAY SANDERSON



Lawbook Co.

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Common search term connectors for some of the Australian legal databases:<sup>1</sup>

|                                                                                                                                | Westlaw Australia                  | Lexis+ Australia                     | iKnowConnect (formerly IntelliConnect) | AGIS                                         | AustLII                              |
|--------------------------------------------------------------------------------------------------------------------------------|------------------------------------|--------------------------------------|----------------------------------------|----------------------------------------------|--------------------------------------|
| Find terms in the same document (eg, refugee and persecution)                                                                  | & (or a space)                     | and (or &)                           | AND (or a space)                       | AND (or a space)                             | AND                                  |
| Find either or both of the terms                                                                                               | or                                 | or                                   | OR                                     | OR                                           | OR                                   |
| Find the first term but not the second term (eg refugee not religion)                                                          | %                                  | and not                              | NOT                                    | NOT                                          | NOT                                  |
| Find terms appearing in the same order (eg, “well-founded fear”)                                                               | “ ”                                | “ “                                  | “ “                                    | “ “                                          | “ “                                  |
| Truncation search (root expander for variant endings) (eg, persecut! finds persecute, persecution, persecuting and persecuted) | !                                  | ! (or *)                             | *                                      | *                                            | *                                    |
| Wildcard search: find terms with variable characters/spellings (eg, wom?n would find woman and women)                          | *                                  | ?                                    | ?                                      | ?                                            | ?                                    |
| In same sentence                                                                                                               | /s                                 | /s                                   | w/sen                                  |                                              |                                      |
| In the same sentence and same order                                                                                            | +s                                 | pre/s                                |                                        |                                              |                                      |
| Find terms within n terms of each other (where n is a number)                                                                  | /n<br>(eg, refugee /5 persecution) | w/n<br>(eg, refugee w/5 persecution) | w/n<br>(eg, refugee w/5 persecution)   | %10 (terms within 10 words and in any order) | w/n<br>(eg, refugee w/5 persecution) |

<sup>1</sup> A full list of search terms and connectors, as well as search tips, is available on each of the databases. Noting, you can also use ‘natural word’ searches in most cases.



# A Practical Guide To Legal Research



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# A Practical Guide To Legal Research

**SIXTH EDITION**

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# PREFACE

We would like to thank Kim Kelly for her excellent work on the 3rd to 5th editions of the Guide, and hope that she has enjoyed her time since retiring from Southern Cross University (SCU).

For this, the 6th edition, we would like to thank Vickie Ma at Thomson Reuters for her patience and understanding. Like many academics we had the usual challenges of “capacity” and deadlines; and for the 6th edition we also had the challenge of generative AI and working out how to navigate and incorporate it into this text. This took us some time!

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## 2. Mastering modern legal research

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# 1

## INTRODUCTION

*After this chapter, you will:*

**Have an understanding of:**

- the process of legal research;
- some of the steps, methods and processes of legal research;
- the increasing role of AI-assisted research for law;
- the structure of this Guide; and
- the Guide's legal problem, Aban and Salim.

**Begin to:**

- analyse a legal problem. In this case, the legal problem of Aban and Salim;
- think about and map out your legal research strategy; and
- think about how AI-assisted research might (ethically) influence the way you carry out legal research and work, and how you can address its limitations with your own critical analysis and verification.

### Introduction to legal research

[1.10] Legal research is crucial for law students, lawyers and other legal professionals. It is essential to success in legal studies and throughout professional careers. There are several reasons why developing your legal research skills is so important. One of these is that there are too many practice areas and cases, and too much legislation for you to learn all of them at law school. It is often hard enough to remember what we did after submitting an assignment or completing an exam, let alone two or three years ago! Another reason why legal research is essential is that what you learn in law school, or in your years as a lawyer, can and does easily change and become outdated or superseded. For example, the *Competition and Consumer Act 2010* (Cth) is made up of four volumes, and there have been over 60 amending laws (with



over 20 amendments made since the last edition of this Guide in 2021).<sup>1</sup> Legal problem-solving and research, therefore, enable you to learn about new areas of the law and keep up to date throughout your studies and career. Indeed, many law firms and senior lawyers look for graduates with strong and dynamic research knowledge and skills rather than specific knowledge.

Now, more than ever, it is important to understand the skills and practices of legal research. You need to know where to look; what is included in your search/es; and, perhaps most importantly, how to check and verify the information that you have. This is even more crucial with the rise and rise of generative AI. It is inevitable that law students and legal professionals will need to be efficient, effective and ethical users of AI.

**AI and Legal Research: it is helpful, everywhere and sometimes problematic too ... if not used well and you do not check and verify what it gives you.** Before turning our minds to legal research and this Guide, it is worth saying something about generative AI. Many of you may have likely heard of examples of lawyers relying on AI (instead of their own research) to their detriment, as well as to the detriment of their clients and the court. For example, in 2024, a solicitor was found to have provided a list of authorities generated by AI software that were false or non-existent.<sup>2</sup> In August 2025, the lawyer was sanctioned by the Victorian Legal Services Board and Commissioner.<sup>3</sup> There are also a number of students in the last few years who have run afoul of their university's academic misconduct policies due to willful or reckless use of AI.

However, it is not all bad when it comes to AI. For students and legal professionals, it is crucial to engage in ethical and appropriate use of AI. Indeed, whether we know it or not, whether we intentionally search using AI or not, many of our search engines and databases rely on AI to some extent. There is also a difference in the publicly available general AI (eg, ChatGPT, Claude, CoPilot) and the proprietary law-specific AI tools such as Lexis+AI (LexisNexis; see Figure 1.1) and CoCounsel Legal and Westlaw Precision Australia (Thomson Reuters; see Figures 1.2 and 1.3, respectively). To make the point about knowing where to go for things, Jay used to tell students to think about McDonalds and Hungry Jacks: if you go into Hungry Jacks looking for a Big Mac, you will be disappointed. Likewise, if you are looking for the Commonwealth Law Reports (CLR), it is helpful to know that it is owned by Thomson Reuters and the Full Text can only be found on their platforms including Westlaw Australia. You will not find the full-text CLR in Lexis+ Australia ... it is just not there. Similarly,

1 *Competition and Consumer Act 2010* (Cth), Endnotes 3 and 4.

2 *Handa & Mallick* [2024] FedCFamC2F 957 (19 July 2024). The lawyer was referred to the referred to the Office of the Victorian Legal Services Board and Commissioner.

3 *Dayal* [2024] FedCFamC2F 1166 (where the solicitor's practising certificate was varied).



the Australian Law Reports (ALR) are available on Lexis+ Australia not Westlaw Australia.

It is also important to understand the limitation of the AI tools you are using and the importance of human oversight. Like the more traditional legal databases, “AI tools” do different things (eg, research, drafting, comparing documents, analysing), cover different jurisdictions, and draw from different sources (eg, cases and legislation; secondary sources). You, therefore, need to familiarise yourself with the capabilities and limitations of the AI tools or assistants that you use in your studies or workplace. For example, at the time of writing:

- **Lexis+AI (LexisNexis)** helps with “research, drafting and insights” and incorporates Protégé AI Assistant, with authoritative LexisNexis content.
- **Westlaw Precision (Thomson Reuters)** is a legal research platform that includes authoritative (ie, primary) Westlaw content.
- **CoCounsel Legal (Thomson Reuters)** helps “complete research, document analysis and drafting” and includes the Westlaw databases and content.

Importantly, at the time of writing, there were no plans to remove the more traditional databases, and you will still search using these throughout your studies and work life. These new AI-assisted research platforms do not replace thorough and critical research, thinking and verification. Though they may certainly help speed up the process. For example, see [1.100] for a search of Westlaw Precision Australia by pasting our scenario verbatim.

Figure 1.1 Lexis+AI (LexisNexis)

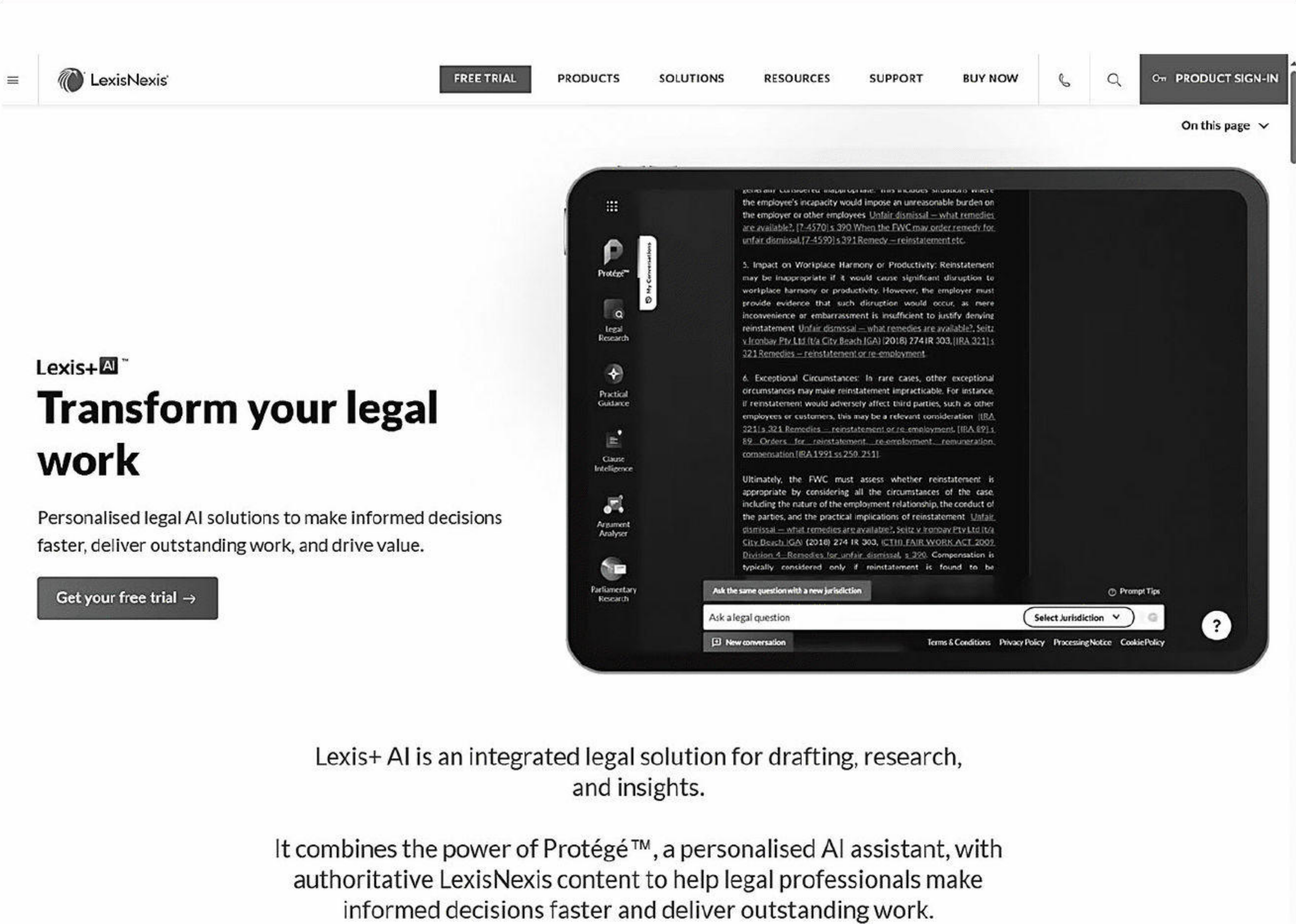




Figure 1.2 Westlaw Precision Australia (Thomson Reuters)

Global directory

Product loginsSupport & trainingContact us

Thomson Reuters

AUSTRALIA

LegalTaxTradeRiskBooksBuy Westlaw

WESTLAW PRECISION AUSTRALIA

# Generative AI for legal research

The most advanced legal research platform in Australia combining trusted, authoritative content with generative AI. Jumpstart your research, dive deep with insights and elevate your practice with Westlaw Precision Australia.

Request a demo

Jurisdiction:

All State & Federal

Ask a legal research question

Ask your legal research question with more detail for better results

Does being a member of a registered scheme, give rise to duties under the Corporations Act?

View video

My recent questions

Submit

New to AI? Read [how the AI works](#) and get tips for best results

ISO 42001

Thomson Reuters achieves ISO 42001 certification for Responsible AI. We are committed to responsible AI development, risk management, and ethical decision-making

AI

Ask conversational legal research questions and expect smart answers

Intuitively search Australia's most comprehensive legal database, including the Commonwealth Law Reports and more, with a high degree of accuracy.

clock

Accelerate initial research and save time reviewing results

Find the most relevant answers fast and cut out the drudge work by validating AI-generated summaries with in-line links to original sources.

lightbulb

Deep dive quickly and uncover trusted insights

Advanced features enable you to uncover relevant content and hidden connections that a traditional legal research approach may not surface.

network

Benefit from a connected ecosystem across legal software.

Get more out of every day connecting with other leading AI solutions like CoCounsel, Practical Law and Microsoft 365 CoPilot.

Explore our top practice areas and more

Discover our top [legal practice areas](#) below, with additional practice areas available suited to your needs.

bank

Banking and financial services →

contract

Commercial and contract →

corporate

Corporations →

4 A PRACTICAL GUIDE TO LEGAL RESEARCH



Figure 1.3 CoCounsel Legal (Thomson Reuters)



Using AI can provoke a feeling of efficiency and speed. It feels good to watch words one by one trickle down the screen in response to a prompt. For example, a natural language search of “key cases for contract law in Australia” using Google, ChatGPT and Westlaw Australia found:

- Google: returns a range of sites (including links to contract law textbooks) and case names but requires the searcher to do further digging and searching.
- Generative AI (ChatGPT): returns 10 cases and very brief summaries including *Carlill v Carbolic Smoke Ball Co* [1893] 1 QB 256, *Australian Woollen Mills Pty Ltd v Commonwealth* (1954) 92 CLR 424, *Baltic Shipping Co v Dillon* (1993) 176 CLR 344.
- Westlaw Australia: returns over 50,000 results including cases, legislation and secondary sources.

In this comparison, AI provides a response that appears more coherent – but also obscures the messy reality of the web of data, case law, legislation and academic research in this area. While AI might help you uncover the names of relevant case law, legislation and even legal principles, it lacks the authority to be trusted at first glance. Due to its predictive nature and need to provide an answer, some generative AI is also known to hallucinate: that is, provide outputs that are incorrect, misleading or fabricated. It also often overlooks the fact that the answer to many legal problems is “it depends” – it depends on



context, it depends on the nuances in the way that the law applies, it depends on admissible evidence, it depends on the other side's perspectives and wants and it depends on the judicial officer. Legal research is ultimately about finding authoritative, reliable sources to support advocacy and argumentation. Despite the hope that AI-assisted research might do everything, you will still need to find and read the cases, comprehend their meaning, and determine their relevance to your client and their claims. This comprehension and navigation of information, attuned to the contexts, complexities and subtleties of your research task, is what only (human) lawyers can provide.



**How well will AI do in law exams?** In 2024, Armin Alimardani looked at how generative AI performed in an undergraduate criminal law exam at the University of Wollongong.<sup>4</sup> In a cohort of 225, five exam papers were generated by pasting the exam question in an AI tool without prompts and another five were generated using prompts. The conclusion by Alimardani was that the 'AI papers were not impressive'. More specifically, while AI performed okay in general essay questions, it did poorly with complex questions that required in-depth knowledge. Overall, of the papers without prompts three (3) of the AI papers failed, and only two (2) just passed. Of the papers with prompts, these received between 50 and 78% depending on the prompts and information provided to generate the answers.

## Ethical and responsible use of AI

**[1.20]** It is also important and necessary to think about and understand the ethical and responsible use of AI. In so doing, you will need to consider issues such as acknowledgements, transparency and disclosure (ie, advising if an AI tool is used), confidentiality and privacy (ie, do not upload sensitive information) and not relying on AI without checking and verifying what it produces. Many Universities now have guidelines or policies on the responsible or ethical use of AI. See, for example, Monash University<sup>5</sup> and the University of the Sunshine Coast.<sup>6</sup> Law Societies have also introduced guidance and statements. See,

4 Armin Alimardani, "I got generative AI to attempt an undergraduate law exam. It struggled with complex questions" *The Conversation* (2 October 2024).

5 Monash University, *Responsible use of AI at Monash and Ethical Considerations*.

6 University of the Sunshine Coast, *Responsible and Ethical use of Artificial Intelligence Technologies – Guidelines*.



for example, the Queensland Law Society;<sup>7</sup> and a joint statement by the Law Society of New South Wales, Legal Practice Board of Western Australia and the Victoria Legal Services Board and Commissioner.<sup>8</sup>

In addition, many jurisdictions now require law graduates to obtain a statement about academic and general misconduct from their university as part of the admission process. This is a requirement even if there has not been misconduct, and has, in large part, been due to increasing concerns around AI, attendance and invigilation of assessment. In Queensland, for example, as part of the suitability requirements, applicants seeking admission must provide student conduct reports as part of their application for admission to the legal profession.

There are some broad concerns about the use of generative AI. Some of these concerns are environmental: for example, it has been reported that training generative AI uses significant power, generative AI data centres use large amounts of water for cooling, and there are significant carbon emissions. Other criticisms of generative AI relate to the concentration of capital, job displacement and (in)equity.

**What is legal research?** Legal research is many things. Essentially, research is about critical interrogation, a close and careful search for relevant questions and appropriate answers. It is a dynamic and iterative process. More specifically, in the academic environment, legal research covers an interdisciplinary and diverse range of methodologies;<sup>9</sup> yet in the context of the legal profession, it is undertaken by practitioners in the law and is therefore often considered a professional, rather than an academic exercise.<sup>10</sup> The type of legal research conducted by legal practitioners (in considering a client's issues) or by law students (when facing legal problem-solving exercises, exams and assignments) is often referred to as doctrinal research. Put simply, doctrinal research seeks to apply the relevant law to the facts of a problem. Such research “provides a systematic exposition of the rules governing a particular legal category, analyses the relationship between rules, explains areas of difficulty and, perhaps, predicts future developments”.<sup>11</sup> This kind of research, for example, looks for precedent,

7 Queensland Law Society, *No.37 Artificial Intelligence in Legal Practice*.

8 The Law Society of New South Wales, Legal Practice Board of Western Australia and the Victoria Legal Services Board and Commissioner, *Statement on the Use of Artificial Intelligence in Australian Legal Practice*.

9 See, for example, Dawn Watkins and Mandy Burton (eds), *Research Methods in Law* (Routledge, 2013); Terry Hutchinson, *Researching and Writing in Law* (4th ed, Lawbook Co, 2018).

10 Morris Cohen, “Research Habits of Lawyers” (1969) 9 *Jurimetrics Journal* 183 (which, despite its age, is still regarded as a seminal work in this field). Although “professional” and “academic” legal research and practices are distinct or complimentary rather than one and the same: see, for example, Jeremy Webber, “Legal Research, the Law Schools and the Profession” (2004) 26 *Sydney Law Review* 565.

11 Dennis Pearce, Enid Campbell and Don Harding, *Australian Law Schools: A Discipline Assessment for the Commonwealth Tertiary Education Commission* (AGPS, 1987), 312.



examining the ratio and obiter of a case, and finding ways to draw analogies or make distinctions between your “fact scenario” and the material your research uncovers.

Other types of legal research methods and methodology have been discussed and summarised by others<sup>12</sup> and include:

- reform-oriented research;
- theoretical research;
- comparative research;
- socio-legal research;
- historical research; and
- critical legal research.

Legal research is an iterative process. So, whatever research methodology you rely on, one mistake that you can make is to think of legal research as a linear, mechanical process. As you make your way through this book, remember:

- you need to formulate research strategies that help you determine which source, or sources, you should consult;
- your research strategy should be flexible and reflexive. Effective researchers continually evaluate their research strategy, considering alternative research approaches as they find that various sources or research approaches are either helpful or not;
- you should consider the alternative position, examining the merits of a different position or conclusion;
- you need to advance your analysis of a law-related problem by means of your research; and
- researching as a student may be different from researching as a practitioner. Further, the databases you use (and get familiar with during your law studies) may not be available in the law firm you are working for.

Even the most diligent researcher – armed with the best AI-assisted research, databases, websites and information – will not arrive at a successful result if she approaches legal research as a mechanical process, lacking analysis and application. Legal research (in the sense of locating relevant legal materials) is therefore part of a larger legal problem-solving process.

12 See, for example, Brendon Murphy, *The Art of Problem Solving: A Criminal Law Approach* (Cambridge University Press, 2024); Dawn Watkins and Mandy Burton (eds), *Research Methods in Law* (Routledge, 2013); Terry Hutchinson, *Researching and Writing in Law* (4th ed, Lawbook Co, 2018).



Make no mistake, legal research is crucial to your studies and career in law. Indeed, the Council of Australian Law Deans makes it clear that in addition to the Priestly 11 content,<sup>13</sup> Australian Law Schools must develop:

... the intellectual and practical skills needed to research and analyse the law from primary sources, and to apply the findings of such work to the solution of legal problems.<sup>14</sup>

Most of this Guide focuses on the doctrinal legal research approach in the context of legal problem-solving. This approach can be broken down into the following five steps:<sup>15</sup>

1. analyse the problem by identification of material or relevant facts;
2. identify the relevant legal issues;
3. locate the rules that govern the legal issues;<sup>16</sup>
4. interpret and analyse results of your research; and
5. apply research results to the facts in support of arguments.

If you are a law student, the ability to carry out these steps will help you to get the most out of your law degree or other legal studies by giving you a deeper understanding of the issues explored in your law subjects. As you near the end of your studies and prepare for a career in law, or further study, or if you are already working in law, the ability to carry out legal research becomes even more essential. At the beginning of your career, you will be expected to know how to research legal problems thoroughly and cost-effectively. Depending on where you study or work, you may not have access to all the available databases or even the ones you get comfortable with during your law studies.

This Guide focuses principally upon the tools and resources of legal information to assist in one facet of the legal problem-solving approach. That is, finding the relevant primary and secondary legal materials to identify the legal rules. The other steps in the process are briefly addressed in the context of a research problem scenario, but they are not the focus. The analysis, interpretation and application of the law to a set of facts is fundamental to the work of the legal practitioner and is a skill developed through your learning of substantive law (in courses such as contracts, constitutional law, equity and torts) and in the legal

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13 The Priestly 11 refers to the 11 law subjects required to be admitted into practice in Australia. These are criminal law and procedure; the law of torts; contracts; constitutional law; equity, including trusts; the law relating to property, both real and personal; administrative law; company law; evidence; civil procedure; and ethics and professional responsibility.

14 Council of Australian Law Deans (CALD), *The CALD Standards for Australian Law Schools*, as adopted 30 July 2020, page 5.

15 These five steps reflect the MIRAT approach to legal problem-solving. See John Wade, "Meet MIRAT: Legal Reasoning Fragmented into Learnable Chunks" (1990–1991) 2 *Legal Education Review* 283.

16 The focus of this Guide is on this third step.



skills training to which you are exposed. Throughout your studies and working life, you will continue to develop your legal writing skills.

### **Is researching for your legal degree the same as researching as a legal professional?**

Debra Haak makes it clear that what the law says about a problem is seldom the solution to the problem from the client's perspective. In her article '*Thinking Like a Practising Lawyer as a Legal Research Methodology*',<sup>17</sup> Haak argues that we need to rethink legal reasoning as it is generally understood and taught. It involves a number of steps including understanding how practicing lawyers think, identifying the client's goals, understanding the factual and legal context, and creative problem solving and functional justice.

### *Sources of legal information*

**[1.30]** The characterisation of legal research is mainly determined by the rationale or reason for researching the law. For example, is your research doctrinally based? Does it have a comparative or empirical focus? The nature of legal research is also determined by other factors, including the structure and form of legal information, principles of jurisprudence (eg, precedent), the constitutional framework of the Parliament and the courts, and how the law is developed between these two institutions.

Sources of legal information are traditionally divided into two categories: primary and secondary.

**Primary sources** of the law are the laws created by Parliament and the courts. These comprise legislation<sup>18</sup> and cases.<sup>19</sup>

It is often difficult to determine the extent to which the common law has been changed, and the relationship(s) between related legislative enactments. The work of the courts, in interpreting and applying the statute law, in developing their own jurisprudence with respect to the interpretation of this law, is also sometimes difficult to follow. The legal researcher must, therefore, be mindful of the interplay between the Parliament and the courts. The other category of legal information, known as secondary sources, can help with this.

**Secondary sources** of the law summarise, describe, analyse, critique and provide commentary on the primary sources of the law. These secondary sources include:

- legal encyclopaedias and dictionaries;
- law textbooks, handbooks, journals and commentaries;

17 Debra Haak, "Thinking Like a Practising Lawyer as a Legal Research Methodology" (CLEAR, 2025 Thomson Reuters), available at SSRN.

18 Also referred to more broadly as legislative material.

19 Also known as "the common law".



- indexes and digests; and
- legal research guides, web law portals, blogs and websites such as those of government departments, non-governmental organisations and so on.

Secondary sources give context to the law and bring critical thought to the law created by our parliaments and courts. Secondary sources tend to be prepared by jurists, academics, practitioners, law reform bodies, government departments, administrators and legal publishers. However, while secondary materials provide useful background material and generally provide us with an entry to the law, the actual primary materials (ie, the cases and legislation) should always be located and read. **If relevant and available, you must cite the primary sources as authorities for your reasoning, not secondary sources.**

### *An overview of primary and secondary material*

We will see in a moment at [1.160] that our scenario involves various primary sources. For instance, the *Migration Act 1958* (Cth) and case law deals with questions around the *Migration Act* and who, for example, is a refugee.<sup>20</sup> In addition, there are plenty of secondary sources that describe, analyse and critique the primary sources.<sup>21</sup> While the secondary sources – such as journal articles and encyclopedia entries – will help us understand and interpret the primary sources they do not replace them, and generally speaking, should not be referenced or cited unless there are no appropriate primary sources.

### *Using this guide*

**[1.40]** This Guide moves, we hope, logically through key aspects of the process of legal research. This 6th edition also introduces you to AI-assisted research. Though this is evolving at such a rapid pace that you will need to develop your own key/core skills that can adapt and change depending on the circumstances (eg, your ability to access law-specific AI tools and the level of permission you have to use these tools) and the technology (which seems to change every month or so). Each chapter covers a particular type of legal resource or jurisdiction, providing some general commentary followed by a more detailed explanation of the use of specific resources. Or, more accurately, the Guide moves through a

20 For example, *CGS18 v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs & Anor* [2020] FCCA 889 (22 April 2020).

21 For example, Tawseef Khan, “Sexual Orientation and Refugee Law: How Do Legal Sanctions Criminalizing Homosexuality Engage the Definition of Persecution?” in Satvinder Singh Jussin (ed), *Research Handbook on International Refugee Law* (Edward Elgar Publishing, 2019).



particular kind of legal research, which, as we have seen, is commonly referred to as doctrinal.<sup>22</sup> In terms of AI-assisted research, this chapter introduces you to some of the key tools and databases and considers some of the ways that this might change legal research, drafting and analysis. That said, we also reiterate the need to understand more traditional legal research, databases and the nuances of being a law student or legal professional. In this edition, we primarily limit our discussion of AI-assisted research to Chapters 2–5. In part this is due to our focus on Australian content and primary materials, but also to the fact that we have full access to the Thomson Reuters products Westlaw Precision Australia, CoCounsel and Practical Law: all of which contain Australian content. In this way, Chapters 6–9 should be used more as a general introduction to the jurisdiction or topic and the available databases and search tips and tricks.

There are numerous ways to use this Guide. You might want to read the Guide from start to finish to gain a comprehensive understanding of the skills and resources that you will need to know as a law student or lawyer. However, it is not necessary to read from cover to cover; you may want to dip in and out of the Guide as you see fit. If you are a more experienced researcher, for example, you can use the index to dip into sections as a reminder or update yourself on a particular aspect of legal research. Open the Guide to relevant exercises and work through the steps while online. Whatever way you use this Guide, we hope that you will come to view legal research as a worthwhile and intellectually rewarding process. Albeit a sometimes challenging and frustrating one.

While the Guide covers numerous jurisdictions (including the United Kingdom, European Union and United States), the focus is on Australia. Indeed, Chapters 4–6 are the most comprehensive of the Guide. More specifically, the Guide covers the following topics:

### **Part I: Researching Australian Law**

- Mastering Modern Legal Research (Chapter 2)
- Legislative Material (Chapter 3)
- Case Law (Chapter 4)
- Secondary Sources (Chapter 5)

### **Part II: Researching International Law**

- Public International Law (Chapter 6)
- United Kingdom (Chapter 7)
- United States (Chapter 8)
- European Union (Chapter 9)

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22 See Terry Hutchinson, “Doctrinal Research: Researching the Jury” in Dawn Watkins and Mandy Burton (eds), *Research Methods in Law* (Routledge, 2013).



There are some preliminary points that, if set out now, will ensure that you get the most out of this Guide.

### *Our research scenario (learning through doing)*

[1.50] We have organised the Guide around a practice-led approach. Legal research is a skilled endeavour. It combines knowledge (eg, What? How?) with skills. For this reason, we believe it is important to learn legal research by doing. We hope you gain confidence in and enjoyment of legal research. At different stages you will need to decide ‘enough is enough’. If you are confident in your skills, and the processes you follow, then you will not feel the need to always want to ‘check one more database’. To illustrate the legal research process, we provide a brief research scenario referred to as *Aban and Salim* (see [1.160]). While our scenario, *Aban and Salim*, provides context and continuity throughout the searches in this Guide; nonetheless not all searches in the Guide are based on this scenario.

### *Searches and exercises*

[1.60] Specific searches and exercises, which are highlighted in boxes, are used throughout the Guide to help you understand how to find relevant primary and secondary sources. The searches used throughout the Guide show only a few of the methods of carrying out the necessary research and assume that you have little familiarity with the legal topic and resources. In your studies or in practice, you would need to read and analyse the results of your searches and, probably, further modify your research. Bear in mind also that publishers are continually changing their databases to improve interfaces and coverage. And, we are relying more on AI, which will keep changing and improving at a rapid pace. See [1.100] for an example of AI-assisted research. Consequently, you will need to be flexible enough to modify your search techniques accordingly and to ask follow-up prompts and questions.

### *Currency*

[1.70] Law can change from one day to the next. Indeed, as we were preparing this Guide, we often found that our searches returned different results from one week to the next. As mentioned earlier, it is not just the content or substance of the law that changes, sometimes databases change their appearance and/or functionality. And, due to changing laws and databases, we found currency to be an issue regularly throughout the updating of this Guide. So, no doubt when you conduct the searches included in each chapter – and conduct research for other purposes – you will face many similar challenges. Do not let this deter you: the dynamic nature of the law is one of the reasons why it is such a rewarding career



path. All of this makes legal research challenging, highly rewarding and a little (okay ... sometimes very) frustrating.

As a legal researcher, it is crucial to always check the currency of the material you are searching and that you have found. **There is no point using an old version of an Act, citing an overturned case, or relying on outmoded and inaccurate commentary.** One of the authors often tells his students a cautionary tale about a student who searched for the *Criminal Code* via Google: only to find out – after failing the assessment task – that their version of the *Criminal Code* was merely a “mock” version presented as potentially new criminal law. If only that student had read Chapter 3 of this Guide and had known how easy it is to use the official parliamentary website to access authorised versions of legislation. And if only the student had access to AI-assisted research that provides links to primary materials including legislation and allows you to easily filter for jurisdiction.

### *Screenshots and web addresses*

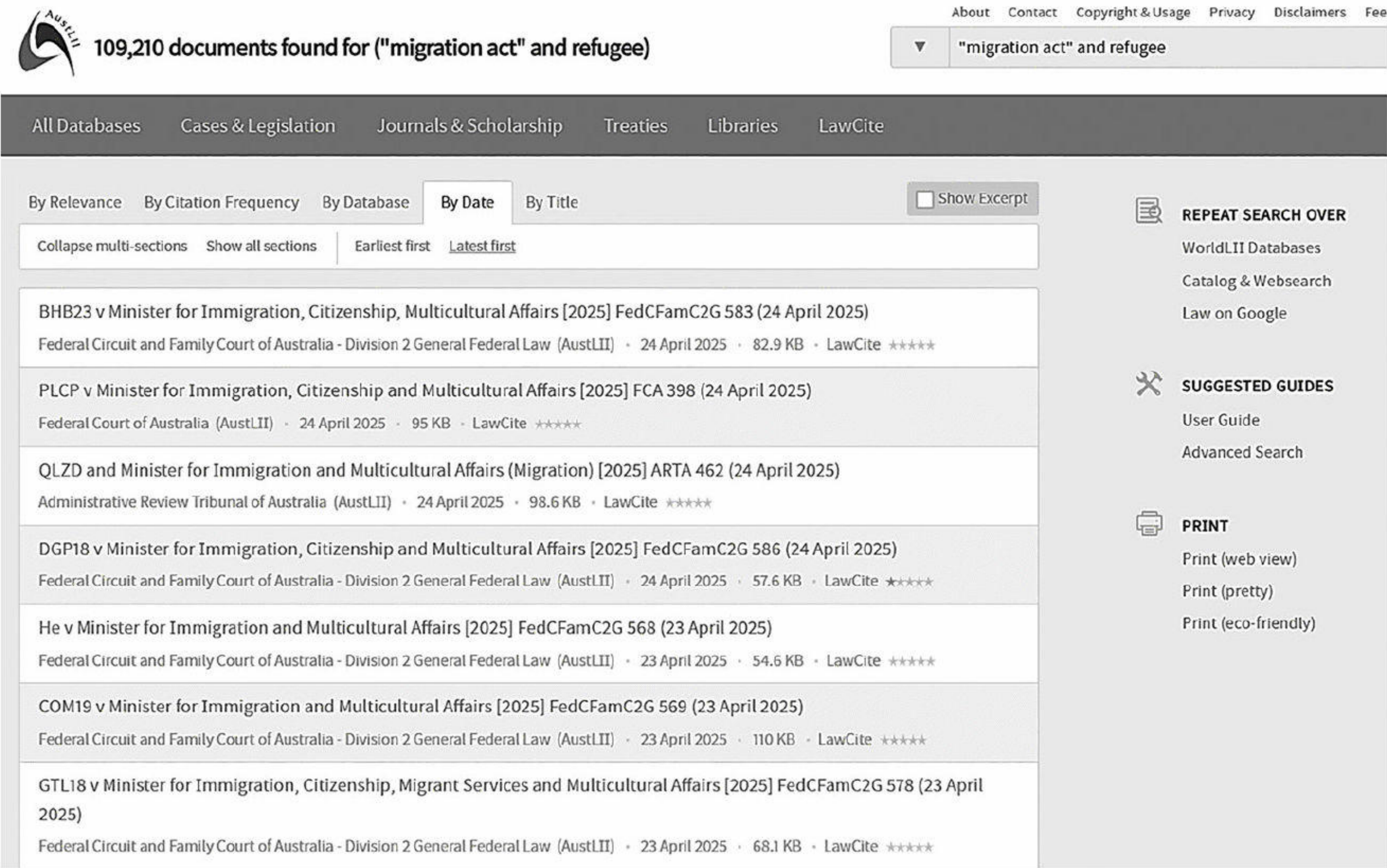
[1.80] Throughout the Guide, numerous screenshots are included for educational purposes, and to aid your learning and help you recognise and use the relevant website or database. We would like to acknowledge the various publishers and content providers. Most of the screenshots were taken between June and August 2025. All the web addresses were accessed around the same time. Note: while we often include links and web addresses throughout the Guide, these change often and, for this reason, we do not include them all in the Guide. This means that you may need to use a search engine (eg, Google, Safari) to search and find the websites or the resources discussed in the Guide.

### *Paid and free sources (databases)*

[1.90] Many of the online legal databases are subscription services. Indeed, the two key legal databases, Westlaw Australia (a product of Thomson Reuters) and Lexis+ Australia (a product of LexisNexis), are proprietary. This means that your institution or employer has to pay a subscription fee to access them. For individuals, smaller legal firms and even university libraries, the cost of these databases can be prohibitive. There are, however, a number of online alternatives available free of charge. In Australia, AustLII is the most comprehensive and popular free source of Australian legal information. In addition, most legislative material is freely available on the relevant parliamentary website. And most Australian Courts provide access to cases for members of the public.



Figure 1.4 AustLII all-database search for “Migration Act” and refugee, ordered by date



Generative AI (as Legal Databases)

[1.100] As noted and discussed above, generative AI is increasingly prevalent. While not common and still in its infancy in terms of legal-specific specific tools, in addition to the public (general) tools of ChatGPT, Claude and CoPilot, generative AI is being used and overused by law students and legal professionals. Some examples include:

- Westlaw Precision Australia (Thomson Reuters);
- CoCounsel Legal (Thomson Reuters);
- Lexis+AI (Lexis Nexis); and
- Law Firm-specific databases.

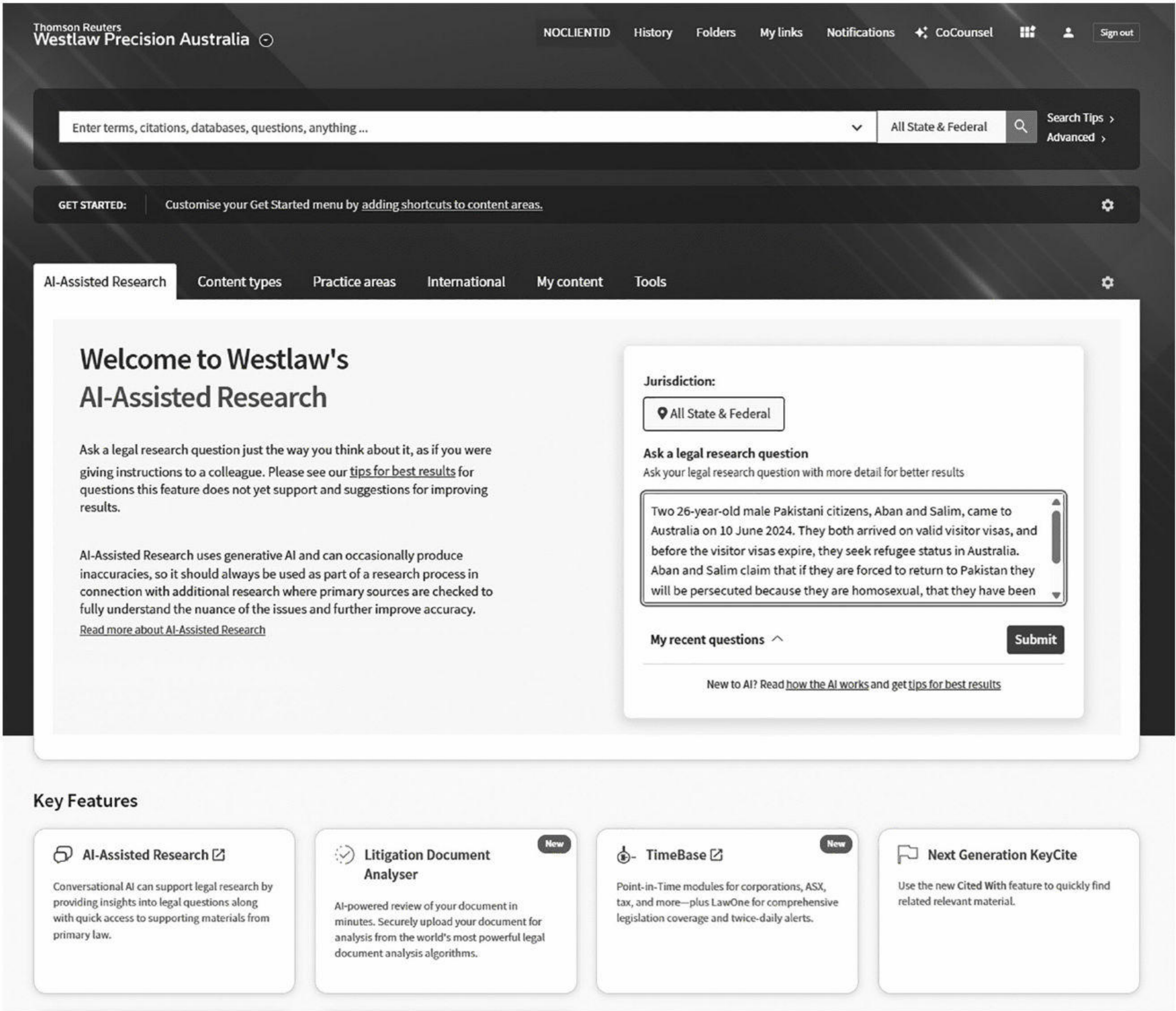
At the time of writing this 6th edition, we were provided with access to our publisher’s (ie, Thomson Reuters) products. In terms of the LexisNexis products, we were provided a detailed demonstration and workshop and were then able to follow-up with their experts on any queries that we had. While our AI-assisted searches will primarily be in the Thomson Reuter’s products, some of the general principles and approaches are transferable. The questions you



need to ask yourself are similar (eg, What jurisdiction is included in the search? What primary and/or secondary materials does the AI-Assistant draw from? What follow-up prompts should I be using? How do I verify, check and provide context and nuance to what I have found?)

Let us try searching Westlaw Precision Australia and then CoCounsel by pasting the entire scenario from [1.160]. See Figure 1.6 for the response from Westlaw Precision Australia and Figure 1.7 for the response from CoCounsel Legal.

Figure 1.5 Pasting the scenario directly into Westlaw Precision Australia









**Figure 1.7** Response to pasting our scenario on Aban and Salim, using Westlaw's CoCounsel Legal

 AI-Assisted Research AU Follow up Download Info

**What is the process for applying for refugee status in Australia for individuals fearing persecution due to sexual orientation, specifically for Pakistani citizens?**

Pakistani citizens fearing persecution due to sexual orientation can apply for refugee status in Australia by lodging an application for a protection visa under the Migration Act 1958 (Cth). The applicant must satisfy the criteria set out in section 36, which include demonstrating that they are a non-citizen in Australia and that Australia has protection obligations because the person is a refugee or faces a real risk of significant harm if returned to their country. The Act defines a refugee as a person who is outside their country of nationality and, owing to a well-founded fear of persecution, is unable or unwilling to avail themselves of the protection of that country [1], [2].

Persecution for reasons of sexual orientation can qualify under the Convention grounds as "membership of a particular social group." The process requires proving a well-founded fear of persecution that is personal and not just generalised risk. The fear must relate to all areas of the country, unless it is unreasonable for the applicant to relocate internally to avoid harm [2], [3]. If the applicant is found to face a real chance of persecution for their sexual orientation and cannot reasonably relocate within Pakistan to avoid this harm, they may satisfy the refugee definition and protection visa criteria [2], [3], [4].

Applicants must also demonstrate that they are not excluded from refugee status under section 36, for example, due to serious crimes or being a danger to Australia's security [2]. The application process involves assessment by a delegate of the Minister. If refused, review may be sought before the Administrative Appeals Tribunal and, in some cases, judicial review in the Federal Court [5].

Relevant case law, such as Appellant S395/2002 v Minister for Immigration and Multicultural Affairs, has clarified that decision-makers must consider why an applicant would live discreetly regarding their sexual orientation, and whether this is due to fear of harm if they do not [4]. The individual character of social group membership, such as sexual identity, is critical in the assessment [6].

In summary, Pakistani citizens fearing persecution due to sexual orientation should apply for a protection visa under the Migration Act 1958 (Cth), presenting evidence of a well-founded fear of persecution for a Convention reason, specifically as a member of a particular social group, and addressing the possibility of internal relocation within Pakistan. The process is governed by the Migration Act 1958 (Cth), 36 Protection visas—criteria provided for by this Act, Migration Act 1958 (Cth), 5H Meaning of refugee, and is informed by decisions such as Appellant S395/2002 v Minister for Immigration and Multicultural Affairs and CGA15 v Minister for Home Affairs [1], [2], [3], [4].

The above response is AI-generated and may contain errors. It should be verified for accuracy.

View all cited sources >

Helpful answer?  

My (Jay's) first reactions were WOW...SCARY...WHAT DOES THIS MEAN FOR LEGAL EDUCATION? A great start, and in only a few minutes. The AI-assisted search:

- identified the relevant legislation (the *Migration Act 1958* (Cth));
- referred to helpful and relevant cases (eg, cases that consider whether sexuality may constitute a particular social group for refugee protection and that make it clear that applicants are not required to live discreetly to avoid persecution);



- provided a tentative conclusion (“Therefore, provided Aban and Salim can credibly establish their claims, they may be eligible for protection visas as refugees due to a well-founded fear of persecution for reason of their ‘homosexuality’ ”);
- By comparison, the CoCounsel response appears to have more layers and nuance. For example, it identified possible exclusions (eg, for serious crimes) and possible review by the Administrative Appeals Tribunal. This highlights the importance of knowing the strengths and weaknesses of your AI-assisted research tools and platforms.

Once you have done your initial AI-assisted research, you can add further prompts – for example, ask for exceptions, defences, what evidence is required, etc. You can also change the jurisdiction or add further enquiries, or legal issues. Importantly, though, this is only a starting point and you need to verify what has been found and provide context and reasoning and critical analysis. You will need a way to manage what you have found; documenting and acknowledging where things have come from. It is always best to avoid copy and paste!!

As you develop your own strategy and approach to AI-assisted research, you will also be able to read the “tips” and “hints” provided by LexisNexis and Thomson Reuters. For example, you might need to write clear and focused queries that are only 1–2 sentences long, provide only relevant facts, avoid extra words or instructions, focus on a single issue or question and avoid proper names. As you will see in Chapter 2, there are some core skills needed to work effectively with AI including flexibility, critical scepticism and hybrid literacy.

The other important point to make is that often when working as a legal professional, you are not presented with a simple, clearly articulated legal problem. Instead of the scenario presented in [1.160], you might get two people walking into your office and simply ask if you can help them stay in Australia. The first part of your job therefore is to talk to your clients, or your prospective clients, and ask what their concerns are. Put simply, you may need to work out if there is a problem and, if so, whether there is a solution. You may also need to be the one to formulate the scenario and issues from what they tell you. You will need to determine if you are qualified and/or have the experience to help them. If not, you may need to think about whether you can refer them to someone else. There is a lot to think about!! **See Chapter 2 for more information/details on AI-based legal databases and research.**

By way of comparison, and to illustrate the importance of the quality of your AI-assisted research and the material it draws from, we also pasted the scenario directly into one of the more common, non-legal generative AI tools (ie, ChatGPT). As you will see, the response is much broader, lacks legal authorities and is, in parts, inaccurate. See Figure 1.8.



**Figure 1.8** Response to pasting in our scenario on Aban and Salim, using ChatGPT

Based on the situation you've described, Aban and Salim's claim for refugee status in Australia would fall under the category of **persecution based on sexual orientation**. The legal process and potential outcomes for their case would depend on a number of factors, including Australia's immigration laws, the credibility of their claims, and the country conditions in Pakistan regarding the treatment of LGBTQ+ individuals. Here are some key points to consider:

#### 1. Refugee Status Determination in Australia:

Refugee status in Australia is determined under the **Migration Act 1958** and the **Refugee Convention**. For someone to be granted refugee status, they must meet the definition of a refugee, which includes showing that they face a **well-founded fear of persecution** due to reasons such as:

- Race
- Religion
- Nationality
- Membership of a particular social group
- Political opinion

In Aban and Salim's case, they are claiming persecution due to their **sexual orientation**, which could qualify them as members of a **particular social group** under the Refugee Convention. They would need to prove that:

- They face a real risk of persecution in Pakistan due to their homosexuality.
- The persecution is based on their sexual orientation (e.g., physical violence, imprisonment, or societal ostracism).
- There is no adequate protection from the state or non-state actors in Pakistan (i.e., the authorities are unable or unwilling to provide protection).
- They cannot relocate to another part of Pakistan to avoid persecution (i.e., internal relocation is not a viable option).

### ***Google (and other search engines) and Google Scholar***

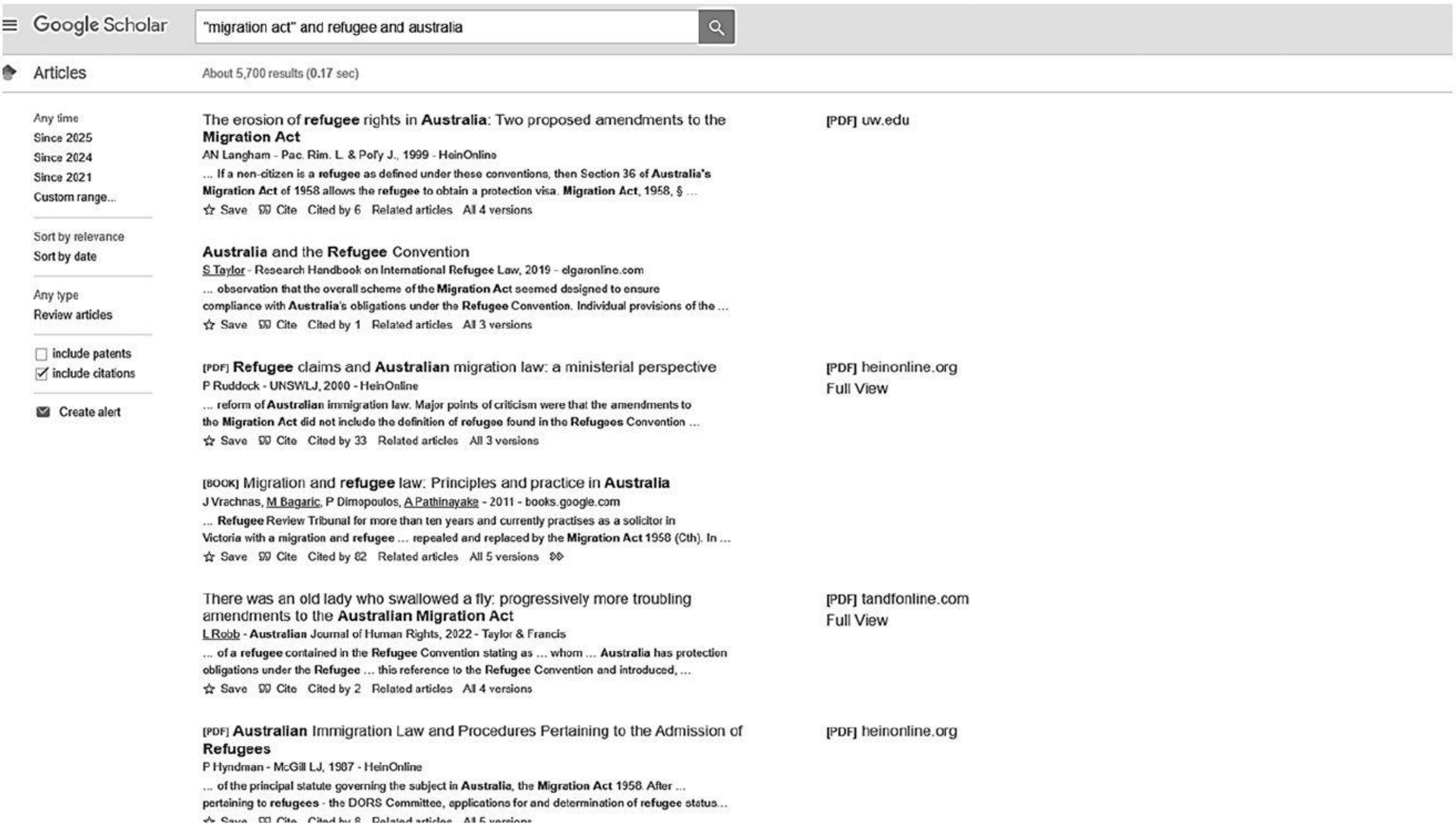
[1.110] Google and Google Scholar are important for several reasons. First, they have established themselves as leaders in providing effective results to simple and quick searches over an array of material on the Internet. A Google search will not only retrieve commentary on a topic, but primary source material, blogs, news, government reports and media statements, to name but a few. As such, it can be a powerful search medium when you are trawling for any information at all on a topic. However, if you require specific form and authority, for example, expert commentary on the *Convention Relating to the Status of Refugees*, the utility of the Google search approach is sometimes questionable. Google should be used with caution in legal research. **That said, Google can be a great starting point for your legal research.**

Google Scholar employs the Google search engine to retrieve authoritative, academic (scholarly) information available through the Internet. Thus, you can search for expert commentary on a legal topic using the Google Scholar search.



You can also search articles and US case law, conduct advanced searches and build your own library in the Google Scholar Library. A major advantage of Google Scholar is the simple retrieval of authoritative articles without the immediate need to identify specific journals and their accessibility. Google Scholar also offers citation counts on the results indicating the frequency with which the article has been cited in other sources.<sup>23</sup> The other feature you will notice with Google Scholar is that many university library catalogues are linked to Google Scholar; so, journal articles found in Google Scholar may be available in full text (via Google Scholar) because of your university’s subscription. However, you would need to be logged into your university’s network for this to occur. Note, however, that Google Scholar does not search all the academic journal literature, as some publishers have refused Google the right to access and search their proprietary databases.

Figure 1.9 Google Scholar search for “Migration Act” and refugee and Australia



ADVANCED AND BASIC SEARCHES

[1.120] While there are many differences between databases and search engines, most provide the option to carry out basic or advanced searches. Generally speaking, a basic search uses just one search field, and you often need to combine keywords using natural language or with connectors or “boolean operators”, such as AND, OR and NOT and possibly use special “characters” (? \*!). In contrast, an advanced search has a number of search fields such as title,

23 The assumption being that frequently cited articles must be authoritative as they are so popular; however, the obverse could equally be true – that the article has been heavily criticised.



author, keywords, legislation, case name or category. See Figures 1.10 and 1.11 for an example.

Figure 1.10 Westlaw Australia Basic Search

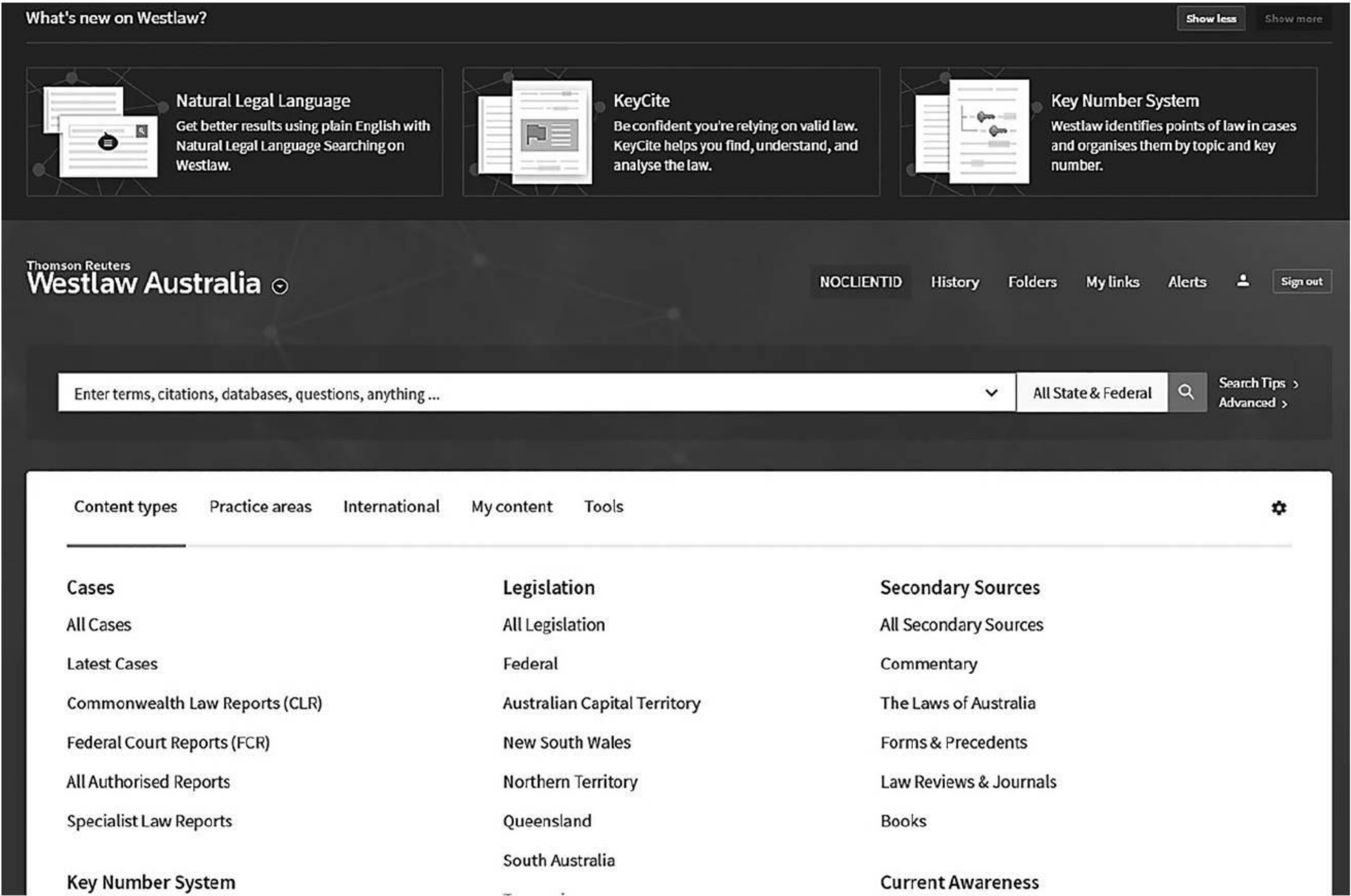
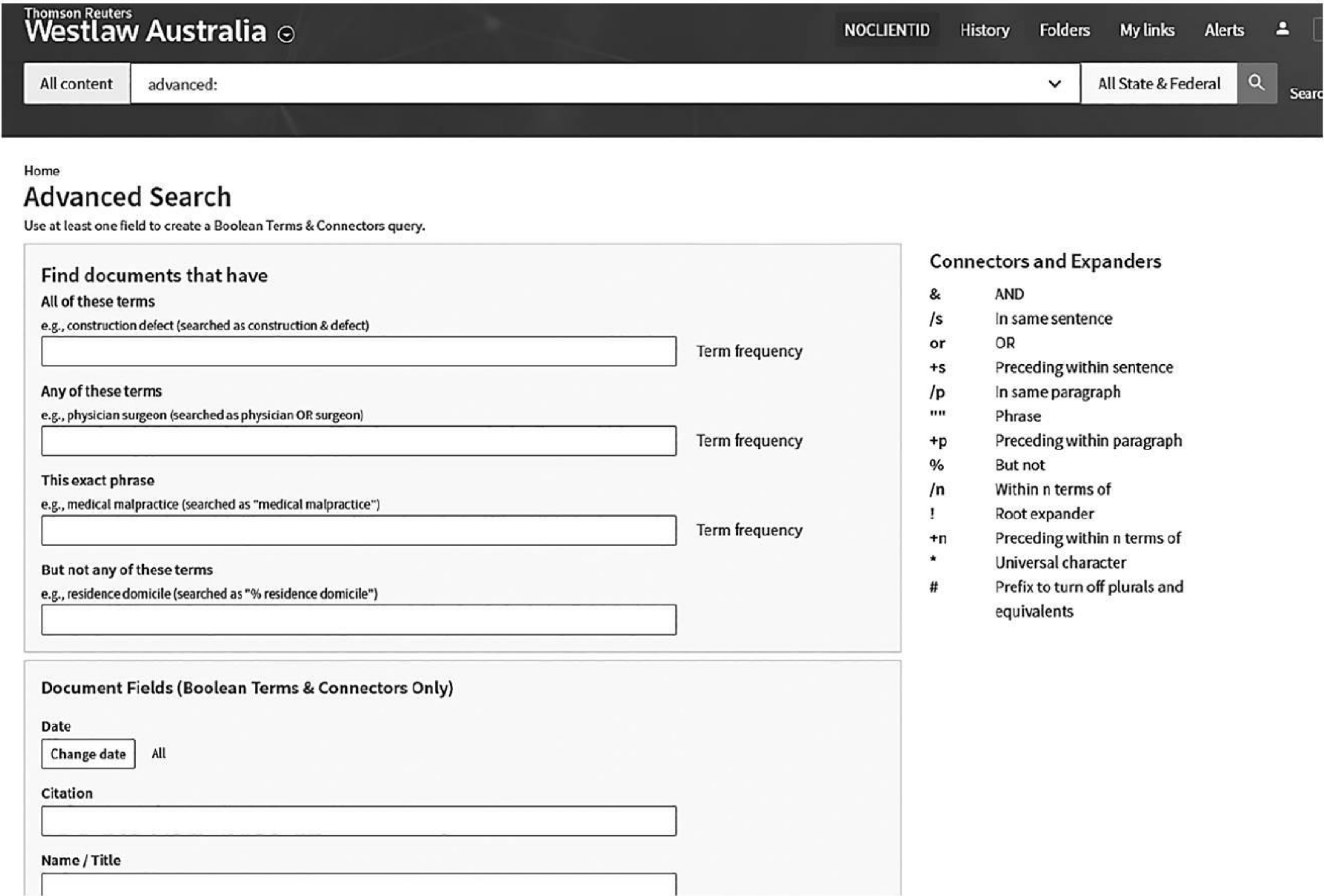


Figure 1.11 Westlaw AU Advanced Search, Cases



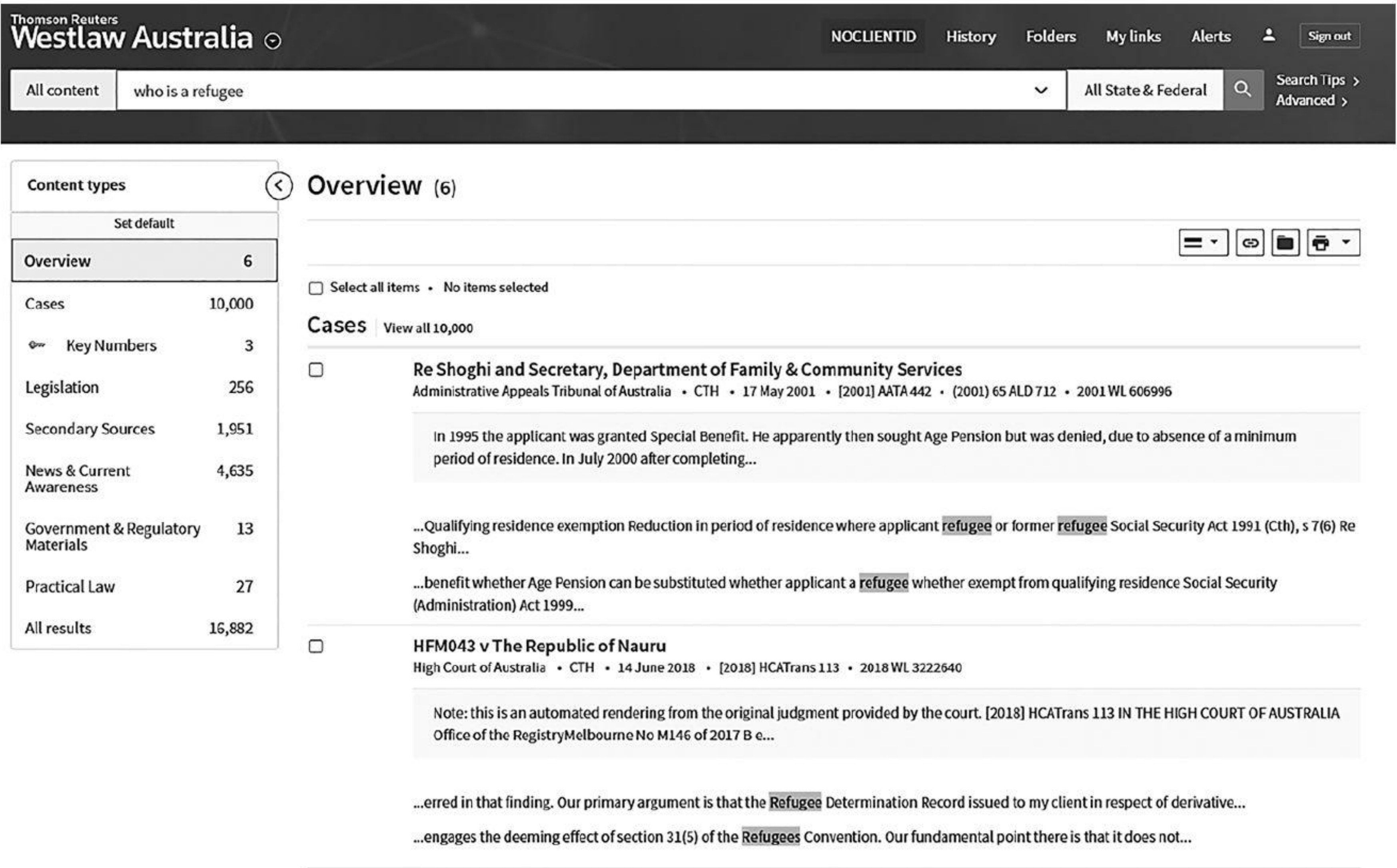


NATURAL LANGUAGE, BOOLEAN OPERATORS AND SPECIAL CHARACTERS

[1.130] Students are generally familiar with Internet search engines and the concept of sourcing information through this medium. Familiarity with Internet search engines such as Google is increasingly helpful with legal research, although it requires a critical awareness of the veracity and authority of information sourced from non-traditional sources.<sup>24</sup>

Google, for example, simplifies the search process and uses what is known as “natural language” searching.<sup>25</sup> This means typing in questions as you would if you were talking to someone – for example, what is Australian law on refugees? Whether this simplification translates well to law is a matter for debate; however, natural language searching is increasingly used by law graduates and is now accommodated by most legal databases.

Figure 1.12 Natural word searching in Westlaw Australia (who is a refugee)



24 It is acknowledged that Google Scholar provides authoritative primary source material, albeit, limited to US case law. It does not include statutes or regulations.  
25 Jill Chanen, “Wired!: The Battle for Your Legal Research Dollars Heats Up”, *ABA Journal* (1 February 2010), available at: <<http://www.abajournal.com/magazine/article/wired/>>.



Figure 1.13 Natural word searching in Lexis+ Australia (who is a refugee)

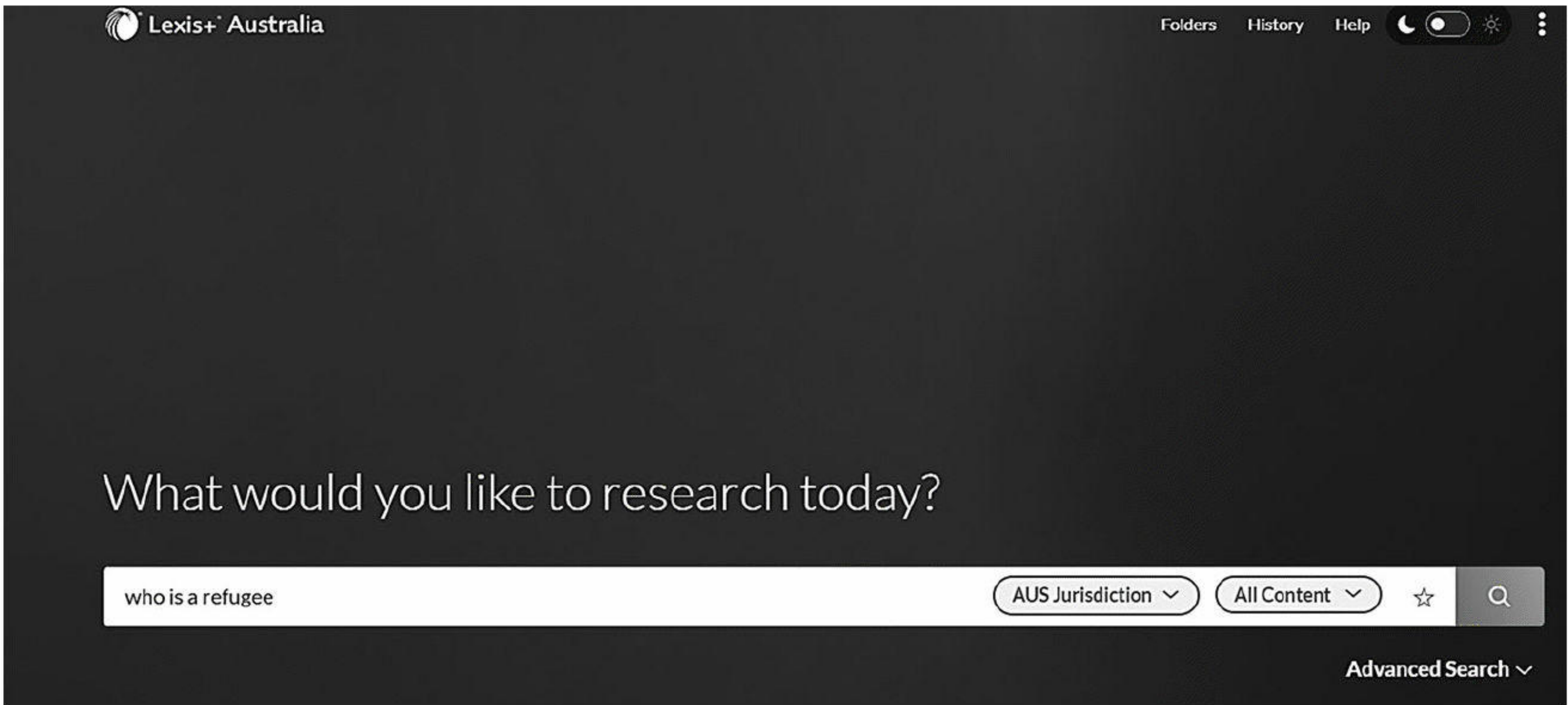
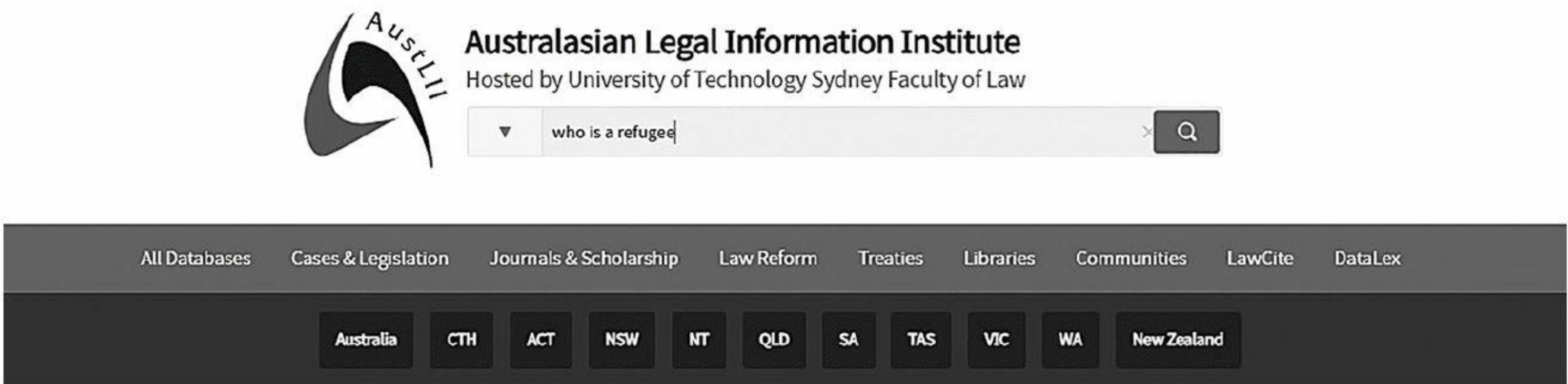


Figure 1.14 Natural word searching in AustLII (who is a refugee)



Despite the expansion and ubiquity of natural language searches, it is still important to familiarise yourself with specific search operators, such as Boolean operators or connectors, and also special characters or symbols. Boolean operators are specific words used to combine or exclude keywords in a search, to improve the chances of finding relevant information. The Boolean operators AND, OR, NOT can also be used in conjunction with brackets () to combine Boolean phrases, to illustrate the order in which relationships should be searched. Each of the main platforms allows the use of connectors and expanders (see Figures 1.15 and 1.16).

Special characters or symbols are used to truncate words that begin with the same character string, or are used as wildcards to search for words with variant spelling. These special characters or symbols will vary between databases. The most commonly used characters are the asterisk (\*), exclamation mark (!), question mark (?) and the hash or pound symbol (#). Quotation marks (“ ”) are used to enclose words in phrases. For instance:

- searching “well-founded fear of persecution” will find that phrase appearing in the same order as in the quotation marks. If you do not use quotation