

Common Law and the Law of the United Kingdom

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Research Guides

A list of common law jurisdictions is available at: <http://www.droitcivil.uottawa.ca/world-legal-systems/eng-common.html>

Young, Stephen. "Researching Primary Legislation of the United Kingdom." available from: <http://www.llrx.com/features/uklegis.htm>

Carter, Sara. "Guide to the UK Legal System / Update." available from: http://www.nyulawglobal.org/Globalex/United_Kingdom1.htm

Dingle, Leslie and Bradley Miller, *UK Constitutional Reform*. Available from: <http://www.llrx.com/features/ukconstitution.htm>

Young, Steven. "Devolution in the United Kingdom: A Revolution in Online Research." available from: <http://www.llrx.com/features/devolution.htm>

Young, Steven. "The Electronic Parliament, Resources for Tracking U.K. Legislation." available from: http://www.llrx.com/features/e_parliament.htm

Logan, Robert G. "British Legal Bibliography." 81 *Law Lib. J.* 691 (Fall 1989).

Ingman, Terence, *The English Legal Process*, 9th ed. (Oxford: Oxford University Press, 2002)
OCU Call # KD 7111.I53.

Cohen, Berring and Olson. *How to Find the Law*. Chapter 16, English and Commonwealth Materials, pp. 515-538. OCU Call # KF 240.H6 (perm reserve)

Slapper, Gary and David Kelly, *The English Legal System* (London : Cavendish, 1999) KD 661.S56 (3rd Floor North)

Gifford, D.J. and John R. Salter, *Understanding the English Legal System* (London : Cavendish, 1997) KD 662.G54 (3rd Floor North)

Darbyshire, Penny. *English Legal System*, 4th Ed. (Nutshell series) (London : Sweet & Maxwell, 1998) KD 662.D37 (3rd Floor North)

Berring, Robert C., *Legal Research for the 21st Century*, "Advanced Research: Foreign Law" (St. Paul: West, 2001)(VHS Tape) OCU Call # KF 240.B48 (circ. desk).

Mersky, Roy M., *Fundamentals of Legal Research* (New York: Foundation Press, 2002)
Chapter 21, "Legal System of the United Kingdom."

Mozley and Whiteley's Law Dictionary (London: Butterworths, 1977) OCU Call # KD 313.M69.

Free Legal Current Awareness Sources, accessible at: <http://www.venables.co.uk/aware.htm>

The Incorporated Council of Law Reporting's WLR Daily provides updates from the House of Lords, the Privy Council, the Court of Appeal and all divisions of the High Court, accessible at: <http://www.lawreports.co.uk/WLRD/AboutWLRD.htm>

English Legal History Websites

Cambridge University's British Legal History page:
http://www.law.cam.ac.uk/resources_history.php

Guide to Legal History Resources on the Web, Tarlton Law Library University of Texas includes links to historic state court records, resources, and collections available at other libraries, and full text sources of historical documents: <http://tarlton.law.utexas.edu/rare/legalhis.html>

H-Law, website of the American Society of Legal History: <http://www.h-net.msu.edu/~law/index.html>

Fordham's Medieval Legal History page: <http://www.fordham.edu/halsall/sbook-law.html>

Citation Manual

Oxford Standard Citation of Legal Authorities (OSCOLA) is described as the closest thing the UK has to *The Bluebook*. Accessible at: <http://denning.law.ox.ac.uk/published/oscola.shtml>

For U.S. citation rules on United Kingdom materials see *The Bluebook*, Table T.2.

Primary Legislation – Acts of Parliament

Prior to 1963 English statutes were cited by name, regnal year (the year of the sovereign's reign during which the statute was passed, 15 & 16 refer to the 15 and 16th year of George the Fifth's regin) chapter, section and schedule if any. For example: *Supreme Court of Judicature Act*, 1925, 15 & 16 Geo. 5, c. 49, § 226. sched. 6 (Eng.). See the table of regnal years attached to this bibliography. After 1963 the regnal year may be omitted. For example: *Airports Authority Act*, 1965, c. 16 (Eng.). See *Bluebook* Table T.2, pp. 290-291.

1) The official publication is *Statutes in Force: Official Revised Edition*. It is comprised of 200 binders with the binders grouping laws together by subject. It reprints all acts since 1235 that are presently in effect. The best index is *Index to the Statues in Force*.

2) *Halsbury's Statutes*, 4th ed, OCU Call # KD 135.H34 (Most recently updated '01)(3rd Floor N) Also have 1st – 3rd ed in compact shelving. OCU Call # KD 135.H33, shelf # 14). Arranged by subject in 50 volumes and contains the amended text of all Acts in force with extensive annotations. Set also contains *Current Statutes* (legislation that post dates the date of the most

current *Halsbury's Statutes*, *Annual Cumulative Supplement* (annually updates the basic set and the Current Statutes), *Noter-up Service* (issued 3 times each year to update between Cumulative Supplements), and *Is It In Force* (details the exact commencement date of Acts).

3) *Current Law Statutes Annotated* (1949, 1973 – 1985) KD 135 (3rd Floor North). Similar to *United States Statutes at Large* this publication is the source for finding background information and constructing legislative histories.

4) The Department for Constitutional Affairs UK Statute Law Database provides access to statutes from the 1200's – present at: <http://www.statutelaw.gov.uk/Home.aspx>

5) The full text of acts from 1988 are also available for free from the Office of Public Sector Information (formerly: Her Majesties Stationary Office) at: <http://www.opsi.gov.uk/>

6) BAILII, <http://www.bailii.org/>, United Kingdom Statutes from 1988 and various Irish Statutes.

7) Lexis has: Butterworth's Statutes and SI of England and Wales Currently in Force from 1267; Public General Acts of England and Wales including statutes enacted but not yet in force, (includes all Acts covered by Halsbury's Statutes and is kept up to date (UK;STAT); Statutory Instruments of England and Wales (SI).

8) Westlaw has an extensive collection of United Kingdom statutes arranged by topic. For a list consult the most recent database directory. Specific databases include Law in Force (Statutes from 1267 – present and S.I. from 1948 – present). Westlaw recently added a Legislation Locator that provides references to cases and secondary sources citing legislation. Hansard is the edited verbatim report of proceedings in the House of Commons and Lords. Accessible from the website of the United Kingdom Parliament from 1994 – present: <http://www.parliament.uk/hansard/hansard2.cfm>

Historical Collections

Statutes of the Realm contains statutes from 1225-1713 are available in Microforms B 51. Vols. 1-11 (1235-1713) are available through Hein Online's English Report's Full Reprint.

Statutes at Large contains a number of statutory compilations spanning the years 1225-1869. Microforms B 66.

Public Acts of Great Britain, 1714-1800 and *Public General Acts of the United Kingdom 1801-1933* (Microforms B 73, LLS).

BOPCRIS, the British Official Publications Collaborative Reader Information Service, is a free, searchable Internet database of over 38,000 references from the British Official Publications spanning 1688-1995. You can also search or browse the 18th century British Parliamentary Papers Digitization Project (eventually it will be a comprehensive digital library covering 1688-1800). Accessible at: <http://www.bopcris.ac.uk/>

Updating Primary Legislation

Updating legislation involves determining if a statute is actually in force and if it has been repealed or revised. One strategy is to obtain the most recent version from an online source. Another is to use *Halsbury's Statutes*:

To determine if an act is in force using *Halsbury's*:

- 1) Use *Is It In Force?*
- 2) Update this by checking the *Noter-up* Binder

To check for a change in a statute

- 1) Be certain that you are consulting the most recent bound volume
- 2) Use the current year's *Cumulative Supplement*
- 3) Consult the *Noter-Up*

Subordinate Legislation – Statutory Instruments

Statutory Instruments, or SIs, are regulations made under the authority of an Act of Parliament.

1) Office of Public Sector Information provides free access to Statutory Instruments from 1987 from their website at: <http://www.hmso.gov.uk/stat.htm>

2) Statute Law Database provides free access to Statutory Instruments from 1991 at: <http://www.statutelaw.gov.uk/Home.aspx>

Scottish Legislation

The Scotland Act of 1998 created the Scottish Parliament which had not existed since the union of Scotland and England in 1707. The Scotland Act of 1998 devolved the power to pass legislation regulating certain matters to the newly created Scottish Parliament and reserved certain legislative powers to the United Kingdom Parliament. For more information on the specifics of devolution see the LLRX article mentioned in this bibliography. The Scotland Act of 1998 is available from: <http://www.legislation.hmso.gov.uk/acts/acts1998/19980046.htm>

All legislation passed by the Scottish Parliament is available the Parliament's website:

<http://www.scottish.parliament.uk/>; from Her Majesty's Stationary Office: <http://www.scotland-legislation.hmso.gov.uk/>; and from BAILII: <http://www.bailii.org/>

Northern Irish Legislation

The process of devolution in Northern Ireland is complex. Before 1800 Ireland had its own parliament. From 1800 – 1920 the Parliament of the United Kingdom made laws for Ireland. From 1921-1972 home rule existed in Northern Ireland with the Parliament known as "Stormont" viewed as more representative of the unionist interest than the Catholics. Violence in the 1960s and 70s resulted in the suspension of home rule except for a brief period in 1973 where home rule was reinstated for five months. After years of negotiation the Belfast Agreement or Good Friday Agreement restored home rule to Ireland. The Northern Ireland Assembly was formally created by the Northern Ireland Act. The Act devolved certain powers to the New Northern Ireland Assembly and reserved power over certain matters to the United Kingdom Parliament.

The Belfast or Good Friday Agreement is available from:
<http://www.ni-assembly.gov.uk/io/agreement.htm>

The Northern Ireland Act is available from:
<http://www.hmsso.gov.uk/acts/acts1998/19980047.htm>

Legislation passed by the New Northern Ireland Assembly and legislation passed by previous Northern Ireland legislative bodies is available from the Assembly's website: <http://www.ni-assembly.gov.uk/index.htm>; from Her Majesty's Stationary Office: <http://www.northernireland-legislation.hmsso.gov.uk/>; and from BAILII: <http://www.bailii.org/>

Welsh Legislation

Wales was first incorporated into the Kingdom of England in 1284 with the Statute of Walliae but their legal systems were not fully united until 1830. Throughout the 1980s and 90s the Welsh population became dissatisfied with central government in London. The result of this frustration was the Government of Wales act which devolved power to the Welsh people. The Welsh Assembly was created by the National Assembly for Wales Order which gives the Welsh Assembly, like the Assemblies of Scotland and Northern Ireland, powers over certain matters with specific powers reserved to the United Kingdom Parliament.

The Government of Wales Act is available at:
<http://www.legislation.hmsso.gov.uk/acts/acts1998/19980038.htm>

The National Assembly for Wales Order is available at:
<http://www.legislation.hmsso.gov.uk/si/si1999/19990672.htm>

Welsh legislation is available from the website of the Welsh Assembly:
<http://www.wales.gov.uk/index.htm>; from Her Majesty's Stationary Office: <http://www.wales-legislation.hmsso.gov.uk/>; and from BAILII: <http://www.bailii.org/>

Case Law

England and Wales share a Court system composed of a trial court level, appellate court level with appeal to the House of Lords (soon to become the Supreme Court of the United Kingdom) in certain instances. The Northern Irish system mirrors the design of the English/Welsh system but is separate. The Scottish system is entirely unique. Litigants in both the Irish and Scottish systems have the right in certain cases to appeal, or leapfrog, into the English/Welsh system.

Sources, Case Law- Before 1865 all cases were reported in private reports known as nominate reports because they are known by the name of the reporter. *The English Reports* is a collection of the nominate reports. In 1865 case reporting became standardized by the Incorporated Council of Law Reports known as *The Law Reports*. Other reporters include the *Weekly Law Reports* (1954 – present) and *All England Reports* (1936 – present). When looking for cases it is important to remember this pre/post 1865 distinction.

For help with citations see: *Cardiff Index to Legal Abbreviations*:
<http://www.legalabbrevs.cardiff.ac.uk/>

Historical Holdings (3rd Floor North)

English Reports Full Reprint (1220 – 1868) KD 270

The Revised Reports (1785 – 1866) KD 270 R4

Law Reports Probate Division (1865-1971) KD 279.3

Great Britain Law Reports, Pre 1865 (Microforms B 73, LLS)

Selden Society Yearbooks, 1887 – present, OCU Call # KD 456. More information available at:

<http://www.selden-society.qmw.ac.uk/>

The law library subscribes to the Selden Society Collection in the Hein Online database.

Current Holdings (3rd Floor North)

Law Reports, Appeals Cases (1916- 2000) OCU Call # KD 275.4

Law Reports Chancery Division (1875- 2000) OCU Call # KD 276.3

Law Reports, Queens Bench Division (1865 – 2000) OCU Call # KD 277.7

The Weekly Law Reports (1961- 2000) OCU Call # KD 282

Law Reports Family Division (1972- 2000) OCU Call # KD 279.4

All England Law Reports (1558 – 2000) OCU Call # KD 288.A6

Electronic Sources of English/Welsh Case Law

1) BAILII, <http://www.bailii.org/>, Privy Council decisions (1996 – present), House of Lords decisions (1996 – present), various other decisions from England, Wales, Northern Ireland and Scotland;

2) House of Lords decisions available from their website at: <http://www.parliament.the-stationery-office.co.uk/pa/ld/ldjudinf.htm>, within 2 hours of decision from 1996;

3) Court Service Website, <http://www.courtservice.gov.uk/>, selected databases from High Courts and Courts of Appeals;

4) *The Times* and the *Telegraph* also print decisions. *The Times* website, <http://www.timesonline.co.uk/>, contains law reports from 1996 accessible by date the decision was handed down.

5) Lexis contains *The Law Reports* from 1865 – present; *All England Law Reports Reprint* from 1558 – current; *Unreported Cases* and other sources. Check the most recent database directory for current information.

6) Westlaw has cases in individual subject specific databases. Consult the most recent database directory for information. Westlaw provides access to *The Law Reports* from 1865 and for very recent cases has a history feature showing you direct history of the case and secondary sources citing to the case.

7) Hein Online provides access to *English Reports (Full Reprint)* (1220 – 1868). It is accessible from the Law Library's Databases Page.

8) Cases decided by the Supreme Court of the United Kingdom are available from the Court's website: <http://www.supremecourt.gov.uk/>

Updating Cases

The Digest- Is a case finding tool similar to the West Digest and an updater similar to Shepard's. Each case is listed with a brief annotation and a synopsis of the future treatment the case received. OCU Call # KD 296.E52 (3rd Floor N). To find cases use the *Table of Cases* volumes at the end of the set to locate particular cases within *The Digest* and use the table of cases located at the beginning of individual volumes to find cases within volumes. The English publisher Butterworths offers a service called Case Search which is an electronic version of *The Digest*.

Westlaw recently added English cases to KeyCite.

Scottish Courts and Cases

The Scottish court system is composed of the Court of Session with Inner and Outer Houses (the highest civil Scottish court), the High Court of Justiciary (the highest criminal court), the Sheriff Court (generally the court of first instance in civil cases) the District Court (court of first instance in criminal cases) and various specialized courts.

1) The Scottish Courts website contains information and the text of decisions:

<http://www.scotcourts.gov.uk/>

2) BAILII website has Scottish cases: <http://www.bailii.org/>

3) Lexis has cases in the library (UK;SCOCSA)

Northern Ireland Cases- The Northern Irish system mirrors the structure of the English/Welsh system. Sources of decisions include:

1) The Northern Ireland Courts website contains information and the text of decisions:

<http://www.courtsni.gov.uk/>

2) BAILII website has Northern Irish cases: <http://www.bailii.org/>

3) Lexis has cases in the library (UK;NIRCAS)

Digests

The U.K. has a system of case digests much like the digest system that exists in the U.S. Digests organize case law by topic and contain short annotations of case decisions. The major digests are *The Digest* (Butterworths) OCU Call # KD 296.E52 (3d Floor N) (organizes case law in the format used in *Halsbury's*) and *Current Law* (Sweet & Maxwell)(covers all cases and includes a cumulative index and table of cases).

The Digest contains the following features: Reference Adaptor (converts references to other editions of the digest and other works) *Annual Cumulative Supplement* (the Noter-up that keeps the digest up to date with new cases) *Table of Cases* (for each volume) Consolidated Table of Cases (for the whole work) *Consolidated Index* (for the whole work) *User Guide* (pamphlet discussing the features and use of *The Digest*).

Background Resources on Case Law

Kempin, Frederick G., *Historical Introduction to Anglo-American Law in a Nutshell 3rd ed.* (St. Paul: West, 1990) OCU Call # KD 532.Z9 (circ. desk)

Daniel, William Thomas Shave, *History and Origin of the Law Reports ...* (Buffalo: Dennis, 1883) OCU Call # KD 532.D35 (3rd floor N).

Seipp's Abridgement Year Books: Medieval English Legal History This searchable database indexes and paraphrases year book reports from 1268 to 1535 and includes helpful information such as lists of manuscript and printed editions and a bibliography of works about the yearbooks. Available at: <http://www.bu.edu/phpbm/lawyearbooks/search.php>

The Anglo American Legal Tradition Project between the University of Houston and the UK National Archives contains Court Records from 1272-1650. Most are in Latin or Legal French. Accessible at: <http://aalt.law.uh.edu/>

Secondary Sources

Halsbury's Laws of England 4th ed. (Butterworths) Similar to the American legal encyclopedia *American Jurisprudence* or *Corpus Juris Secundum* but given more authority by courts. OCU Call # KD 310.H33 (2000 most recent)(3rd Floor North) Monthly review version available on LexisNexis (UKCURR;ALL). Contains the following features: divided into topical subjects with each topic beginning with a detailed outline similar to West digests, an index, and a table of cases. Updated annually with *Cumulative Supplements* and *Annual Abridgements* and monthly with the *Current Service* and *Noter-up*.

Subject specific treatises are located on 3N in the English Law section. Search the catalog for titles. The LLRX article by Sarah Carter provides a list of texts by subject. Some historical treatises are found in the collection *The Law Library* (Microforms B72, LLS). Search the catalog for specific titles.

Periodical Indexes

Legal Periodicals covering the United Kingdom are indexed in the following resources:

1) *Current Law Index*

2) *Index to Legal Periodicals*

3) *Legal Journals Index* – The major UK and European English language index with coverage beginning in 1986. Westlaw database (LJI).

News and Current Awareness

The websites of the following legal newspapers provide current information

The Lawyer <http://www.the-lawyer.co.uk/>

Legal Week <http://www.legalweek.net/>

Law Society Gazette <http://www.lawgazette.co.uk/homeframe.asp>

There are a variety of current awareness and news resources available from Lexis and Westlaw, browse their database directories for information.

Scholarly Works - Common Law

American, Australian, New Zealand Law: Parallels and Contrasts (Chicago: ABA, 1980)

Compares various elements of the legal systems mentioned. OCU Call # K 588.A6.

Michael Arnheim, *Common Law* (New York: New York University Press, 1994). A series of articles designed to provide an introduction to common law. OCU Call # K 588.C66.

Alan Brudner, *The Unity of Common Law: Studies in Hegelian Jurisprudence* (Berkeley: University of California Press, 1995) The author contends that the common law may appear fragmented into rival doctrinal paradigms but is really unified. He examines the subjects of property law, contracts, torts and welfare in proving his thesis. OCU Call # K 588.B78.

Harry W. Jones, ed., *Legal Institutions Today: English and American Approaches Compared* (Chicago, ABA, 1976) Papers presented at an ABA Annual Meeting comparing various features of United Kingdom and United States' common law legal systems. OCU Call # K 588.A4.

Sir Frederick Pollock, *The Genius of the Common Law* (New Jersey: Lawbook Exchange, 2000) A series of historic lectures. OCU Call # K 588.P56.

Roscoe Pound, ed., *Readings on the History and System of the Common Law* (Rochester: Lawyers Co-Op, 1927). OCU Call # K 588.R4.

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Monarch	Reign	Accession	Years' Reign
William I	1066-1087	October, 14	21
William II	1087-1100	September, 9	13
Henry I	1100-1135	August, 2	35
Stephen	1135-1154	December, 1	19
Henry II	1154-1189	October, 25	35
Richard I	1189-1199	July, 9	10
John	1199-1216	April, 6	17
Henry III	1216-1272	October, 19	56
Edward I	1272-1307	November, 6	35
Edward II	1307-1327	July, 7	20
Edward III	1327-1377	January, 25	50
Richard II	1377-1399	June, 21	22
Henry IV	1399-1413	September, 29	13
Henry V	1413-1422	March, 20	9
Henry VI	1422-1461	August, 31	39
Edward IV	1461-1483	March, 4	22
Edward V	1483	April, 9	14 days
Richard III	1483-1485	June, 22	2
Henry VII	1485-1509	August, 22	24
Henry VIII	1509-1547	April, 22	38
Edward VI	1547-1553	January, 28	6
Mary I	1553-1558	July, 6	5
Elizabeth I	1558-1603	November, 17	44
James I	1603-1625	March, 24	22
Charles I	1625-1649	March, 27	24
Interregnum	1649-1660	-	-
Charles II	1660-1685	January, 30	36
James II	1685-1688	February, 6	3
William III & Mary II	1688-1702	February, 13	14
Anne	1702-1714	March, 8	12
George I	1714-1727	August, 1	13
George II	1727-1760	June, 11	33
George III	1760-1820	October, 25	59
George IV	1820-1830	January, 29	10
William IV	1830-1837	June, 26	7
Victoria	1837-1901	June, 20	63
Edward VII	1901-1910	January, 22	9
George V	1910-1936	May, 6	25
Edward VIII	1936	January, 20	325 days
George VI	1936-1952	December, 11	15
Elizabeth II	1952	February, 6	-

Table of regnal years: <http://www.lawlink.nsw.gov.au/lawcourtslibrary.nsf/pages/regnal>