PRIMARY SOURCES: STATUTES

Primary sources in law: are legislation and case law. They are ordinarily published in chronological order, without any particular arrangement by subject.

Legislation is the highest legal authority and will prevail over any decisions of the courts. It includes:

- Statutes - Acts of Parliament
- Legislative Instruments - delegated legislation (known as Regulations until 2014)

Official versions of legislation are recognisable by the New Zealand Coat of Arms on the first page.

These are available either in print or, for statutes since 2007, from Legislation New Zealand: [http://www.legislation.govt.nz/](http://www.legislation.govt.nz/).

The full text of New Zealand statutes can also be found in a number of other places, such as:

- Commercial databases, for example:
  - WestlawNZ
  - Lexis Advance
  - CCH Intelliconnect
- Subject-based annual textbooks, for example:
- Looseleaf services which include text and commentary, for example:
  - Andrew Beck and others *Morisons’ Company Law* (looseleaf ed, LexisNexis)
  - Bruce Robertson (ed) *Adams on Criminal Law* (looseleaf ed, Brookers)

All of these are accessible via the Law Subject guide. [https://otago.libguides.com/law](https://otago.libguides.com/law)

The Law Subject Guide is the ideal starting point.

You should always search across all the relevant databases — they get updated at different rates, and may link out to different sources.

Read on to learn about finding and using statutes from three key databases:

1. WestlawNZ
2. Lexis Advance and
3. CCH.

Remember, for legal research, you will need to find and use more than just the statute in question.

These commercial databases provide extra analysis by connecting you to other useful materials such as cases citing the statute, or supporting secondary sources, which can guide you to key cases, journal articles, and more.

Throughout this guide, the focus is this old 2002 exam question.

“The cancellation provisions in the Contract and Commercial Law Act 2017 (Part 2, Subpart 3) which were originally enacted in the Contractual Remedies Act 1979 were intended to clarify when a party may cancel a contract in New Zealand and the relief the courts may grant when a contract is cancelled. In your opinion, are there any aspects of the Act that have been misapplied by the courts or where additional requirements on cancellation have been imposed? Are these justifiable?”

1. That covers concepts 4 & 5 in your search strategy!
1. WESTLAW NZ

This suite of databases includes statutes, legislative instruments, law reports and case law, commentary and more. Australian cases are here too.

BASIC SEARCH – QUICK SEARCH

Type the title of the Act into the search box.

Westlaw NZ will predict what you need.

Click on the title if it IS what you need. Or continue typing and click Search.

The first result is usually the one you want.

Click on the title or the Legislation link below.

Check the Updater for amendments or changes coming into force.

PDF of whole statute available

Tabs:
Updater for amendments or changes coming into force.

Related Documents include all bills, subordinate legislation, and commentary.

Browse to the section you need.

In context Contents page, also for browsing.
Browsing is a good way to find “I’ll know it when I see it” content.

For this problem, we will browse the Legislation and Commentary link for the Contract and Commercial Law Act 2017, and see if a section about the powers of the court to grant relief for cancellation (or perhaps a related phrase) appears.

Browse by Content Type, product title, practise area, or jurisdiction.

Explore these options—they may be useful to you!

Click on the + sign to expand and browse that area

E.g. Legislation and Commentary.

Drill down, using the + sign.

E.g. Statutes of New Zealand > C > Contract...

Keep drilling down until you see a section or part of the Act which might be useful.

It’s good practice to jot down what you have found into you research pathways, so you can come back to it later, or definitively cross it out if it is not relevant.

This might be fruitful.

Evaluate. Is this section relevant to answering the problem question?

“The cancellation provisions in the Contract and Commercial Law Act 2017 (Part 2, Subpart 3) which were originally enacted in the Contractual Remedies Act 1979 were intended to clarify when a party may cancel a contract in New Zealand and the relief the courts may grant when a contract is cancelled. In your opinion, are there any aspects of the Act that have been misapplied by the courts or where additional requirements on cancellation have been imposed? Are these justifiable?”
EXPLORE RESULTS (GATHER CLUES)

Finding the specific part of the statute you need is one key part of the puzzle, but don’t stop there. Explore the results to gather more clues for your research.

The databases provide this connectivity with ease.

Browse, and select a section about granting relief. WestlawNZ immediately connects you to analysis of the statute via cases, commentary, and articles.

NOTE: In this example, the statute is newly in force. There is not much case law – or commentary! However, this Act is an amalgamation of the four Contract Law acts from the 1970s, and many sections on the new Act use exactly the same words and phrases as the old. WestlawNZ provides a cross-reference to the parallel section of the repealed act.

Why is this important?

Because cases referring to this legal rule (legislation) are also associated with the old version of the Act.

QUICK SEARCH AND BROWSE VS CLEVER, TARGETED, ADVANCED SEARCHING.

So far, the searches have been simple and easy to do, but possibly a little slow and tedious when it came to pin-pointing the exact results you were looking for.

This is a common trade-off in legal database searching: either type in a couple of words, and spend a lot of time filtering and refining; or, use your search strategies and any clues you have gathered along the way to create a smart and accurate search up front that gets you the result you need immediately.

Enter, Advanced Search templates.
Advanced search provides targeted field searching. From the WestlawNZ homepage, select Search template – Legislation and Commentary. Find the Act, and use free-text keyword phrases to target the right section. This is a good technique if you do not know the section number.

Use Terms & Connectors link to learn the ‘rules’.

Use keywords and phrases in the free-text field to help narrow your search, if you do not know the section.

Legislation field uses autofill.

Note all the options you can choose regarding the status of the Act.

There are several search results, all within the one Act. Use the Document Path and Hit Terms in Context to help choose.

Click on Legislation for details.

In this result, the words of s43 match our problem question; however, no section of an Act operates in isolation. Read around the section. In this example, s36 also looks good: it explains when a party may cancel.

If you do know the section number of the Act, you can search with it. Use the advanced search template, to target the Legislation (provision) field.

“Provision” equals section, or clause, or rule.

Click on Legislation for details.

2. These are clumped together because all commentary provides statutory interpretation, using leading cases and expert opinion.
EXPLORE RESULTS (GATHER CLUES)

Now the fun begins. Westlaw NZ connects s36 of the Act, with all secondary sources (e.g. commentary), including cases cited within those secondary sources.

Use tabs to access commentary, cases cited in the commentary, and other related documents

This Act is still quite new and a merger of 4 Acts from the 1970’s, so the words and legal concepts are the same.

Compare: 1979 No. 11 s7(2)

Refers to Contractual Remedies Act 1979 s7(2).

This is where older cases and commentary will be hiding.

Click on the hot link to the old Act. (WestlawNZ provides a hotlink; Lexis Advance does not).

Explore the Cited Documents tab and the Related Documents tab.

Repealed! – but the cases are still good law. See above.

Statutes do not cite other sources, so Cited Documents refers to other documents about s7 of the old Act.

The Related Documents Tab will point you to all cases citing s7, plus other links to secondary sources. The cases listed can be quite long, and there is no way to filter or narrow the results.

In this situation, even though the statute is repealed, the words between old and new are the same, so the case law associated with the old statute may still be good law.

The Commentary Tab will help you identify the substantive cases that have interpreted the section of the Act you are interested in, with some analysis from the expert authors. Note, sometimes there is no Commentary – because the section is too new, not ambiguous, or no-one has written anything on it! Or, in the example above, there is no commentary because the Act is repealed, and commentary is about current, up to date law.
2. LEXIS ADVANCE

Login. Use your student credentials.

You can tailor many features of Lexis Advance to your own preferences, including creating ‘favourites’ list of resources, and choosing how results will display.

This suite of databases includes statutes and regulations, thousands of unreported decisions, and several law reports, including the New Zealand Law Reports (the official reports for NZ), plus expert opinion (Secondary sources) in the form of Commentary, journal articles, and legal encyclopaedias.

The big red search box is your starting point for most searches. Lexis Advance will prompt and interpret your words to give you results. Using the big red search box also helps connect your results to other related sources such as cases, commentary and journal article. We will come to this later.

BASIC SEARCH – QUICK FIND

The quick Find pod lets you do a quick and clean search on the specific thing you are looking for, without the clutter of suggested results, and linked sources.

Searching for a statute is therefore quite straightforward. Just start typing, and like Westlaw, the database will offer up suggestions.

Search and find the Contract and Commercial Law Act 2017, then browse the contents to see if a section about the powers of the court to grant relief for cancellation (or perhaps a related phrase) appears.

Select Legislation Tab, and start typing. If you know the section number add that too, for precision.

Choose the first, lowercase result (if you see more than one) Click on the title. Scroll through the contents to find the section you need.
Contents pages. The list below is the easiest option.

The list below is the easiest option.

These link to other legislation effected by this statute; and the proto-law leading up to it.

Citator links to cases and secondary sources citing the statute.

BASIC SEARCH — QUICK FIND — EXACT SEARCH

The quick Find pod lets you do a quick and clean search on the specific thing you are looking for, without the clutter of suggested results, and linked sources.

Now we know s43 seems useful, do a precision search, using the Quick Find pod.

Type in the Number—nothing else.
The benefit of using this method of finding content, is the automatic ‘value-added’ cross-referencing to all the related materials you will eventually need, to understand the whole picture around your research problem.

Lexis Advance will point you to everything related to your search that is located within the Lexis universe.

Although there are a lot of results for such as seemingly specific search, the correct result is usually near the top!

The settings in Lexis Advance show Legislation results first (primary law).

Note the source of the data: avoid Lexcite results.

The best way to avoid some of this uncertainly is to use the Advanced Search Template—just as you should in WestlawNZ.
Advanced search provides targeted field searching. Add your search terms to the appropriate fields.

The big red box auto-populates, based on your terms added below.

The Terms field lets you look for specific keywords within an Act.

Type in Act title and section number into the separate fields.

Select jurisdiction (Australian content is here too)

Click on the title of the section to see the text..

Citator links to cases and secondary sources citing this section of the Act.. Few cases are here. Why?

Compare: the 1979 version of the Act.... Where all the cases are still good.

Note: no hot link to old statute, and no Act name to search on.

cf WestlawNZ

So, quite a few different ways to get to the same place, with different benefits and challenges.
EXPLORE RESULTS (GATHER CLUES)

Look at the Legislation Citator to link across to cases, journal articles and commentary citing this section of the Act.

Here is a snapshot of the repealed Act’s equivalent section, with links out to 74 articles or commentary and 322 cases. Frankly, WestlawNZ is better at moving between comparable statutes than Lexis.

Whichever way you found the Act and the section(s) you need, Lexis Advance will automatically guide you to related materials. It is this ‘value-added’ analysis that makes commercial legal databases so powerful—and vital for legal research.

Here’s the result from the Big Red Box search from page 9: 143 results of cases, 268 secondary materials.

Note the colour-coding, helping you see how the results are constructed. Watch for false positives, particularly if you res-sort the results by date.
3. CCH INTELLICONNECT

The third key NZ database is CCH. It covers New Zealand and Australia.

This database specialises in commercial, tax and business law, torts, and wills and trusts.

Like all commercial products, it provides the linking and analysis to the different sources of law, and is very proprietary.

BASIC SEARCH — BROWSE

Drill down through the contents on the left, by clicking on the + signs, until you find the statute.

If you also know the relevant section of the Act, just continue to drill down through the contents, and select it from the list.

This technique requires some knowledge of the purpose of the Act — and the broad subject area.

When you select (tick) the statute, the search box will become contextualised to search only within the Act.

Add keywords too, if that helps, e.g. “cancellation.”
Click on the section title for more details

Note the Compare link at the bottom of the section. Why? Because the words – and therefore rules – between new and old statutes are unchanged, so other supporting content such as cases and commentary will reside behind this link.

BASIC SEARCH — FREE-TEXT SEARCHING

Search across all content, then filter (narrow) your results to LEGISLATION after the search. Remember to place “ ” around the statute title, and any phrases. Use the Help feature to create more complex searches.

If the section you want appears easily, click on it, otherwise scroll through the TABLE OF SECTIONS to find the section you want.
EXPLORE RESULTS—GATHER CLUES

This example is a search of the old Act, so you can see how CCH links statutes to cases citing the statute, and any expert opinion via commentary.

Combining phrase search of the old Act, plus keyword: cancellation

Use filters, so results are more manageable.

Related Documents lists cases, statutes and commentary.

Note, the cases listed are only those published in a CCH law report.

CCH will cite only their version of the case, so check of other reported versions, especially Lexis Advance, to see if it is reported in the official reports series, NZLR.

Use filters to link to other sources.