



Lexis[®] Library



Module 2: LexisLibrary Legal Research

South Africa's most authoritative and comprehensive resource for online legal research.

All-in-one access to legislation, commentary, case law and more. It's a comprehensive digital library that will always keep you informed.





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Other LexisLibrary Training Modules:

Module 1: LexisLibrary Basic Skills

Module 3: LexisLibrary Advanced Legal Research

Module 2: LexisLibrary Legal Research



ABOUT MYLEXISNEXIS

My LexisNexis is the go-to online hub for legal research, guidance and regulatory compliance. One online platform, three game-changing, customisable solutions.



LexisLibrary

All-in-one access to legislation, commentary, case law and more. It's a comprehensive digital library that will always keep you informed



Practical Guidance

Your professional legal how-to guide. Access guidance notes, commentary, legislation, case law, forms, precedents, checklists and other resources all in one place



LexisAssure

A pro-active compliance alert tool that informs you of any regulatory changes that could specifically place your business at risk. It's a pro-active radar that won't let you miss a trick

ABOUT THIS TRAINING

There are three modules in the LexisLibrary training series.

Module 1: LexisLibrary Basic Skills

This module will assist a first time user or beginner in learning the navigation methods necessary to get the most out of LexisLibrary. In addition, a basic overview of Law Reports, Legal Citator, Legislation and search techniques is provided.

Module 2: LexisLibrary Legal Research

This module will equip you with the fundamental tools and skills required to get the most out of your LexisLibrary research experience.

Skills you will acquire in this module:

- Locating resources to answer specific questions
- Utilising secondary sources
- Refining search results
- Using secondary sources to identify primary sources
- Creating folders and saving research

Module 3: LexisLibrary Advanced Legal Research

This module introduces how LexisLibrary will assist you to answer more complex legal questions.

Skills you will acquire in this module:

- Strategies for resolving complex legal questions
- Identifying entry points into networks of legal resources
- Searching using keywords
- Finding primary sources of law
- Using Legal Citator as a research tool

1. Primary and Secondary Sources

LexisLibrary offers you a wide variety of resources to deal with any area of law that you need to research. These can be divided between primary sources (Law Reports and Legislation), and secondary sources (Commentaries, Textbooks and Journals).

The preferred route to take through these sources is to begin with a secondary source, which will allow you to identify the relevant primary source. When it comes to citing an authority for a legal proposition you should always rely on a primary source, unless there is none.

Some leading examples of the above are:

1.1 PRIMARY SOURCES

LAW REPORTS

The All South African Law Reports (All SA), this is a general law report series providing a selection of the most pertinent Civil and Criminal judgments from the High Courts and Supreme Court of Appeal from 1947 to the present. Also part of this title are the pre-1947 decisions from the various divisions of the Supreme Court and former Appellate Division and the courts that existed prior to 1910. The All SA is published monthly. Found in LexisLibrary, under law reports, 1996 to 2016 - All South African Law Reports, Law Reports / 1947 to 1995 - All South African Law Reports, Law Reports / 1828 to 1946 - All South African Law Reports, Law Reports.

Butterworths Constitutional Law Reports (BCLR), a specialised law report series which reports decisions interpreting the Constitution or with constitutional significance. The BCLR includes decisions from the Constitutional Court, as well as from the Supreme Court of Appeal and High Courts. The BCLR is published monthly. Found in LexisLibrary, under law reports, Constitutional Law Reports, Law Reports.

Judgments Online (JOL), an online law report series covering a wide variety of decisions from South African courts, commissions, councils and tribunals. It is a convenient tool to stay abreast of the latest cases on a daily basis. It provides access to all the judgments we receive, including cases marked 'not reported'.

Includes "Hot off the Bench" judgment alerts, a quick and easy way of keeping yourself up to date and informed

about the most recent high profile judgments. "JOL express" judgments includes older judgments which are currently in the processing queue for value-adds such as keywords, summaries and parallel citations. JOL is published daily. Found in LexisLibrary, under law reports, Judgments Online, Table of cases / Judgments / Hot off the Bench / JOL express judgments.

Butterworths Labour Law Reports (BLLR), a specialised labour law report series reporting decisions from the Labour and Labour Appeal Courts. The BLLR is published monthly. Found in LexisLibrary, under law reports, Labour Law reports, Law Reports.

South African Tax Cases (SATC), a specialised tax law report series reporting decisions from the tax courts and appellate courts. The SATC is published eight times a year. Found in LexisLibrary, under tax cases, South African Tax Cases Reports.

Competition Law Reports (CPLR), a specialised competition law report series reporting decisions from the Competition Tribunal, the Competition Appeal Court, the High Courts and the Supreme Court of Appeal. The CPLR is published bi-annually. Found in LexisLibrary, under law reports, Competition law reports.

LEGISLATION

National. Found in the LexisLibrary, under Legislation – South Africa – National

Provincial. Found in the LexisLibrary, under Legislation – South Africa – Regional

Local. Found in the LexisLibrary, under Legislation – South Africa – Local Government

1.2 SECONDARY SOURCES

Law of South Africa (LAWSA) a comprehensive resource of South African law covering the entire scope of the country's law. Found in LexisLibrary, under Reference Works, Indexes, Dictionaries and Diaries.

Practical Guidance combines unique content written for the Practical Guidance suite of products (setting out the steps needed to apply various areas of law) with applicable case law, legislation, check lists, news updates and other resources. Found on MyLexisNexis, Practical Guidance.

Index and Noter-up to the All South African and South African Law Reports is an index, published in several volumes, allowing a user to match the subject matter you are looking for to specific reported cases from 1947 to present. Making up the index are the following tables: the rules of court, case history, table of statutes, words and phrases and the Noter-up. These allow you to find cases that have dealt with specific sections in Acts, rules of court, how specific words and phrases have been interpreted or defined by the courts, to find cases which have been appealed and what the result was. The Noter-up allows you to find how a decision has been referenced by later decisions. Found in LexisLibrary, under Reference Works, Indexes, Dictionaries and Diaries.

Dictionary of Legal Words and Phrases

Found in LexisLibrary, under Reference Works, Indexes, Dictionaries and Diaries.

Amlers Precedents of Pleadings is a guide to pleading together with precedents, providing explanations in respect of the substantive law applicable to specific causes of action. Useful, not just for pleading, but also to identify the relevant law in most areas. Found in LexisLibrary, under Pleadings.

Civil Procedure in the Superior Courts & Civil Procedure in Magistrates' Courts are commentary works on the Superior Courts Act, Magistrates Court Act, Uniform Rules of Court and Magistrates court Rules. Found in LexisLibrary, under Civil Procedure.

High Court Motion Procedure is a commentary work on the rules and procedures relevant to motion court work in the High Courts (covers the Uniform Rules of Court, matrimonial and family Law, general applications, insolvency law and company law). Provides useful summaries of the law, checklists and precedents in respect of these sections. Found in LexisLibrary, under Civil Procedure.

Henochsberg on the Companies Act 71 of 2008, Henochsberg on the Companies Act 61 of 1973 & Henochsberg on the Close Corporations Act, are detailed section by section commentaries on the Companies Acts (2008 and 1973) and the Close Corporations Act. Found in LexisLibrary, under Corporate and Commercial.

Hiemstra's Criminal Procedure is a detailed section by section commentary on the Criminal Procedure Act. Found in LexisLibrary, under Criminal law.

Guide to the National Credit Act is a commentary work on the National Credit Act. Found in LexisLibrary, under

Corporate and Commercial.

Principles and Practice of Labour Law is a commentary work for Labour law and the various applicable Acts. Found in LexisLibrary, under Labour law.

Family Law Service is commentary work covering various Acts applicable within the family and matrimonial law context. Found in LexisLibrary, under Persons and Family.

The Law of Contract in South Africa is a text book explaining the law of contract. Found in LexisLibrary, under Contract.

Insolvency Law is a commentary work on the Insolvency Act. Found in LexisLibrary, under Insolvency.

Criminal Law is a text book explaining criminal law. Found in LexisLibrary, under Criminal Law.

The South African Law of Evidence is a text book explaining the law of evidence. Found in LexisLibrary, under Procedural Law.

Silberberg and Schoeman's: The Law of Property is a text book explaining the law of property. Found in LexisLibrary, under Property.

1.2.1 USING A SECONDARY SOURCE

Secondary sources are usually divided into chapters which deal with specific sub-topics under the general topic covered by the source. They will also have a contents page and an index. Some will, in addition, contain a table of cases and a table of statutes. These are all available to you in LexisLibrary via the Table of Contents (TOC), for example:

[-]	☐	The South African Law of Evidence
	☐	Preface
+	☐	Part I: Introduction and Sources
+	☐	Part II: Proof
+	☐	Part III: Admissibility
+	☐	Part IV: Privilege
+	☐	Part V: Public Policy
+	☐	Part VI: Machinery of Proof
+	☐	Part VII: Corroboration and Caution
+	☐	Table of Statutes
+	☐	Table of Cases
+	☐	Index

Figure 1: Example of the expanded contents of a secondary source

Module 2: LexisLibrary Legal Research

Primary and Secondary Sources

Research Methodology

What is required of a user is the ability to identify whether the answer to a question being dealt with will be found within a specific source. The steps to do this are:

1. Identify the relevant secondary source
2. Look at the table of contents to ascertain whether the question fits into any of the chapters of the source
3. If the question does not appear to fit within one of the chapters, or they are too broad to decide accurately, look at the index for specific words associated with the question. Indexes will usually break down a larger concept into its constituent parts, together with cross-references, to make locating it within the source easier, for example:

W	
Wills	
<i>See also</i> Parol evidence rule	
claims against estates	974
equivocation	379
establish true date of	369
Witness	
access to statements of	691-692
accused as a	252-263, 816-823
called by the court	923-928
civil cases	927-928
criminal cases	923-927
character of a	270

Figure 2: Index entries under “W” for the South African Law of Evidence

As this is an online resource the page numbers are hyperlinked so simply selecting them will take you to the specific page of the source.

1. The table of statutes will indicate the pages in a source that deal with specific Acts, or sections within those Acts.
2. The table of cases indicates which pages of the source refer to specific cases.
3. Online products are also searchable via the General- and Advanced-search forms.

The value of a secondary source is that it draws several other sources together in a discussion around a particular topic to give the researcher an overall understanding. A secondary source will generally break down the topic to its most basic aspects and then build it up from there. This is in contrast to a judgment (primary source) which will deal with a topic to the extent necessary to resolve a dispute, while assuming that the reader already understands the topic. A secondary source takes the various pronouncements of the courts on the topic, together with legislation and other secondary sources (journal articles, academic opinions and textbooks), and produces a critical analysis of the topic for the user. This is why, for anyone who lacks experience in a particular area of law, a secondary source is always the better option to use when beginning research, rather than a primary source.

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Primary and Secondary Sources

Research Methodology

1.2.2 REFINING SEARCH RESULTS

In the section of searching in Module 1: LexisLibrary Basic Skills, the various search forms and methods of searching LexisLibrary were set out. LexisLibrary also allows you to refine your search results once you have produced them. This is done on the search results screen.

This is the result of a search for the word “contract” over the entire LexisLibrary:

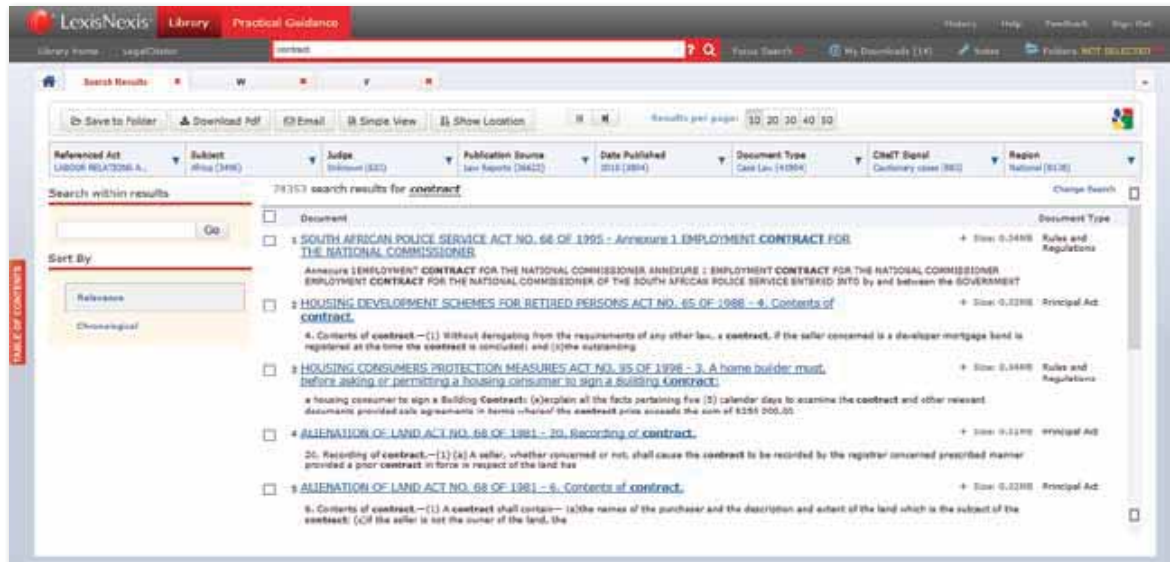


Figure 3: Search for “contract” over LexisLibrary

The screen provides several filtering options to reduce the number of results. To access any of the filters select the down arrow next to the desired filter:

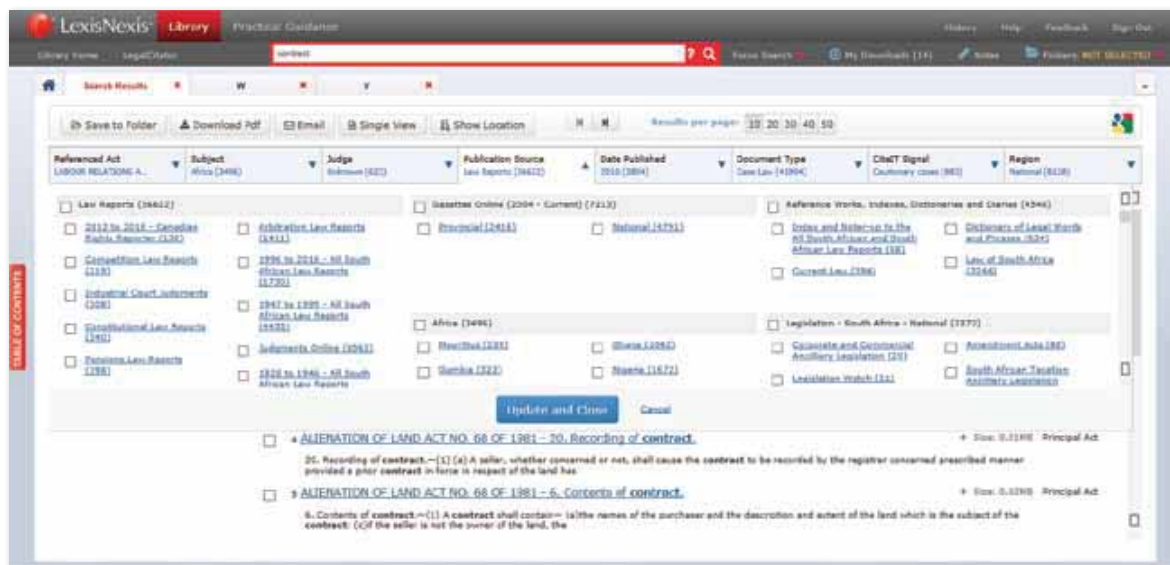


Figure 4: Filtering by publication source

Select the desired options and then select “Update and Close”.

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Research Methodology

The filters all function in the same way, except for date published, which provides a time line slider with beginning and end dates to be selected on the slider:

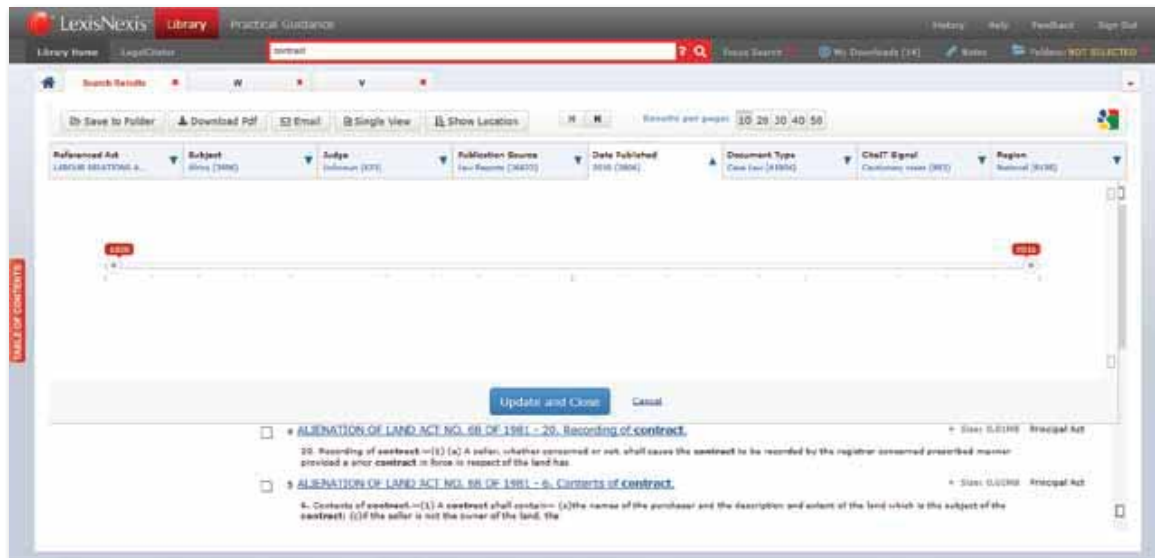


Figure 5: Date published filter

Other functions available on the search results screen are:

- You can expand the number of results which will appear on the screen in increments of ten, from ten to fifty.
- Search results can be sorted in order of relevance to the search query or in chronological order.
- Single view is an option which works in the same way as the “View Selection” function in the TOC (described in Module 1: LexisLibrary Basic Skills). You select the results (via the tick boxes alongside them) which you want to combine into one document, then select “Single view” to do so. They can then be downloaded or emailed as one document.
- From the search results screen you can view the definition of the terms you included in your query by hovering over them:

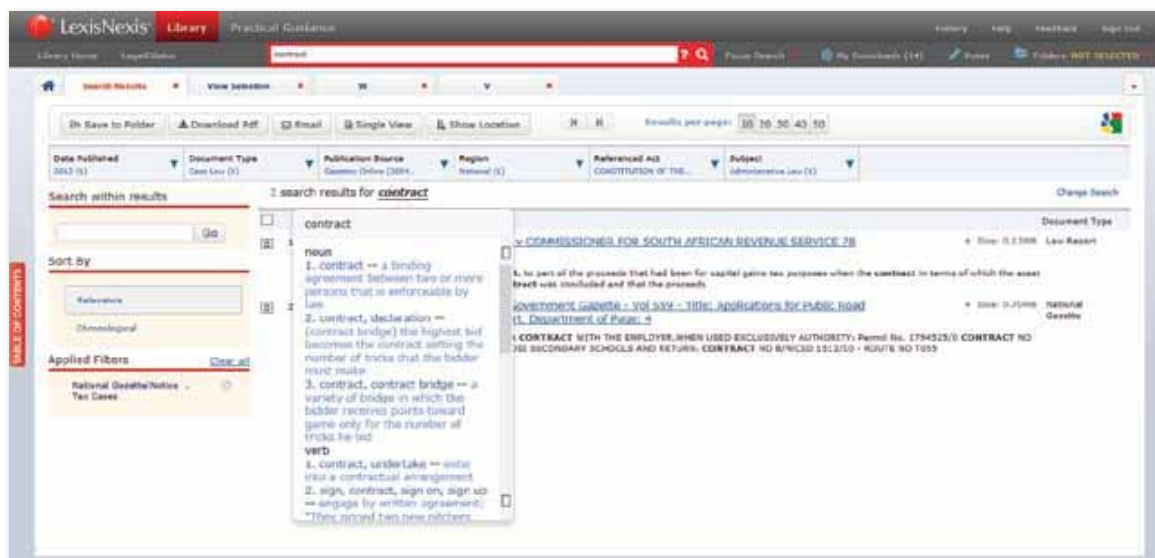


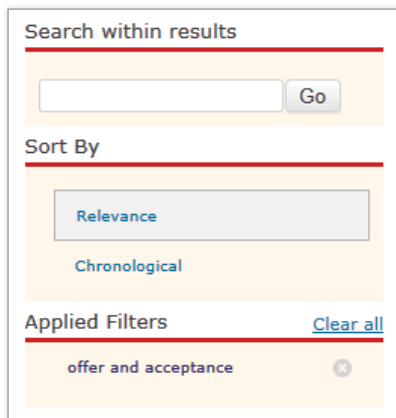
Figure 6: Viewing the definition of a search term

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Primary and Secondary Sources

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Searching within results allows a user to add terms to the original search. For example, in the above search it could be refined by adding “offer and acceptance” to the search query. This is done by typing the additional terms into the “search within results” form on the left of the screen and selecting “Go”. These terms can also be removed from the search by selecting the grey cross that appears next to them (any filters which are applied appear in the box below the “search within results” form and can be cleared in this way):



The screenshot shows a user interface for refining search results. It is titled "Search within results" and contains three main sections: a search input field with a "Go" button, a "Sort By" section with "Relevance" and "Chronological" options, and an "Applied Filters" section. The "Applied Filters" section shows a filter for "offer and acceptance" with a grey cross icon next to it, indicating it can be removed. A "Clear all" link is also present in the "Applied Filters" section.

Figure 7: Search within results filter

2. Research Methodology

Now, let us think of a situation you may find yourself in:

You have been asked if there is any authority for the proposition that a sale of land is void because the agreement was oral and not written

What do you do?

If this is an area of law that you are dealing with for the first time you should proceed as follows:

1. Identify the area of law (Example: if you are asked to research aspects of the National Credit Act you may not know the area of law but you will at least know that any textbooks or commentaries with the words “National Credit Act” in their title will assist you.)
2. Identify what kind of authority governs that area of law (ie is it governed by statute or the common law and is it a question of procedural or substantive law). This step can form part of either the first step or the second step, as it will act as a useful guide to both identifying the area of law that you are dealing with and showing you where you might want to start your research.
3. Make a decision about whether to start your research using a primary or a secondary resource.
 - a. The usual starting point is via a textbook (secondary source) which will then refer you to primary sources (case law, common law or legislation) or to other secondary sources (textbooks, journal articles and commentaries).
 - b. You should also consider beginning with Practical Guidance.
 - c. If you are unsure where the area of law will be found, scanning through the TOC in LexisLibrary will give you some guidance.
4. If you’ve decided to use a secondary resource, then locate a source (textbook, journal or commentary) on the subject and use its index or run a search over the source to find the content you are looking for. This will point you to case law and/or legislation (primary sources) that will give you an authoritative answer to your question.
 - a. If the answer lies in legislation, you should also establish whether a commentary work exists for the particular Act to assist you in your interpretation of the Act or section in question.
 - b. If the answer is found in a particular case you should also refer to the Legal Citorator or the Noter-up to see whether the case has gone on appeal or was referenced by later decisions; this may give you further insight and guidance into the question you are dealing with.
5. If there is no textbook on the question then look at the primary sources directly:
 - a. You can look for case law by searching the law reports for keywords that are relevant to the question at hand. The most accurate results are obtained by using Boolean operators and short phrases or just single words. Make sure that you restrict your search by ticking only those resources which you think may contain relevant results. For example you are unlikely to find any cases that deal with section 9 of the Constitution of the Republic of South Africa, 1996 in 1828 to 1946 – All South African Law Reports.

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Applying the above process to our question:

- Step 1:** What area of law are we dealing with?
Sale, specifically sale of land.
- Step 2:** What type of authority governs this area of law?
It could be statutes or common law.
- Step 3:** Where should we start our research?
We will begin with a textbook.
- Step 4:** (i) Is there a textbook on the subject?

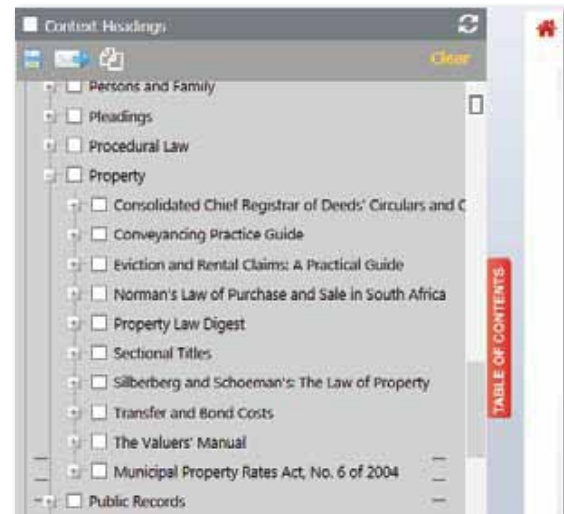


Figure 8: Locating a textbook on the subject

We have two possibilities: Norman's Law of Purchase and Sale in SA or Silverburg and Schoeman's: The Law of Property.

It is entirely a personal preference at this point, or if you haven't dealt with the area before it will probably just be a question of looking at one and then the other. We will start with Norman's because it is a book about sale and may be more to the point of what we are looking for:

- Step 4:** (ii) Identify the relevant chapters in the textbook

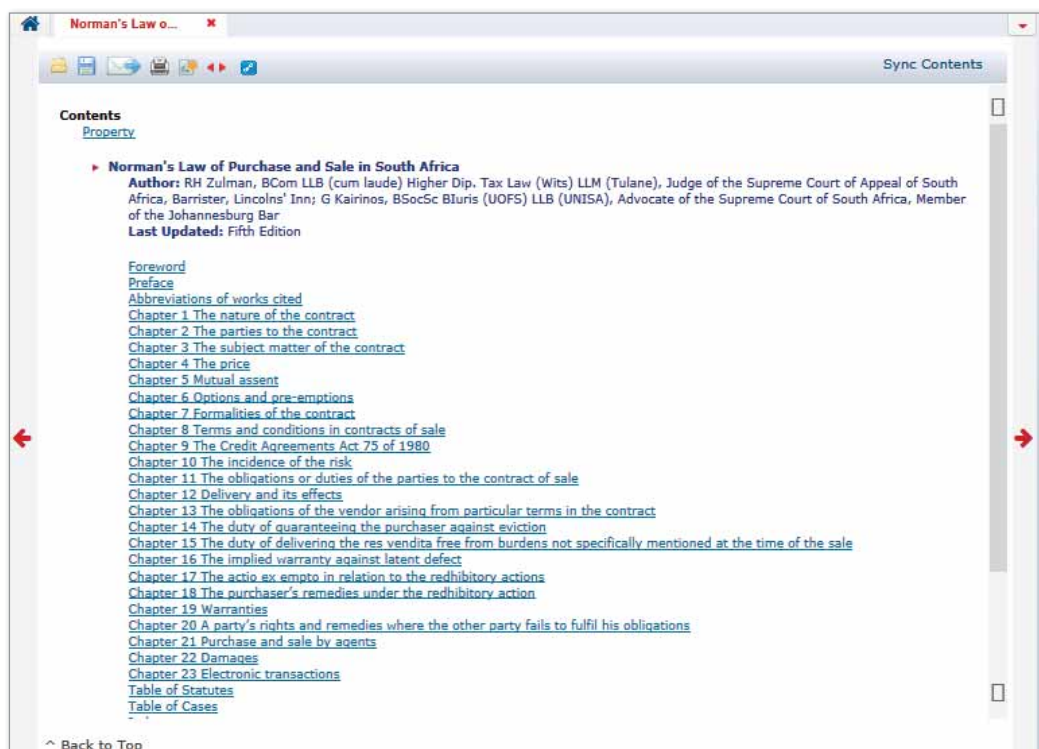


Figure 9: Contents of Norman's Law of Purchase and Sale in South Africa

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Having run an eye over the contents it is clear that there is no dedicated chapter on the subject, so we should look at the index. However, as we are dealing with an online product here we have another, faster option. Simply select the whole book by selecting the tick box next to the title and search for “sale of land” alternatively using the Boolean operators “sale” AND “Land” may also be a good choice.

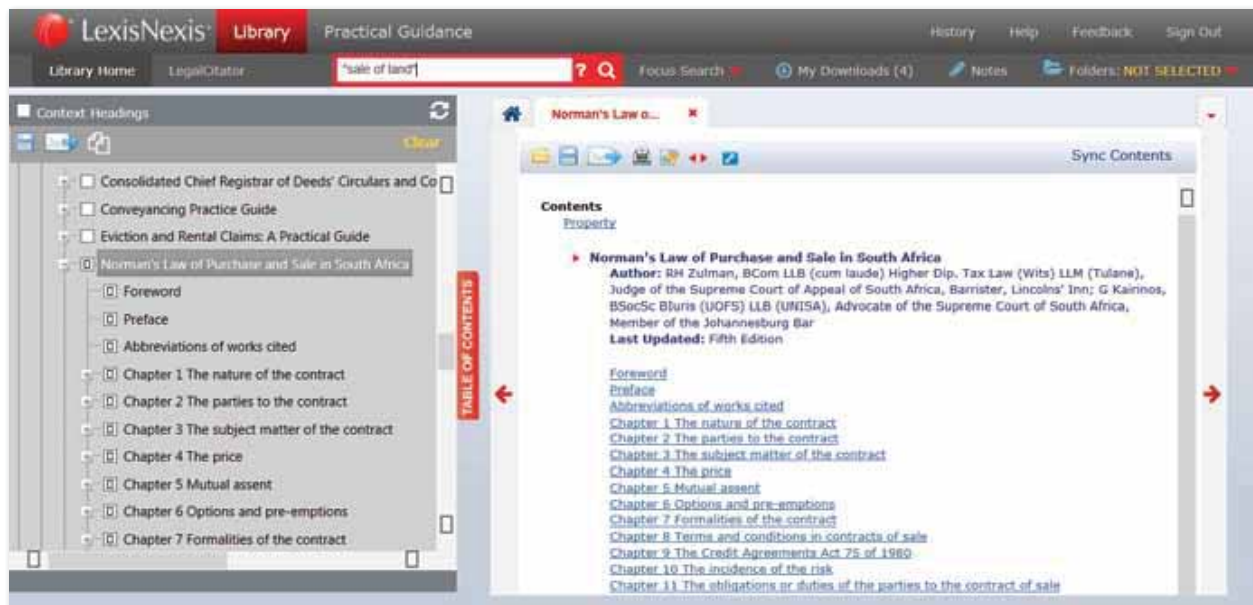


Figure 10: Searching the selected secondary source

Step 4: (iii) Searching in textbook using the general search form:

The top result here seems to be promising:

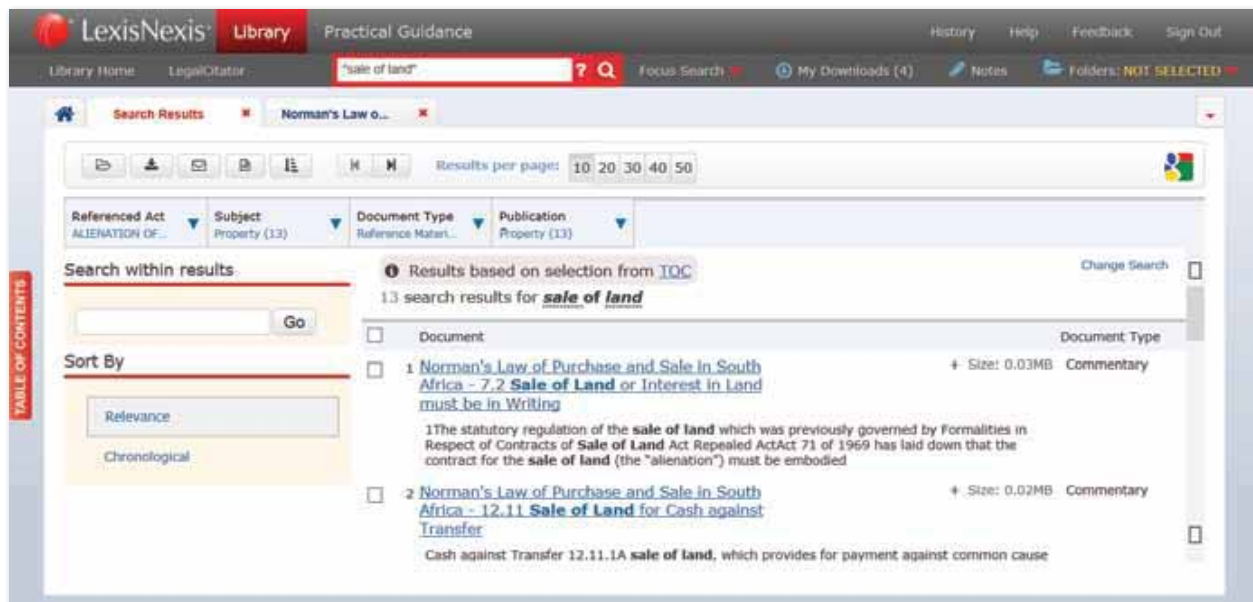


Figure 11: Search results

Identify the answer:

And so we seem to have an answer (clicking the red cross in the tool bar will remove the red marks indicating hits within the document for your search query):

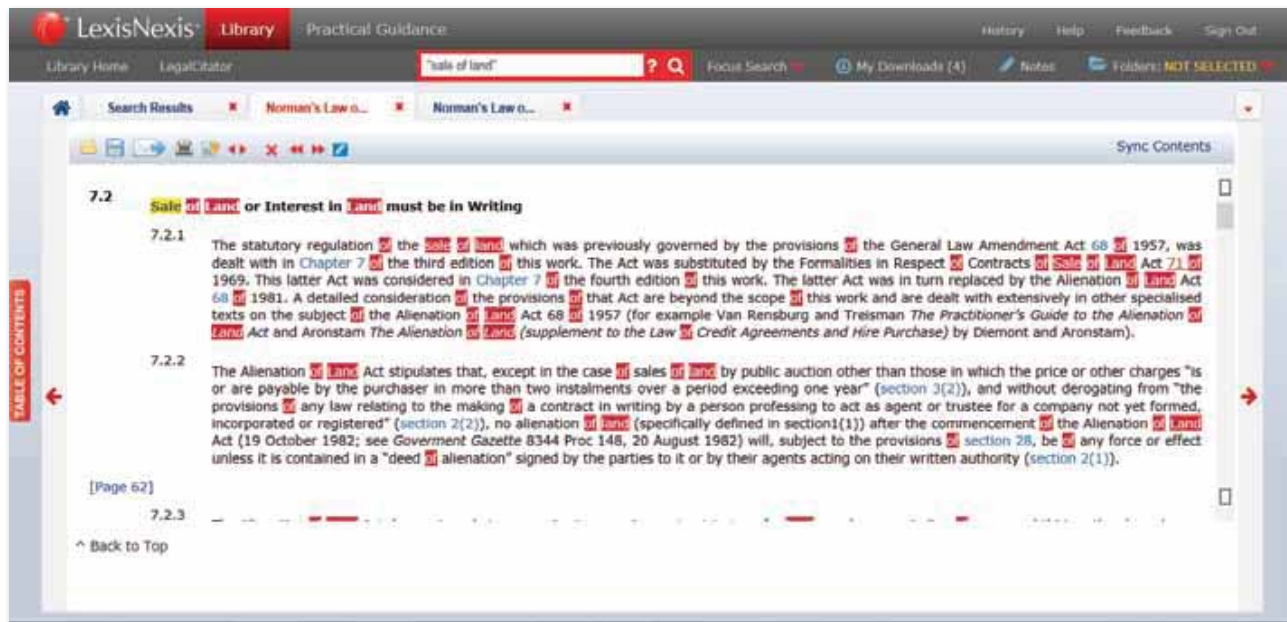


Figure 12: Paragraph in Norman's Law of Purchase and Sale dealing with the sale of land

Step 5: Locate a primary source within this result for an authoritative answer

We must now look for the Alienation of Land Act:

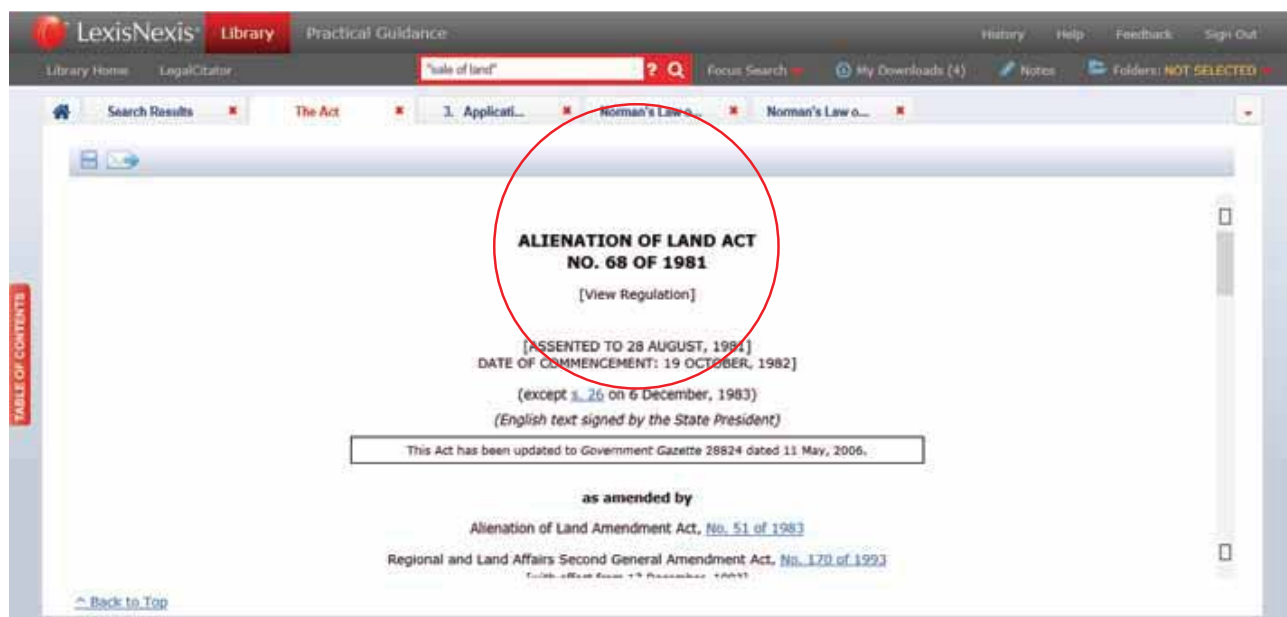


Figure 13: Alienation of Land Act

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Primary and Secondary Sources

Research Methodology



Figure 14: Section 2 of the Alienation of Land Act

Step 6: Check any other references or requirements in the primary source

For clarity we should select the link for section 28 of the Act to ascertain what that limitation is:

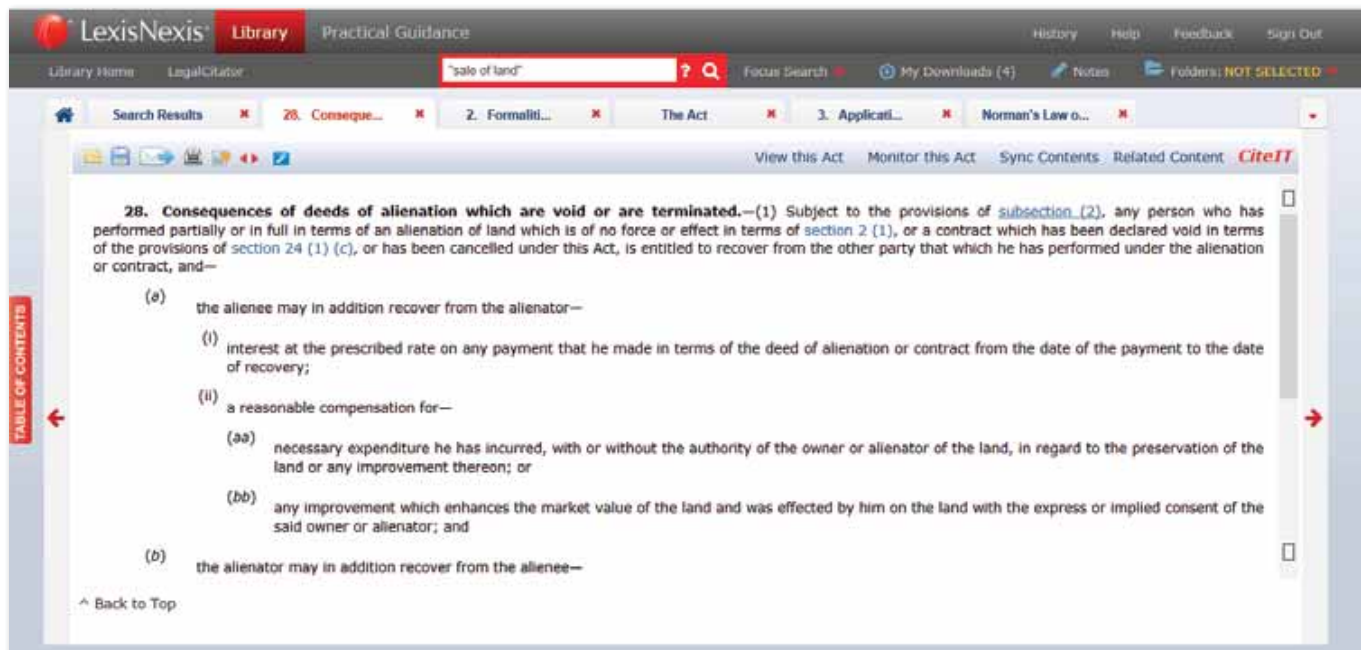


Figure 15: Section 28 of the Alienation of Land Act

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From this we see that the section deals with the consequences of voiding or terminating deeds of alienation, which goes beyond the question we were asked.

It is always prudent to check whether a term used in a section of an Act has been defined in the definitions section of that Act. Checking “deed of alienation” in section 1 of the Alienation of Land Act shows that it is defined as:

““deed of alienation” means a document or documents under which land is alienated;”

Final step: Collate your research and answer the question

So the answer to the question: “if there is any authority for the proposition that a sale of land is void because the agreement was oral and not written” is:

“Yes, section 2(1) of the Alienation of Land Act 68 of 1981 provides that:

‘No alienation of land after the commencement of this section shall, subject to the provisions of section 28, be of any force or effect unless it is contained in a deed of alienation [a document or documents under which land is alienated] signed by the parties thereto or by their agents acting on their written authority.’”

Saving your research:

Once you have completed your research and found the answer to the question which was posed to you, you should keep the research somewhere to refer to should you need it in the future.

LexisLibrary has several features which will help you do so:

You can simply download the research to your computer or other storage device, via the download icon at the top of the document:



Figure 16: Download icon

A method which would be useful in the above scenario would be to go back to the documents which we viewed (para 7.2 of Norman’s Law of Purchase and Sale; Section 2 of the Alienation of Land Act; Section 28 of the Alienation of Land Act and the definition of “deed of alienation”) and select all of them in the table of contents. If we then select “View Contents” they will all be combined into one document, which can then be saved or emailed.



Figure 17: Table of contents features

The last option would be to save the documents to a folder in LexisLibrary. This is a good option as it will ensure that any updates to the saved documents reflects, and should you require this research again in the future, it will not be out of date.

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Research Methodology

To create a research folder:

Click on the Folders button above the document.



Then click on the Create button and type a name for your folder (replacing the text which is there “New Client”). Press enter. Then click on the plus sign next to the newly created folder. Type a name for the subfolder and press Enter (see Figures 18 – 21).

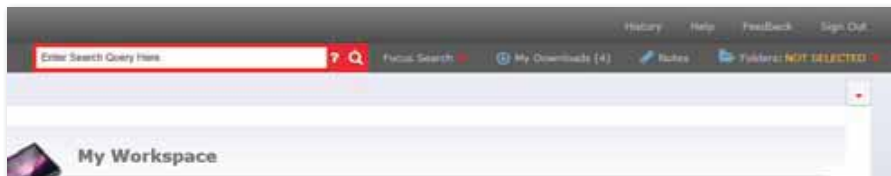


Figure 18

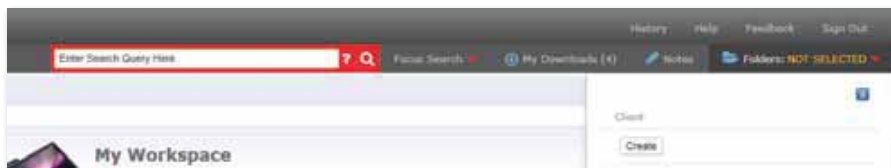


Figure 19

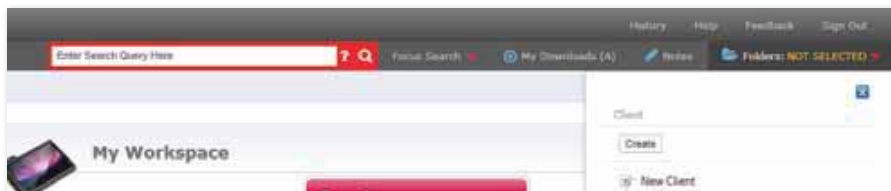


Figure 20

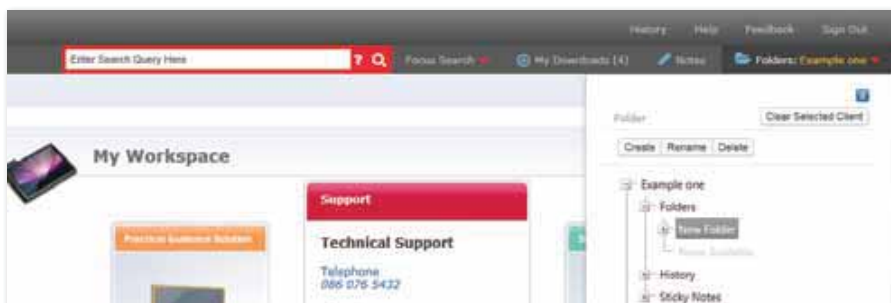


Figure 21

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Primary and Secondary Sources

Research Methodology

Saving to a folder:

To save a document that you are currently viewing to a folder, click on the yellow folder icon above the document. This will open the Save document reference to a client folder window.

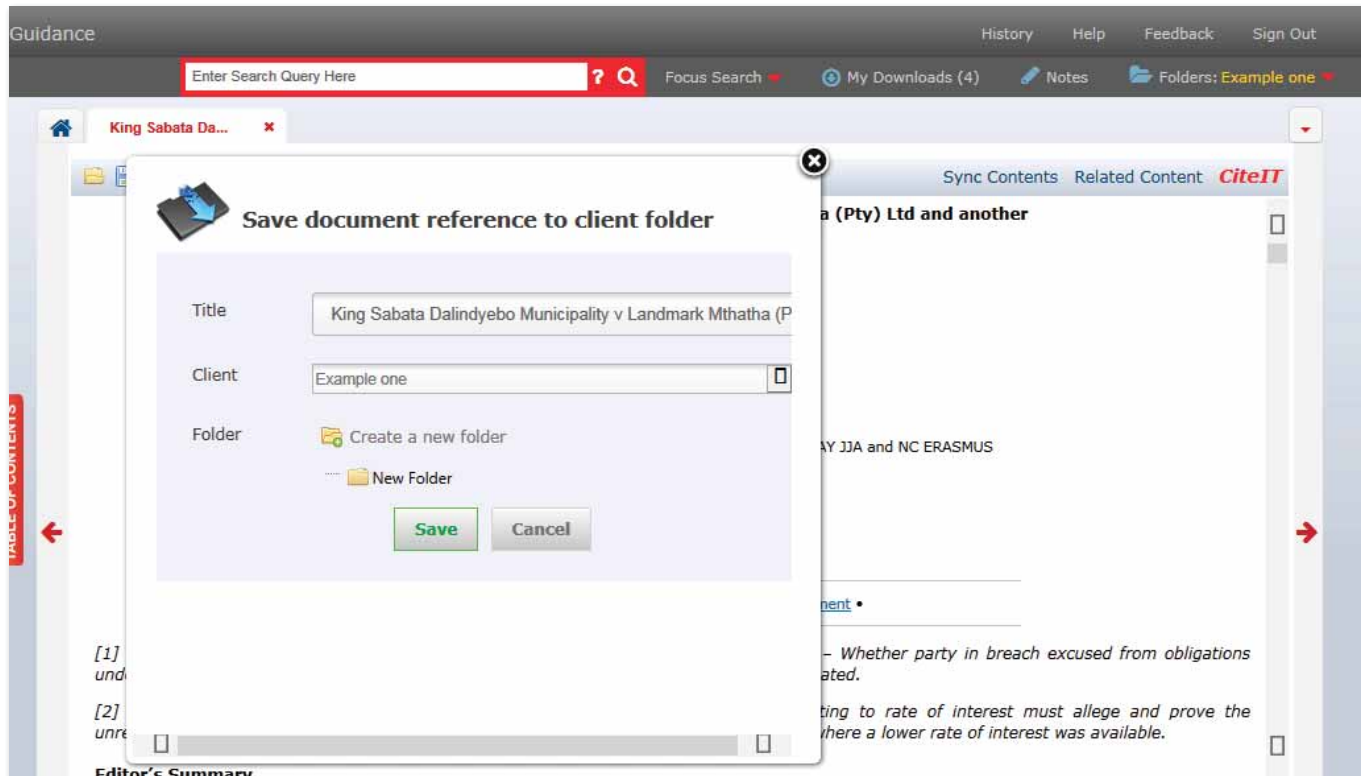


Figure 22: Saving to a folder

Choose the folder name and click on the green “Save” button.

To access the document again, just click on Folders and choose the relevant folder and document. Should you want to delete the saved document from the folder at any stage, click on the red “x” that appears to the right of the document name.

Having done so, you will now always be able to access this information from a safe and reliable location.

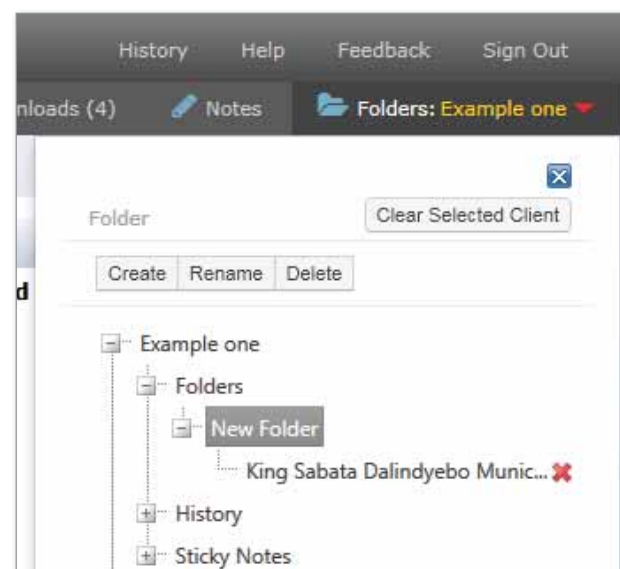


Figure 23: Viewing / deleting a document saved in my folders