

Issue 493 | 01 February 2021

LexisNexis News

Welcome to the Knowledge Network

We've made some improvements to the LexisNexis Knowledge Network to help you along your legal research journey. Our redesigned home page lists how-to videos, user guides and release notes by solution, and directs you to our public webinar schedule and learning options in a snap! You can also easily request training or contact your learning consultant directly for sessions tailored to your firm's needs.

Did you know that our LexisNexis training webinars are complimentary and most are CPD compliant?

Getting Started with Lexis Advance Webinar – Thursday, 4th of February at 3pm

In this session, we will provide an orientation to Lexis Advance. Learn to harness the power of the Advance search engine to find caselaw, legislation, commentary, forms & precedents and guidance on all different areas of law. This session will enable you to find what you need quickly and efficiently and organise your research effectively to save time. Duration: 60 min

NZ Bar Webinar – Wednesday, 10th of February at 4pm

NZBA members—Improve your skills and save time researching with Lexis Advance. In our Bar-focused training session, discover how to make the most of the big red search box, filter your search results, create links to your favourite publications, highlight and annotate content, create your own work folders to organise your research. Makes researching easy for you. Duration: 60 min

Getting Started with Lexis Red Webinar – Thursday, 11th of February at 4pm

This session shows you how to browse and search your digital versions of your key LexisNexis publications. We show you how to quickly find, highlight and annotate content for effective offline use of publications when you are out of the office, offline or for deep reading in a user friendly format. Duration: 60 min

Practical Guidance on Lexis Advance Webinar – Friday, 12th of February at 12pm

This session will look at how Practical Guidance operates as a stand alone module and as a partner to the research you may run on Lexis Advance. In Practical Guidance, you can find guidance written by experts in different areas of law that lead you to the relevant cases and legislation, forms, checklists and precedents as well as extracts from the key text Lexis publishes in that area. Focus on understanding the use and benefits of Practical Guidance modules for your everyday research. Duration: 60 min

Focus on Trusts and Succession on Lexis Advance Webinar – Tuesday, 16th of February at 1pm

Improve your research efficiency by learning more about the resources used on Lexis Advance to deal with succession and trust matters including our key texts: The Law of Trusts, Wills and Succession, Dobbie's, NZ Forms & Precedents and our Practical Guidance modules: Trusts and Succession. This session will show you how to get the information you need quickly and reliably. Duration: 60 min

General Lexis Advance Webinar – Thursday, 18th of February at 3pm

New to Advance, or needing a refresher? Please join us to find out everything you ever wanted to know about Lexis Advance. During the session you'll gain insight from the Advance experts, get valuable tips for research efficiency and time saving, explore the extensive library of resources available to you via Advance, learn how to filter search results, create links to your favourite publications, annotate leading content and find out about personalising the platform to best serve you with folders, alerts and favourites.

Duration: 60 min

Civil Litigation Focused Webinar – Tuesday, 22nd of February at 12pm

Improve your research skills and save time using Lexis Advance. In our Civil Litigation focused training session, discover how to customise your publications efficiently. Learn how to filter your search results, link to your favourite publications, highlight and make annotations, create your own work folders to organise your research results and stay up to date with the latest content. Duration: 60 min

Criminal Litigation Webinar – Thursday, 25th of February at 4pm

This session focuses on various research topics using LexisNexis criminal publications and Practical Guidance. Gain a better understanding of search mechanics and our content such as Garrow & Turkington, Hall's Sentencing, Abbot and Thompson - District Courts Practice Criminal, as well as an overview of Sim's Court Practice and Cross on Evidence. Find what you need more quickly and efficiently. Duration: 60 min

Working Smarter with Lexis Advance Webinar – Thursday, 25th of February at 4pm

Become more skilled and efficient in your research. Join this session to examine methods of conducting searches on Advance, from understanding the algorithm that runs behind the scenes, to applying advanced filters to generate effective results. Learn to set up alerts and folders, share documents, and customise your publications pod and favourites to ensure that the platform is working efficiently for your research needs. Duration: 60 min

Content Webinars

LexisNexis ONDEMAND webinars are delivered by subject experts and accompanied by a short comprehension quiz. Our current ONDEMAND webinars are as follows:

Employment Law Disciplinary Issues and Investigations [ONDEMAND]

Guidance on the principles and practical issues associated with workplace disciplinary processes and investigations. Duration: 60 min

Fairness, Expectation and Reward in Inheritance Disputes [ONDEMAND]

The webinar looks at the recurring issues of fairness and reward that are commonly encountered during inheritance disputes and provides legal advisors, arbitrators and mediators with tools to advise and manage these when drafting or advising clients on wills, estates and succession. Duration: 60 min

Customer Due Diligence Tips and Tricks [ONDEMAND]

This webinar examines the ongoing challenges of knowing your customer and practicalities of ensuring appropriate customer due diligence in an increasingly digital world in order to meet AML/CFT requirements. Duration: 60 min

Letters of Administration on Intestacy: Issues and Solutions [ONDEMAND]

Applying for a court order to administer a deceased estate when a person dies without a will is often complicated. This webinar appraises the requirements for an application of intestacy; the selection of appropriate evidence in support of the application and the recognition of factors that affect entitlement. Duration: 60 min

Letters of Administration with the Will Annexed [ONDEMAND]

The application process for Letters of Administration with the will annexed differs from probate applications and knowing what matters need to be considered and addressed and supported by evidence, or indeed omitted, when making an application, is not always clear. This webinar provides guidance on recognising the key requirements for the preparation of a valid will and the requirements for making an improperly executed will declared valid. Duration: 60 min

Criminal

Textbooks

Crimes Act 1961, 25th edition

LNNZ

RRP*incl.GST: \$65.00

ISBN: 9781988546377

Publication date: October 2020

Cross on Evidence, 11th edition

The Honourable Justice Downs (editor)

RRP*incl. GST: \$99.99

ISBN: 9781988546384

Publication date: December 2020

Employment

New Zealand Employment Law Reports

Part 8 of Volume 17 is now available online.

Bay of Plenty District Health Board v CultureSafe New Zealand Ltd – (2020) 17 NZELR 545

Directions order – Against employee’s representative – Ex parte application against non-party – Employment Relations Act 2000, ss 160(1)(f) and 173.

Diamond Laser Medispa Taupo Ltd v Human Rights Review Tribunal – (2020) 17 NZELR 569

Human Rights Tribunal – Jurisdiction – Unlawful discrimination by reason of employee’s pregnancy – Human Rights Act 1993, ss 21(1)(a) and 22.

CultureSafe NZ Ltd v Turuki Healthcare Services Charitable Trust – (2020) 17 NZELR 577

Penalties – Employee representatives – Whether joint and several liability – Employment Relations Act 2000, s 149(4).

Jurisdiction – General damages – Employment Relations Act 2000, ss 161 and 162.

New Zealand Resident Doctors Association v Auckland District Health Board – (2020) 17 NZELR 592

Collective employment contracts – Whether medical students on rotation to different DHBs are “new employees” – Work covered by multiple collective contracts – Employment Relations Act 2000, ss 62(3) and 62(4).

Practical Guidance: Employment

Latest legal updates

Survey shows working population feels vulnerable at work

Tiwai smelter remains open for another four years

Redundant cabin crew rehired by Air New Zealand

Personal Grievances

Service 83 is available online.

This service provides commentary updates to Unjustifiable dismissal: Chapter 3, Procedural fairness: Chapter 4, Grounds for dismissal: Chapter 5, Unjustifiable disadvantageous action: Chapter 7, Discrimination: Chapter 8 and Remedies: Chapter 11.

Employment Law Bulletin

Issue 6 2020 is available online.

The theme for this issue of the Employment Law Bulletin is dismissals.

Family

Family Law Service

Service 200 is now available online.

This service includes new legislation of Oranga Tamariki (Youth Advocates) Regulations 2020 (LI 2020/157) and a new protocol of Family Court Covid-19 Protocol for the Adoption of New Zealand Surrogate Babies born overseas.

This service provides updated case commentary in the chapters of Care and protection, Child support, Day to day care and contact, Family violence, Family Protection, Hague Convention, Intellectual Disability, International, Maintenance, Practice and procedure, Protection of Personal and Property Rights, Testamentary Promises and Youth Justice.

New Zealand Family Law Journal

Volume 10 Issue 4 is now available online.

This issue includes the following articles:

- Ensuring the effective protection of children abducted across international borders: the case for New Zealand's accession to the Child Protection Convention (by Sebastien Recordon)
- *Whāngai v adoption*: succession in the Māori Land Court (by Maureen Ann Malcolm)

- Powers and jurisdiction of the Family Court clarified: the decision in *Wihongi v Broad* reverses a concerning trend (by James Anson-Holland & India Shores)

Practical Guidance: Family

Latest legal updates

Whakatāne couple's expensive and extended divorce

Family Court (Supporting Children in Court) Legislation Bill now open for public submissions

New Zealand Family Law Reports

Part 6 of Volume 2020 is now available online.

Redding v Pizlar – [2020] NZFLR 244

Care of children – Covid-19 lockdown – Care of children during pandemic lockdown – Continuity of care – Preserving usual routine – Care of Children Act 2004, s 5.

Vickers v Gamble – [2020] NZFLR 248

Care of children – Shared care arrangement – Covid-19 – Shared care during lockdown – Essential workers – Susceptible to illness – Care of Children Act 2004, s 46G.

Almarzooqi v Salih – [2020] NZFLR 251

Separation – Overseas marriage – Marriage contract – Dowry – Enforcement of overseas judgment – Submission to overseas jurisdiction – Breach of marriage contract – Proper law of contract – Application for security for costs – Plaintiff legally aided – Summary judgment – High Court Rules 2016, r 5.45 – Legal Services Act 2011, s 45 – Property (Relationships) Act 1976, s 22.

Hewson v Deans – [2020] NZFLR 262

Relationship property – Misconduct – High threshold for misconduct – Effect of misconduct on value of relationship property – Income tax – Income tax as relationship debt – Post separation contribution – Notional rent of family home – Evidence Act 2006, s 100 – Family Court Act 1980, ss 11B and 11D – Property (Relationships) Act 1976, ss 9A, 11, 13, 14A, 18, 18A, 18B, 20, 20E, 23E, 32, 35A and 85.

VLS v BJS – [2020] NZFLR 283

Maintenance – Leave to appeal – Leave sought 15 months after decision – Reasons for delay – Substantial prejudice is leave allowed – Reliance on Court orders to organise finances – Family Proceedings Act 1980, ss 2 and 138 – Legal Services Act 2011, s 45.

Property

Practical Guidance: Property

Latest legal update

Residential Tenancies Act changes coming on 11 February

Adams' Land Transfer

Service 99 is available online.

This service includes commentary updates to Te Ture Whenua Māori Act 1993 and the Land Transfer Act 2017. Legislative updates amend Te Ture Whenua Māori Act 1993, Property Law Act 2007, Residential Tenancies Act 1986, Overseas Investment Regulations 2005 and Overseas Investment Act 2005.

New Zealand Conveyancing and Property Reports

Part 6 of Volume 21 is now available online.

Downer v Signature Developments Ltd – (2020) 21 NZCPR 416

Sale of land – Essential term – Breach – Cancellation of agreement – Clause providing property subject to tenancy – Tenant specified in agreement – Deed of lease attached to agreement – Tenant assigning lease to third party before settlement of agreement – Purchaser cancelling agreement – Whether essential term of agreement breached – Whether clause providing for tenancy an essential term – Assignment of tenancy substantially reducing benefit of agreement to purchaser – Whether performance of clause essential to purchaser – Contract and Commercial Law Act 2017, ss 7(2)(b), 37, 37(1)(b), 37(1)(c), 37(2)(a), 37(2)(b) and 37(2)(b)(i) – Property Law Act 2007, ss 225(3), 226(2)(a) and 241.

Shabor Ltd v Graham – (2020) 21 NZCPR 440

Sale of land – Misrepresentation – Breach of Fair Trading Act 1986 – “No reliance” clause – Due diligence – Stock carrying capacity of farm – Stock units – Whether representation misleading or a misrepresentation – Whether misrepresentation induced purchaser to enter agreement – Engaging in misleading and deceptive conduct in trade – Reasonable reliance – Fair and reasonable assessments – Damages – Contract and Commercial Law Act 2017, ss 35, 50, 50(1)(c) and 50(2) – Fair Trading Act 1986, ss 9 and 43.

Resource Management

New Zealand Resource Management Appeals

Part 12 of Volume 2020 is now available online.

Summerset Villages (St Johns) Ltd v Auckland Council – [2020] NZRMA 508

Resource consent – Integrated residential development – Retirement village and associated services – Density – Whether intending to build structure incompatible with design policies or guidelines – Auckland Unitary Plan – National Policy Statement on Urban Development Capacity – Impact of scale and height of development on suburban area – Whether achieving urban built character of predominantly three storeys in variety of forms – Traffic and noise during construction – Conditions of consent – Resource Management Act 1991, ss 6, 104, 104(3)(a)(ii) and 290A.

Aotearoa Water Action Inc v Canterbury Regional Council – [2020] NZRMA 580

Resource consent – Judicial review – Right to take and use water for commercial bottling purposes – Change of use applications to existing consents – Whether process by which Council granted consents lawful – Resource consents transferred from original consent holders – Whether fresh application for take of water required – Consent originally for water to be taken for meat processing facility and wool scour – Whether Council amalgamating consents for new use with previously granted take consents lawful process – Whether Council made required effects assessment – Effects on environment – Declarations – Regional Plan preventing fresh applications – Judicial Review Procedure Act 2016, s 16 – Resource Management Act 1991, ss 2, 5, 7, 7(i), 14, 14(1)(a), 14(2), 14(3), 14(3)(a), 14(3)(b), 14(3)(e), 30, 30(1)(e), 30(1)(fa), 30(4)(d), 35(3), 35(3), 42, 42A, 87A(6), 87B, 88, 95A, 95A(2)(a), 95A(2A), 95A(8), 95B, 95D, 95E, 104, 104(1)(a), 104(1)(b), 104(1)(b)(iii), 104(1)(c), 122, 122(3), 125, 127, 136(2)(a), part 2 and sch 4 – Water and Soil Conservation Act 1967, s 21(3).

Succession

Practical Guidance: Succession

Latest legal updates

Court declined to declare will valid

Woman granted power of attorney convicted of spending elderly mother's savings of \$100,000

Unpredictable outcomes when challenging wills under Family Protection Act 1955

Textbook

***Nevill's Will Drafting Handbook*, 8th edition**

Sarah Parsons

RRP*incl GST: \$160.00

ISBN: 9781988546254

Publication date: December 2020

***Law of Family Protection and Testamentary Promises*, 5th edition**

Bill Patterson

RRP*incl GST: ~~\$200.00~~ \$180.00 (pre-order price)

ISBN: 9781988546506 (book)

ISBN: 9781988546513 (ebook)

Publication date: April 2021

Trusts

Practical Guidance: Trusts

Practical Guidance Trusts, including Overviews, Guidance, Precedents and Checklists, has been updated by authors Maria Young and Peter Eastgate from Cavell Leitch to reflect the Trusts Act 2019 which came into force on 30 January 2021.

Latest legal updates

Effect on memoranda of wishes on trusts

Revenue Minister warns trust tax rate could increase if people use it as tax avoidance loophole

Textbook

Nevill's Trusts Drafting Handbook, 3rd edition

Sarah Parsons

RRP*incl GST: \$160.00

ISBN: 9781988546278

Publication date: December 2020

Commercial Law

Morison's Company Law

Service 198 is now available online.

This service includes legislative amendments to the following legislation: Companies Act 1993; Overseas Investment Act 2005; Overseas Investment Regulations 2005; Corporations (Investment and Management) Act 1989; Receivership Act 1993; Commerce Act 1986; Serious Fraud Office Act 1990; Limited Partnership Act 2008; Financial Reporting Act 2013; and Companies Act 1993 and the Liquidation Regulations 1994

This service also includes updated commentary on: The nature, issue and transfer of shares; Distributions to shareholders; Shareholders' meetings; Directors' meetings; The liquidation process; The liquidator's duties, rights and powers; and Voidable transactions.

Morison's Securities Law

Service 198 is now available online.

This service includes legislative amendments to the following legislation: Personal Property Securities Act 1999; Financial Markets Conduct Act 2013; Anti-Money Laundering and Countering Financing of Terrorism Act 2009; Financial Advisors Act 2008; Financial Service Providers (Registration and Dispute Resolution) Act 2008; Financial Markets Authority Act 2011; Auditor Regulation Act 2011; and Financial Market Conduct (Fees) Regulations 2014.

This service also includes updated commentary on: Personal property securities; Anti-money laundering; and Financial Markets Conduct Act 2013.

Heath and Whale on Insolvency

Service 49 is now available online.

This service includes legislative amendments to the following legislation: Insolvency Act 2006; Companies Act 1993 and Receivership Act 1993.

This service also includes updated commentary on: Receivership; Corporate rescue; Liquidation; Antecedent transactions; Secured debt; Regulation of insolvency practitioners; Cross-border insolvency; and Court procedure.

Company and Securities Law Bulletin

Issue 11 is now available online.

Issue 11 features an article on security interests and mortgages of goods by Steve Dukeson. Issue 11 also features headnotes on *Alala International Ltd (in liq) v Chen* [2020] NZHC 2212; and *Re Metlifecare Ltd* [2020] NZHC 2752.

Practical Guidance: Business Law

Latest legal updates

The Commerce Commission closes Beijer investigation

Updated Authorisation Guidelines and application forms published

The Commission publishes Aon/Willis Towers Watson Statement of Issues

CPA Australia and NZICA accredited body reports published

Intellectual Property Law

Intellectual Property Law

Service 91 is now available online.

This service includes updated commentary on the Trade Marks Act 2002.

New Zealand Intellectual Property Journal

Issue 9 is now available online.

Issue 9 features two articles celebrating 25 years since the first Intellectual Property Law Journal was published by Doug Calhoun and John Katz QC. Issue 9 also includes headnotes on *International Consolidated Business Pty Ltd v SC Johnson & Son Inc* [2020] NZSC 110; Invalidity [2020] NZIPOTM 13 SUNLONG (NZ) LTD; Invalidity [2020] NZIPOTM 14 ZHU HONG; Invalidity [2020] NZIPOTM 15 LE HOANG DIEP THAO; Revocation [2020] NZIPOTM 16 WAIWERA LLC; Revocation [2020] NZIPOTM 17 UNILEVER PLC; Opposition – application to halt proceedings [2020] NZIPOTM 18 TIGERCAT INTERNATIONAL INC; Opposition [2020] NZIPOTM 19 MIXI, INC; Opposition [2020] NZIPOTM 20 REPUBLIC IP LTD; and Revocation [2020] NZIPTM 21 INTERAG.

Practical Guidance: Intellectual Property Law

Latest legal updates

Plant Variety Rights Journal

Updated hearings guidelines on applications for trade mark revocation

Various

Textbooks

Roth's Companion to the Privacy Act 2020

Paul Roth & Blair Stewart

RRP*incl GST: \$200.00

ISBN: 9781988546469

Publication date: December 2020

Burrows and Cheer Media Law in New Zealand, 8th edition

Ursula Cheer

RRP*incl GST: ~~\$185.00~~ \$166.50 (pre-order price)

ISBN: 9781988546117 (book)

ISBN: 9781988546124 (ebook)

Publication date: February 2021

Burrows and Carter Statute Law in New Zealand, 6th edition

Ross Carter

RRP*incl GST: ~~\$180.00~~ \$162.00 (pre-order price)

ISBN: 9780947514983 (book)

ISBN: 9780947514990 (ebook)

Publication date: April 2021

Disclaimer: This service is intended to provide a summary of information recently made available on the LexisNexis online legal platform. The contents of Summing Up do not purport to be professional advice on any particular matter. The publishers therefore accept no liability for any claim or other action that may arise from the use of the information provided in this publication.

© LexisNexis NZ Limited 2021. All rights reserved.