

Issue 499 | 27 April 2021

LexisNexis News

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

Working Smarter with Lexis Advance Webinar – Tuesday, 27th of April 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

Getting Started with Lexis Advance Webinar – Tuesday, 4th of May 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

Getting Started with Lexis Red Webinar – Tuesday, 11th of May 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

Getting Started with Lexis Draft Webinar – Tuesday, 18th of May at 3pm

Lexis Draft is a legal drafting solution. It is a Microsoft Word and Microsoft Outlook add-in ribbon that helps you draft faster and more efficiently. Lexis Draft contains legal proofreading, editorial review, research and analytical tools for accurate, consistent and efficient drafting. It checks for inconsistencies in documents, flags areas that need your attention and links directly to your LexisNexis services without leaving Word – saving you time. Duration: 60 min

Working Smarter with Lexis Advance Webinar – Tuesday, 25th of May 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

NZ Bar Webinar – Friday, 28th of May at 10am

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

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

Commercial Law

Morison's Company Law

Service 199 is now available online.

This service includes updates to Chapter 3 Limited liability and corporate responsibility, Chapter 5 Company names, Chapter 16 Shareholder' rights and obligations, Chapter 23 The office of director, Chapter 37 Prejudiced shareholders, Chapter 39 Accounts, audits and financial reporting, Chapter 42 Register of companies, Chapter 43 Takeovers, Chapter 46 Amalgamations, Chapter 62 Removal from the New Zealand register and Chapter 80 Precedents.

This service also includes amendments to the Companies Act 1993.

Morison's Securities Law

Service 199 is now available online.

This service includes updates to the annotated commentary on Part 4 of the Financial Markets Conduct Act 2013 as well as updates to Chapter 40 Introduction to the personal properties securities regime, Chapter 41 Scope of the Personal Property Securities Act 1999, Chapter 42 Creation and enforceability of security interests, Chapter 43 Priority between security interests and Chapter 44 Priority between security interests and other interests.

This service also includes amendments to the Financial Markets Conduct Regulations 2014.

Heath and Whale on Insolvency

Service 50 is now available online.

This service includes updates to Chapter 6 Powers and duties of official assignee, Chapter 8 Offences by bankrupt, Chapter 10 Alternatives to bankruptcy, Chapter 14 Company receiverships, Chapter 16 Compromises, amalgamations and schemes of arrangement, Chapter 23 Liability of related companies, shareholders and directors in a liquidation, Chapter 29 Insolvency: Preferential debts, Chapter 30 Insolvency: Set off, Chapter 36 Statutory management, Chapter 43 Insolvency: Maori incorporations, Chapter 44 Co-operative companies, Chapter 45 Insurance companies, Chapter 47 Special entities in the context of insolvency: incorporated society, Chapter 48 Special entities in the context of insolvency: unincorporated associations and Chapter 54 High Court Rules - Part 24: Insolvency.

This service also includes amendments to the Companies Act 1993.

Company and Securities Law Bulletin

Issue 3 is now available online.

Issue 3 features an article written by Hon Paul Heath QC "Debut Homes: a different perspective". The Issue also features headnotes written by Daniel Neighbour on *KME Services NZ Pty Ltd v CPB Contractors Pty Ltd*, *Chief Executive of New Zealand Customs Service v Hutchinson t/as P&W Hutchinson Traders* and *Financial Markets Authority v ANZ Bank New Zealand Ltd*.

Practical Guidance: Business Law

Latest legal updates

The Commerce Commission released the Statement of Issues for the Can Plan/Nelmac clearance application.

The FMA Supervision Director to lead financial advice monitoring and supervision.

The Commerce Commission releases final decision allowing Transpower's \$36 million electricity investment for South Auckland.

The FMA introduces new licensing regime for financial advice.

Commerce Amendment Bill proposes new changes to the Commerce Act.

ANZ pays \$280,000 civil penalty for misleading representations over credit card insurance charges.

Civil Procedure

Sim's Court practice

Sim's Court Practice service 229 is now available online.

This service includes updates to the High Court Rules commentary parts 24 and 30, the Senior Courts Act part 6, and updates to the Judicial Review Procedure Act 2016 commentary.

Criminal

Abbott and Thompson District Courts Practice (Criminal)

Service 95 is now available online.

This service provides legislative updates to the Arms Act 1983, Search and Surveillance Act 2012, and Summary Proceedings Act 1957. Commentary has been updated to the Arms Act 1983 and Search and Surveillance Act 2012.

Garrow and Turkington's Criminal Law

Service 173 is now available online.

This service has amendments to the Criminal Disclosure Act 2002, Criminal Investigations (Bodily Samples) Act 1995, Criminal Procedure (Mentally Impaired Persons) Act 2003, Misuse of Drugs Act 1975, and Search and Surveillance Act 2012. Commentary has been updated for the Crimes Act 1961, Criminal Disclosure Act 2009, Criminal Procedure (Mentally Impaired Persons) Act 2003, and Search and Surveillance Act 2012.

Employment

New Zealand Employment Law Reports

Part 1 of Volume 18 is now available online.

Ancor Flexibles (New Zealand) Ltd v Gillan – (2018) 18 NZELR 1

Unjustified dismissal – Medical incapacity – Epilepsy – Seizures at work – Safety critical environment – Long standing senior employee – Test of justification – Whether employee given reasonably opportunity to recover – Whether fair and reasonable inquiry by employer – Return to work and management plan – Medical reports – Efforts on part of employer – Actions of fair and reasonable employer – Employment Relations Act 2000 ss 103A, 103A(2).

TUV v Chief of New Zealand Defence Force – (2020) 18 NZELR 15

Employment dispute – Settlement agreement – Whether voidable for lack of mental capacity – Employment Relations Act 2000, s 149.

Wimpex Ltd v WorkSafe New Zealand – (2019) 18 NZELR 33

Sentencing – Financial hardship – Health and Safety at Work Act 2015, ss 36(1) and 48 – Sentencing Act 2002, s 40(1).

Greetham v Lawter (NZ) Ltd – (2020) 18 NZELR 40

Constructive dismissal – Performance improvement process – Whether employee resignation caused by employer actions – Repudiatory conduct.

Mackenzie v Huntington's Disease Association (Auckland) Inc – (2020) 18 NZELR 58

Termination – Abandonment of employment – Employee obligations – Employment Relations Act 2000, s 4(1A)(b).

Mazengarb's Employment Law

Service 260 is available online.

This service provides commentary updates for the Employment Relations Act 2000 Part 2: Key provisions, Part 9: Personal grievances, disputes and enforcement, Selected topic: Contractual Aspects of Employment, Selected Topic: Wages, the Policing Act 2008 and the Social Security Act 2018. The Parental Leave and Employment Protection Regulations 2016 and Public Service Act 2020 legislation has been updated.

Family

New Zealand Family Law Journal

(2021) 10 NZFLJ Part 5 (April 2021) is now available online.

This issue includes the following articles:

- The role of law in family disputes (by Dr Rob George)
- The one parent only rule (by Simon Noonan)

Practical Guidance: Family

Latest legal updates

Court of Appeal quashes wrong perjury conviction against abused woman following relationship property case in Family Court

First reading of Mental Health (Compulsory Assessment and Treatment) Amendment Bill

Psychologist provided “unprofessional” expert opinion to Family Court implying a man had sexually abused his daughter

New Zealand Family Law Reports

Part 9 of Volume 2020 is now available online.

Re Weathers (dec'd) – [2020] NZFLR 388

Personal and property rights – Wills – Retrospective order approving Will – Will sealed by registrar – Will not approved by Judge – Subject person now deceased – Whether Court able to make retrospective order – Protection of Personal and Property Rights Act 1988, ss 31, 54 and 55.

Ross v Duncan – [2020] NZFLR 393

Relationship property – Relationship of short duration – Parties living apart during relationship – Infrequent communication – Child of relationship – Quality of relationship with child not relevant – Contributions to relationship – Unequal division of property – Occupation rent – Property (Relationships) Act 1976, ss 2, 2A, 2AB, 2C, 2D, 2E, 2G, 13, 14A, 18, 18B and 21.

Wati v Sharma – [2020] NZFLR 419

Procedure – Costs orders – Enforcement actions – Whether enforcement of costs orders is “action” – District Court Act 2016, ss 124, 127, 138 and 140 – High Court Rules 2016, rr 14.2, 14.3, 14.4, schs 2 and 3 – Limitation Act 1950, ss 2 and 4.

Berman v Ministry of Justice Central Authority – [2020] NZFLR 422

Care of children – Child abduction – Application for return of children – Judicial review of Central Authority – Delay – Disclosure of information – Disclosure of information to Child, Youth and Family Services – Payment of children’s airfares – Care of Children Act 2004, ss 3, 4, 100, 102, 103, 116 and 120 – Children, Young Persons and Their Families Act 1989, ss 15, 16 and 66.

Part 10 of Volume 2020 is now available online.

Higgins v Higgins – [2020] NZFLR 435

Relationship property – Trust – Order for sale of family home – Home owned by family trust – Jurisdiction to order sale – Variation of terms of trust – Whether parties’ rights and interests in trust “relationship property” – Trustee powers jointly held – Interim distribution – Whether trustees should be joined as parties – Domestic Violence Act 1995 – Property (Relationships) Act 1976, ss 1, 2(e), 8(e), 25(1)(a), 33(3)(m) and 44C.

Byakova v Cherry – [2020] NZFLR 446

Relationship property – Duration of relationship – Shared living arrangements – Degree of intimacy – Commitment to shared life – Disposition to defeat interest – Transfer by way of gift – Inadequate consideration – Tracing of relationship property interest – Family Proceedings Act 1980, s 39 – Property (Relationships) Act 1976, ss 1M, 1N, 2A, 2B, 2D, 2E and 44.

O’Donnell v O’Donnell – [2020] NZFLR 469

Property relationship – Division of property – Occupation order – Warrant to enforce – Husband refusing to sell family home or buy wife’s share – Wife renting accommodation – Twelve years since separation – Both parties in their 70s – Husband deeply religious and guided in decision-making by his religion – District Court Act 2016, ss 79(2)(c) and 194 – District Court Rules 2014, r 19.65 – Family Courts Rules 2002, r 220 – Property (Relationships) Act 1976, ss 1M, 1N, 18B, 27, 27(1), 27(2), 27(4) and 28A.

Intellectual Property Law

Practice Guidance Intellectual Property Law

The Patents Examination Manual updated.

Property

Practical Guidance: Property

The Leases > Residential tenancies topic has been updated by MinterEllisonRuddWatts to cover the recent changes made by the Residential Tenancies Amendment Act 2020.

Resource Management

Local Government

Local Government service 59 is now online.

This service includes updates to the commentary of the Local Government Act 2002, Part 1, 2, 3, 4, 5, 6 and 7, and the Intro and schedules.

New Zealand Resource Management Appeals

Parts 2 and 3 of 2021 are now available online.

Trustees of the Motiti Rohe Moana Trust v Bay of Plenty Regional Council – [2021] NZRMA 50

Environment Court – Jurisdiction – Declarations – Decision by Council to withdraw plan change – Jurisdiction to make declaration that withdrawal unlawful – Environment Court’s jurisdiction to review administrative action – Supervisory jurisdiction – Whether Council acted unlawfully by not taking into account Treaty of Waitangi as relevant consideration – Water quantity plan change – Regional Natural Resources Plan – Plan change intended to insert provisions to give effect to National Policy Statement on Freshwater Management – Operative plan overdue for review – Declaratory Judgments Act 1908, s 3 – Interpretation Act 1999, s 5 – Resource Management Act 1991, ss 2, 8, 65, 65(6), 65(7), 66, 79, 79(2), 83, 104, 265(1)(b), 279(1)(c), 296, 309(1), 310, 310(h), 311, 312, 313, 314, 314(1)(f), parts 5, 12 and sch 1 cl 8D – Resource Management Amendment Act 2003 – Resource Management (Forms, Fees and Procedure) Regulations 2003 – Treaty of Waitangi.

Te Rūnanga o Ngāti Awa v Bay of Plenty Regional Council – [2021] NZRMA 76

Resource consent – Water take – End use of water take – Exporting bottled water – Cultural effects of water take – Mauri of wai – Effects of use of plastic bottles – Regional plans – Whether plan dealt with issue comprehensively – Principal activities – Ancillary

activities – Appeal against Environment Court – Section 299 appeal – Appeal on issue of law – Standing to bring s 299 appeal – Combined appeals in Environment Court – District Court Rules 2014, r 9.5 – Litter Act 1979, s 15 – Resource Management Act 1991, ss 2, 2AA, 3, 5, 6, 7, 8, 9, 14, 15, 76, 88, 104, 104E, 127, 128, 274, 290, 299 and 301 – Resource Management Amendment Act 2020, s 35.

Part 4 of 2021 is now available online.

Golf (2012) Ltd v Thames-Coromandel District Council – [2021] NZRMA 137

Plans – Proposed plan – Challenge to proposed plan – Open space – Private land designated as open space – Landowner not agreeable to zoning as open space – Unlawfulness of plan change – Unreasonable restriction on use – Unfair burden – Efficient use of land – Open space as not wasteful – History of planning in locality – Town and Country Planning Act 1953, s 2B – Town and Country Planning Amendment Act 1973, s 2 – Resource Management Act 1991 ss 2, 3, 7, 9, 31, 32, 72, 73, 74, 75, 76, 85, 120, 274, schs 1, 12, cls 13, 15 and 21 – Resource Management Amendment Act 2013.

Succession

Practical Guidance: Succession

Latest legal update

Law Commission publishes Review of Succession Law

Textbooks

Nevill's Will Drafting Handbook, 8th edition

Sarah Parsons

RRP*incl GST: \$160.00

ISBN: 9781988546254 (book)

ISBN: 9781988546261 (ebook)

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: May 2021

Trusts

Practical Guidance: Trusts

Latest legal updates

Trust goes broke as three trustees charged \$109,000 each a year

Accountant sued for negligent advice in setting up trusts

Textbooks

Nevill's Trusts Drafting Handbook, 3rd edition

Sarah Parsons

RRP*incl GST: \$160.00

ISBN: 9781988546278 (book)

ISBN: 9781988546285 (ebook)

Publication date: December 2020

Garrow and Kelly Law of Trusts and Trustees, 8th edition

Chris Kelly, Greg Kelly, Collette Mckenzie & Kimberly Lawrence

RRP*incl GST: ~~\$220.00~~ \$198.00 (pre-order price)

ISBN: 9781988546292 (book)

ISBN: 9781988546308 (ebook)

Publication date: August 2021

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: \$200.00

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: May 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 does 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.