

Issue 543 | 3 April 2023

## LexisNexis News

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

### **Getting Started with Lexis Advance® Webinar – Wednesday, 5th of April at 12pm**

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

### **Lexis Advance for Barristers Webinar – Thursday, 13th of April at 4pm**

Barristers, improve your research skills and save time using Lexis Advance. In this Bar-focused training session, we will look at adapting Lexis Advance tools to enable you to work in Advance in the way you want. We will review finding cases using CaseBase®, the New Zealand Law Reports series and Unreported Judgements and how to find commentary on legislation using our legislation citator LexCite™. In addition, we will look at the high-level commentary of 160 titles from the Laws of New Zealand as well as international content that may be in your subscription (e.g. Halsbury's® Laws of Australia; Halsbury's Law of England). Duration: 60 min

### **The Laws of New Zealand on Lexis Advance Webinar – Thursday, 27th of April at 4pm**

The Laws of New Zealand is an encyclopaedic work providing a comprehensive comment on New Zealand law. Updated regularly, it provides a reliable statement of the whole of the law of New Zealand - statutory, regulatory, and judicial. Laws of New Zealand include extensive cross-referencing to Halsbury's Laws of England and Halsbury's Laws of Australia. Authors of this prestigious work include judges, academics, and senior members of the profession. The authors give the publication its authority through their specialist and practical knowledge of New Zealand law. Attend this session to learn about the 150+ titles contained in LONZ and how to work with these efficiently during your legal research. Duration: 60 min

## **Research Success with Lexis Advance Webinar – Friday, 28th of April at 12pm**

Become more skilled and efficient in your research. Join this session to explore effective methods of conducting searches on Advance to find commentary, legislation and case law, understand the algorithm that runs behind the scenes, and apply 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 your use of the platform is meeting your research needs. Duration: 60 min

## **Commercial**

### **Morison's Company and Securities Law**

Service 207 is now available online.

In the Company binder, the Companies Act 1993 and the Overseas Investment Regulations 2005 have been amended.

Commentary has been updated in the following areas: Takeovers, The office of the director, Director's powers and duties, Accounts, Audits and financial reporting, and Registrar of companies.

In the Securities binder, the Financial Markets Conduct Act 2013, the NZX Listing Rules and the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 have been amended.

Commentary has been updated in the following areas: Financial Markets Conduct Act 2013: Part 7A, Introduction to the personal property securities regime, Scope of the Personal Property Securities Act 1999, Creation and enforceability of security interests, Priority between security interests, Priority between security interests and other interest.

Morison's Company Law

Morison's Securities Law

### **Commercial Law in New Zealand**

Service 77 is now available online.

Commentary has been updated in the following areas: General Principles of Contract, Fair Trading, Specific Contracts, Insolvency, Dispute Resolution, and Secured Transactions and Hire Purchase.

## **Heath and Whale on Insolvency**

Service 56 is now available online.

The following commentary has been updated: Personal Insolvency, Receivership, Corporate Rescue, Antecedent Transactions, Regulation of Insolvency Practitioners, Special Entities, Court Procedure, Forms and Precedents.

## **Practical Guidance: Business**

### *Latest Legal Updates*

New Zealand Ministry of Justice's AML/CFT Act review needs feedback

Public transport fares in Auckland to rise by 6.5 per cent starting April

business.govt.nz offers on supply chain sustainability

NZ tech companies and depositors in collapsed Silicon Valley Bank can rest easy

Cyclone and flood response funding

Food prices have risen their fastest annual rate in 30 years

Financial Markets Authority warns Du Val Capital Partners Limited

Westpac New Zealand supports Community Law Centres

## **Criminal**

### **Becroft and Hall's Transport Law**

Service 215 is now available online.

The Victims' Rights Act 2002 and the Road User Charges Act 2012 have been amended. Commentary regarding the Land Transport Act 1998, Land Transport (Road User) Rule 2004, New Zealand Bill of Rights Act 1990 and Sentencing Principles and Practice has been updated.

## Hall's Sentencing

Service 188 is now available online.

The Criminal Procedure Act 2011, Criminal Procedure (Mentally Impaired Persons) Act 2003, Returning Offenders (Management and Information) Act 2015, and the Victims' Rights Act 2002 have been amended. Commentary has been updated for Introduction: Principles of Sentencing, Sentencing Act 2002, Criminal Procedure Act 2011, Sentencing Levels, and Appendices I, II, and VI. The index has been updated.

## Family

### New Zealand Family Law Journal

Vol 11 Issue 1 (March 2023) is now available online.

This issue includes the following articles:

- Alvien Benitez "Analysing Asian cultural competency in the family justice system: a private matter" (2023) 11 NZFLJ 1
- Dr Sandy Callister "What does the Government need to know about child poverty in high-deprivation communities? South Auckland tamariki and the argument for structural change in data collection" (2023) 11 NZFLJ 13

### Practical Guidance: Family

#### *Latest Legal Updates*

Abusive partner ordered to sell his houses and give half to the mother of his children

Foster parents return Māori foster child to Oranga Tamariki after lengthy litigation

Husband files proceedings against terminally ill wife for taking his share of joint life insurance payout

Artist appeals ex-husband's claim for her work's copyright as relationship property

Family lawyer sustained serious injuries in Whangārei courthouse

## Intellectual Property

### Intellectual Property Law

Service 98 is now available online.

The Patents Regulations 2014 has been amended.

The following annotated legislation has been updated: Copyright Act 1994, Appendices, and Patents Act 2013.

### Practical Guidance: Intellectual Property

#### *Latest Legal Updates*

High Court dismisses appeal by Thaler to have artificial intelligence (AI) recognised as inventor

Registered designs' place in New Zealand's Intellectual Property (IP) landscape

Decisions of the commissioner

The launch of the Unitary Patent and the Unified Patent Court (UPC)

## Procedure

### District Courts Practice (Civil)

Service 189 is now available online.

This service includes updates to the commentary in the annotated District Court Rules 2014, in particular see Part 12 Summary Judgment. Amendments made by the Remuneration Authority Legislation Act 2022 and Plant Variety Rights Act 2022 have also been included in this service.

## Property

### New Zealand Conveyancing and Property Reports

Part 7 Volume 23 is now available online.

*Hürlimann v Lilley* – (2022) 23 NZCPR 496

Covenants – Modification or extinguishment – Defendants sold certain land to plaintiff subject to plaintiff's position on validity of restrictive covenants sought to be imposed by defendants – Plaintiff drafted clause inserted into sale and purchase agreement dealing with restrictive covenants – Clause required plaintiff to either give written consent or exercise right to cancel agreement and receive full refund of deposit paid – Plaintiff applied to seek removal of covenants pursuant to clause – Clause did not entitle plaintiff to obtain removal of covenants – Inappropriate to exercise statutory power to extinguish covenant to undermine parties' bargain – Property Law Act 2007, s 317.

*Soft Technology JR Ltd v Jones Lang LaSalle Ltd* – (2022) 23 NZCPR 517

Real estate agent – Agency agreement – Commission – Entitlement to commission on leases – Meeting of conditions under legislation before commission able to be claimed – Temporal conditions – Whether agency agreement needing to be in place before relevant work for commission undertaken – Agent failing to deliver signed agreement within required time – Statutory interpretation – Legislative history – Plain meaning of statutory provision – Limited power of Court to order commission – Whether agent's omission to deliver agreement "inadvertence" – Whether agent introducing lessee to lessor – Whether introduction was effective cause of lease – Entitlement to claim commission on second lease contemplated by lessee and lessor through memorandum of understanding – Commission payable on turnover rent – Interest – Indemnity costs – Auctioneers and Agents Act 1941, s 42AA – Real Estate Agents Act 2008, ss 3, 3(1), 4(1), 126 and 127 – Real Estate Agents Act 1976, s 62 – Real Estate Agents (Duties of Licensees) Regulations 2009 – Real Estate Agents Act (Professional Conduct and Client Care) Rules 2012.

*Storageone Kapiti (2012) Ltd v Sharja Ltd* – (2022) 23 NZCPR 545

Leases – Renewal – Right of – Failure to give renewal notice – Cancellation of lease by lessor – Breaches of lease by lessee – Residential sub-tenant of commercial property in breach of lease and without permission from lessor – Alterations to property without consent from lessor – Parties continuing with lease despite lack of renewal – Estoppel – Lessor applying CPI rent increases – Whether lease validly cancelled – Possession – Lessor prepared to enter new lease with lessee on terms more beneficial – Property Law Act 2007, ss 244, 244(1)(a), 246, 251, 253, 261, 264 and 264(2)(b).

*Re Pennington Trust Company Ltd* – (2022) 23 NZCPR 556

Easements – Right of way – Reasonable access to landlocked land – Registering of right of way – Absence of legal right – Reasonable access previously used on de facto basis – Owners wishing to sell property with legal right of way – Potential hardship – Reasonable contribution to maintenance – Land Transfer Act 2017, ss 150–170 – Land Transfer (Compulsory Registration of Titles) Act 1924 – Property Law Act 2007, ss 327, 328, 329, part 6, sub-part 3 and sch 5(2).

*KOL Holdings Ltd v Xu* – (2022) 23 NZCPR 565

Leases – Cancellation – Possession – Apartment complex – Breach of lease by lessees – Non-payment of rent – Units not insured as required by lease – Non-payment of rates – Lessor seeking orders for possession and cancellation of lease – Outstanding rental – Joint and several liability of lessees – No notice of opposition – Reasonable notice periods given – Costs and disbursements – Property Law Act 2007, ss 244(1)(a), 244(1)(b), 245, 245(1), 245(3), 246, 250 and 251.

## Resource Management

### Environmental and Resource Management Law

Service 60 is now available online.

This service includes updates to the chapters on Water, Hazardous substances and contaminated land, Heritage, and Environmental litigation and dispute resolution. Updates discuss new case law developments, legislative amendments and the Natural and Built Environment bill and Spatial Planning Bill.

## Succession

### Practical Guidance: Succession

*Latest Legal Update*

“Missing” man passes up on \$300,000 inheritance

## The Laws of New Zealand

Service 106 (updated to 1 October 2022) is now available online.

Service 106 features significant updates to:

- The "Accident Compensation", "Children and Young Persons", "Discrimination", and "Information" titles as a result of the Pae Ora (Healthy Futures) Act 2022 which came into force on 1 July 2022;
- the "Companies", "Insurance", "Personal Bankruptcy and Insolvency", "Personal Property Securities", "Securities Law", and "Time" titles as a result of the Reserve Bank of New Zealand Act 2021, the remainder of which was brought into force, on 1 July 2022, by cl 2 of the Reserve Bank of New Zealand Act 2021 Commencement Order 2022 (SL 2022/145);
- the "Energy" title, as a result of the Electricity Industry Amendment Act 2022, which came into force on 1 September 2022;
- The "Forestry" title, as a result of the Forests (Regulation of Log Traders and Forestry Advisers) Amendment Act 2020, the remainder of which came into force on 6 August 2022
- The "Maritime Law: Shipping and Navigation" title as a result of the Maritime Powers Act 2022 which came into force on 21 May 2022;
- the "Liquor Law" title as a result of the Wine Regulations 2021 (SL 2021/401), the remainder of which (except for regs 84 and 85) came into force on 1 July 2022;
- the "Māori Affairs" and "Treaty of Waitangi" titles as a result of the Maniapoto Settlement Act Claims Act 2022, which came into force on 28 September 2022;
- the "State Sector" title, as a result of the Data and Statistics Act 2022, which came into force on 1 September 2022.

**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.