

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

**Focus on Family Law Resources on Lexis Advance Webinar – Monday, 26th of June at 12pm**

In this 60-minute webinar focusing on the family law resources available in Lexis Advance, we will show you how to quickly and efficiently find up-to-date commentary, case law, forms and precedents and the relevant legislation in this practice area. Our key texts in this area include the Family Law Service and the Practical Guidance Family Law module. Learn to set up alerts on relevant topics and cases and keep track of your documents for future reference, saving you valuable time in your day. Duration: 60 min

**Finding Commentary, Cases and Legislation on Lexis Advance Webinar – Thursday, 29th of June at 4pm**

Attend this session to learn how to link directly to commentary and relevant cases on every section of legislation with LexCite™. Having attended this session you will better understand how CaseBase® and LexCite work as case law and legislation citators, and benefit from your improved understanding of how to use CaseBase to review the case summary and access other cases that have asimilar facts and arguments. Duration: 60 min

**The Laws of New Zealand on Lexis Advance Webinar – Thursday, 13th of July at 3pm**

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 includes 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

## Commercial

### Heath and Whale on Insolvency

Service 57 is now available online.

Commentary has been updated in the following chapters: Personal Insolvency, Receivership, Preferential Debt and Set-Off, Special Entities, Court Procedure, Forms and Precedents.

### Practical Guidance: Business Law

The following topics have been recently updated: Offers of securities, Insolvency, Anti-money laundering and countering financing of terrorism, Competition law, In-house know-how, and Social media.

### Company and Securities Law Bulletin

Issue 3 is now available online.

This issue includes headnotes on the following cases: *Francis v Gross*, *Krishnamurthi v Patel*, *Maginness v Tiny Town Projects Ltd*, *Mockingbird Properties Ltd v Jhim Homes Ltd*, *Multistop Ltd v Innovate Civil and Construction Ltd*, *Progressive Livestock Ltd v Donaldson*, *Frucor Suntory New Zealand Ltd v Commissioner of Inland Revenue*.

## Criminal

### Becroft and Hall's Transport Law

Service 216 is now available online.

The Crimes Act 1961, Land Transport Act 1998, Sentencing Act 2002, Summary Proceedings Act 1957, Traffic Regulations 1976, and some land transport regulations have been amended. Commentary regarding the Land Transport Act 1998 and Sentencing Principles and Practice have been updated. An updated Index is included.

## Employment

### New Zealand Employment Law Reports

Volume 18 part 12 is now available.

#### *Taylor v Roper* – (2021) 18 NZELR 902

Accident compensation – Cover for work-related mental injury – Recall application – Sexual assault and false imprisonment of applicant while employed by RNZAF – Whether civil action for false imprisonment covered by provision in Accident Compensation Act 2001 – Whether provision prospective only – Whether false imprisonment was sudden or gradual process – “Sudden” – “Accident” – Whether single incident – Accident Compensation Act 2001, ss 20, 20(2)(e), 21, 21(1)(a), 21(4), 21B, 21B(1), 21B(4), 21B(7), 21B(7)(a), 25(1)(a), 26(2), 28(1), 28(1)(a), 28(4A), 28(6), 36(1) and 317 – Limitation Act 1950.

Practice and procedure – Recall application – Cover for work-related mental injury – Sexual assault and false imprisonment of applicant while employed by RNZAF – Failing to direct Court to relevant legislative provision – Whether false imprisonment claims captured by provision of accident compensation legislation – Judgment given in civil action for compensatory damages – Accident Compensation Act 2001, s 21B.

#### *VMR v Civil Aviation Authority* – (2022) 18 NZELR 917

Personal grievances – Remedies – Interim reinstatement – De novo challenge – Employees refusing to be vaccinated against COVID-19 – Proper approach to interim reinstatement – Application of COVID-19 Public Health Response (Vaccinations) Order 2021 (as amended on 12 July 2021) – Mandatory obligation to vaccinate upon airside workers – COVID-19 Public Health Response Act 2020, ss 4, 9, 11, 12, 13 and 26 – Employment Relations Act 2000, ss 103A, 123, 125 and 127.

#### *Zink v Board of Trustees of Southland Boys High School* – (2022) 18 NZELR 953

Holidays – Public holidays – Working day – Determination of what would otherwise be working day – Whether entitled to be paid for public holidays over Christmas period – Employed by school board – School closed down over Christmas – Employee required to take four weeks annual leave at end of school year – Whether public holidays over Christmas were working days – Closedown period – Correct interpretation of provisions in Holidays Act 2003 – Education Act 1989, ss 65B(1) and 65C – Employment Relations Act 2000, part 6A – Holidays Act 2003, ss 3, 12, 12(3), 12(3A), 29, 30, 34, 40, 43, 44, 45, 49 and part 2 sub-part 3.

***Straayer v Employment Relations Authority – (2022) 18 NZLR 967***

Judicial review – Employment Relations Authority – Seeking judicial review of two preliminary decisions by Authority relating to personal grievances – Strike out application – Restriction on review – Pathway for judicial review of Authority determinations – Applicable provision – Whether application for judicial review should be struck out – Statutory interpretation – Circumstances in which judicial review of Authority’s determination available – Decisions made prior to convening of investigation meeting – Whether decisions by Authority amounted to “determinations” – Employment Contracts Act 1991, s 105 – Employment Relations Act 2000, ss 174E, 179, 179(5), 184, 184(1), 184(1A), 184(2), 193, 194, 194(1), 194(2) and part 10 – Judicial Review Procedure Act 2016, ss 7, 7(1) and 7(2) – Labour Relations Act 1987, s 280.

**Volume 19 part 1 is now available.**

***McPherson v Oji Fibre Solutions (NZ) Ltd – (2022) 19 NZLR 1***

Practice and procedure – Special leave to remove proceedings to Employment Court – Personal grievance in Employment Relations Authority – Dispute proceedings in Employment Court – Interpretation of provision in individual employment provision – Whether qualifying availability provision – Whether personal grievance proceedings involving similar or related issues – Employee dismissed for refusing to work on rostered day off – Whether important legal issue would arise other than incidentally – Interface between provisions of Employment Relations Act 2000 – Justification provision and employees ability to refuse to perform certain work – Discretionary factors – Employment Relations Act 2000, ss 67C, 67D, 67E, 67F, 103A, 143(f), 143(fa), 143(g), 178, 178(2)(a) and 178(2)(c).

***TUV v Chief of New Zealand Defence Force – (2022) 19 NZLR 11***

Settlement agreement – Mental capacity – Setting aside of agreement – Whether settlement agreement should be set aside due to employee incapacity – Contract law test in *O’Connor v Hart* – Employer’s actual or constructive knowledge of incapacity at time agreement entered – Application of Protection of Personal and Property Rights Act 1988 to settlements approved under Employment Relations Act 2000 – Agreement signed off by mediator – Whether court needing to approve settlement of claims for money where party not capable of managing own affairs – Whether employee lacking capacity to enter agreement – “Specified person” – Bullying and harassment claims – Termination of employment – Civil Procedure Rules 1998, rr 21.2(1), 21.3(4) and 21.10(1) – Contract and Commercial Law Act 2017, ss 36, 37, 38, 39, 40 and part 2 subpart 6 – Convention on the Rights of Persons with Disabilities, arts 12 and 12(4) – Employment Contracts Act 1991 – Employment Relations Act 2000, ss 3(a), 3(a)(v), 4(1)(a), 4(4), 68, 69, 104, 105, 144, 149(1), 149(2), 149(3), 149(3A), 152(2)(a), 164 and part 10 – Legislation Act 2019, s 10 – Protection of Personal and Property Rights Act 1988, ss 53, 54, 94A(7), 103C(5), 108B, 108C, 108D, 108E, 108G and part 9A.

***Idea Services Ltd v Attorney-General (in respect of the Minister of Workplace Relations) – (2022) 19 NZELR 48***

Collective bargaining – Collective agreements – Continuation after specified expiry date – Immediate modification of statutory requirement by order of Minister – Making of order in response to COVID-19 pandemic – Implied requirement that order subject to review every three months – Employment Relations Act 2000, s 53 – Epidemic Preparedness Act 2006, s 15.

**Volume 19 part 2 is now available.**

***Smiths City (Southern) Ltd (in rec) v Claxton – (2021) 19 NZELR 80***

Employment relationship – Employees operating competing business without permission – Employees breached employment agreement – Employees breached duty of fidelity – Proper approach to assessment of damages where plaintiff unable to show money received for work undertaken in competition – Reverse calculation by reference to moneys paid into competing employee's bank accounts – Proper approach to penalties against corporate entities incorporated by competing employees to carry on business – Companies merely passive vehicles.

***Commissioner of Police v New Zealand Police Association – (2022) 19 NZELR 116***

Statutory interpretation – Employment of Police employees – Rotational positions – Power of employer to rotate employees at various locations – Scope of power – Whether Policing Act limiting circumstances in which employer could contract with employees to rotate their duties – Whether employer free of obligations when temporarily assigning, seconding and locating employees – Reimbursing employees for motor vehicle expenses – Policing Act 2008, ss 18, 18(4), 59, 60, 61, 65, 65(1)(d)(v), pt 4.

***Yardley v Minister for Workplace Relations and Safety – (2022) 19 NZELR 125***

Bill of rights – Limit upon fundamental rights – Order determining that work carried on by Police and NZDF personnel could only be undertaken by workers who had been vaccinated against COVID-19 – Order limited right to refuse medical treatment – Limit on that right not demonstrably justified – Crown did not put forward sufficient evidence of justification – COVID-19 Public Health Response Act 2020, ss 9, 11, 11AA, 11AB and 13 – COVID-19 Public Health Response (Specified Work Vaccinations) Order 2021.

***E Tū Incorporated v Carter Holt Harvey LVL Ltd – (2022) 19 NZELR 154***

Holidays – Annual leave – COVID-19 pandemic – Nationwide lockdown – Employer directing employees to take annual holidays during Level 4 lockdown – Whether parties “unable to reach agreement” on taking of annual leave – Whether employer attempting to engage with employees on taking of annual leave – Notice – Good faith – Standing of Union to bring proceedings in own name – Employment Relations Act 2000, s 178 – Holidays Act 2003, ss 3, 15, 18, 18(3), 19, 19(1)(a), 19(2), 73, Pt 2 Subpt 1 – Holidays Act 1981, s 12(2).

## Family

### New Zealand Family Law Reports

Volume 2022 part 7 is now available.

#### *JH v LN* – [2022] NZFLR 305

Enduring powers of attorney – Personal care and welfare – Health decisions – Injunction – Application that medicine regime be reinstated – Role of treating clinicians in prescribing medicines – Court not to substitute its opinion for that of treating clinicians – Non-resuscitation orders – Power of attorney agreeing to non-resuscitation orders – Protection of Personal and Property Rights Act 1988, ss 17, 18, 98, 99A, 99B, 102 and 105.

#### *Little v Little* – [2022] NZFLR 316

Relationship property – Division – Redress of economic disparities – Award of lump sum payments – Proper approach to determining quantum of lump sum – Mother worked on part-time and contract basis within marriage to have primary care of children – Consideration to be given as to whether mother should be expected to return to full-time work immediately following separation – Property (Relationships) Act 1976, ss 15, 18B and 18C.

Volume 2022 part 8 is now available.

#### *Q v Capital and Coast District Health Board* – [2022] NZFLR 351

Mental health – “Mental disorder” – Judicial inquiry – Whether fit to be discharged from hospital – Whether diagnosis unclear – Whether continued detention due to criminal behaviour rather than mental health – Ability to be treated as outpatient – Serious danger to health and safety of himself or others – Diminished capacity to take care of himself – Conflict of interest – Mental Health (Compulsory Assessment and Treatment) Act 1992, ss 2, 4, 4(c), 30, 84 and 84(3)(b) – Mental Health Act 1969, s 74.

#### *D and E Ltd (as trustees of the Z Trust) v A, B and C* – [2022] NZFLR 364

Trust – Fiduciary relationship – Fiduciary relationship between father and children – Whether duty owed by father to estranged adult children not to transfer bulk of assets to trust – Abuse by father towards children growing up – Lack of contact with father for 30 years – Father gifting assets to trust to prevent claim by children – Whether father owing fiduciary duties to adult children at time assets gifted to trust – Nature and scope of duties – Whether father breaching duties owed to adult children when gifting assets to trust – Whether trustees holding assets as constructive trustees on behalf of father’s estate – Knowing receipt – Rescission – Accident Compensation Act 1972 – Accident Insurance Act 1998 – Family Protection Act 1955 – Limitation Act 1950.

## **Practical Guidance: Family**

### **Latest Legal Updates**

Woman forced to send daughters back to rich father in France feels “betrayed” by New Zealand justice system

Family Court (Family Court Associates) Legislation Bill passed in Parliament

Supreme Court dismisses lawsuit against lawyer for children and New Zealand Law Society (NZLS)

Family Court orders woman and daughter to return to Australia for the second time

## **Intellectual Property**

### **Intellectual Property Law**

Service 99 is now available online.

The following commentary has been updated: Copyright Act 1994 and Patents Act 2013.

The International Conventions have been reviewed and are up to date.

## **Procedure**

### **District Court Practice (Civil)**

Service 190 is now available online.

This service contains updates to the annotated District Court Rules 2014. In particular, see Part 14 Costs where comment has been added on quantum of disbursements for expert witnesses with reference to the new Witnesses and Interpreters Fees, Allowances and Expenses Regulations 2023.

### **Sim's Court Practice**

Service 239 is now available online.

The annotations to the following Parts of the High Court Rules 2016 have been reviewed and updated: Part 4 Parties, Part 5 Commencement of proceedings and filing of documents, Part 7 Case management, interlocutory applications, and interim relief, Part 8 Discovery and inspection and interrogatories, Part 9 Evidence, Part 11 Judgment, Part 12 Summary judgment, Part 14 Costs, Part 22 Patents, Part 24 Insolvency, Part 30 Judicial Review, and Part 31 Companies: Liquidation.

Commentary on Judicial Review has also been reviewed and updated, see the annotations to the Judicial Review Procedure Act 2016.

## Textbook

### *Insurance Claims in New Zealand, 2<sup>nd</sup> edition*

Paul Michalik & Chris Boys

RRP inc GST: \$160.00

ISBN: 9781988598192 (book)

ISBN: 9781988598208 (ebook)

Publication date: 3 April 2023

## Property

### New Zealand Conveyancing and Property Reports

Volume 23 part 8 is now available.

#### *Smith v Beaven* — (2022) 23 NZCPR 573

Sale of land — Auction — Pre-contractual misrepresentation — Dispute resolution clause — Paying interim amount to stakeholder pending determination — Effect of determination — Determination binding on parties — Claim to money held by stakeholder — No set off where funds held by stakeholder.

#### *Mt Cardrona Station Ltd v Elliston* — (2022) 23 NZCPR 582

Freehold covenants — Application for modification — Removal of covenants from land to be vested as roads or reserves — Change in use — Notice given to properties with benefit of covenant — No opposition filed — Waiver of rights — High Court Rules 2016, r 4.56 — Property Law Act 2007, s 317.

#### *Re Application by Body Corporate 39826* — (2022) 23 NZCPR 592

Unit titles — Cancellation of Unit Plan — Timeshare property — Interests of justice and equity — Rights and interests of creditors and any person with interest in units or land — Whether inequality in voting process — Property to be sold as freehold title — Fair distribution — Undertaking by majority shareholder not to tender for property — Unit Titles Act 2010, ss 89A, 98(4), 187 and 188.

#### *Northash Ltd v Zeff Farms Ltd* — (2022) 23 NZCPR 603

Leases — Breach — Arbitral award — Damages for breach of lease — Assessment of damages — High Court refusing leave to appeal from arbitral award — Whether qualifying question of law arising — Scope of rule in Joyner v Weeks — Whether determination could substantially affect rights of party — Arbitration Act 1996, sch 2 cl 5.

***Park Lane Builds Ltd v Shiva ECO Homes Ltd – (2022) 23 NZCPR 614***

Sale of land – Breach by purchaser – Restrictive covenants – Purchaser on-selling to third party – Interim injunction preventing on-sale of property – Purchaser failing to obtain written consent from vendor for build before on-sale – Seeking to ensure high standard of subdivision maintained – Whether injunction still necessary – Whether damages adequate – High Court Rules 2016, r 15.1.

***Siganporia v Auckland Council – (2022) 23 NZCPR 624***

Freehold covenants – Application for modification – Covenant that land be only used for single residential unit – Interpretation of covenants – Modifying covenants – Purpose of covenant to preserve amenity and privacy – No opposition to application from benefited landowners – Lack of opposition irrelevant – Property Law Act 2007, s 317.

***AAL Holdings Ltd v Aitken – (2022) 23 NZCPR 637***

Cross-leases – Division of property – Cross-leased areas of property – Development right in cross-lease of land – Seeking to replace cross lease titles with freehold titles to enable development of land – Proposed height restriction on development – Owner of dwelling seeking to have view unimpeded by development – Mandatory considerations – Hardships – Valuation – Compensation – Property Law Act 2007, ss 339, 339(1), 339(4), 341, 342, 343 and 343(g).

***Curtis Investments Ltd v John Curtis Ltd – (2022) 23 NZCPR 647***

Sale of land – Breach by vendor – Cancellation by purchaser – Interest on deposit – Seeking interest on deposit at late settlement rate – Whether purchaser entitled to interest – Implied term of agreement that vendor would do all things reasonably necessary to ensure settlement – Vendor taking no steps in relation to caveat lodged by third party – Purchaser incurring legal costs applying for caveat to lapse – Whether summary judgment appropriate.

**Volume 23 part 9 is now available.**

***Armishaw v Huang – (2022) 23 NZCPR 655***

Sale of land – Specific performance – Summary judgment – Vendor's failure to settle – Purchaser seeking transfer of property – Purchaser ready, willing and able to settle – Whether arguable defences – Vendors unable to speak or read English – Condition requested by vendors not inserted into agreement by real estate agent – Mistake – Misrepresentation – Non est factum – Contract and Commercial Law Act 2017, ss 24, 28, 37 and 59(1)(c) – High Court Rules 2016, r 12.2(1).

***Karaitiana (as trustee of Te Apiti Ahu Whenua Trust) v Waka Kotahi NZ Transport Agency – (2022) 23 NZCPR 673***

Accretion – Change to boundary – Māori freehold land – Conservation Act 1987, s 2 – Land Transfer Act 2017, s 21 – Te Ture Whenua Māori Act 1993, ss 18, 73 and 131.

***Re Fendalton Mall Ltd – (2022) 23 NZCPR 685***

Freehold covenants – Covenants in gross – Encumbrances – Discharge of encumbrances – Encumbrances secured by mortgage no longer enforceable – No party entitled to enforce them – Resource consent relating to covenants overtaken by re-zoning of land – Party entitled to enforce encumbrances dissolved – Amounts paid in full – Nominal rent charge – Land Transfer Act 2017 – Property Law Act 2007, ss 4, 5, 109(1), 110, 110(a)(iii) and 111.

***Body Corporate 203344 v Flores – (2022) 23 NZCPR 689***

Unit titles – Unpaid levies – Bankruptcy of unit owner – Vesting order – Money owed to body corporate for unpaid levies – Disclaimer by Official Assignee in regard to unit – Body corporate suffering loss as result of disclaimer – Whether vesting order appropriate – Registered mortgage over unit – Insolvency Act 2006, ss 117, 119(1)(b) and 119(2) – Unit Titles Act 2010, s 124.

***Dromgool v Minister for Land Information – (2022) 23 NZCPR 693***

Compulsory acquisition – Taking of easements – Network utility operator – Power of Minister for Land Information – Power limited by concept of reasonableness – Satisfaction that alternatives duly considered – No duty on Minister to personally consider alternatives – Inquiry into adequacy of consideration of alternatives – Judicial review – Judicial review not inconsistent with objection process – Criminal Procedure Act 2011, s 309 – Magna Carta 1215, 25 Edw 1 c 29 – Public Works Act 1981, ss 2, 4A, 15A, 16, 18, 20, 23, 24 and 26 – Resource Management Act 1991, ss 167, 168A, 169, 170, 171, 172, 173, 174, 184, 185, 186, 296, 299 and 308 – Senior Courts Act 2016, s 71.

**Volume 23 part 10 is now available.**

***Bailey v Auckland Council – (2022) 23 NZCPR 739***

Freehold covenants – Covenant in gross – Encumbrance instrument – Interlocutory applications – Interim injunction – Interim restraining orders – Seeking to prevent construction on neighbouring property pending resolution of substantive proceedings – Enforcement of encumbrance – Judicial review application of decision granting resource consent on non-notified basis – Whether serious question to be tried – Seeking to protect ability to enforce encumbrances – Protecting amenity value of property and view – Financial loss through delays to construction – Whether encumbrance enforceable – Effect of encumbrance – “Natural landscape” – Replanting obligation – Estoppel – Balance of convenience – Undertaking as to damages – Whether consents should have been notified on limited basis – Judicial Review Procedure Act 2016, s 15 – Land Transfer Act 1952, s 101 – Marine and Coastal Area (Takutai Moana) Act 2011, s 11 – Property Law Act 2007, ss 203, 204, 205 and 317 – Resource Management Act 1991, ss 95–95E and 104(1).

***SPAK (1996) Ltd v LeRoy* – (2022) 23 NZCPR 769**

Easements – Rights under easements – Exercise of rights under easements – Removing obstructions on easements – Removing obstructions not trespass – Unwanted mail – Returning unwanted mail to sender – Use of easements reasonable – Damages for trespass – No prospect of award of damages – Summary judgment by defendant – Strike out – Insignificant or trivial claim – Waste of Court’s time – Indemnity costs – Indemnity costs inappropriate – Evidence Act 2006, s 9 – High Court Rules 2016, rr 12.2 (formerly r 186), 14.6 and 15.1 – Property Law Act 2007, s 317 – Land Transfer Regulations 2018, sch 5 cl 6.

***GRP Holdings Ltd v VP Nominees Ltd* – (2022) 23 NZCPR 803**

Caveats – Condition on sustaining of caveat – Undertaking as to damages – Application for conditions to be imposed after caveat already sustained – Jurisdiction to order conditions on sustained caveat – No change in circumstances – No evidence of loss – Voluntary assumption of risk – High Court Rules 2016, rr 7.45 and 19.10(3) (formerly r 458F) – Land Transfer Act 2017, s 148.

**Volume 23 part 11 is now available.**

***Larsen (as trustees of Wootton Trust and Birichino Trustees Ltd) v Skelton* – (2022) 23 NZCPR 816**

Freehold covenants – Application for extinguishment – Covenant preventing subdivision – No change in use of land – Neighbourhood – Extent of neighbourhood – No change in neighbourhood since covenant created – Change in neighbourhood foreseeable when covenant created – No impediment to reasonable use – Purpose of covenant to resist impact of zoning changes – Evidence Act 2006, s 25 – Property Law Act 2007, ss 316 and 317.

***Marsh v Goldline Properties Ltd* – (2023) 23 NZCPR 893**

Caveats – Application to sustain – Cancellation of sale and purchase agreements by vendor – Vendor relying on breach of Real Estate Agents Act 2008 (Act) to cancel contracts – Real estate agent selling properties on behalf of vendor – Agent later entering joint venture arrangement for development of properties with purchaser – “Made” – Entitlement to cancel contracts – Whether contracts made in contravention of Act – Whether contracts brought about by agent in contravention of Act – Land Transfer Act 2017, s 143 – Real Estate Agents Act 2008, ss 3, 4, 134, 134(1), 134(2), 134(4), 134(4)(a), 134(4)(b) and 137 – Real Estate Agents Act 1976, ss 62 and 63.

Real estate agents – Cancellation of sale and purchase agreements – Vendor relying on breach of Act to cancel contracts – Application to sustain caveats over properties – Real estate agent selling properties on behalf of vendor – Agent later entering joint venture arrangement for development of properties with purchaser – “Made” – Entitlement to cancel contracts – Whether contracts made in contravention of Act – Whether contracts brought about by agent in contravention of Act – Land Transfer Act 2017, s 143 – Real Estate Agents Act 2008, ss 3, 4, 134, 134(1), 134(2), 134(4), 134(4)(a), 134(4)(b) and 137 – Real Estate Agents Act 1976, ss 62 and 63.

## **Textbook**

*McMorland on Easements, Covenants and Licences*, 5<sup>th</sup> edition

D W McMorland

RRP inc GST: \$200.00

ISBN: 9781988598550 (book)

Publication date: 1 June 2023

## **Public Law**

### **Textbooks**

*Electoral Law in Aotearoa New Zealand*, 3rd edition

Andrew Geddis

RRP inc GST: \$165.00

ISBN: 9781988598031 (book)

ISBN: 9781988598048 (ebook)

Publication date: 15 June 2023

## **Resource Management**

### **Environmental and Resource Management**

Service 61 is now available online.

This service contains updates to the chapters on Environmental Law – Sources, legislation and governance; Resource Management Act 1991 – Purpose and national direction; New organisms and biosecurity; Heritage; and Environmental litigation and dispute resolution.

## **New Zealand Resource Management Appeals**

**Volume 2023 part 3 is now available.**

### ***Evans v Marlborough District Council* – [2023] NZRMA 99**

Biosecurity – Pest management – Pest management plans – Regional pest management plans – Respondent made regional pest management plan that proposed clear felling introduced pest conifer species by chemical boom spraying – Applicant owned pastoral farm impacted by pest conifer species – Applicant had retired certain land from grazing to promote indigenous vegetation – Applicant applied to Environment Court for directions modifying plan – Jurisdiction of Environment Court in respect of such applications – Proper approach to challenge – Biosecurity Act 1993, s 76.

### ***Zyxcba Developments Ltd v Auckland Council* – [2023] NZRMA 131**

Land valuation – Costs – Disturbance costs – Litigation costs – District plan compensation provisions – Land valuation required for compensation purposes – Subdivision process triggering compulsory acquisition – Parties failing to agree on level of compensation – Land Valuation Proceedings Act 1948, ss 33(2), 33(3), 33(5) and 37(1) – Public Works Act 1981, ss 60, 66(1)(a)(iii) and 90 – Resource Management Act 1991, s 230(3).

**Volume 2023 part 4 is now available.**

### ***Dromgool v Minister for Land Information* – [2023] NZRMA 139**

Compulsory acquisition – Taking of easements – Network utility operator – Power of Minister for Land Information – Power limited by concept of reasonableness – Satisfaction that alternatives duly considered – No duty on Minister to personally consider alternatives – Inquiry into adequacy of consideration of alternatives – Judicial review – Judicial review not inconsistent with objection process – Criminal Procedure Act 2011, s 309 – Magna Carta 1215, 25 Edw 1 c 29 – Public Works Act 1981, ss 2, 4A, 15A, 16, 18, 20, 23, 24 and 26 – Resource Management Act 1991, ss 167, 168A, 169, 170, 171, 172, 173, 174, 184, 185, 186, 296, 299 and 308 – Senior Courts Act 2016, s 71.

**Volume 2023 part 5 is now available.**

### ***R v John Turkington Ltd* – [2023] NZRMA 184**

Resource management – Prosecution – Evidence obtained under power of entry for inspection – Admissibility – Criminal Procedure Act 2011, s 101 – Evidence Act 2006, s 30.

## ***Re Western Bay of Plenty District Council – [2023] NZRMA 224***

Standards, policy statements and plans – District plans – District rules – Financial contribution rules – Legal effect of rules – Power of Environment Court to order legal effect from date other than standard date – District rules provided for financial contributions through resource consent process – Parliament passed law removing need to obtain resource consent for certain developments – Council to notify proposed changes to district plan to require financial contributions despite removal of requirement of resource consent – Council would experience shortfall in funding if legal effect delayed until standard date – Proper approach to power to change date of legal effect of district rules – Resource Management Act 1991, s 86D.

## **Succession**

### **Practical Guidance: Succession**

#### Latest Legal Updates

Brother goes to Court of Appeal after receiving lesser share than his brothers from \$4.4m estate

Brutal father set out to cut his traumatised children from his will

## **The Laws of New Zealand**

**Service 107 (updated to 23 January 2023) is now available online.**

Service 107 features significant updates to:

- The "Banking", "Children and Young Persons", "Crown Land", "Information", "Insurance", "Maritime Law: Shipping and Navigation", "Parent and Child", "Ports and Harbours", "Public Safety", and "Resource Management" titles as a result of the Statutes Amendment Act 2022, which came into force on 30 November 2022;
- The "Courts" title as a result of the Remuneration Authority Legislation Act 2022, which came into force on 1 December 2022;
- the "Criminal Procedure" title, as a result of the Rights for Victims of Insane Offenders Act 2021, which came into force on 14 December 2022, and the Sexual Violence Legislation Act 2021, which came into force in its entirety on 21 December 2022;
- The "Crown Land", "Lessor and Lessee", "Research and Libraries", and "State Sector" titles as a result of the Crown Pastoral Land Reform Act 2022, the remainder of which came into force on 18 November 2022;
- the "Elections" title, as a result of the Electoral Amendment Act 2022, most of which came into force on 1 January 2023;
- The "Employment" title as a result of the Screen Industry Workers Act 2022, the remainder of which came into force on 31 December 2022 and the Fair Pay Agreements Act 2022, the remainder of which (except for s 34(3) and (4)) came into force on 1 December 2022;

- the "Forestry" title, as a result of the Forests (Regulation of Log Traders and Forestry Advisers) Amendment Act 2020, which came into force on 6 August 2022;
- The "Health" title as a result of the Smokefree Environments and Regulated Products (Smoked Tobacco) Amendment Act 2022, which (with the exception of ss 20, 21(1) and (2), 22 - 26, 41(1) and (2), 52(1) - (3), 57 - 59 and 61 - 63) came into force on 1 January 2023;
- the "Public Safety" title, as a result of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022, which came into force on 1 November 2022, the COVID-19 Public Health Response (Extension of Act and Reduction of Powers) Amendment Act 2022, which came into force in its entirety on 15 December 2022, the Firearms Prohibition Orders Legislation Act 2022, which came into force on 16 November 2022, and the Arms (Licence Holders' Applications for New Licences) Amendment Act 2022 which came into force on 29 November 2022.

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