

LexisNexis News

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

Using Practical Guidance on Lexis Advance Webinar – Tuesday, 22nd of August at 12pm

In Practical Guidance you can find straightforward guidance written by experts in different areas of law. Practical Guidance links you to relevant cases and legislation, forms, checklists and precedents, as well as extracts from the key texts LexisNexis publishes in that area. Attend this session to understand the use and benefits of Practical Guidance modules for your everyday research. Duration: 60 min

Research Success with Lexis Advance Webinar – Tuesday, 5th of September 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

LexisNexis Authors' training Webinar – Thursday, 24th of August at 3pm

This training session is being run especially for LexisNexis authors. If you write for LexisNexis and would like to brush up on your research skills and learn new time saving tips for using Lexis Advance, please sign up for one of the sessions below. Duration: 60 min

Employment

Mazengarb's Employment Law

Service 278 is now available online.

This service includes updates to the Employment Relations Act 2000; Part 2, Preliminary provisions; Part 5, Collective bargaining; Part 6, Individual employees' terms and conditions of employment; Part 8, Strikes and lockouts; Part 9, Personal grievances, disputes and enforcement; and Part 9A, Additional provisions relating to enforcement of employment standards. Commentary to the following Acts has also been updated: Wages Protection Act 1983; Parental Leave and Employment Protection Act 1987; Human Rights Act 1993; and the Health and Safety at Work Act 2015.

New Zealand Employment Law Reports

Volume 19 Part 7 is now available online.

Henry v South Waikato Achievement Trust – (2023) 19 NZELR 539

Unjustified dismissal – Unjustified disadvantage – Serious misconduct – Delay in reporting alleged assault in workplace – Whether reporting incident for improper purpose – Inappropriate questioning of person assaulted – Whether basis for suspension – Real basis for suspension not disclosed to employee – Whether appropriate procedure followed by employer – Whether open to employer to conclude the allegations were serious misconduct – Disparity of treatment – Remedies – Whether reinstatement appropriate – Contributory conduct – Lost remuneration – Special damages – Compensation – Employment Relations Act 2000, ss 103, 103A, 103A(2), 123(1)(b), 123(1)(c)(i), 128(2) and 128(3).

Pyne v Invacare New Zealand Ltd – (2023) 19 NZELR 559

Practice and procedure – Nature/extent of hearing – Preliminary issues – Challenge to determination – Non-de novo hearing – Whether bar to evidence being given afresh when hearing not de novo hearing – “Further evidence” – Whether plaintiff able to pursue challenge not expressly pleaded in Employment Relations Authority – Alleged breach of employment agreement – Employment Relations Act 2000, ss 179(4), 182(3) and 183.

Te Whatu Ora Health New Zealand v Public Service Association — (2023) 19 NZELR 571

Strikes — Lawfulness — Proposed strike action — Whether parties agreeing to advance pay equity claims in collective bargaining — Back pay entitlements — Lawfulness of proposed strike under Employment Relations Act — Whether strike related to bargaining — Interface between Employment Relations Act and Equal Pay Act — Right to strike — Legal framework — Separate processes — Legislative history — Declarations — Employment Relations Act 2000, ss 3, 4, 4A, 5, 32(1)(c), 33, 50F, 80, 83, 83(b), 137, 161, parts 8 and 9A — Equal Pay Act 1972, ss 2AAC, 2A, 13A, 13C, 13ZC, 13ZD, 13ZE, 13ZH(2), 13ZM, 13ZN, 13ZY, 13ZZD, 13ZZE, 18 and part 4 — Equal Pay Amendment Act 2020 — Human Rights Act 1993 — International Covenant on Economic, Social and Cultural Rights, art 8 — Legislation Act 2019, s 10(1).

Reunited Employees Association Inc v Nelmac Ltd — (2023) 19 NZELR 601

Collective bargaining — Breach of duty of good faith by union — Determination of collective agreement by Employment Relations Authority — Union breached duty by purported to mislead employer during facilitation — Union breached duty by refusing to engage with employer's named bargaining agent — No realistic options, and employer had no alternative remedy, other than fixing of collective agreement — Appropriate for collective agreement to be fixed — (NZ) Employment Relations Act 2000, s 50J.

Employment Relations Authority — Practice and procedure — Costs — Proper approach.

Family

Family Law Service

Service 212 of *Family Law Service* includes a large amount of new legislation including the Births, Deaths, Marriages, and Relationships Registration Act 2021, Births; Deaths, Marriages, and Relationships Registration (Registering Nominated Sex) Regulations 2023; Child Support (Pass On) Acts Amendment Act 2023; Evidence (Video Records and Very Young Children's Evidence) Regulations 2023 and Family Court (Family Court Associates) Legislation Act 2023.

Service 212 also includes case commentary in the areas of Adoption, Care and Protection, Change of name, Day-to-day care and contact, Dissolution of marriage, Family Protection Act 1955, Family Violence Act 2018, Guardianship, Hague Convention, International family law, Marriage, Relationship property and Youth Justice.

Practical Guidance: Family

Latest Legal Updates

Due to lack of legal aid, people are compelled to represent themselves in Family Court

Man claiming to be father of same-sex couple's child loses paternity battle

High Court rules three-year-old child is Māori in Oranga Tamariki case, but father disagrees

New Zealand Family Law Reports

Volume 2023 Part 1 is now available online.

G v G – [2023] NZFLR 1

Dissolution of marriage – Declaration of invalidity – Jurisdiction of Family Court to declare marriage dissolution order invalid where dissolution proceedings undefended – Dissolution obtained by fraud – Substituted service – Husband representing that he did not know wife's whereabouts – Principle of inviolacy – Declaratory Judgments Act 1908, s 4 – (CTH) Family Law Act 1975, ss 4(1)(b) and 113 – Family Proceedings Act 1980, ss 27, 27(1), 27(1)(b), 27(2), 28, 28(2), 29, 31, 38(3), 39, 45(3) and part 4 – New Zealand Bill of Rights Act 1990, s 27.

Cooper v Pinney – [2023] NZFLR 20

Relationship property – “Property” – “Right or interest” – General power of appointment under trust deed – Donee of power constrained by fiduciary duty in exercise of powers in his own favour to detriment of other beneficiaries – Donee of power could not exercise power without “effective accountability” – Power not “right or interest” so as to be “relationship property” – Property (Relationships) Act 1976.

Procedure

Textbooks

Insurance Claims in New Zealand, 2nd edition

Paul Michalik & Chris Boys

RRP inc GST: \$160.00

ISBN: 9781988598192 (book)

ISBN: 9781988598208 (ebook)

Publication date: 3 April 2023

Questions and Answers: Torts, 4th edition

Alexandra Briscoe

RRP inc GST: ~~\$50.00~~ \$45.00 (pre-order price)

ISBN: 9781988546674 (book)

ISBN: 9781988546681 (ebook)

Publication date: September 2023

Property

New Zealand Conveyancing and Property Reports

Volume 24 Part 2 is now available online.

Joe & Co Builders Ltd v Thompson — (2023) 24 NZCPR 87

Sale of land — Boundary markers — Vendor's contractual obligation — Caveat — Application to sustain — Sale and purchase agreement for bare land — Purchaser refusing to settle — Vendors seeking to cancel agreement — Whether vendor fulfilled clause in agreement relating to identification of boundaries — Whether cadastral survey data set needing to be lodged with Land Information New Zealand — Placing of survey pegs — Cadastral Survey Act 2002, s 56 — Cadastral Survey Rules 2021, rr 35(1)(d), 63 and 113 — Land Transfer Act 2017, ss 138, 138(1) and 143.

PGG Wrightson Real Estate Ltd v Routhan (as trustees of the Kaniere Family Trust) – (2023) 24 NZCPR 97

Real estate agent – Duty of care – Scope of duty – Real estate agent and prospective purchaser – Appellant was real estate agent – Respondents purchased dairy farm – Appellant represented dairy farm had certain average production levels in three years before purchase date – Representation was wrong – Respondents relied upon representation in purchasing dairy farm – Respondents sold dairy farm, 10 years later, in sale forced by mortgagee – Respondents sued appellant for loss resulting from representations – Proper approach to determining which losses appellant had assumed duty for by making representation.

Damages – Assessment – Actions based on tort – Negligence – Misleading and deceptive conduct – Proper approach to determining date of assessment – Proper approach to determining loss for which damages recoverable.

Zhao v Zheng – (2023) 24 NZCPR 137

Caveats – Application to sustain – Loan agreement – Type of interest in property – Whether caveat defective in description of interest as equitable mortgage – Whether equitable charge – Leave to lodge second caveat with interest as equitable charge – Whether circumstances justifying lodging second caveat – Conditions on second caveat – Land Transfer Act 2017, ss 5, 138, 138(1)(a), 138(3) and 146 – Land Transfer Regulations 2018, sch 2 – Property Law Act 2007, ss 24 and 25.

Hürlimann v Lilley – (2023) 24 NZCPR 150

Freehold covenants – Application for extinguishment – Sale and purchase agreement of subdivided lot – Restrictive covenants registered prior to issuing of new title – Vendor imposing restrictions on building on purchaser's land only – Whether agreement permitted registering restrictive covenants – Just and equitable – Whether restrictive covenants inherently inequitable and arbitrary – Collateral purpose – Whether restrictive covenants imposed to force purchaser to cancel agreement – Whether modification of covenants should have been considered – Property Law Act 2007, ss 317, 317(1) and 317(1)(f).

Textbook

McMorland on Easements, Covenants and Licences, 5th edition

D W McMorland

RRP inc GST: \$200.00

ISBN: 9781988598550 (book)

Publication date: 1 June 2023

Public Law

Textbook

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

Succession

Practical Guidance: Succession

Latest Legal Updates

Court orders estate to be administered by independent lawyer

Daughter distressed with her mother's will

Brother clashes with sisters over parents' \$5 million estate

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