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LexisNexis News

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

New Zealand Forms and Precedents on Lexis Advance Webinar – Thursday, 5th of October at 5pm

This is an overview of all Forms and Precedents available in full on Lexis Advance, New Zealand Forms and Precedents is a modern precedents resource created specifically for New Zealand. This wide-ranging, encyclopedic publication is designed to provide a precedent for every ordinary legal transaction and some extraordinary ones, that are not simply Academic or Court documents. Its authoritative and comprehensive coverage will give you a greater ability to provide forms and precedents appropriate for your clients' needs and save time with drafting. The authors of the titles are specialists in their field and use a modern drafting approach, making the precedents very user-friendly. This session will show you how to access and use the forms, investigate recent updates, and provide an opportunity for you to learn what you need to know about this key resource on Lexis Advance.

Duration: 60 min

Using LexCite and CaseBase on Lexis Advance Webinar – Friday, 6th of October at 1pm

Get a better understanding of how CaseBase and LexCite work as our case law and legislation citators. Understand the sources from which they draw their information and how they can be used to aid your legal research and save you time. Duration: 60 min

Focus on Property Law Resources on Lexis Advance Webinar – Tuesday, 10th of October at 11am

Attend this session and find out how to access commentary, case law and legislation on the ever-changing landscape of New Zealand property land law and get up to date with the relevant resources available in Lexis Advance. As well as enabling you to carry out more effective research, we will take you through the key LexisNexis works in this area including Hinde McMorland and Sims's Land Law in New Zealand, Adam's Land Transfer and the Practical Guidance Property Law module. In addition you will learn to set up alerts on relevant topics and publications and keep track of your documents for future reference, to save you valuable time. Duration: 60 min

Ask a consultant anything about Lexis Advance: Employment Law Themed Webinar – Thursday, 12th of October at 4pm

Attend this session to learn how LexisNexis's suite of employment law publications sets you up with authoritative resources to power your employment practice. You will get insight into our range of expert employment commentary, including publications such as Mazengarb's Employment Law, the Employment Law Bulletin, the New Zealand Law Journal, Privacy Law and Practice, the Laws of New Zealand Employment titles, and the Practical Guidance module on Employment. Duration: 60 min

Commercial

Commercial Law in New Zealand

Service 79 is now available online.

Commentary in the following chapters has been updated: Introduction, Fair Trading, Specific Contracts, Competition Law, Dispute Resolution, and Secured Transactions.

Morison's Company and Securities Law

Service 209 is now available online.

Commentary in the Company binder has been updated for: Introduction, Incorporation and Registration, Constitution and Capacity, Directors, Proceedings and Remedies, Accounts and Records, and Voidable Transactions.

Commentary in the Securities binder has been updated for: Personal Property Securities and Financial Markets Conduct Act 2013.

Morison's Company Law

Morison's Securities Law

Criminal

Becroft and Hall's Transport Law

Service 218 is now available online.

The Government Roothing Powers Act 1989, Land Transport Management Act 2003, and Summary Proceedings Act 1957 have been amended. Commentary regarding the Land Transport Act 1998, New Zealand Bill of Rights Act 1990, and Sentencing Principles and Practice have been updated. An updated Index has been included.

Hall's Sentencing

Service 191 is now available online.

The Corrections Act 2004, Criminal Proceeds (Recovery) Act 2009, the Public Safety (Public Protection Orders) Act 2014, and Sentencing Act 2002 have been amended. Commentary has been updated for Introduction: Principles of Sentencing, Sentencing Act 2002, Parole Act 2002, Corrections Act 2004, Habeas Corpus Act 2001, Criminal Procedure Act 2011, Sentencing Levels, and Appendices I, II and VI.

Employment

New Zealand Employment Law Reports

Volume 19 Part 10 is now available online.

Ling v Super Cuisine Group Ltd — (2023) 19 NZELR 784

Constructive dismissal — Resignation — Reasonable foreseeability — Failing to correctly pay employee — Whether employer's breach of duty causing employee to resign — Whether resignation caused by employee finding alternative employment — Employer making disparaging remark to employee — Whether resignation foreseeable — Remedies — Compensation — Employment Relations Act 2000, ss 4(1A)(b), 103A, 123(1)(c)(i) — Holidays Act 2003 — Minimum Wage Act 1983.

Pilgrim v Attorney-General (sued on behalf of the Ministry of Business, Innovation and Employment, Labour Inspectorate) – (2023) 19 NZELR 793

Employment status – Employee versus volunteer – Whether residents at Gloriavale employees or volunteers – Real nature of relationship – Nature of work – Volunteer exclusion – Reward – Whether employment relationship existing – Whether employment status incompatible with religious beliefs – Recognised rights – Ability to pay – Employer identification – Employment Relations Act 2000, s 6 – New Zealand Bill of Rights Act 1990, ss 13 and 15.

Fire and Emergency New Zealand v New Zealand Professional Firefighters Union – (2023) 19 NZELR 840

Holidays – Public holidays – Minimum entitlement – Whether parties correctly provided for minimum entitlement for public holidays in employment agreements – Interpretation of agreement and legislation – Whether rate for overtime worked on public holidays meeting statutory requirement – Fifty per cent uplift on overtime pay normally paid for that day – Evidence Act 2006, ss 7, 8 – Holidays Act 2003, ss 6, 9, 50, 52, 52(3), 54(4).

Inspired Enterprises Ltd v WorkSafe New Zealand – (2023) 19 NZELR 850

Health and safety – Sentencing – Appeal against fine – Manifestly excessive – Error by judge of material facts when imposing sentence – Company failing to ensure health and safety of other persons – Risk from asbestos when replacing flooring – Judge failing to make provision for several relevant mitigating factors – Assessment of least restrictive outcome – Whether conviction and discharge appropriate – Global discount for mitigating factors – Remorse – No previous convictions – Good safety record – Cooperation – Proportionality – Criminal Procedure Act 2011, ss 244 and 250 – Health and Safety at Work Act 2015, ss 36(2), 48, 49, 49(1), 49(2), 125, 126, 127, 128, 151, 152, 153, 154, 155, 156, 157, 158 and 176 – Health and Safety at Work (Asbestos) Regulations 2016, reg 26 – Sentencing Act 2002, ss 7, 7(a), 7(f), 7(g), 8, 8(e), 8(g), 9, 10 and 109.

Volume 19 Part 11 is now available online.

Cronin-Lampe v Board of Trustees of Melville High School — (2023) 19 NZELR 869

Personal grievances — Raising grievances — Leave to raise grievance after delay — Proper approach to exercise of discretion to grant leave — No power of court to override requirement that parties attend upon mediation in consequence of grant of leave — Plaintiffs employed by defendant as counsellors — Plaintiffs involved in assisting school community deal with traumatic events including 32 deaths — Plaintiffs applied for leave to raise grievance after delay by reason of diagnosis of post-traumatic stress disorder (PTSD) — Plaintiffs were precluded by PTSD from properly considering filing claim within statutory period — Such circumstances were “exceptional” — Circumstances rendered grant of leave just — Employment Relations Act 2000, ss 114, 115 and 188 — Limitation Act 1950, s 33.

Volume 19 Part 12 is now available online.

Caisteal an Ime Ltd v Labour Inspector of the Ministry of Business, Innovation and Employment — (2023) 19 NZELR 943

Enforceable undertaking — Breach of compliance order — Challenge to determination of Employment Relations Authority — Whether Inspector’s notice improperly issued or within statutory functions and powers — Whether performance of notice excused for reasonable cause or privilege — Employment Relations Act 2000, ss 223A, 223B(2) and 229 — Evidence Act 2006, s 60.

Taniwha v Te Rūnanga O Toa Rangatira Inc — (2023) 19 NZELR 953

Personal grievances — Raising personal grievances — Statutory time limit — Statement of claim mentioned unjustified dismissal claim — Accompanying affidavit did not expressly raise, but deposed to facts consistent with, unjustified disadvantage claim — Former claim barred but latter claim not barred — Employee unrepresented before Employment Relations Authority — Authority did not resolve inconsistency — Employee decided employee did not raise dismissal personal grievance within statutory time limit — Employee challenged decision in Employment Court — Proper approach to ascertaining grievance raised — Challenge allowed — Employment Relations Act 2000, ss 114 and 179.

Robertson v IDEA Services Ltd — (2023) 19 NZELR 962

Personal grievance — Unjustified dismissal — Defendant was charity providing support services for people with intellectual disabilities — Defendant employed plaintiff as support worker — Plaintiff verbally abused and slapped service user — Defendant found plaintiff committed serious misconduct and dismissed her — Plaintiff’s conduct constituted serious misconduct — Dismissal was decision open to fair and reasonable employer — Employment Relations Act 2000, s 103A.

Family

Practical Guidance: Family

Latest Legal Updates

Family Court orders nephew to repay nearly \$1.5 million that he “unduely influenced” his elderly aunt with dementia to gift him

Mother applies to Family Court to change surname of son who was brain damaged by violent father

New Zealand Family Law Reports

Volume 2023 Part 4-5 is now available online.

Hall v Hall – [2023] NZFLR 147

Family protection – Grounds for refusal – Disentitling conduct – Assaults and attacks on testator – Such conduct to be understood in context of applicant’s history and relationship between applicant and testator – Such conduct might reduce, rather than exclude, provision to be made – Family Protection Act 1955, s 4 and 5.

Family protection – Moral duty of wise and just testator – Testator was pākehā and his wife was Māori – Wife predeceased testator and devised and bequeathed estate to testator – Testator and wife had eight children – Testator made substantial gifts to daughters but gave lesser gifts or excluded sons – Applicant sought provision from deceased estate – Sons contended tikanga applied that required testator’s assets to be distributed equally – Proper approach to application of tikanga in applications for provision from deceased estate.

An v Feng – [2023] NZFLR 170

Evidence – Relationship property proceedings – Relevance – Seeking removal of parts of affidavits – Whether affidavit evidence irrelevant or unfairly prejudicial – Lengthy exhibits – Objections to answering interrogatories – Evidence Act 2006, ss 7, 8 and 103 – Family Court Act 1980, ss 9A and 12A – Family Court Rules 2002, rr 3, 15, 158 and 170 – (NZ) District Court Rules 2014, r 8.40(1).

Lake v Newton – [2023] NZFLR 180

Care of children – Death of parent – Contact with grandparents – Children’s views – Children’s views influenced by parent – Unreliability of views held by children – Respect for Family Court processes – Counsel – Counsel required to take conciliatory approach – Content of affidavits – Care of Children Act 2004 ss 4, 5, 6, 9B, 47 and 133.

Mental health – Human rights – Declarations – Statutory challenges – Seeking human rights consistent interpretation and application to mental health legislation – “Mental disorder” – Mental capacity as determinative factor – Consent to treatment – Entry and exit provisions of the mental health legislation – Child’s consent to treatment – Advance directives – Right to refuse to undergo medical treatment – Compulsory treatment provisions – Principle of legality – Community treatment orders – Right to freedom from discrimination – Right not to be arbitrarily arrested or detained – Reform of mental health legislation – Principle of comity – Declaratory Judgments Act 1908 – Health and Disability Commissioner (Code of Health and Disability Services Consumers’ Rights) Regulations 1996, right 7 – International Covenant on Civil and Political Rights, arts 9(1) and 26 – International Covenant on Economic Social and Cultural Rights – Judicial Review Procedure Act 2016 – Mental Health (Compulsory Assessment and Treatment) Act 1992, ss 1, 2, 4, 5, 6, 7A(2), 10, 10(1)(b)(ii), 11, 12, 12(1)(b)(ii), 13, 14, 16, 19, 22, 27(3), 57, 58, 59, 60, 61, 63, 75, 110A, parts 2, 5, 4 and 6 – Mental Health (Compulsory Assessment and Treatment) Amendment Act 2021 – New Zealand Bill of Rights Act 1990, ss 3, 5, 6, 11 and 19 – Protection of Personal and Property Rights Act 1988, ss 3, 5, 18, 18(1)(c), 98, 98(4) and 99A – Substance Addiction (Compulsory Assessment and Treatment) Act 2017, s 7 – United Nations Convention on the Rights of Persons with Disabilities, arts 2, 3, 5, 12, 14, 13 and 33 – (NZ) United Nations Declaration on the Rights of Indigenous People.

Human rights – Mental health – Statutory challenges – Declarations of inconsistency – Seeking human rights consistent interpretation and application to mental health legislation – Right to refuse to undergo medical treatment – Right to freedom from discrimination – Right not to be arbitrarily arrested or detained – Justifiable limits – Reform of mental health legislation – Principle of comity – “Mental disorder” – Consent to treatment – Entry and exit provisions of the mental health legislation – Child’s consent to treatment – Advance directives – Compulsory treatment provisions – Principle of legality – Declaratory Judgments Act 1908 – Mental Health (Compulsory Assessment and Treatment) Act 1992, ss 1, 2, 4, 5, 6, 7A(2), 10, 10(1)(b)(ii), 11, 12, 12(1)(b)(ii), 13, 14, 16, 19, 22, 27(3), 57, 58, 59, 60, 61, 63, 75, 110A, parts 2, 5, 4 and 6 – New Zealand Bill of Rights Act 1990, ss 3, 5, 6, 11 and 19 – (NZ) United Nations Convention on the Rights of Persons with Disabilities, arts 2, 3, 5, 12, 14, 13 and 33 – United Nations Declaration on the Rights of Indigenous People.

Textbooks

Family Law in New Zealand, 21st edition

Mark Henaghan, Bill Atkin, Shonagh Burnhill & Anna Chapman

RRP inc GST: ~~\$175.00~~ \$157.50 (pre-order price)

ISBN: 9781988598604 (two-volume set)

Projected publication date: 10 October 2023

Family Law Legislation, 21st edition

LexisNexis Legislation Series

RRP inc GST: ~~\$160.00~~ \$144.00 (pre-order price)

ISBN: 9781988598611 (two-volume set)

Projected publication date: 13 October 2023

Intellectual Property

Practical Guidance: Intellectual Property

This module has been updated. Updates include guidance on registering and maintaining IP in New Zealand, intellectual property disputes, and the fundamentals of intellectual property in New Zealand.

Procedure

Textbook

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

Property

Hinde McMorland & Sim Land Law

Service 91 is now available online.

Commentary in the following chapters has been updated: ch 7 Title to land, ch 9 Title by registration, ch 11 Leasehold estates, ch 13 Concurrent interests in land, and ch 14 Unit titles and cross-leases.

Conveyancing Bulletin

Volume 20 issue 14 is now available online.

This issue includes comment on recent key cases in the areas of sale of land, caveats and indefeasibility of title.

Practical Guidance: Property

Latest Legal Updates

Property management company to pay damages for failing to comply with improvement notice

Partnership to pay \$97,500 for breach of Overseas Investment Act 2005

Residential Property Managers Bill introduced

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 Update

Taranaki woman who used fake will to claim an estate receives community-based sentence

The Laws of New Zealand

Service 108 (updated to 30 April 2023) is now available online.

Service 108 features significant updates to:

- the "Agriculture", "Local Government", "Nuisance", and "Resource Management" titles as a result of the Severe Weather Emergency Legislation Act 2023, which came into force on 21 March 2023, and the Severe Weather Emergency Recovery Legislation Act 2023, which came into force on 13 April 2023;
- the "Banking", "Criminal Procedure", "Police", and "Public Safety" titles as a result of the Criminal Activity Intervention Legislation Act 2023, which came into force on 5 April 2023;
- the "Coroners" title as a result of the Coroners Amendment Act 2023, which came into force on 5 April 2023;
- the "Consumer Protection" title as a result of the Organic Products and Production Act 2023, which came into force on 6 April 2023.
- 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 "Elections" title, as a result of the Electoral Amendment Act 2022, most of which came into force on 1 January 2023;

- 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 "Prisons and Enforcement of Sentences" title as a result of the Returning Offenders (Management and Information) Amendment Act 2023, which came into force on 28 February 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.

Trusts

Practical Guidance: Trusts

Latest Legal Update

Trust-owned properties on the rise despite higher trusts tax rates

Various

Practical Guidance: Social Justice

Practical Guidance Social Justice is LexisNexis' free online module for people who are unable to afford a lawyer, wish to represent themselves in court or understand more about their legal rights in New Zealand.

A new subtopic, Lay litigants, has been added under the topic Your rights. The Lay litigants subtopic provides information and guidance for anyone representing themselves in court. LexisNexis would like to thank the dedicated volunteers at the Wellington Community Justice Project for their work in writing this new subtopic.

If you are interested in writing for Practical Guidance Social Justice, please contact your Relationship Manager or email content.management@lexisnexis.co.nz.

Textbook

Questions and Answers: Torts, 4th edition

Alexandra Briscoe

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

ISBN: 9781988546674 (book)

Projected publication date: 02 October 2023

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