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### **LexisNexis News**

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

#### **Ask a consultant anything about Lexis Advance - Environment Law Webinar Thursday, 16th of November at 4 pm**

This webinar focuses on LexisNexis' Environmental and Resource Management Law resources, including Practical Guidance, compiled by experts in the field. Attendees will learn how to work with content in Environmental Resource Management Law Online, comprehensively reviewed and updated by a team of expert authors, and will gain an understanding of the relevant chapters of the Laws of New Zealand on resource management and climate change, which include leading cases on the subject.

Duration: 60 min

#### **Using Practical Guidance on Lexis Advance Webinar Tuesday, 21st of November at 3pm**

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

#### **Criminal Litigation for Barristers on Lexis Advance Webinar Thursday, 23rd of November at 4pm**

Gain a better understanding of the search mechanics of Lexis Advance and our key criminal content such as Garrow & Turkington, Hall's Sentencing & Abbot and Thompson District Courts Practice Criminal, and find what you need more quickly and efficiently by attending this session. This session also provides an overview of Sim's Court Practice and Cross on Evidence and enables you to get to know the resources available to you via the Practical Guidance Criminal module.

Duration: 60 min

## **Focus on Environmental Law Resources on Lexis Advance Webinar**

**Thursday, 30th of November at 4pm**

In this session we will focus on LexisNexis' Environmental and Resource Management Law resources, including Practical Guidance, compiled by expert practitioners. Attendees will learn how to work with content in the encyclopedic work Environmental Resource Management Law and will gain an understanding of the relevant chapters of the Laws of New Zealand on resource management and climate change, which include leading cases on the subject. In addition, attendees will become familiar with constructing search terms, setting up alerts and folders and saving annotations to enable the most effective and efficient use of available LexisNexis resources when conducting legal research.  
Duration: 60 min

### **Employment**

#### **Mazengarb's Employment Law**

Service 281 is now available online.

This service includes updates to Parts 8 and 9 of the Employment Relations Act 2000; and Selected topics in employment law, areas Pay Equity, Contractual aspects of employment, and Minimum Wage Act 1983.

### **Family**

#### **New Zealand Family Law Reports**

Volume 2022 Part 22 is now available online.

*Haroun v Reda* — [2022] NZFLR 995

Family violence — Appeal against final protection order — Whether failing to adequately assess risk of future family violence — Whether perception of future violence reasonably held — Subjective fear of future violence — Assessment of countervailing factors weighing against need for protection order — Psychological abuse — Standard of proof — Care of Children Act 2004 — Family Violence Act 2018, ss 4, 9, 9(3), 10, 11, 79, 79(a), 79(b), 80, 82 and 171(2).

*Masters v Masters* – [2022] NZFLR 1013

Relationship property – Transfer of proceedings to High Court – Late disclosure of financial information – Limited jurisdiction of Family Court – Winding up of trusts and removal of trustees – Liquidation of companies – Companies Act 1993 – Family Court Act 1980, s 14 – Family Proceedings Act 1980, s 182 – Property (Relationships) Act 1976, ss 1M(c) and 38A – Trusts Act 2019, s 141(3) and 141(6).

*Price v Price* – [2022] NZFLR 1018

Relationship property – Sale of family home – Enforcement of sale order – Appointment of registrar to authorise sale – Transfer to High Court – Sale of shares – Division of trust – District Courts Act 1947, s 62B – Family Proceedings Act 1980, s 182 – Interest on Money Claims Act 2016, ss 10 and 20 – Property (Relationships) Act 1976, ss 33 and 38A – Trusts Act 2019, s 141.

*Hopkins v Jackson* – [2022] NZFLR 1024

Court of Appeal – Practice and procedure – Stay pending appeal – Care of children – High Court made orders as to care arrangements and school – Appellant applied for leave to appeal from care arrangements order – Appellant precluded from appealing from school order – Appellant sought relief in appeal against care arrangements order with respect to both orders – Appellant applied for urgent partial stay of decision with respect to school orders only – Jurisdiction of Court of Appeal to make orders for re-hearing of school orders on appeal from care arrangements orders – Relevance of uncertainty to grant or refusal of stay – Merits of appeal otherwise weak – Stay refused – Court of Appeal (Rules) 2005, r 12(3).

Volume 2023 Part 8-9 is now available online.

*Purucker v Huebler (No 3)* – [2023] NZFLR 334

Separation agreements – Agreements to defeat creditors – Defendants were wife and husband – Wife convicted of fraud by reason of misappropriations of funds from plaintiff – Wife and husband entered into separation agreement that had effect of divesting wife's interest in substantial assets shortly after plaintiff complained to police – Plaintiff claimed damages against wife with respect to misappropriations – Plaintiff sought declarations that separation agreement and related transactions void as intending to defeat creditors – Relief granted – Property (Relationships) Act 1976, s 47.

*Roberts v Cresswell* – [2023] NZFLR 364

Child abduction – Habitual residence – Return of children to France – Father living in France – Children born in France – Mother and children residing in New Zealand for over two years during covid – Whether grave risk that returning children to France would place them in intolerable situation – Mother primary carer – Mental health of mother – Alleged violence by father to mother – Father's inability to care for children at times due to work commitments – Modified interim orders providing for shared care arrangements in France – Children settled in New Zealand – Risks to children – Disputed admissibility issues – Expert evidence – Care of Children Act 2004, ss 105, 105(2), 106, 106(1)(c)(ii) and 133 – Convention on the Civil Aspects of International Child Abduction, arts 1, 3, 11, 12, 13 and ch 3 – Court of Appeal (Civil) Rules 2005, r 33 – Evidence Act 2006, s 25(3) – Family Court Act 1980, s 12A.

*Cresswell v Roberts* – [2023] NZFLR 412

Practice and procedure – Application for leave to appeal – Extension of time to appeal earlier procedural decisions – Order for return of children to France – Habitual residence – Father living in France – Grave risk of harm – Intolerable situation – Adverse effects on mother's mental health – Children not in care of primary parent – Care of Children Act 2004, s 106(1)(c)(ii) – Convention on the Civil Aspects of International Child Abduction.

Child abduction – Habitual residence – Return of children France – Mother seeking leave to appeal – Father living in France – Extension of time to appeal earlier procedural decisions – Grave risk of harm – Intolerable situation – Adverse effects on mother's mental health – Children not in care of primary parent – Care of Children Act 2004, s 106(1)(c)(ii) – Convention on the Civil Aspects of International Child Abduction.

*Lindsay v Lamb* – [2023] NZFLR 419

Relationship property – Occupation order – Tenancy order – Jurisdiction – Ancillary furniture order – De facto relationship – Applicant and deceased partner living in property owned by family trust of deceased – Applicant asked to vacate property – Jurisdiction of Court to make orders – Whether applicant holding tenancy to property – Property Relationships Act 1976, ss 2, 8(1)(a), 27(1), 28, 28(1), 28(1A), 44, 44C and 91(3).

## **Textbooks**

### ***Family Law in New Zealand, 21st edition***

Mark Henaghan, Bill Atkin, Shonagh Burnhill & Anna Chapman

RRP inc GST: \$175.00

ISBN: 9781988598604 (two volume set)

Publication date: 12 October 2023

**Family Law Legislation, 21st edition**

LexisNexis Legislation Series

RRP inc GST: \$160.00

ISBN: 9781988598611 (two volume set)

Publication date: 12 October 2023

**Property**

**New Zealand Conveyancing and Property Reports**

Volume 24 Part 5 is now available online.

*Attorney-General v Trustees of Whatitiri Māori Reserves* — (2023) 24 NZCPR 320

Māori land — Māori Land Court — Jurisdiction — Claim for customary title to freshwater — Statutory interpretation — Whether Māori Land Court correct forum for determining ownership rights to water and damages — Water associated with Māori freehold land — Declaratory judgment — “Land” — Scheme of Te Ture Whenua Māori Act 1993 — Whether statutory definition of land including water — Extinguishment of native title through registration of land — Indefeasibility of title — Tikanga Māori connections with land — “Rights” to water — Māori reservation — Interpretation Act 1999, s 5 — Land Transfer Act 2017, s 51 — Legislation Act 2019, s 10(1) — Māori Affairs Act 1953, s 439 — Māori Land Amendment and Māori Land Claims Adjustment Act 1926, s 14(1) — New Zealand Bill of Rights Act 1990, s 20 — New Zealand Native Reserves Act 1856 — Resource Management Act 1991 — Te Ture Whenua Māori Act 1993, ss 2, 2(3), 17, 18, 18(1)(a), 18(1)(h), 77, 129, 129(2), 131, 134, 139, 140, 141, 142, 338, 338(7), 338(12), 338(13) and part 6 — Water and Soil Conservation Act 1967.

*Cooper v Cooper* — (2023) 24 NZCPR 350

Caveats — Application to sustain — Claimed estate or interest — Institutional constructive trust — Reasonable expectations trust — Applicant claimed caveatable interest by reason of expectation of 30 per cent interest in property mentioned in draft will signed by trustees of trusts that owned property — Reasonably arguable that applicant had caveatable interest — Land Transfer Act 2017, s 138.

Caveats — Description of claimed estate or interest — Formal requirements — Sufficiency of description — Caveat form claimed interest as “cestui que trust of which the registered proprietors ... are Trustees” — Sufficient certainty for registered proprietors to respond to caveat — Caveat not defective by failing to confine itself to 30 per cent interest claimed by applicant — Land Transfer Act 2017, s 138.

Caveats – Lapse – Time within which caveat lapses – Reckoning of period – Land Information New Zealand (LINZ) unable to establish when notice of intended lapse served on applicant – LINZ cannot deem matter that is question of fact – Land Transfer Act 2017, ss 143, 221 and 223.

*Lendich v Codilla* – (2023) 24 NZCPR 374

Trusts and trustees – Resulting trusts – Presumed intention – Purchase of property in another's name – Respondent executor of deceased estate – Appellant sold real property to deceased during his lifetime for \$1 – Nominal consideration paid by deceased – Deceased purported to dispose of real property by will – Appellant lodged caveat against title to real property – Appellant claimed interest in real property in nature of resulting trust – Nominal consideration adequate – Appellant asserted actual intention to retain beneficial interest in real property despite transfer to deceased – No such intention proved – No resulting trust existed.

## **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

## **New Zealand Resource Management Appeals**

Volume 2023 Part 11 is now available online.

*Point Chevalier Social Enterprise Trust v Auckland Council* – [2023] NZRMA 490

Judicial review – Resource consent decision – Notification decision – Non-notified basis – Heritage site – Land use and subdivision consents – Whether applications for resource consent should have been processed on notified basis – Consideration of land use and subdivision consents separately – Whether impermissible balancing exercise carried out – Whether offsets taken into account in place of mitigating factors – Adequate information – Wrongly relying on approval from Heritage NZ – Affected person – Whether decision irrational or unreasonable – Special circumstances – Declaration of inconsistency – Right to justice – New Zealand Bill of Rights Act 1990, ss 5 and 27(1) – Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014 – Resource Management Act 1991, ss 6(f), 7(c), 95A, 95B, 104, 104(1), 106, 171(1)(b) and part 2.

*Southern Cross Healthcare Ltd v Eden Epsom Residential Protection Society Inc* – [2023] NZRMA 511

Plans – Auckland Unitary Plan – Private plan change – Appellant owned and operated hospital and owned three adjacent properties – Appellant requested Auckland Council approve change to rezone all properties and remove adjacent properties from special character overlay – Council approved change with modifications – Protection society appealed to Environment Court – Environment Court made final decision refusing request – Appellant appealed to High Court on questions of law – Proper approach of Environment Court to exercising power to approve or refuse request – National Policy Statement on Urban Development 2020 – Auckland Regional Policy Statement – Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021. Environment Court – Appeals – To High Court on questions of law – Proper approach of High Court in such appeals – Resource Management Act 1991, s 299.

## **Succession**

### **Practical Guidance: Succession**

#### *Latest Legal Updates*

Where will your money go if your partner dies?

Brother of intestate deceased disputes husband's authority over the estate

## **Torts**

### **Textbooks**

#### ***Questions and Answers: Torts, 4th edition***

Alexandra Briscoe

RRP inc GST: \$50.00

ISBN: 9781988546674 (book)

ISBN: 9781988546681 (ebook)

Publication date: 09 October 2023

#### ***Accident Compensation Act: Key Sections and Commentary, 2nd edition***

Ben Thompson

RRP inc GST: ~~\$130.00~~ \$117.00 (pre-order price)

ISBN: 9781988598253 (book)

ISBN: 9781988598260 (ebook)

Projected publication date: March 2024

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