



AGIS - Articles

Australian Government
Attorney-General's Department

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Published Date From 08/01/2014 To 21/01/2014

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WATER RESOURCES
WHISTLEBLOWING
WORKERS COMPENSATION
WORKING CONDITIONS
YOUNG OFFENDERS
YOUNG PERSONS

ABORIGINES

AGIS No: 20140128
Title: FDR in prisons : meeting the needs of Aboriginal clients.
Authors: HAMILTON, Karine
HENRY, Pamela
Source: AUSTRALASIAN DISPUTE RESOLUTION JOURNAL 24 (4) November 2013 : 224-229

Abstract: Research on the extension of family relationships centre (FRC) service to Aboriginal family dispute resolution (FDR) clients in prison - interview with prisoners and staff involved in FDR - barriers to uptake of FDR - language difficulties - mistrust of mainstream services - possible strategies for overcoming barriers - developing culturally sensitive forms of FDR.

Subjects: ABORIGINES
DISPUTE RESOLUTION
FAMILIES
PRISONERS

Jurisdictions: AUSTRALIA, Western Australia

ACCIDENTS

AGIS No: 20140041
Title: Justice for victims of injury : the influence of New Zealand's Accident Compensation Scheme on the civil and criminal law.
Authors: CONNELL, Simon
Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (2) December 2012 : 181-209

Abstract: Influence of the Accident Compensation Scheme (ACC) on civil and criminal law - view that ACC abandoned corrective and retributive justice in favour of distributive justice - history of the ACC - justice of compensation - forms of wrongdoing - advertent, inadvertent and state - resolving conflicts of justice - assessing the performance of Parliament and the courts.

Legal Cases: Bottrill v A (2001) 3 NZLR 622
Couch v Attorney-General (2010) 3 NZLR 149
Wallbuton v Accident Compensation Commission [1983] NZACR 629

Legislation: Accident Compensation Act 1972 (NZ)
Accident Rehabilitation and Compensation Insurance Act 1992 (NZ)
Injury Prevention, Rehabilitation, and Compensation Act 2001 (NZ)

Subjects: ACCIDENTS
COMPENSATION

Jurisdictions: NEW ZEALAND

ADMINISTRATIVE LAW

AGIS No: 20140152
Title: The Bill of Rights in administrative law cases : taking stock and suggesting some reassessment.
Authors: WILBERG, Hanna

Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (4) October 2013 : 866-896

Abstract: Issues concerning the Bill of Rights in administrative law - approach presented by most commentators - extent to which the law follows that approach - possible reassessment of approach.

Legal Cases: Moonen v Film and Literature Board of Review (2000) 2 NZLR 9
R v Hansen (2007) 3 NZLR 1
Zaoui v Attorney-General (No 2) (2006) 1 NZLR 289

Legislation: New Zealand Bill of Rights Act 1990 (NZ)

Subjects: ADMINISTRATIVE LAW
BILL OF RIGHTS

Jurisdictions: NEW ZEALAND

AGIS No: 20140109

Title: Use and abuse of administrative law.

Authors: RODRIGUEZ FERRERE, Marcelo

Source: NEW ZEALAND LAW JOURNAL November 2013 : 361-362

Abstract: Inappropriate proceedings - judicial review - duties incumbent on trustee owners of Christchurch Cathedral following earthquake damage - repair and maintenance of cathedral in existing form - terms of trust for cathedral - case law.

Legal Cases: Great Christchurch Buildings Trust v Church Property Trustees [2013] NZCA 331

Legislation: Anglican (Diocese of Christchurch) Church Property Trust Act 2003 (NZ)

Subjects: ADMINISTRATIVE LAW
TRUSTS AND TRUSTEES

Jurisdictions: NEW ZEALAND

AGED

AGIS No: 20140131

Title: Elder mediation.

Authors: BARRY, Lise

Source: AUSTRALASIAN DISPUTE RESOLUTION JOURNAL 24 (4) November 2013 : 251-258

Abstract: Consideration of proactive approach to providing accommodations for elders in mediation - assessment of capacity outside mediator expertise - screen parties in to mediation by providing accommodation rather than screening out through capacity assessments - need for mediation standards to reflect requirement for accommodation over exclusions based on ad hoc capacity assessments.

Subjects: AGED
MEDIATION

ALTERNATIVE DISPUTE RESOLUTION

AGIS No: 20140118

Title: ADR clauses and the courts.

Authors: SCHMIDT-MCCLEAVE, Rachael
CALDWELL, Julia
Source: NEW ZEALAND LAW JOURNAL November 2013 : 384-388
Abstract: Alternative dispute resolution (ADR) clauses - contractual provision for dispute resolution - courts approach to ADR clauses - effect - enforceability - application of clause - granting a stay - interim relief - mediating in 'good faith' - appealing ADR outcomes.
Subjects: ALTERNATIVE DISPUTE RESOLUTION
CONTRACTS
Jurisdictions: NEW ZEALAND

AGIS No: 20140086
Title: Alternative dispute resolution : use a commercial lens to focus on the "resolution" rather than the "dispute".
Authors: WRIGHT, Dawna
Source: INHOUSE COUNSEL 17 (2) October 2013 : 37-39
Abstract: Importance of learning the "language" of an organisation to understand how it works, key performance indicators (KPSs) and the "tone at the top" when dealing with alternative dispute resolution.
Subjects: ALTERNATIVE DISPUTE RESOLUTION
PERFORMANCE APPRAISAL
Jurisdictions: AUSTRALIA

AGIS No: 20140132
Title: Settlement outcomes in sexual harassment complaints.
Authors: MCDONALD, Paula
CHARLESWORTH, Sara
Source: AUSTRALASIAN DISPUTE RESOLUTION JOURNAL 24 (4) November 2013 : 259-269
Abstract: Conciliation settlements in sexual harassment complaints - examination of settlement details of conciliated complaints - interviews with professionals involved in conciliation process - financial outcomes - non-financial outcomes - critique of effectiveness of conciliation within current anti-discrimination laws.
Subjects: ALTERNATIVE DISPUTE RESOLUTION
SEXUAL HARASSMENT
Jurisdictions: AUSTRALIA

AGIS No: 20140119
Title: The enforceability of alternative dispute resolution agreements : emerging problems and issues.
Authors: HAN, Keith
POON, Nicholas
Source: SINGAPORE ACADEMY OF LAW JOURNAL (25) September 2013 : 455-479
Abstract: Use of alternative dispute resolution (ADR) gaining popularity - use of negotiation and mediation as the first step towards resolving disputes - issues around enforceability of agreements through ADR - case law.

Subjects: ALTERNATIVE DISPUTE RESOLUTION
Jurisdictions: SINGAPORE

AUSTRALIAN LAW REFORM COMMISSION

AGIS No: 20140065
Title: Probing privacy.
Authors: MCDONALD, Barbara
Source: LAW INSTITUTE JOURNAL 87 (11) November 2013 : 82
Abstract: Australian Law Reform Commission inquiry into serious invasions of privacy in the digital era - protection of privacy - terms of reference - regulation of data privacy.

Subjects: AUSTRALIAN LAW REFORM COMMISSION
INTERNET
PRIVACY
Jurisdictions: AUSTRALIA

BILL OF RIGHTS

AGIS No: 20140152
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Authors: WILBERG, Hanna
Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (4) October 2013 : 866-896

Abstract: Issues concerning the Bill of Rights in administrative law - approach presented by most commentators - extent to which the law follows that approach - possible reassessment of approach.

Legal Cases: Moonen v Film and Literature Board of Review (2000) 2 NZLR 9
R v Hansen (2007) 3 NZLR 1
Zaoui v Attorney-General (No 2) (2006) 1 NZLR 289

Legislation: New Zealand Bill of Rights Act 1990 (NZ)
Subjects: ADMINISTRATIVE LAW
BILL OF RIGHTS
Jurisdictions: NEW ZEALAND

BUILDING LAW

AGIS No: 20140087
Title: Court of appeal finds builder owed a duty of care to subsequent owner of commercial premises.
Authors: MARYANOV, Elisabeth
LAKE, Michael
Source: AUSTRALIAN CONSTRUCTION LAW BULLETIN 25 (8) November 2013 : 130-134

Abstract: Builder's duty of care to subsequent building owners from suffering loss from latent defects in common property - contract with original owner unlikely to displace duties - recent Court of Appeal decision inconsistent with authorities - principles applied - case law.

Legal Cases: Bryan v Maloney (1995) 182 CLR 609
Owners - Strata Plan No 61288 v Brookfield Australia Investments Ltd [2013] NSWCA 317
Owners Corporation Strata Plan 72535 v Brookfield [2012] NSWSC 712

Subjects: BUILDING LAW
DUTY OF CARE
STRATA TITLES

Jurisdictions: AUSTRALIA

AGIS No: 20140090

Title: The global claim labyrinth.

Authors: CREEDON, Michael
TSUKAKOSHI, Kimie

Source: AUSTRALIAN CONSTRUCTION LAW BULLETIN 25 (8) November 2013 : 136-140

Abstract: Recent UK decision on the proper treatment of global claims and concurrent delay events - Australian position on global claims - non-compensable factors - effect of decision on law concerning global claims - defending against a global claim - adjudications - case law.

Legal Cases: John Doyle Construction Ltd v Laing Management (Scotland) Ltd (2002) Scot CS 110
John Holland Construction & Engineering Pty Ltd v Kvaerner RJ Brown Pty Ltd (1996) 8 VR 681
Walter Lilly & Co Ltd v Mackay (2012) All ER (D) 213

Subjects: BUILDING LAW
CONSTRUCTION INDUSTRY

Jurisdictions: AUSTRALIA
UNITED KINGDOM

AGIS No: 20140089

Title: Update : Full Court of the Supreme Court of South Australia to hear SOPA appeal.

Authors: ROBERTSON, Andrew
SCHINCKEL, Tom

Source: AUSTRALIAN CONSTRUCTION LAW BULLETIN 25 (8) November 2013 : 135

Abstract: Enforcement of adjudication certificate - criteria and onus of proof - case law.

Legal Cases: Adelaide Interior Linings Pty Ltd v Romaldi Constructions Pty Ltd [2013] SASC 110
Romaldi Constructions Pty Ltd v Adelaide Interior Linings Pty Ltd [2013] SASCFC 99

Legislation: Building and Construction Industry Security of Payment Act 2009 (SA)

Subjects: BUILDING LAW

Jurisdictions: AUSTRALIA

BUSINESS

AGIS No: 20140074
Title: Changes to the Fair Work Act : how do they impact business?
Authors: BAKER, Alison
LUX, Amanda
Source: INHOUSE COUNSEL 17 (2) October 2013 : 23-25
Abstract: Expanded employee and union rights as a result of changes to the Fair Work Act - employers need to make changes to comply with regulations - changes include new family-friendly arrangements, anti-bullying measures, dispute resolution and unfair dismissal.
Legislation: Fair Work Act 2009 (CTH)
Subjects: BUSINESS
TRADE UNIONS
WORKING CONDITIONS
Jurisdictions: AUSTRALIA

AGIS No: 20140142
Title: Cloud computing for small business : criminal and security threats and prevention measures.
Authors: HUTCHINGS, Alice
SMITH, Russell G
JAMES, Lachlan
Source: TRENDS AND ISSUES IN CRIME AND CRIMINAL JUSTICE (456) May 2013 : 1-8
Abstract: Use of cloud computing attractive to small businesses due to reduction of ICT overheads - risks involved with using cloud computing - computer security, criminal, regulatory and civil liability - suggestions for how risks may be contained so small businesses can benefit.
Subjects: BUSINESS
CYBERCRIME
Jurisdictions: AUSTRALIA

CHILD WELFARE

AGIS No: 20140081
Title: Reconsideration of court approval for treatment for gender identity disorder : Re Jamie.
Authors: WALSH, Caitlin
Source: AUSTRALIAN HEALTH LAW BULLETIN 21 (9) November 2013 : 443-446
Abstract: Treatment of childhood gender identity disorder - court authorisation required for first stage of treatment - parental consent - application for court authorisation for stage two of treatment - implications for future cases.
Legal Cases: Re Jamie [2013] FamCAFC 110
Secretary, Department of Health and Community Services v JWB and SMB (1992) 175 CLR 218
Legislation: Family Law Act 1975 (CTH)

Subjects: CHILD WELFARE
MEDICAL LAW
SEXUAL REASSIGNMENT
Jurisdictions: AUSTRALIA

AGIS No: 20140084
Title: The role of the court when exercising its parens patriae jurisdiction for approval of medical procedures for a child : Re Joel.
Authors: LE, Thanh
Source: AUSTRALIAN HEALTH LAW BULLETIN 21 (9) November 2013 : 448-450
Abstract: Application for court order to approve bone marrow transplant on child subject to interim parenting order - consent of person with parental responsibility - case law.

Legal Cases: Re Joel [2013] NSWSC 1299
Legislation: Children and Young Persons (Care and Protection) Act 1998 (NSW)
Subjects: CHILD WELFARE
MEDICAL LAW
PARENTAL RIGHTS AND DUTIES
Jurisdictions: AUSTRALIA

CHILDREN

AGIS No: 20140113
Title: Family dispute resolution.
Authors: POWELL, Carol
Source: NEW ZEALAND LAW JOURNAL November 2013 : 371-374
Abstract: Overview of the Family Dispute Resolution (FDR) structure - criteria for becoming a FDR practitioner (FDRP) - challenges for FDRPs - screening - preparation - best interests and welfare of children.
Legislation: Care of Children Act 2004 (NZ)
Subjects: CHILDREN
DISPUTE RESOLUTION
FAMILIES
Jurisdictions: NEW ZEALAND

AGIS No: 20140137
Title: Fifty years of New Zealand family law.
Authors: ATKIN, Bill
CALDWELL, John
HENAGHAN, Mark
TAPP, Pauline
Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (4) October 2013 : 645-666

Abstract: Changes to New Zealand family law over the last fifty years - three areas of substantial change - what constitutes a legal family - changes in exercise of judicial discretion in cases involving children - evolution of the financial and property consequences of family breakdowns - increased legal recognition and protection of variety of familial relationships - current debate surrounding adoption and marriage equality.

Legislation: Care of Children Act 2004 (NZ)
Civil Union Act 2004 (NZ)
Matrimonial Property Act 1976 (NZ)
Status of Children Act 1969 (NZ)

Subjects: CHILDREN
FAMILY LAW
LAW REFORM
MARRIAGE

Jurisdictions: NEW ZEALAND

AGIS No: 20140034

Title: The boundaries of parental decision-making and the requirement to obtain court approval for "special medical procedures" : the recent decision of Re Jamie [2013] FAMCAFC 110.

Authors: SMITH, Malcolm K

Source: QUEENSLAND LAWYER 33 (3) September 2013 : 182-187

Abstract: Parental consent for "special medical procedures" - treatment of childhood gender identity disorder - consideration whether treatment for identity disorder within boundaries of parental consent - second stage of treatment requiring application to court - treatment and Gillick competency - case law.

Legal Cases: Gillick v West Norfolk and Wisbech Area Health Authority (1986) AC 112
Re Jamie [2013] FamCAFC 110
Secretary, Department of Health and Community Services v JWB and SMB (1992) 175 CLR 218

Legislation: Family Law Act 1975 (CTH)

Subjects: CHILDREN
MEDICAL LAW
PARENTAL RIGHTS AND DUTIES

Jurisdictions: AUSTRALIA

CLIMATE CHANGE

AGIS No: 20140116

Title: Greenhouse gas emissions from coal.

Authors: SCHOFIELD, Simon

Source: NEW ZEALAND LAW JOURNAL November 2013 : 377-379,383

Abstract: Discharges of greenhouse gases by coal mine - consents for discharges - consent authorities having no regard to the effects on climate change - overview of court decisions on application and appeals against application - case law.

Legal Cases: Royal Forest and Bird Protection Society of New Zealand Incorporated v Buller Coal Limited [2012] NZHC 2156
Buller Coal Limited v West Coast Ent Incorporated [2012] NZEnvC 80
Genesis Power Ltd v Greenpeace New Zealand Inc (2008) 1 NZLR 803

Legislation: Climate Change Response Act 2002 (NZ)
Resource Management Act 1991 (NZ)

Subjects: CLIMATE CHANGE
GREENHOUSE EFFECT

Jurisdictions: NEW ZEALAND

AGIS No: 20140156

Title: International law on climate change adaption : has the time come for a new protocol?

Authors: PUTHUCHERRIL, Tony George

Source: MACQUARIE JOURNAL OF INTERNATIONAL AND COMPARATIVE ENVIRONMENTAL LAW 8 (2) 2012 : 42-74

Abstract: International climate change adaption regime - analysis of climate change adaption and various classifications - overview of development of climate change adaption rules at an international level - consideration of need to develop exclusive protocol on climate change adaption.

Subjects: CLIMATE CHANGE
INTERNATIONAL LAW

Treaties: Kyoto Protocol to the United Nations Framework Convention on Climate Change
United Nations Framework Convention on Climate Change

AGIS No: 20140037

Title: Transferable lessons for climate change adaptation planning? Managing bushfire and coastal climate hazards in Australia.

Authors: FOERSTER, Anita
MACINTOSH, Andrew
MCDONALD, Jan

Source: ENVIRONMENTAL AND PLANNING LAW JOURNAL 30 (6) November 2013 : 469-490

Abstract: Frequency and severity of natural hazards in Australia expected to increase with climate change - land-use planning as a tool for reducing potential hazards - comparison of climate hazards used in State and Territory jurisdictions.

Subjects: CLIMATE CHANGE
CLIMATE CONTROL

Jurisdictions: AUSTRALIA

CLIMATE CONTROL

AGIS No: 20140037

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Abstract: Frequency and severity of natural hazards in Australia expected to increase with climate change - land-use planning as a tool for reducing potential hazards - comparison of climate hazards used in State and Territory jurisdictions.

Subjects: CLIMATE CHANGE
CLIMATE CONTROL

Jurisdictions: AUSTRALIA

COASTAL AREAS

AGIS No: 20140155

Title: Climate change, coastal hazards and the public trust doctrine.

Authors: THOM, Bruce

Source: MACQUARIE JOURNAL OF INTERNATIONAL AND COMPARATIVE ENVIRONMENTAL LAW 8 (2) 2012 : 21-41

Abstract: Use of Public Trust Doctrine (PTD) as a means to protect beach amenity, access and habitat - overview of PTD - PTD and transient shorelines - use of PTD in the United States and coastal Australia.

Subjects: COASTAL AREAS
ENVIRONMENTAL PROTECTION

Jurisdictions: AUSTRALIA
UNITED STATES

COMMERCIAL ARBITRATION

AGIS No: 20140056

Title: Australia : hub for international arbitration.

Authors: ARTHUR, John K

Source: LAW INSTITUTE JOURNAL 87 (11) November 2013 : 40-43

Abstract: Australia as a venue for international commercial arbitration - foundation of the arbitral process - arbitration dependent on local laws - Model Law country - procedure and evidence - relief - remedies - awards, setting aside, enforcement and challenges.

Subjects: COMMERCIAL ARBITRATION

Jurisdictions: AUSTRALIA

COMMON LAW

AGIS No: 20140144

Title: Fair criminal trial and the exclusion of "unfair evidence".

Authors: MATHIESON, Don

Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (4) October 2013 : 739-757

Abstract: Exclusion of evidence in criminal trials - principle of a fair trial - principle of had never existed in common law - extinguishment of discretion to exclude by the Evidence Act - principle to exclude could lead to complicated subsidiary issues - need to authoritatively remove the principle - must to be distinguished from well-established principle of fair criminal trials.

Legal Cases: Fan v R (2012) 3 NZLR 29
R v Shaheed (2002) 2 NZLR 377
R v Smith (Malcolm) (2000) 3 NZLR 656

Legislation: Evidence Act 2006 (NZ)

Subjects: COMMON LAW
CRIMINAL LAW
EVIDENCE

Jurisdictions: NEW ZEALAND

AGIS No: 20140051

Title: Statutory derivative actions in Australia and New Zealand : what can we learn from each other?

Authors: THAI, Lang
BERKAHN, Matt

Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (2) December 2012 : 370-401

Abstract: Overview of the common law derivative action - reasons for abolition - statutory derivative actions in Australia and New Zealand - evaluation and comparison of leave requirement for derivative action and costs provisions - other factors affecting the use of derivative action - difficulty of accessing company information - availability of oppression and unfair prejudice actions - availability of shareholder class actions.

Legal Cases: Foss v Harbottle (1843) 2 Hare 461
Regal (Hastings) Ltd v Gulliver (1942) 1 All ER 378
Vinciguerra v MG Corrosion Consultants Pty Ltd [2010] FCA 763

Legislation: Companies Act 1993 (NZ)
Corporations Act 2001 (CTH)

Subjects: COMMON LAW
COMPANY LAW

Jurisdictions: AUSTRALIA
NEW ZEALAND

COMPANY DIRECTORS

AGIS No: 20140102

Title: Executive officer remuneration disclosure.

Authors: GIRGIS, Maged

Source: AUSTRALIAN SUPERANNUATION LAW BULLETIN 25 (4) November 2013 : 62-65

Abstract: Requirement to make publicly available remuneration details of executive officers - who is an 'executive officer' - meaning of management - degree of participation.

Legal Cases: Corporate Affairs Commission (Vic) v Bracht (1989) VR 821
Holpitt Pty Ltd v Swaab (1992) 33 FCR 474

Legislation: Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Act 2012
Subjects: COMPANY DIRECTORS
SUPERANNUATION
Jurisdictions: AUSTRALIA

AGIS No: 20140126
Title: The disqualification of company directors : background to the regime and some recent reform activity in the United Kingdom.
Authors: TRIBE, John
Source: INSOLVENCY LAW BULLETIN 14 (3) November 2013 : 47-54
Abstract: Directors disqualification regime in the United Kingdom - directors acting in "unfit" manner - law reform - unfitness - periods of disqualification - overview of disqualification cases - recent reports by Cable and Lord Justice Briggs on director disqualification.

Legislation: Companies Act 2006 (UK)
Company Directors Disqualification Act 1986 (UK)
Subjects: COMPANY DIRECTORS
LAW REFORM
Jurisdictions: UNITED KINGDOM

COMPANY LAW

AGIS No: 20140051
Title: Statutory derivative actions in Australia and New Zealand : what can we learn from each other?
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Vinciguerra v MG Corrosion Consultants Pty Ltd [2010] FCA 763

Legislation: Companies Act 1993 (NZ)
Corporations Act 2001 (CTH)

Subjects: COMMON LAW
COMPANY LAW

Jurisdictions: AUSTRALIA
NEW ZEALAND

COMPENSATION

AGIS No: 20140041
Title: Justice for victims of injury : the influence of New Zealand's Accident Compensation Scheme on the civil and criminal law.
Authors: CONNELL, Simon
Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (2) December 2012 : 181-209

Abstract: Influence of the Accident Compensation Scheme (ACC) on civil and criminal law - view that ACC abandoned corrective and retributive justice in favour of distributive justice - history of the ACC - justice of compensation - forms of wrongdoing - advertent, inadvertent and state - resolving conflicts of justice - assessing the performance of Parliament and the courts.

Legal Cases: Bottrill v A (2001) 3 NZLR 622
Couch v Attorney-General (2010) 3 NZLR 149
Wallbuton v Accident Compensation Commission [1983] NZACR 629

Legislation: Accident Compensation Act 1972 (NZ)
Accident Rehabilitation and Compensation Insurance Act 1992 (NZ)
Injury Prevention, Rehabilitation, and Compensation Act 2001 (NZ)

Subjects: ACCIDENTS
COMPENSATION

Jurisdictions: NEW ZEALAND

COMPETITION LAW

AGIS No: 20140093
Title: ACCC clears acquisition by Woolworths of three Queensland IGA's.
Authors: MERRETT, Alexandra
Source: COMPETITION AND CONSUMER LAW NEWS 29 (4) November 2013 : 52-53

Abstract: Mergers in the supermarket sector - ACCC decisions in the purchase of three supermarkets by Woolworths - approach to market definition - relevant geographic market - competition assessments.

Subjects: COMPETITION LAW

Jurisdictions: AUSTRALIA

CONSTITUTIONAL LAW

AGIS No: 20140140
Title: Tawhaki and Te Tiriti : a principled approach to the constitutional future of the Treaty of Waitangi.
Authors: JONES, Carwyn
Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (4) October 2013 : 703-717

Abstract: Examination of the constitutional future of the Treaty of Waitangi through the story of Tawhaki - settlement of historical claims - constitutional role of the Treaty - the Treaty and the Maori legal system - constitutional arrangements providing a place for the Treaty should be based on the core relationship between kawanatanga and tino ragatiratanga - constitutional korero.

Subjects: CONSTITUTIONAL LAW
TREATIES
Treaties: Treaty of Waitangi
Jurisdictions: NEW ZEALAND

CONSTITUTIONS

AGIS No: 20140150
Title: A loving excavation : uncovering the constitutional culture of the Maori demos.
Authors: STEPHENS, Mamari
Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (4) October 2013 : 820-843
Abstract: Distinctive and evolving Maori constitutional culture - values of culture relevant to practice of New Zealand constitution - linguistic evidence about words that are prominent in constitutionally relevant Maori language - Maori attitudes on how the exercise of public power should be carried out - Maori civic collectivism.
Subjects: CONSTITUTIONS
MAORIS
Jurisdictions: NEW ZEALAND

CONSTRUCTION INDUSTRY

AGIS No: 20140090
Title: The global claim labyrinth.
Authors: CREEDON, Michael
TSUKAKOSHI, Kimie
Source: AUSTRALIAN CONSTRUCTION LAW BULLETIN 25 (8) November 2013 : 136-140
Abstract: Recent UK decision on the proper treatment of global claims and concurrent delay events - Australian position on global claims - non-compensable factors - effect of decision on law concerning global claims - defending against a global claim - adjudications - case law.
Legal Cases: John Doyle Construction Ltd v Laing Management (Scotland) Ltd (2002) Scot CS 110
John Holland Construction & Engineering Pty Ltd v Kvaerner RJ Brown Pty Ltd (1996) 8 VR 681
Walter Lilly & Co Ltd v Mackay (2012) All ER (D) 213
Subjects: BUILDING LAW
CONSTRUCTION INDUSTRY
Jurisdictions: AUSTRALIA
UNITED KINGDOM

CONSUMER PROTECTION

AGIS No: 20140092
Title: False or misleading credence claims : what's the harm.
Authors: LEE, Felicity

Source: COMPETITION AND CONSUMER LAW NEWS 29 (4) November 2013 : 42-51

Abstract: Impact of false and misleading credence claims on consumers and the competitive process - significance of credence attributes - challenges associated with regulating credence claims - court assessment of the harm of false or misleading claims - product safety - place of origin and endorsement - information asymmetry - cruel deception to consumers - deliberateness - consumer harm - unfair market advantage - longer-term effect of false or misleading credence claims on market efficiencies.

Legal Cases: Australian Competition and Consumer Commission (ACCC) v CI & Co Pty Ltd (2010] FCA 1511
Australian Competition and Consumer Commission (ACCC) v Kingisland Meatworks & Cellars Pty Ltd (2013) 99 IPR 548
Australian Competition and Consumer Commission (ACCC) v Marksun Australia Pty Ltd [2011] FCA 695

Legislation: Competition and Consumer Act 2010 (CTH)

Subjects: CONSUMER PROTECTION
MISREPRESENTATION

Jurisdictions: AUSTRALIA

CONTRACTS

AGIS No: 20140032

Title: A matter of time.

Authors: DIXON, Bill

Source: QUEENSLAND LAWYER 33 (3) September 2013 : 175-176

Abstract: Operation of the standard Real Estate Institute of Queensland contract for the sale of land - impacts on time for settlement - respective obligations of buyer and seller - practical and legal issues from failure to render performance at stipulated time - case law.

Legal Cases: Caprice Property Holdings Pty Ltd v McLeay [2013] QCA 125

Subjects: CONTRACTS
PROPERTY LAW

Jurisdictions: AUSTRALIA

AGIS No: 20140118

Title: ADR clauses and the courts.

Authors: SCHMIDT-MCCLEAVE, Rachael
CALDWELL, Julia

Source: NEW ZEALAND LAW JOURNAL November 2013 : 384-388

Abstract: Alternative dispute resolution (ADR) clauses - contractual provision for dispute resolution - courts approach to ADR clauses - effect - enforceability - application of clause - granting a stay - interim relief - mediating in 'good faith' - appealing ADR outcomes.

Subjects: ALTERNATIVE DISPUTE RESOLUTION
CONTRACTS

Jurisdictions: NEW ZEALAND

AGIS No: 20140088

Title: Case note : Lend Lease Project Management & Construction (Aust) Pty Ltd v Kellogg Brown & Root Pty Ltd.

Authors: KIPIC, Ben
AGUIRRE, Tristan

Source: AUSTRALIAN CONSTRUCTION LAW BULLETIN 25 (8) November 2013 : 141-143

Abstract: Contracting to provide professional services - voiding of limitation of liability provision in professional services for uncertainty - insurance as a conditional precedent to the operation of limitation of liability - extent of limiting of liability.

Legal Cases: Lend Lease Project Management & Construction (Australia) Pty Ltd (formerly Bovis Lend Lease Pty Ltd) v Kellogg Brown & Root Pty Ltd [2013] NSWSC 1142
Upper Hunter County District Council v Australian Chilling & Freezing Co Ltd (1968) 118 CLR 429

Subjects: CONTRACTS
INSURANCE
LIABILITY

Jurisdictions: AUSTRALIA

AGIS No: 20140091

Title: Flooding generates more debate on consequential loss exclusion.

Authors: GALLINA, Nicholas
HOLLINGDALE, Michael

Source: AUSTRALIAN CONSTRUCTION LAW BULLETIN 25 (8) November 2013 : 144-146

Abstract: Consequential loss from flooding of power station - interpretation of consequential loss exclusion clauses - natural and ordinary meaning in relation to contract as whole - courts less inclined to interpret clauses in way constrained by reference to rule in Hadley v Baxendale - law of consequential loss unsettled.

Legal Cases: Hadley v Baxendale (1854) 2 CLR 517
Regional Power Corp v Pacific Hydro Group Two Pty Ltd (No 2) [2013] WASC 356

Subjects: CONTRACTS

Jurisdictions: AUSTRALIA

AGIS No: 20140031

Title: Insurance law : the meaning of "flood" in policy exclusion : LMT Surgical Pty Ltd v Allianz Australia Insurance Ltd [2013] QSC 181.

Authors: TURNER, Clive

Source: QUEENSLAND LAWYER 33 (3) September 2013 : 171-174

Abstract: Exclusion for "flood" in insurance policies - "altered or modified" natural watercourse - consideration of pipes as canal - water overflow from normal confines of river - amendments to legislation to provide standard definition of flood in relation to "prescribed contract" - case law.

Legal Cases: LMT Surgical Pty Ltd v Allianz Australia Insurance Ltd [2013] QSC 181

Legislation: Insurance Contracts Act 1984 (CTH)
Insurance Contracts Amendment Act 2012 (CTH)

Subjects: CONTRACTS
INSURANCE
NATURAL DISASTERS
Jurisdictions: AUSTRALIA

AGIS No: 20140027
Title: Life insurance buy-back examined : Dowsley v Westpac Life Insurance Services Ltd.

Authors: TELFORD, Paul
Source: AUSTRALIAN INSURANCE LAW BULLETIN 29 (1) November 2013 : 5-6
Abstract: Entitlement to buy-back under life insurance policy - living benefit payment - reduction in entitlement to death benefit - interpretation of request clause in contract - first and second buy-back options - case law.
Legal Cases: Dowsley v Westpac Life Insurance Services Ltd [2013] NSWSC 1208
Subjects: CONTRACTS
INSURANCE
Jurisdictions: AUSTRALIA, New South Wales

AGIS No: 20140029
Title: Share and share alike : QBE Insurance (Aust) Ltd v Suncorp Metway Insurance Ltd.

Authors: FREEMAN, Iain
Source: AUSTRALIAN INSURANCE LAW BULLETIN 29 (1) November 2013 : 10-11
Abstract: Proper construction and operation of sharing agreements between third party motor insurers - sharing costs where loss involves vehicles insured by two or more insurers - case law.
Legal Cases: QBE Insurance (Australia) Ltd v Suncorp Metway Insurance Ltd [2013] NSWCA 290
Subjects: CONTRACTS
INSURANCE
Jurisdictions: AUSTRALIA, New South Wales

AGIS No: 20140135
Title: The impact of the UN Convention on Contracts for the International Sale of Goods on procurement and construction for Australian mining and resources projects.
Authors: WOO, Caroline
DRAGOVIC, Dan
Source: AUSTRALIAN RESOURCES AND ENERGY LAW JOURNAL 32 (1) April 2013 : 6-18
Abstract: Interpretation of the Convention on Contracts for the International Sale of Goods (CISG) - factors to be considered when determining if a procurement falls within the scope of the CISG - implications if CISG applies to procurement - example of loss of buyer's right to rely on non-conformity of goods supplied - CISG and limitation periods - case law.
Subjects: CONTRACTS
MINES AND MINERALS
SALE OF GOODS

Treaties: Convention on Contracts for the International Sale of Goods

AGIS No: 20140098

Title: The triumph of obstinacy over common sense : Velik v Steingold.

Authors: BOUSTANI, Marie
PALLAVICINI, Stephen

Source: AUSTRALIAN PROPERTY LAW BULLETIN 28 (2) November 2013 : 32-34

Abstract: Validity of notice to complete - repudiation of contract by failing to complete - varying interpretations of clause 55 within contract - case law.

Legal Cases: Velik v Steingold [2013] NSWCA 303

Subjects: CONTRACTS
PROPERTY LAW

Jurisdictions: AUSTRALIA

COPYRIGHT

AGIS No: 20140048

Title: The two faces of fair use.

Authors: AUSTIN, Graeme W

Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (2) December 2012 : 285-317

Abstract: Operation of the US fair use defence - equitable rule of reason - uses of copyrighted protected material characterised as "fair" in decisional law - importance of fair use to the production of new works of authorship - downstream production - fair use as constitutional protection for freedom of expression - decisional law - policy difficulties where fair use is a vehicle for encouraging technological development.

Legal Cases: Campbell v Acuff-Rose Music Inc 510 US 569 (1994)
Folsom v Marsh 9 F Cas 342 (1841)
Harper & Row Publishers Inc v Nation Enterprises 471 US 539 (1985)

Legislation: Copyright Act (US)

Subjects: COPYRIGHT

Jurisdictions: UNITED STATES

CORPORATIONS LAW

AGIS No: 20140094

Title: Some guidance on the meaning of "managing" corporations under s 86E (the disqualification order provision) of the Competition and Consumer Act.

Authors: COOREY, Adrian

Source: COMPETITION AND CONSUMER LAW NEWS 29 (4) November 2013 : 54-57

Abstract: Disqualification of person from "managing" corporations - concept of "managing" not defined in relevant legislation - consideration of managing - company and personal attributes - examples of what does and does not constitute "managing".

Legal Cases: Australian Securities and Investments Commission (ASIC) v Somerville [2009] NSWSC 1149
Corporate Affairs Commission (Vic) v Bracht (1989) VR 821

Legislation: Competition and Consumer Act 2010 (CTH)
Corporations Act 2001 (CTH)

Subjects: CORPORATIONS LAW

Jurisdictions: AUSTRALIA

COSTS

AGIS No: 20140067

Title: Fee analogy approved.

Authors: MACKEN, Melissa

Source: LAW INSTITUTE JOURNAL 87 (11) November 2013 : 86

Abstract: Costs rendered by costs lawyer for preparation of bill of costs - allowable at a rate analogous to fee charged by counsel.

Subjects: COSTS

Jurisdictions: AUSTRALIA, Victoria

COURTS

AGIS No: 20140151

Title: Science in the criminal courts : tool in service, challenge to legal authority or indispensable ally?

Authors: TINSLEY, Yvette

Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (4) October 2013 : 844-865

Abstract: Examination of law-science relationship - law's conception of science and its impact on legal decision making - applying lessons learnt to use of science in the courtrooms of future - assessment of innovations to address law's reception of expert scientific opinions in criminal proceedings.

Subjects: COURTS
CRIMINAL LAW
SCIENCE AND TECHNOLOGY

Jurisdictions: NEW ZEALAND

AGIS No: 20140120

Title: The use of experts in legal proceedings in Singapore involving intellectual property rights.

Authors: LLEWELYN, David

Source: SINGAPORE ACADEMY OF LAW JOURNAL (25) September 2013 : 480-509

Abstract: Use of expert evidence in intellectual property (IP) cases - expert evidence often hinders the success of a case - costs involved to use expert evidence for both parties - need for courts to ensure only worthwhile expert evidence be presented in IP cases.

Legislation: Evidence Act 1997 (Cap 97) (SINGAPORE)

Subjects: COURTS
EXPERT EVIDENCE
INTELLECTUAL PROPERTY
Jurisdictions: SINGAPORE

CRIME PREVENTION

AGIS No: 20140146
Title: Evaluating crime prevention : lessons from large-scale community crime prevention programs.
Authors: MORGAN, Anthony
HOMEL, Peter
Source: TRENDS AND ISSUES IN CRIME AND CRIMINAL JUSTICE (458) July 2013 : 1-12
Abstract: Review of large-scale programs aimed at crime prevention - lack of consistency in reviews has resulted in poor evidence about crime prevention - examination of practical factors impacting reviews - recommendations.
Subjects: CRIME PREVENTION
Jurisdictions: AUSTRALIA

CRIMINAL LAW

AGIS No: 20140122
Title: Discovering the right to criminal disclosure : lessons from civil procedure.
Authors: WONG, Denise Huiwen
Source: SINGAPORE ACADEMY OF LAW JOURNAL (25) September 2013 : 548-579
Abstract: Disclosure obligations of parties in criminal cases - amendments to the Criminal Procedure Code and case law have blurred obligations - parties have a right to access material according to the law they are entitled to - currently no procedures for parties to make interlocutory applications to obtain material - competing values and ideals of a criminal discovery regime - need to create a framework to regulate applications for access to materials prior to trial.
Legal Cases: Li Weiming v Public Prosecutor (2013) 2 SLR 1227
Muhammad vin Kadar v Public Prosecutor (2011) 3 SLR 1205
Subjects: CRIMINAL LAW
DISCOVERY
Jurisdictions: SINGAPORE

AGIS No: 20140144
Title: Fair criminal trial and the exclusion of "unfair evidence".
Authors: MATHIESON, Don
Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (4) October 2013 : 739-757

Abstract: Exclusion of evidence in criminal trials - principle of a fair trial - principle of had never existed in common law - extinguishment of discretion to exclude by the Evidence Act - principle to exclude could lead to complicated subsidiary issues - need to authoritatively remove the principle - must to be distinguished from well-established principle of fair criminal trials.

Legal Cases: Fan v R (2012) 3 NZLR 29
R v Shaheed (2002) 2 NZLR 377
R v Smith (Malcolm) (2000) 3 NZLR 656

Legislation: Evidence Act 2006 (NZ)

Subjects: COMMON LAW
CRIMINAL LAW
EVIDENCE

Jurisdictions: NEW ZEALAND

AGIS No: 20140069

Title: Injecting content into the mirage that is proportionality in sentencing.

Authors: BAGARIC, Mirko

Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (3) June 2013 : 411-441

Abstract: Principle of proportionality in sentencing - current role of principle in sentencing - justification - forms of proportionality - ordinal - cardinal - seriousness of offence - evaluating the hardship of sanctions - matching the punishment to the offence.

Legal Cases: Veen v R (No 2) (1988) 164 CLR 465

Legislation: Sentencing Act 2002 (NZ)

Subjects: CRIMINAL LAW
SENTENCING

AGIS No: 20140151

Title: Science in the criminal courts : tool in service, challenge to legal authority or indispensable ally?

Authors: TINSLEY, Yvette

Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (4) October 2013 : 844-865

Abstract: Examination of law-science relationship - law's conception of science and its impact on legal decision making - applying lessons learnt to use of science in the courtrooms of future - assessment of innovations to address law's reception of expert scientific opinions in criminal proceedings.

Subjects: COURTS
CRIMINAL LAW
SCIENCE AND TECHNOLOGY

Jurisdictions: NEW ZEALAND

CRIMINAL OFFENDERS REHABILITATION

AGIS No: 20140148

Title: Bonds, suspended sentences and reoffending : does the length of the order matter?

Authors: POYNTON, Suzanne
WEATHERBURN, Don
Source: TRENDS AND ISSUES IN CRIME AND CRIMINAL JUSTICE (461) July 2013 : 1-6
Abstract: Study into use of propensity score matching to assess if length of a criminal sentence impacts the length of time until reoffending - results suggest it does - implications for sentencing policies - additional research required.
Legislation: Crimes (Sentencing Procedure) Act 1999 (NSW)
Subjects: CRIMINAL OFFENDERS REHABILITATION
Jurisdictions: AUSTRALIA, New South Wales

CYBERCRIME

AGIS No: 20140142
Title: Cloud computing for small business : criminal and security threats and prevention measures.
Authors: HUTCHINGS, Alice
SMITH, Russell G
JAMES, Lachlan
Source: TRENDS AND ISSUES IN CRIME AND CRIMINAL JUSTICE (456) May 2013 : 1-8
Abstract: Use of cloud computing attractive to small businesses due to reduction of ICT overheads - risks involved with using cloud computing - computer security, criminal, regulatory and civil liability - suggestions for how risks may be contained so small businesses can benefit.
Subjects: BUSINESS
CYBERCRIME
Jurisdictions: AUSTRALIA

DAMAGES

AGIS No: 20140026
Title: Who's been sitting in my chair? Downie v Jantom Co Pty Ltd.
Authors: LU, Andrew
Source: AUSTRALIAN INSURANCE LAW BULLETIN 29 (1) November 2013 : 2-4
Abstract: Back injury caused by office chair breaking - liability from failure of chair to meet level of fitness or durability - implied condition of contract - workers compensation - damages.
Legal Cases: Downie v Jantom Co Pty Ltd [2013] ACTSC 171
Subjects: DAMAGES
LIABILITY
WORKERS COMPENSATION
Jurisdictions: AUSTRALIA, Australian Capital Territory

DATA PROTECTION

AGIS No: 20140114

Title: Cloud computing and privacy.
Authors: STEADMAN, John
Source: NEW ZEALAND LAW JOURNAL November 2013 : 375-376
Abstract: Storage of individual and business data in the cloud - differences between New Zealand and United States data protection - privacy issues - more protections to data privacy under US laws - data sovereignty.
Legislation: Electronic Communications Privacy Act 1986 (US)
Privacy Act 1993 (NZ)
Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act 2001 (USA Patriot Act) (US)
Subjects: DATA PROTECTION
PRIVACY
Jurisdictions: NEW ZEALAND
UNITED STATES

DISCOVERY

AGIS No: 20140122
Title: Discovering the right to criminal disclosure : lessons from civil procedure.
Authors: WONG, Denise Huiwen
Source: SINGAPORE ACADEMY OF LAW JOURNAL (25) September 2013 : 548-579
Abstract: Disclosure obligations of parties in criminal cases - amendments to the Criminal Procedure Code and case law have blurred obligations - parties have a right to access material according to the law they are entitled to - currently no procedures for parties to make interlocutory applications to obtain material - competing values and ideals of a criminal discovery regime - need to create a framework to regulate applications for access to materials prior to trial.
Legal Cases: Li Weiming v Public Prosecutor (2013) 2 SLR 1227
Muhammad bin Kadar v Public Prosecutor (2011) 3 SLR 1205
Subjects: CRIMINAL LAW
DISCOVERY
Jurisdictions: SINGAPORE

DISCRIMINATION

AGIS No: 20140111
Title: Justified discrimination?
Authors: HARRIS, Max
Source: NEW ZEALAND LAW JOURNAL November 2013 : 363-366
Abstract: Working for Families package - aspects of package is a justified limit on right to freedom from discrimination - argument that "off-benefit" rule in the package violates s 19 of the Bill of Rights Act - court ruling material disadvantage suffered due to off-benefit rule - Court's reasoning - minimal impairment - legislative process and policy -overall proportionality - 'latitude' and 'leeway'.
Legal Cases: Child Poverty Action Group Incorporated (CPAG) v Attorney-General [2013] NZCA 402
R v Hansen (2007) 3 NZLR 1
R v Oakes (1986) 1 SCR 103

Legislation: Human Rights Act 1993 (NZ)
New Zealand Bill of Rights Act 1990 (NZ)
Subjects: DISCRIMINATION
HUMAN RIGHTS
Jurisdictions: NEW ZEALAND

DISPUTE RESOLUTION

AGIS No: 20140133
Title: A quantitative analysis of practitioners' knowledge of fathers and fathers' engagement in family relationship services.
Authors: FLETCHER, Richard
FREEMAN, Emily
ROSS, Nicola
ST GEORGE, Jennifer
Source: AUSTRALASIAN DISPUTE RESOLUTION JOURNAL 24 (4) November 2013 : 270-277
Abstract: Recent reforms to the Australian family law system changed way parenting disputes are settled - community-based services preferable to legal system - study evaluating the father-related knowledge and competence of practitioners working in family relationship services - high levels of confidence with abilities in working with fathers - gaps in knowledge of father-related issues - need for father-inclusive training for practitioners working with separated parents.

Legislation: Family Law Amendment (Shared Parental Responsibility) Act 2006 (CTH)
Subjects: DISPUTE RESOLUTION
FAMILIES
SHARED PARENTING
Jurisdictions: AUSTRALIA

AGIS No: 20140130
Title: Assisting future lawyers to conceptualise their dispute resolution advocacy role.
Authors: COOPER, Donna
Source: AUSTRALASIAN DISPUTE RESOLUTION JOURNAL 24 (4) November 2013 : 242-250
Abstract: Key concepts of the Dispute Resolution Practice elective offered by the Queensland University of Technology (QUT) undergraduate law program - teaching dispute resolution - design of the unit - teaching and learning delivery - concepts conceptualised during QUT Teaching Fellowship.
Subjects: DISPUTE RESOLUTION
LEGAL EDUCATION
Jurisdictions: AUSTRALIA, Queensland

AGIS No: 20140113
Title: Family dispute resolution.
Authors: POWELL, Carol
Source: NEW ZEALAND LAW JOURNAL November 2013 : 371-374

Abstract: Overview of the Family Dispute Resolution (FDR) structure - criteria for becoming a FDR practitioner (FDRP) - challenges for FDRPs - screening - preparation - best interests and welfare of children.

Legislation: Care of Children Act 2004 (NZ)

Subjects: CHILDREN
DISPUTE RESOLUTION
FAMILIES

Jurisdictions: NEW ZEALAND

AGIS No: 20140128

Title: FDR in prisons : meeting the needs of Aboriginal clients.

Authors: HAMILTON, Karine
HENRY, Pamela

Source: AUSTRALASIAN DISPUTE RESOLUTION JOURNAL 24 (4) November 2013 : 224-229

Abstract: Research on the extension of family relationships centre (FRC) service to Aboriginal family dispute resolution (FDR) clients in prison - interview with prisoners and staff involved in FDR - barriers to uptake of FDR - language difficulties - mistrust of mainstream services - possible strategies for overcoming barriers - developing culturally sensitive forms of FDR.

Subjects: ABORIGINES
DISPUTE RESOLUTION
FAMILIES
PRISONERS

Jurisdictions: AUSTRALIA, Western Australia

DOMESTIC VIOLENCE

AGIS No: 20140100

Title: 'Unreasonable' self-defence?

Authors: MCKENZIE, Mandy
KIRKWOOD, Debbie

Source: DVRCV ADVOCATE (2) Spring/Summer 2013 : 12-16

Abstract: Legal responses to women who kill an abusive partner - reforms to Victorian law in relation to intimate partner homicide - self-defence and defensive homicide - family violence - overview of homicide cases involving women - impact of reforms - need for further change.

Legal Cases: R v Black [2011] VSC 152

Legislation: Crimes (Homicide) Act 2005 (VIC)

Subjects: DOMESTIC VIOLENCE
HOMICIDE
LAW REFORM

Jurisdictions: AUSTRALIA, Victoria

DUTY OF CARE

AGIS No: 20140087

Title: Court of appeal finds builder owed a duty of care to subsequent owner of commercial premises.

Authors: MARYANOV, Elisabeth
LAKE, Michael

Source: AUSTRALIAN CONSTRUCTION LAW BULLETIN 25 (8) November 2013 : 130-134

Abstract: Builder's duty of care to subsequent building owners from suffering loss from latent defects in common property - contract with original owner unlikely to displace duties - recent Court of Appeal decision inconsistent with authorities - principles applied - case law.

Legal Cases: Bryan v Maloney (1995) 182 CLR 609
Owners - Strata Plan No 61288 v Brookfield Australia Investments Ltd [2013] NSWCA 317
Owners Corporation Strata Plan 72535 v Brookfield [2012] NSWSC 712

Subjects: BUILDING LAW
DUTY OF CARE
STRATA TITLES

Jurisdictions: AUSTRALIA

AGIS No: 20140036

Title: Failure to administer a drug and causation.

Authors: STICKLEY, Amanda

Source: QUEENSLAND LAWYER 33 (3) September 2013 : 193-198

Abstract: Damages sought for severe physical and intellectual disabilities resulting from failure to administer a drug - duty of care - obligation to advise of treatment available - likelihood of treatment advice being acted on - scientific evidence - factual causation.

Legal Cases: King v Western Sydney Local Health Network [2013] NSWCA 162

Subjects: DUTY OF CARE
MEDICAL NEGLIGENCE

Jurisdictions: AUSTRALIA

AGIS No: 20140121

Title: The promise of universality : the Spandeck formulation half a decade on.

Authors: TAN, David
GOH, Yihan

Source: SINGAPORE ACADEMY OF LAW JOURNAL (25) September 2013 : 510-547

Abstract: Determining duty of care in the law of negligence - landmark decision in Spandeck Engineering (S) Pte Ltd v Defence Science & Technology Agency - how the Spandeck decision has been applied by the Court of Appeal - effectiveness in determining scenarios involving different types of harm - guidelines for advising clients, drafting pleadings, framing submissions for court and drafting judgments.

Legal Cases: Spandeck Engineering (S) Pte Ltd v Defence Science & Technology Agency (2007) 4 SLR 100

Subjects: DUTY OF CARE

Jurisdictions: SINGAPORE

EMPLOYMENT

AGIS No: 20140082
Title: Seconding and transferring Australian-based staff to work in international locations.

Authors: HOWARD, Leigh
ELLIOTT, Melissa

Source: INHOUSE COUNSEL 17 (2) October 2013 : 30-33

Abstract: Considerations when sending an Australian employee overseas to work - extension of the Fair Work Act to Australian employees based overseas - whether an Australian employment contract should be terminated or suspended while employee is overseas - income tax, superannuation and long service leave considerations.

Legislation: Fair Work Act 2009 (CTH)

Subjects: EMPLOYMENT
WORKING CONDITIONS

Jurisdictions: AUSTRALIA

ENVIRONMENTAL LAW

AGIS No: 20140044
Title: Environmental property rights in Australia : constructing a new tower of Babel.

Authors: MARTIN, Paul
KENNEDY, Amanda
PAGE, John
WILLIAMS, Jacqueline

Source: ENVIRONMENTAL AND PLANNING LAW JOURNAL 30 (6) November 2013 : 531-552

Abstract: Market-based and property rights-based approaches to environmental conservation - need for industries to find cost-effective solutions to environmental harms - potential for multiple environmental market instruments and incentive programs to create legal complexities.

Subjects: ENVIRONMENTAL LAW

Jurisdictions: AUSTRALIA

AGIS No: 20140042
Title: The role of export credit agencies in environmental management : international benchmarks in ECA financing.

Authors: SHEARING, Susan

Source: ENVIRONMENTAL AND PLANNING LAW JOURNAL 30 (6) November 2013 : 508-530

Abstract: Public export credit agencies (ECAs) involvement in financing large-scale resource-related developments - questions how the activities are addressed by ECAs - adoption by ECAs of international environmental and social standards for sustainable finance - Australia's Export Finance and Insurance Corporation and Canada's Export Development Canada.

Legislation: Export Development Act 1985 (CANADA)

Subjects: ENVIRONMENTAL LAW

ENVIRONMENTAL PROTECTION

AGIS No: 20140155
Title: Climate change, coastal hazards and the public trust doctrine.
Authors: THOM, Bruce
Source: MACQUARIE JOURNAL OF INTERNATIONAL AND COMPARATIVE ENVIRONMENTAL LAW 8 (2) 2012 : 21-41
Abstract: Use of Public Trust Doctrine (PTD) as a means to protect beach amenity, access and habitat - overview of PTD - PTD and transient shorelines - use of PTD in the United States and coastal Australia.
Subjects: COASTAL AREAS
ENVIRONMENTAL PROTECTION
Jurisdictions: AUSTRALIA
UNITED STATES

AGIS No: 20140157
Title: The World Bank Inspection Panel : a tool for ensuring the World Bank's compliance with international law?
Authors: ZALCBERG, Jacqui
Source: MACQUARIE JOURNAL OF INTERNATIONAL AND COMPARATIVE ENVIRONMENTAL LAW 8 (2) 2012 : 75-93
Abstract: Overview of World Bank - historical reasons for placement within environmental framework - operation of the Inspection Panel - basic mode of operation in regard to environmental issues - evaluation of Panel decisions - identification of Panel operational and mechanical weaknesses - exploration of continued failure to meet basic standards of operation.
Subjects: ENVIRONMENTAL PROTECTION
INTERNATIONAL LAW

ETHICS

AGIS No: 20140068
Title: Biotech patents in Australia : raising the bar on the generally inconvenient exception.
Authors: HUANG, Belinda
Source: AUSTRALIAN INTELLECTUAL PROPERTY JOURNAL 24 (1) October 2013 : 40-58
Abstract: Opportunity to amend the absence of ethical safeguards in Australia's patent system with the Intellectual Property Laws Amendment (Raising the Bar) Act - examines why Parliament didn't include an ethical exclusion against patentability in Act - ramifications of exclusion.
Legal Cases: Cancer Voices Australia v Myriad Genetics Inc [2013] FCA 65
Legislation: Intellectual Property Laws Amendment (Raising the Bar) Act 2012 (CTH)
Patents Act 1990 (CTH)
Subjects: ETHICS
INTELLECTUAL PROPERTY
PATENTS

Jurisdictions: AUSTRALIA

EVIDENCE

AGIS No: 20140033

Title: Character evidence.

Authors: WEST, A M

Source: QUEENSLAND LAWYER 33 (3) September 2013 : 177-181

Abstract: Entitlement of accused to lead evidence of good character - consequences of failure by counsel to adduce evidence at trial - conduct of counsel resulted in miscarriage of justice - importance of character evidence - case law.

Legal Cases: R v DBB (2013) 1 Qd R 188
Sharma v R [2011] VSCA 356

Subjects: EVIDENCE
MISCARRIAGE OF JUSTICE

Jurisdictions: AUSTRALIA

AGIS No: 20140144

Title: Fair criminal trial and the exclusion of "unfair evidence".

Authors: MATHIESON, Don

Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (4) October 2013 : 739-757

Abstract: Exclusion of evidence in criminal trials - principle of a fair trial - principle of had never existed in common law - extinguishment of discretion to exclude by the Evidence Act - principle to exclude could lead to complicated subsidiary issues - need to authoritatively remove the principle - must to be distinguished from well-established principle of fair criminal trials.

Legal Cases: Fan v R (2012) 3 NZLR 29
R v Shaheed (2002) 2 NZLR 377
R v Smith (Malcolm) (2000) 3 NZLR 656

Legislation: Evidence Act 2006 (NZ)

Subjects: COMMON LAW
CRIMINAL LAW
EVIDENCE

Jurisdictions: NEW ZEALAND

EXPERT EVIDENCE

AGIS No: 20140061

Title: Apply with care : DSM-5 and expert evidence.

Authors: MULLER, Roland

Source: LAW INSTITUTE JOURNAL 87 (11) November 2013 : 58-62

Abstract: Release of the current Diagnostic and Statistical Manual of Mental Disorders (DSM) - DSM guiding diagnosis - evidence - curial acceptance and limitations - legal practitioners' role - forensic applications - practical examples of use.

Subjects: EXPERT EVIDENCE
MENTAL ILLNESS

AGIS No: 20140120

Title: The use of experts in legal proceedings in Singapore involving intellectual property rights.

Authors: LLEWELYN, David

Source: SINGAPORE ACADEMY OF LAW JOURNAL (25) September 2013 : 480-509

Abstract: Use of expert evidence in intellectual property (IP) cases - expert evidence often hinders the success of a case - costs involved to use expert evidence for both parties - need for courts to ensure only worthwhile expert evidence be presented in IP cases.

Legislation: Evidence Act 1997 (Cap 97) (SINGAPORE)

Subjects: COURTS
EXPERT EVIDENCE
INTELLECTUAL PROPERTY

Jurisdictions: SINGAPORE

FAMILIES

AGIS No: 20140133

Title: A quantitative analysis of practitioners' knowledge of fathers and fathers' engagement in family relationship services.

Authors: FLETCHER, Richard
FREEMAN, Emily
ROSS, Nicola
ST GEORGE, Jennifer

Source: AUSTRALASIAN DISPUTE RESOLUTION JOURNAL 24 (4) November 2013 : 270-277

Abstract: Recent reforms to the Australian family law system changed way parenting disputes are settled - community-based services preferable to legal system - study evaluating the father-related knowledge and competence of practitioners working in family relationship services - high levels of confidence with abilities in working with fathers - gaps in knowledge of father-related issues - need for father-inclusive training for practitioners working with separated parents.

Legislation: Family Law Amendment (Shared Parental Responsibility) Act 2006 (CTH)

Subjects: DISPUTE RESOLUTION
FAMILIES
SHARED PARENTING

Jurisdictions: AUSTRALIA

AGIS No: 20140113

Title: Family dispute resolution.

Authors: POWELL, Carol

Source: NEW ZEALAND LAW JOURNAL November 2013 : 371-374

Abstract: Overview of the Family Dispute Resolution (FDR) structure - criteria for becoming a FDR practitioner (FDRP) - challenges for FDRPs - screening - preparation - best interests and welfare of children.

Legislation: Care of Children Act 2004 (NZ)

Subjects: CHILDREN
DISPUTE RESOLUTION
FAMILIES

Jurisdictions: NEW ZEALAND

AGIS No: 20140128

Title: FDR in prisons : meeting the needs of Aboriginal clients.

Authors: HAMILTON, Karine
HENRY, Pamela

Source: AUSTRALASIAN DISPUTE RESOLUTION JOURNAL 24 (4) November 2013 : 224-229

Abstract: Research on the extension of family relationships centre (FRC) service to Aboriginal family dispute resolution (FDR) clients in prison - interview with prisoners and staff involved in FDR - barriers to uptake of FDR - language difficulties - mistrust of mainstream services - possible strategies for overcoming barriers - developing culturally sensitive forms of FDR.

Subjects: ABORIGINES
DISPUTE RESOLUTION
FAMILIES
PRISONERS

Jurisdictions: AUSTRALIA, Western Australia

FAMILY LAW

AGIS No: 20140137

Title: Fifty years of New Zealand family law.

Authors: ATKIN, Bill
CALDWELL, John
HENAGHAN, Mark
TAPP, Pauline

Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (4) October 2013 : 645-666

Abstract: Changes to New Zealand family law over the last fifty years - three areas of substantial change - what constitutes a legal family - changes in exercise of judicial discretion in cases involving children - evolution of the financial and property consequences of family breakdowns - increased legal recognition and protection of variety of familial relationships - current debate surrounding adoption and marriage equality.

Legislation: Care of Children Act 2004 (NZ)
Civil Union Act 2004 (NZ)
Matrimonial Property Act 1976 (NZ)
Status of Children Act 1969 (NZ)

Subjects: CHILDREN
FAMILY LAW
LAW REFORM
MARRIAGE
Jurisdictions: NEW ZEALAND

FINANCIAL SERVICES

AGIS No: 20140059
Title: A risk to far : Lehman's misselling.
Authors: BRANSGROVE, Lesa
Source: LAW INSTITUTE JOURNAL 87 (11) November 2013 : 50-53
Abstract: Misrepresentation of a financial product by salesperson - synthetic collateralised debt obligations - misleading and deceptive conduct - negligence - breach of contract - breach of fiduciary duty - overview of Federal Court decision.

Legal Cases: Bathurst Regional Council v Local Government Financial Services Pty Ltd (No 5) [2012] FCA 1200
Wingecarribee Shire Council v Lehman Brothers Australia Ltd (in liq) [2012] FCA 1028

Subjects: FINANCIAL SERVICES
INVESTMENTS
MISREPRESENTATION

Jurisdictions: AUSTRALIA

AGIS No: 20140079
Title: The financial markets authority : a model example for regulatory consolidation?
Authors: MAUME, Philipp
Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (3) June 2013 : 616-640
Abstract: New regulatory structure for financial markets in New Zealand - introduction of the New Zealand Financial Markets Authority to replace the Securities Commission - theory of financial markets supervision and implications for New Zealand - reform under the Financial Markets Authority Act.

Legislation: Financial Markets Authority Act 2011 (NZ)

Subjects: FINANCIAL SERVICES
LAW REFORM

Jurisdictions: NEW ZEALAND

FINANCIAL SYSTEM

AGIS No: 20140076
Title: Legal transplanting : international financial institutions and secured transactions law reform in South Pacific island nations.
Authors: WALKER, Gordon
PEKMEZOVIC, Alma

Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (3) June 2013 : 560-586

Abstract: Consideration of literature on legal transplanting - current law reform practices of the Asian Development Bank - customisation processes involved in adapting laws from one jurisdiction to another - influence of US secured transactions law in the South Pacific.

Subjects: FINANCIAL SYSTEM
LAW REFORM

Jurisdictions: SOUTH PACIFIC
UNITED STATES

FORENSIC PSYCHIATRY

AGIS No: 20140046

Title: Medical privilege and court-ordered psychiatric reports.

Authors: DAWSON, John

Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (2) December 2012 : 239-269

Abstract: New medical privilege regime in New Zealand - use of information from accused person's prior medical records in preparing a report for the court - prohibition of disclosure - scope and effect of medical privilege under the Evidence Act - problematic clauses of s 59(1) of the Evidence Act.

Legislation: Evidence Act 2006 (NZ)
Evidence Amendment Act (No 2) 1980 (NZ)

Subjects: FORENSIC PSYCHIATRY
MEDICAL EVIDENCE

Jurisdictions: NEW ZEALAND

GOODS AND SERVICES TAX

AGIS No: 20140097

Title: GST and vendor finance.

Authors: CRIDLAND, Matthew
RAHIMI, Rohila

Source: AUSTRALIAN PROPERTY LAW BULLETIN 28 (2) November 2013 : 29-31

Abstract: GST risks associated with vendor providing finance to real estate purchaser by way of loan - preferable to provide finance by way of credit arrangement - implications for accounting for GST on cash and non-cash basis - case law.

Legal Cases: Re Rod Mathiesen Truck Hire Pty Ltd (as trustee for Mathiesen Family Trust) and Commissioner of Taxation [2013] AATA 496

Legislation: A New Tax System (Goods and Services Tax) Act 1999 (CTH)

Subjects: GOODS AND SERVICES TAX
LOANS
REAL PROPERTY

Jurisdictions: AUSTRALIA

GREENHOUSE EFFECT

AGIS No: 20140116
Title: Greenhouse gas emissions from coal.
Authors: SCHOFIELD, Simon
Source: NEW ZEALAND LAW JOURNAL November 2013 : 377-379,383
Abstract: Discharges of greenhouse gases by coal mine - consents for discharges - consent authorities having no regard to the effects on climate change - overview of court decisions on application and appeals against application - case law.

Legal Cases: Royal Forest and Bird Protection Society of New Zealand Incorporated v Buller Coal Limited [2012] NZHC 2156

Buller Coal Limited v West Coast Ent Incorporated [2012] NZEnvC 80
Genesis Power Ltd v Greenpeace New Zealand Inc (2008) 1 NZLR 803

Legislation: Climate Change Response Act 2002 (NZ)
Resource Management Act 1991 (NZ)

Subjects: CLIMATE CHANGE
GREENHOUSE EFFECT

Jurisdictions: NEW ZEALAND

HEALTH SERVICES

AGIS No: 20140085
Title: The new Health Ombudsman Act 2013 : a new health service complaints regime for Queensland.
Authors: PHILIP, Katharine
SOUTHGATE, George
Source: AUSTRALIAN HEALTH LAW BULLETIN 21 (9) November 2013 : 451-456
Abstract: Summary of new health service complaints processes in Queensland - objectives of the Health Ombudsman Act - achievement of objectives - complaints regime.

Legislation: Health Ombudsman Act 2013 (QLD)

Subjects: HEALTH SERVICES
OMBUDSMAN

Jurisdictions: AUSTRALIA, Queensland

HERITAGE CONSERVATION

AGIS No: 20140039
Title: Adaptive reuse of heritage buildings : do current planning and heritage controls support the concept?
Authors: LEADBETER, Paul
Source: ENVIRONMENTAL AND PLANNING LAW JOURNAL 30 (6) November 2013 : 491-507

Abstract: Advantages and disadvantages of the concept of adaptive reuse of heritage buildings - limited reference to the concept in State and Territory legislation and policy planning - application of concept in the Australian ICOMOS Charter for Places of Cultural Significance 1999 (the Burra Charter) - need for heritage and planning legislation to contain specific provisions for concept.

Legislation: Heritage Act 1977 (NSW)
Heritage Act 1992 (QLD)
Heritage Act 1993 (SA)
Heritage Act 1995 (VIC)
Heritage Act 2004 (ACT)
Heritage Conservation Act 1991 (NT)
Historic Cultural Heritage Act 1995 (Tas)

Subjects: HERITAGE CONSERVATION

Jurisdictions: AUSTRALIA

HIGH COURT

AGIS No: 20140057

Title: Not arbitrary in the least : arbitral awards and the TCL judgment.

Authors: TOMKINSON, Deborah
HACHIGO, Tomoyuki

Source: LAW INSTITUTE JOURNAL 87 (11) November 2013 : 44-49

Abstract: Recent High Court decision rejecting a constitutional challenge to the International Arbitration Act - dispute over distribution agreement between two companies - argument before the High Court - overview of decision - no compromise of institutional integrity - no delegation of judicial power - implication of decision.

Legal Cases: Castel Electronics Pty Ltd v TCL Air Conditioner (Zhongshan) Co Ltd [2012] FCA 21
TCL Air Conditioner (Zhongshan) Co Ltd v The Judges of the Federal Court of Australia [2013] HCA 5

Legislation: International Arbitration Act 1974 (CTH)

Subjects: HIGH COURT
INTERNATIONAL ARBITRATION

Jurisdictions: AUSTRALIA

HOMICIDE

AGIS No: 20140100

Title: 'Unreasonable' self-defence?

Authors: MCKENZIE, Mandy
KIRKWOOD, Debbie

Source: DVRCV ADVOCATE (2) Spring/Summer 2013 : 12-16

Abstract: Legal responses to women who kill an abusive partner - reforms to Victorian law in relation to intimate partner homicide - self-defence and defensive homicide - family violence - overview of homicide cases involving women - impact of reforms - need for further change.

Legal Cases: R v Black [2011] VSC 152

Legislation: Crimes (Homicide) Act 2005 (VIC)

Subjects: DOMESTIC VIOLENCE
HOMICIDE
LAW REFORM
Jurisdictions: AUSTRALIA, Victoria

HUMAN RIGHTS

AGIS No: 20140111
Title: Justified discrimination?
Authors: HARRIS, Max
Source: NEW ZEALAND LAW JOURNAL November 2013 : 363-366
Abstract: Working for Families package - aspects of package is a justified limit on right to freedom from discrimination - argument that "off-benefit" rule in the package violates s 19 of the Bill of Rights Act - court ruling material disadvantage suffered due to off-benefit rule - Court's reasoning - minimal impairment - legislative process and policy -overall proportionality - 'latitude' and 'leeway'.
Legal Cases: Child Poverty Action Group Incorporated (CPAG) v Attorney-General [2013] NZCA 402
R v Hansen (2007) 3 NZLR 1
R v Oakes (1986) 1 SCR 103
Legislation: Human Rights Act 1993 (NZ)
New Zealand Bill of Rights Act 1990 (NZ)
Subjects: DISCRIMINATION
HUMAN RIGHTS
Jurisdictions: NEW ZEALAND

INDIGENOUS PEOPLE

AGIS No: 20140134
Title: Ensuring Indigenous consent.
Authors: HOWORTH, Paul
Source: ARENA MAGAZINE (125) August / September 2013 : 14-15
Abstract: Implementation of the Human Rights (Parliamentary Scrutiny) Act - introduction of Parliamentary Joint Committee on Human Rights - scrutinise bills for compatibility with human rights treaties - Committee scrutiny of the Stronger Futures legislation against the UNDRIP - findings of the Committee.
Legislation: Human Rights (Parliamentary Scrutiny) Act 2011 (CTH)
Stronger Futures in the Northern Territory Act 2012 (CTH)
Subjects: INDIGENOUS PEOPLE
PARLIAMENTARY COMMITTEES
Treaties: UN Declaration on the Rights of Indigenous Peoples
Jurisdictions: AUSTRALIA

AGIS No: 20140045
Title: Native title : a right to burn and fire the land? Savanna burning and the Carbon Farming Initiative in northern Australia.

Authors: O'DONNELL, Michael
Source: ENVIRONMENTAL AND PLANNING LAW JOURNAL 30 (6) November 2013 : 553-559
Abstract: Indigenous practice of burning the land as part of land management - use of savanna burning methodology approved under legislation - Carbon Credits (Carbon Farming Initiative) Act 2011 - initiative gives exclusive possession native titleholders with a carbon and legal right to burn the land - native titleholders are eligible for Australian Carbon Credit Units.
Legislation: Carbon Credits (Carbon Farming Initiative) Act 2011 (CTH)
Subjects: INDIGENOUS PEOPLE
NATIVE TITLE
Jurisdictions: AUSTRALIA

AGIS No: 20140143
Title: Youth gangs in a remote Indigenous community : importance of cultural authority and family support.
Authors: CUNNINGHAM, Teresa
IVORY, Bill
CHENHALL, Richard
AND OTHERS
Source: TRENDS AND ISSUES IN CRIME AND CRIMINAL JUSTICE (457) July 2013 : 1-6
Abstract: Research into gangs in the Wadeye Indigenous community - how gangs operate - relationships with community authority and family support mechanisms - research found criminal aspects of gang membership less important than identity construction, leadership and preservation of cultural knowledge and history.
Subjects: INDIGENOUS PEOPLE
YOUNG PERSONS
Jurisdictions: AUSTRALIA, Northern Territory

INDUSTRIAL SAFETY

AGIS No: 20140035
Title: Kirk (finally) comes to Queensland : NK Collins Industries Pty Ltd v The President of the Industrial Court of Queensland [2013] QCA 179.
Authors: RICHARDSON, Kristy
Source: QUEENSLAND LAWYER 33 (3) September 2013 : 188-192
Abstract: Principles of particularisation - requirement in Kirk that complaint and summons be further particularised to contain details of the acts or omissions or measures alleged to not have been taken to prevent the incident - application of Kirk to appeal for judicial review of decision - appropriate that person charged with failing to discharge an occupation health and safety liability know the specifics of the charge being brought.
Legal Cases: Kirk v Industrial Relations Commission of New South Wales (2010) 239 CLR 531
NK Collins Industries Pty Ltd v President of the Industrial Court of Queensland [2013] QCA 179
Legislation: Workplace Health and Safety Act 1995 (QLD)

Subjects: INDUSTRIAL SAFETY
JUDICIAL REVIEW
OCCUPATIONAL HEALTH
Jurisdictions: AUSTRALIA

INJURIES

AGIS No: 20140028
Title: Timing is everything : Erzurumlu v Kellogg Superannuation Pty Ltd.
Authors: IACUZZI, Michael
ESBER, Elizabeth
Source: AUSTRALIAN INSURANCE LAW BULLETIN 29 (1) November 2013 : 7-9
Abstract: Interpretation of total and permanent disability (TPD) definition - relevant date for determining TPD - medical evidence must relate to relevant dates for determining TPD - applicable policy wording or trust deed in determining relevant date - case law.
Legal Cases: Erzurumlu v Kellogg Superannuation Pty Ltd [2013] NSWSC 1115
Subjects: INJURIES
WORKERS COMPENSATION
Jurisdictions: AUSTRALIA, New South Wales

INSOLVENCY

AGIS No: 20140078
Title: Funding insolvent company claims.
Authors: TAYLOR, Lynne
Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (3) June 2013 : 587-615
Abstract: Funding litigation through assignment of right to sue as exception to torts of maintenance and champerty - issues associated with this source of funding following modifications to the torts - legal basis of exception - adequacy of existing controls over operation of exception.
Legal Cases: Contractors Bonding Ltd v Waterhouse (2012) 3 NZLR 826
Saunders v Houghton (2010) 3 NZLR 331
Legislation: Companies Act 1993 (NZ)
Subjects: INSOLVENCY
LITIGATION
TORTS
Jurisdictions: NEW ZEALAND

INSURANCE

AGIS No: 20140088
Title: Case note : Lend Lease Project Management & Construction (Aust) Pty Ltd v Kellogg Brown & Root Pty Ltd.
Authors: KIPIC, Ben
AGUIRRE, Tristan

Source: AUSTRALIAN CONSTRUCTION LAW BULLETIN 25 (8) November 2013 : 141-143

Abstract: Contracting to provide professional services - voiding of limitation of liability provision in professional services for uncertainty - insurance as a conditional precedent to the operation of limitation of liability - extent of limiting of liability.

Legal Cases: Lend Lease Project Management & Construction (Australia) Pty Ltd (formerly Bovis Lend Lease Pty Ltd) v Kellogg Brown & Root Pty Ltd [2013] NSWSC 1142
Upper Hunter County District Council v Australian Chilling & Freezing Co Ltd (1968) 118 CLR 429

Subjects: CONTRACTS
INSURANCE
LIABILITY

Jurisdictions: AUSTRALIA

AGIS No: 20140031

Title: Insurance law : the meaning of "flood" in policy exclusion : LMT Surgical Pty Ltd v Allianz Australia Insurance Ltd [2013] QSC 181.

Authors: TURNER, Clive

Source: QUEENSLAND LAWYER 33 (3) September 2013 : 171-174

Abstract: Exclusion for "flood" in insurance policies - "altered or modified" natural watercourse - consideration of pipes as canal - water overflow from normal confines of river - amendments to legislation to provide standard definition of flood in relation to "prescribed contract" - case law.

Legal Cases: LMT Surgical Pty Ltd v Allianz Australia Insurance Ltd [2013] QSC 181

Legislation: Insurance Contracts Act 1984 (CTH)
Insurance Contracts Amendment Act 2012 (CTH)

Subjects: CONTRACTS
INSURANCE
NATURAL DISASTERS

Jurisdictions: AUSTRALIA

AGIS No: 20140027

Title: Life insurance buy-back examined : Dowsley v Westpac Life Insurance Services Ltd.

Authors: TELFORD, Paul

Source: AUSTRALIAN INSURANCE LAW BULLETIN 29 (1) November 2013 : 5-6

Abstract: Entitlement to buy-back under life insurance policy - living benefit payment - reduction in entitlement to death benefit - interpretation of request clause in contract - first and second buy-back options - case law.

Legal Cases: Dowsley v Westpac Life Insurance Services Ltd [2013] NSWSC 1208

Subjects: CONTRACTS
INSURANCE

Jurisdictions: AUSTRALIA, New South Wales

AGIS No: 20140029

Title: Share and share alike : QBE Insurance (Aust) Ltd v Suncorp Metway Insurance Ltd.

Authors: FREEMAN, Iain
Source: AUSTRALIAN INSURANCE LAW BULLETIN 29 (1) November 2013 : 10-11
Abstract: Proper construction and operation of sharing agreements between third party motor insurers - sharing costs where loss involves vehicles insured by two or more insurers - case law.
Legal Cases: QBE Insurance (Australia) Ltd v Suncorp Metway Insurance Ltd [2013] NSWCA 290
Subjects: CONTRACTS
INSURANCE
Jurisdictions: AUSTRALIA, New South Wales

INTELLECTUAL PROPERTY

AGIS No: 20140068
Title: Biotech patents in Australia : raising the bar on the generally inconvenient exception.

Authors: HUANG, Belinda
Source: AUSTRALIAN INTELLECTUAL PROPERTY JOURNAL 24 (1) October 2013 : 40-58

Abstract: Opportunity to amend the absence of ethical safeguards in Australia's patent system with the Intellectual Property Laws Amendment (Raising the Bar) Act - examines why Parliament didn't include an ethical exclusion against patentability in Act - ramifications of exclusion.

Legal Cases: Cancer Voices Australia v Myriad Genetics Inc [2013] FCA 65
Legislation: Intellectual Property Laws Amendment (Raising the Bar) Act 2012 (CTH)
Patents Act 1990 (CTH)
Subjects: ETHICS
INTELLECTUAL PROPERTY
PATENTS
Jurisdictions: AUSTRALIA

AGIS No: 20140070
Title: Privacy in the context of piracy : the forgotten issue in the hunt for online copyright pirates.
Authors: SVANTESSON, Dan Jerker B
Source: AUSTRALIAN INTELLECTUAL PROPERTY JOURNAL 24 (1) October 2013 : 59-69

Abstract: How privacy is affected by and affects the application of copyright law in online copyright piracy - whether ISPs can be held responsible for online copyright piracy by their subscribers - iiNet.

Legal Cases: Roadshow Films Pty Ltd v iiNet Ltd (2012) 286 ALR 466
Legislation: Copyright Act 1968 (CTH)
Privacy Act 1988 (CTH)
Subjects: INTELLECTUAL PROPERTY
INTERNET
PRIVACY
Jurisdictions: AUSTRALIA

AGIS No: 20140120
Title: The use of experts in legal proceedings in Singapore involving intellectual property rights.
Authors: LLEWELYN, David
Source: SINGAPORE ACADEMY OF LAW JOURNAL (25) September 2013 : 480-509
Abstract: Use of expert evidence in intellectual property (IP) cases - expert evidence often hinders the success of a case - costs involved to use expert evidence for both parties - need for courts to ensure only worthwhile expert evidence be presented in IP cases.
Legislation: Evidence Act 1997 (Cap 97) (SINGAPORE)
Subjects: COURTS
EXPERT EVIDENCE
INTELLECTUAL PROPERTY
Jurisdictions: SINGAPORE

INTERNATIONAL ARBITRATION

AGIS No: 20140127
Title: International arbitration in Australia : 2012/2013 in review.
Authors: MONICHINO, Albert
FAWKE, Alex
Source: AUSTRALASIAN DISPUTE RESOLUTION JOURNAL 24 (4) November 2013 : 208-223
Abstract: Important arbitration developments in Australia over 2012/2013 - national and domestic legislative developments - international commercial arbitration cases - investor-state arbitration - government policy on investor-state dispute settlement.
Legal Cases: Amcor Packaging (Aust) Pty Ltd v Boulderstone Pty Ltd [2013] FCA 253
Cape Lambert Resources Ltd v MCC Australia Sanjin Mining Pty Ltd [2013] WASCA 66
Castel Electronics Pty Ltd v TCL Air Conditioner (Zhongshan) Co Ltd (2012) 201 FCR 209
TCL Air Conditioner (Zhongshan) Co Ltd v Judges of the Federal Court of Australia (2013) 295 ALR 596
Subjects: INTERNATIONAL ARBITRATION
LEGISLATION
Jurisdictions: AUSTRALIA

AGIS No: 20140057
Title: Not arbitrary in the least : arbitral awards and the TCL judgment.
Authors: TOMKINSON, Deborah
HACHIGO, Tomoyuki
Source: LAW INSTITUTE JOURNAL 87 (11) November 2013 : 44-49
Abstract: Recent High Court decision rejecting a constitutional challenge to the International Arbitration Act - dispute over distribution agreement between two companies - argument before the High Court - overview of decision - no compromise of institutional integrity - no delegation of judicial power - implication of decision.

Legal Cases: Castel Electronics Pty Ltd v TCL Air Conditioner (Zhongshan) Co Ltd [2012] FCA 21
TCL Air Conditioner (Zhongshan) Co Ltd v The Judges of the Federal Court of Australia [2013] HCA 5

Legislation: International Arbitration Act 1974 (CTH)

Subjects: HIGH COURT
INTERNATIONAL ARBITRATION

Jurisdictions: AUSTRALIA

INTERNATIONAL LAW

AGIS No: 20140156

Title: International law on climate change adaption : has the time come for a new protocol?

Authors: PUTHUCHERRIL, Tony George

Source: MACQUARIE JOURNAL OF INTERNATIONAL AND COMPARATIVE ENVIRONMENTAL LAW 8 (2) 2012 : 42-74

Abstract: International climate change adaption regime - analysis of climate change adaption and various classifications - overview of development of climate change adaption rules at an international level - consideration of need to develop exclusive protocol on climate change adaption.

Subjects: CLIMATE CHANGE
INTERNATIONAL LAW

Treaties: Kyoto Protocol to the United Nations Framework Convention on Climate Change
United Nations Framework Convention on Climate Change

AGIS No: 20140141

Title: New Zealand and international law : 1963-2013.

Authors: KEITH, Kenneth

Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (4) October 2013 : 718-738

Abstract: Discussion of how the New Zealand legal community has become receptive to developments in international law - contributions to international law - academic lawyers - law of the sea - trade and commerce - human rights.

Legal Cases: R v Fineberg [1968] NZLR 119

Subjects: INTERNATIONAL LAW

Jurisdictions: NEW ZEALAND

AGIS No: 20140157

Title: The World Bank Inspection Panel : a tool for ensuring the World Bank's compliance with international law?

Authors: ZALCBERG, Jacqui

Source: MACQUARIE JOURNAL OF INTERNATIONAL AND COMPARATIVE ENVIRONMENTAL LAW 8 (2) 2012 : 75-93

Abstract: Overview of World Bank - historical reasons for placement within environmental framework - operation of the Inspection Panel - basic mode of operation in regard to environmental issues - evaluation of Panel decisions - identification of Panel operational and mechanical weaknesses - exploration of continued failure to meet basic standards of operation.

Subjects: ENVIRONMENTAL PROTECTION
INTERNATIONAL LAW

INTERNATIONAL TRADE

AGIS No: 20140072
Title: Parallel importing and trade mark use : a tale of two uses.
Authors: BATTY, Rob
Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (3) June 2013 : 467-496

Abstract: Infringing use of trade marks by parallel importers - statutory defences for parallel imports - unintended sales of parallel imported goods is use of mark attributable trade mark to owner - question of genuine use - case law.

Legal Cases: E & J Gallo Winery v Lion Nathan Australia Pty Ltd (2008) 77 IPR 69
Irving's Yeast Vite v Horsenail (1934) 51 RPC 110
Leisureworld Ltd v Elite Fitness Equipment Ltd [2006] NZHC 849

Legislation: Trade Marks Act 2002 (NZ)

Subjects: INTERNATIONAL TRADE
TRADE MARKS

Jurisdictions: NEW ZEALAND

INTERNET

AGIS No: 20140070
Title: Privacy in the context of piracy : the forgotten issue in the hunt for online copyright pirates.
Authors: SVANTESSON, Dan Jerker B
Source: AUSTRALIAN INTELLECTUAL PROPERTY JOURNAL 24 (1) October 2013 : 59-69

Abstract: How privacy is affected by and affects the application of copyright law in online copyright piracy - whether ISPs can be held responsible for online copyright piracy by their subscribers - iiNet.

Legal Cases: Roadshow Films Pty Ltd v iiNet Ltd (2012) 286 ALR 466

Legislation: Copyright Act 1968 (CTH)
Privacy Act 1988 (CTH)

Subjects: INTELLECTUAL PROPERTY
INTERNET
PRIVACY

Jurisdictions: AUSTRALIA

AGIS No: 20140065
Title: Probing privacy.
Authors: MCDONALD, Barbara
Source: LAW INSTITUTE JOURNAL 87 (11) November 2013 : 82
Abstract: Australian Law Reform Commission inquiry into serious invasions of privacy in the digital era - protection of privacy - terms of reference - regulation of data privacy.

Subjects: AUSTRALIAN LAW REFORM COMMISSION
INTERNET
PRIVACY
Jurisdictions: AUSTRALIA

INVESTMENTS

AGIS No: 20140059
Title: A risk to far : Lehman's misselling.
Authors: BRANSGROVE, Lesa
Source: LAW INSTITUTE JOURNAL 87 (11) November 2013 : 50-53
Abstract: Misrepresentation of a financial product by salesperson - synthetic collateralised debt obligations - misleading and deceptive conduct - negligence - breach of contract - breach of fiduciary duty - overview of Federal Court decision.

Legal Cases: Bathurst Regional Council v Local Government Financial Services Pty Ltd (No 5) [2012] FCA 1200
Wingecarribee Shire Council v Lehman Brothers Australia Ltd (in liq) [2012] FCA 1028

Subjects: FINANCIAL SERVICES
INVESTMENTS
MISREPRESENTATION

Jurisdictions: AUSTRALIA

JUDICIAL EDUCATION

AGIS No: 20140112
Title: Judicial developments in ethical lawyering in Singapore.
Authors: CHEN, Alvin
Source: SINGAPORE ACADEMY OF LAW JOURNAL (25) September 2013 : 395-423

Abstract: Ethics of lawyering in conflicts of interest, remuneration and administration of justice - case law - themes behind judicial developments in professional ethics - ethical rules - personal and professional conflicts of interest - duty of a solicitor to the administration of justice - redressing imbalances in fee arrangements.

Legal Cases: Law Society of Singapore v Ahmad Khalis bin Abdul Ghani (2006) 4 SLR(R) 308
Law Society of Singapore v Low Yong Sen (2009) 1 SLR(R) 802
Law Society of Singapore v Tan Phuay Khiang (2007) 3 SLR(R) 477
Lie Hendri Rusli v Wong Tan & Molly Lim (2004) 4 SLR 594

Subjects: JUDICIAL EDUCATION
LEGAL ETHICS

Jurisdictions: SINGAPORE

JUDICIAL REVIEW

AGIS No: 20140035
Title: Kirk (finally) comes to Queensland : NK Collins Industries Pty Ltd v The President of the Industrial Court of Queensland [2013] QCA 179.

Authors: RICHARDSON, Kristy
Source: QUEENSLAND LAWYER 33 (3) September 2013 : 188-192
Abstract: Principles of particularisation - requirement in Kirk that complaint and summons be further particularised to contain details of the acts or omissions or measures alleged to not have been taken to prevent the incident - application of Kirk to appeal for judicial review of decision - appropriate that person charged with failing to discharge an occupation health and safety liability know the specifics of the charge being brought.

Legal Cases: Kirk v Industrial Relations Commission of New South Wales (2010) 239 CLR 531
NK Collins Industries Pty Ltd v President of the Industrial Court of Queensland [2013] QCA 179

Legislation: Workplace Health and Safety Act 1995 (QLD)

Subjects: INDUSTRIAL SAFETY
JUDICIAL REVIEW
OCCUPATIONAL HEALTH

Jurisdictions: AUSTRALIA

AGIS No: 20140052
Title: Statutory judicial review in Australia : a comparative analysis of the Australian Capital Territory, Queensland and Tasmanian schemes.
Authors: CASSIMATIS, Anthony E
BILLINGS, Peter
Source: JOURNAL OF JUDICIAL ADMINISTRATION 23 (2) October 2013 : 73-129
Abstract: Systematic analysis of legislative attempts to modernise judicial review in Australia - simplified procedures for applying for judicial review - codified grounds of review - right to reasons - enhancement of transparency about core principles through codification of grounds of review - promotion of legal certainty - problems with undue technicality due to jurisdictional requirements controlling operation of Acts.

Legislation: Administrative Decisions (Judicial Review) Act 1977 (CTH)
Administrative Decisions (Judicial Review) Act 1989 (ACT)
Judicial Review Act 1991 (QLD)
Judicial Review Act 2000 (TAS)

Subjects: JUDICIAL REVIEW
LAW REFORM
LEGISLATION

Jurisdictions: AUSTRALIA, Australian Capital Territory
AUSTRALIA, Queensland
AUSTRALIA, Tasmania

AGIS No: 20140030
Title: The revitalisation of Wednesbury unreasonableness : the decision in Minister for Immigration and Citizenship and Li [2013] HCA 18.
Authors: LANE, Bill
Source: QUEENSLAND LAWYER 33 (3) September 2013 : 168-170
Abstract: Recent decision providing new guidance concerning Wednesbury unreasonableness - exercise of discretionary statutory powers allowing for adjournment - basis of judicial review - case law.

Legal Cases: Minister for Immigration and Citizenship v Li [2013] HCA 18

Subjects: JUDICIAL REVIEW
Jurisdictions: AUSTRALIA

JUDICIAL STATUS AND POWER

AGIS No: 20140043
Title: Is New Zealand law ready for a Marbury v Madison moment?
Authors: HARRIS, Max
Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (2) December 2012 : 210-238

Abstract: Judicial assumption of power to strike down legislation - arguments provided by judges when inferring a judicial strike-down - analysis of whether current New Zealand law might authorise similar action - conclusion that power to strike-down possible in New Zealand - implications of findings on legal scholarship and practice.

Legal Cases: Marbury v Madison 5 US 137 (1803)
United Mizrahi Bank Ltd v Migdal Cooperative Village (1995) 49(4) PD 221

Subjects: JUDICIAL STATUS AND POWER
LEGISLATION

Jurisdictions: NEW ZEALAND

JUDICIARY

AGIS No: 20140053
Title: Attributes of a good judge.
Authors: KYROU, Emilios
Source: JOURNAL OF JUDICIAL ADMINISTRATION 23 (2) October 2013 : 130-134

Abstract: Key personal attributes of a good judge - independence - impartiality - communication skills - patience - cultural awareness and tolerance - courtesy - compassion - humility - people skills - community engagement - sense of perspective - sense of humour.

Subjects: JUDICIARY

AGIS No: 20140139
Title: Judges and academics in New Zealand.
Authors: HAMMOND, Grant
Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (4) October 2013 : 681-702

Abstract: Framework of the relationship between academics and judges - use of academic works in judgments - purposes of use - influence of academic writings on the court - impact on outcomes of cases - behaviour of the court as a whole - examination of use of academic writing in Supreme Court.

Subjects: JUDICIARY
LEGAL RESEARCH

Jurisdictions: NEW ZEALAND

LANDLORD AND TENANT

AGIS No: 20140095
Title: GST and real property leases : implications of the MBI case.
Authors: CRIDLAND, Matthew
Source: AUSTRALIAN PROPERTY LAW BULLETIN 28 (2) November 2013 : 18-21

Abstract: Vendors and purchases of tenanted property do not make new or continuing supply to tenant following sale of property - supply made by landlord to tenant - GST implications - implications for tenanted commercial properties and residential premises - case law.

Legal Cases: MBI Properties Pty Ltd v Commissioner of Taxation [2013] FCAFC 112
South Steyne Hotel Pty Ltd v Commissioner of Taxation (2009) 180 FCR 409

Legislation: A New Tax System (Goods and Services Tax) Act 1999 (CTH)

Subjects: LANDLORD AND TENANT
PROPERTY LAW

Jurisdictions: AUSTRALIA

LAW REFORM

AGIS No: 20140145
Title: "The law as it should be" when prosecuting sexual offences : the contribution of legal academics to law reform.
Authors: MCDONALD, Elisabeth
TINSLEY, Yvette
Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (4) October 2013 : 758-779

Abstract: Current role of legal academics in the law reform process focusing on contributions to developing law and policy on sexual violence - debate on reform of pre-trial and trial process in sexual violence prosecutions - significance of contributions to legal, policy and practice reforms - importance of on-going effective contributions of legal academics.

Subjects: LAW REFORM
LEGAL RESEARCH
SEXUAL OFFENCES

Jurisdictions: NEW ZEALAND

AGIS No: 20140054
Title: A new whistle at work.
Authors: ORIFICI, Adriana
WEBSTER, Tamsin
Source: LAW INSTITUTE JOURNAL 87 (11) November 2013 : 30-34

Abstract: Changes to the whistleblower regime in Victoria - background of the Protected Disclosures Act - broader definition of whistleblowing - procedural changes - vicarious liability and 'reasonable precautions' defence - confidentiality provisions - transfer of employment - non-prevention of certain management action - transitional arrangements - applicability of case law - practical implications.

Legislation: Protected Disclosure Act 2012 (VIC)
Whistleblowers Protection Act 2001 (VIC)
Subjects: LAW REFORM
WHISTLEBLOWING
Jurisdictions: AUSTRALIA, Victoria

AGIS No: 20140138
Title: Academics and law reform.
Authors: BURROWS, John
Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (4) October 2013 : 667-680

Abstract: Contribution of academics to the law reform process - law reform process - forms of contribution - published writings - participation on advisory committees and steering groups - peer reviews - need for stronger links between universities and law reform agencies.
Subjects: LAW REFORM
LEGAL RESEARCH
Jurisdictions: NEW ZEALAND

AGIS No: 20140110
Title: Australia's proposed exercise in contract law reform : international convergence and regional implications.
Authors: BITAS, Basil C
Source: SINGAPORE ACADEMY OF LAW JOURNAL (25) September 2013 : 379-394

Abstract: The Australian Attorney-General's Department's approach to reforms to Australian contract law - request for notice and comments - comparative issues - convergence and codification - consolidation - collateral benefits and relationship to other international instruments - suggests Australian approach to law reform be adopted in other jurisdictions.
Subjects: LAW REFORM
Jurisdictions: AUSTRALIA

AGIS No: 20140137
Title: Fifty years of New Zealand family law.
Authors: ATKIN, Bill
CALDWELL, John
HENAGHAN, Mark
TAPP, Pauline
Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (4) October 2013 : 645-666

Abstract: Changes to New Zealand family law over the last fifty years - three areas of substantial change - what constitutes a legal family - changes in exercise of judicial discretion in cases involving children - evolution of the financial and property consequences of family breakdowns - increased legal recognition and protection of variety of familial relationships - current debate surrounding adoption and marriage equality.

Legislation: Care of Children Act 2004 (NZ)
Civil Union Act 2004 (NZ)
Matrimonial Property Act 1976 (NZ)
Status of Children Act 1969 (NZ)

Subjects: CHILDREN
FAMILY LAW
LAW REFORM
MARRIAGE

Jurisdictions: NEW ZEALAND

AGIS No: 20140076

Title: Legal transplanting : international financial institutions and secured transactions law reform in South Pacific island nations.

Authors: WALKER, Gordon
PEKMEZOVIC, Alma

Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (3) June 2013 : 560-586

Abstract: Consideration of literature on legal transplanting - current law reform practices of the Asian Development Bank - customisation processes involved in adapting laws from one jurisdiction to another - influence of US secured transactions law in the South Pacific.

Subjects: FINANCIAL SYSTEM
LAW REFORM

Jurisdictions: SOUTH PACIFIC
UNITED STATES

AGIS No: 20140052

Title: Statutory judicial review in Australia : a comparative analysis of the Australian Capital Territory, Queensland and Tasmanian schemes.

Authors: CASSIMATIS, Anthony E
BILLINGS, Peter

Source: JOURNAL OF JUDICIAL ADMINISTRATION 23 (2) October 2013 : 73-129

Abstract: Systematic analysis of legislative attempts to modernise judicial review in Australia - simplified procedures for applying for judicial review - codified grounds of review - right to reasons - enhancement of transparency about core principles through codification of grounds of review - promotion of legal certainty - problems with undue technicality due to jurisdictional requirements controlling operation of Acts.

Legislation: Administrative Decisions (Judicial Review) Act 1977 (CTH)
Administrative Decisions (Judicial Review) Act 1989 (ACT)
Judicial Review Act 1991 (QLD)
Judicial Review Act 2000 (TAS)

Subjects: JUDICIAL REVIEW
LAW REFORM
LEGISLATION

Jurisdictions: AUSTRALIA, Australian Capital Territory
AUSTRALIA, Queensland
AUSTRALIA, Tasmania

AGIS No: 20140126
Title: The disqualification of company directors : background to the regime and some recent reform activity in the United Kingdom.
Authors: TRIBE, John
Source: INSOLVENCY LAW BULLETIN 14 (3) November 2013 : 47-54
Abstract: Directors disqualification regime in the United Kingdom - directors acting in "unfit" manner - law reform - unfitness - periods of disqualification - overview of disqualification cases - recent reports by Cable and Lord Justice Briggs on director disqualification.
Legislation: Companies Act 2006 (UK)
Company Directors Disqualification Act 1986 (UK)
Subjects: COMPANY DIRECTORS
LAW REFORM
Jurisdictions: UNITED KINGDOM

AGIS No: 20140079
Title: The financial markets authority : a model example for regulatory consolidation?
Authors: MAUME, Philipp
Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (3) June 2013 : 616-640
Abstract: New regulatory structure for financial markets in New Zealand - introduction of the New Zealand Financial Markets Authority to replace the Securities Commission - theory of financial markets supervision and implications for New Zealand - reform under the Financial Markets Authority Act.
Legislation: Financial Markets Authority Act 2011 (NZ)
Subjects: FINANCIAL SERVICES
LAW REFORM
Jurisdictions: NEW ZEALAND

AGIS No: 20140049
Title: The generic tax policy process : a "jewel in our policy formation crown"?
Authors: VIAL, Peter
Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (2) December 2012 : 318-346
Abstract: Overview of the generic tax policy process (GTPP) - development and enactment of the look through company (LTC) rules and reform of qualifying company (QC) rules - extent to which these complied with the GTPP - reasons for divergence from the GTPP - risks of divergence.
Subjects: LAW REFORM
TAXATION
Jurisdictions: NEW ZEALAND

AGIS No: 20140075
Title: The possibility of amending New Zealand's general anti-avoidance rule.

Authors: LITTLEWOOD, Michael
Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (3) June 2013 : 522-559
Abstract: Current state of tax avoidance law in New Zealand - assessment of report recommending amendments to the general anti-avoidance rule (GAAR) - difference between tax avoidance and acceptable tax planning - amendments would increase litigation and permit forms of tax avoidance currently prohibited.
Legal Cases: Ben Nevis Forestry Ventures Ltd v Commissioner of Inland Revenue (2009) 2 NZLR 289
Penny v Commissioner of Inland Revenue (2012) 1 NZLR 433
White v CIR (Commissioner of Inland Revenue) (2010) 24 NZTC 24,600
Legislation: Goods and Services Tax Act 1985 (NZ)
Income Tax Act 2007 (NZ)
Subjects: LAW REFORM
TAX AVOIDANCE
Jurisdictions: NEW ZEALAND

AGIS No: 20140115
Title: The right to appeal against a decision made on an interlocutory application : the immediate aftermath of the 2010 amendments.
Authors: CHUA, Eunice Hui Han
CHEN, Siyuan
Source: SINGAPORE ACADEMY OF LAW JOURNAL (25) September 2013 : 424-454
Abstract: Introduction of a calibrated approach towards interlocutory appeals - amendment of the Supreme Court of Judicature Act - case law interpreting new provisions.
Legal Cases: Dorsey James Michael v World Sport Group Pte Ltd (2013) 3 SLR 354
OpenNet Pte Ltd v Info-Communications Development Authority of Singapore (2013) 2 SLR 880
Legislation: Supreme Court of Judicature Act 1969 (SINGAPORE)
Subjects: LAW REFORM
Jurisdictions: SINGAPORE

AGIS No: 20140100
Title: 'Unreasonable' self-defence?
Authors: MCKENZIE, Mandy
KIRKWOOD, Debbie
Source: DVRCV ADVOCATE (2) Spring/Summer 2013 : 12-16
Abstract: Legal responses to women who kill an abusive partner - reforms to Victorian law in relation to intimate partner homicide - self-defence and defensive homicide - family violence - overview of homicide cases involving women - impact of reforms - need for further change.
Legal Cases: R v Black [2011] VSC 152
Legislation: Crimes (Homicide) Act 2005 (VIC)
Subjects: DOMESTIC VIOLENCE
HOMICIDE
LAW REFORM

Jurisdictions: AUSTRALIA, Victoria

LEGAL EDUCATION

AGIS No: 20140149

Title: 50 years of legal education in New Zealand : 1963-2013 where to from here?

Authors: WILSON, Margaret
SMITH, ATH

Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (4) October 2013 : 801-819

Abstract: Principle changes that have occurred in legal education since 1963 - tensions between need to educate law students for practice law and demands on university community to engage in original research - increase in numbers of students - role of the Council for Legal Education in mediating tensions - impact of government attempts to ensure sector is providing value for money.

Subjects: LEGAL EDUCATION

Jurisdictions: NEW ZEALAND

AGIS No: 20140130

Title: Assisting future lawyers to conceptualise their dispute resolution advocacy role.

Authors: COOPER, Donna

Source: AUSTRALASIAN DISPUTE RESOLUTION JOURNAL 24 (4) November 2013 : 242-250

Abstract: Key concepts of the Dispute Resolution Practice elective offered by the Queensland University of Technology (QUT) undergraduate law program - teaching dispute resolution - design of the unit - teaching and learning delivery - concepts conceptualised during QUT Teaching Fellowship.

Subjects: DISPUTE RESOLUTION
LEGAL EDUCATION

Jurisdictions: AUSTRALIA, Queensland

AGIS No: 20140047

Title: Redefining learning outcomes : a case for the assessment of skills and competencies in a law degree.

Authors: DEVONSHIRE, Peter
BRAILSFORD, Ian

Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (2) December 2012 : 270-284

Abstract: Need to reconceptualise the study of law to recognise the importance of attainment of skills and competencies - identification of objectives and outcomes of a law degree - role of graduate profiles in awareness of skills-based outcomes - integration of formative assessment techniques in syllabus - assessment of aptitudes that underpin the discipline of law.

Subjects: LEGAL EDUCATION

Jurisdictions: NEW ZEALAND

LEGAL ETHICS

AGIS No: 20140112
Title: Judicial developments in ethical lawyering in Singapore.
Authors: CHEN, Alvin
Source: SINGAPORE ACADEMY OF LAW JOURNAL (25) September 2013 : 395-423

Abstract: Ethics of lawyering in conflicts of interest, remuneration and administration of justice - case law - themes behind judicial developments in professional ethics - ethical rules - personal and professional conflicts of interest - duty of a solicitor to the administration of justice - redressing imbalances in fee arrangements.

Legal Cases: Law Society of Singapore v Ahmad Khalis bin Abdul Ghani (2006) 4 SLR(R) 308
Law Society of Singapore v Low Yong Sen (2009) 1 SLR(R) 802
Law Society of Singapore v Tan Phuay Khiang (2007) 3 SLR(R) 477
Lie Hendri Rusli v Wong Tan & Molly Lim (2004) 4 SLR 594

Subjects: JUDICIAL EDUCATION
LEGAL ETHICS

Jurisdictions: SINGAPORE

LEGAL PROFESSION

AGIS No: 20140099
Title: Practising the practice note.
Authors: BUCHANAN, Luke
LATTI, Nadia
Source: INHOUSE COUNSEL 17 (2) October 2013 : 40-41
Abstract: Questions arisen about Practice Note SC Eq 11 since commencement - what constitutes exceptional circumstances - impact on processes other than disclosure - interrogatories - notices to produce - subpoenas.
Legal Cases: Leda Manorstead Pty Ltd v Chief Cmr of State Revenue (No 2) [2013] NSWSC 89
Subjects: LEGAL PROFESSION
LITIGATION
Jurisdictions: AUSTRALIA

AGIS No: 20140062
Title: The padded sell.
Authors: DAL PONT, Gino
Source: LAW INSTITUTE JOURNAL 87 (11) November 2013 : 78
Abstract: Misleading or false statements in curriculum vitae (CV) - CV padding - motivation - dilemma in deciding which resume lies are forgivable - professional misconduct.
Subjects: LEGAL PROFESSION
Jurisdictions: AUSTRALIA

AGIS No: 20140060

Title: Who on earth would want to be a tax lawyer?
Authors: KAVANAGH, Robert C
Source: LAW INSTITUTE JOURNAL 87 (11) November 2013 : 54-57
Abstract: Overview of the practice of tax law - similarities with criminal law - technicalities of tax law - contact with other fields of law.
Subjects: LEGAL PROFESSION
Jurisdictions: AUSTRALIA

LEGAL RESEARCH

AGIS No: 20140145
Title: "The law as it should be" when prosecuting sexual offences : the contribution of legal academics to law reform.
Authors: MCDONALD, Elisabeth
TINSLEY, Yvette
Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (4) October 2013 : 758-779
Abstract: Current role of legal academics in the law reform process focusing on contributions to developing law and policy on sexual violence - debate on reform of pre-trial and trial process in sexual violence prosecutions - significance of contributions to legal, policy and practice reforms - importance of on-going effective contributions of legal academics.
Subjects: LAW REFORM
LEGAL RESEARCH
SEXUAL OFFENCES
Jurisdictions: NEW ZEALAND

AGIS No: 20140138
Title: Academics and law reform.
Authors: BURROWS, John
Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (4) October 2013 : 667-680
Abstract: Contribution of academics to the law reform process - law reform process - forms of contribution - published writings - participation on advisory committees and steering groups - peer reviews - need for stronger links between universities and law reform agencies.
Subjects: LAW REFORM
LEGAL RESEARCH
Jurisdictions: NEW ZEALAND

AGIS No: 20140139
Title: Judges and academics in New Zealand.
Authors: HAMMOND, Grant
Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (4) October 2013 : 681-702

Abstract: Framework of the relationship between academics and judges - use of academic works in judgments - purposes of use - influence of academic writings on the court - impact on outcomes of cases - behaviour of the court as a whole - examination of use of academic writing in Supreme Court.

Subjects: JUDICIARY
LEGAL RESEARCH

Jurisdictions: NEW ZEALAND

LEGISLATION

AGIS No: 20140058

Title: Infringement of a patent by authorisation : clear or muddy waters?

Authors: MONOTTI, Ann L

Source: AUSTRALIAN INTELLECTUAL PROPERTY JOURNAL 24 (1) October 2013 : 5-17

Abstract: Scope and meaning of the statutory tort for infringement of a patent by authorisation - patent law - current meaning does not reflect Parliament's intentions - need to look at legislative origins for guidance on what was intended - international dimensions of patent law.

Legislation: Patents Act 1990 (CTH)

Subjects: LEGISLATION
PATENTS

Jurisdictions: AUSTRALIA

AGIS No: 20140127

Title: International arbitration in Australia : 2012/2013 in review.

Authors: MONICHINO, Albert
FAWKE, Alex

Source: AUSTRALASIAN DISPUTE RESOLUTION JOURNAL 24 (4) November 2013 : 208-223

Abstract: Important arbitration developments in Australia over 2012/2013 - national and domestic legislative developments - international commercial arbitration cases - investor-state arbitration - government policy on investor-state dispute settlement.

Legal Cases: Amcor Packaging (Aust) Pty Ltd v Boulderstone Pty Ltd [2013] FCA 253
Cape Lambert Resources Ltd v MCC Australia Sanjin Mining Pty Ltd [2013] WASCA 66
Castel Electronics Pty Ltd v TCL Air Conditioner (Zhongshan) Co Ltd (2012) 201 FCR 209
TCL Air Conditioner (Zhongshan) Co Ltd v Judges of the Federal Court of Australia (2013) 295 ALR 596

Subjects: INTERNATIONAL ARBITRATION
LEGISLATION

Jurisdictions: AUSTRALIA

AGIS No: 20140043

Title: Is New Zealand law ready for a Marbury v Madison moment?

Authors: HARRIS, Max

Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (2) December 2012 : 210-238

Abstract: Judicial assumption of power to strike down legislation - arguments provided by judges when inferring a judicial strike-down - analysis of whether current New Zealand law might authorise similar action - conclusion that power to strike-down possible in New Zealand - implications of findings on legal scholarship and practice.

Legal Cases: Marbury v Madison 5 US 137 (1803)
United Mizrahi Bank Ltd v Migdal Cooperative Village (1995) 49(4) PD 221

Subjects: JUDICIAL STATUS AND POWER
LEGISLATION

Jurisdictions: NEW ZEALAND

AGIS No: 20140052

Title: Statutory judicial review in Australia : a comparative analysis of the Australian Capital Territory, Queensland and Tasmanian schemes.

Authors: CASSIMATIS, Anthony E
BILLINGS, Peter

Source: JOURNAL OF JUDICIAL ADMINISTRATION 23 (2) October 2013 : 73-129

Abstract: Systematic analysis of legislative attempts to modernise judicial review in Australia - simplified procedures for applying for judicial review - codified grounds of review - right to reasons - enhancement of transparency about core principles through codification of grounds of review - promotion of legal certainty - problems with undue technicality due to jurisdictional requirements controlling operation of Acts.

Legislation: Administrative Decisions (Judicial Review) Act 1977 (CTH)
Administrative Decisions (Judicial Review) Act 1989 (ACT)
Judicial Review Act 1991 (QLD)
Judicial Review Act 2000 (TAS)

Subjects: JUDICIAL REVIEW
LAW REFORM
LEGISLATION

Jurisdictions: AUSTRALIA, Australian Capital Territory
AUSTRALIA, Queensland
AUSTRALIA, Tasmania

LIABILITY

AGIS No: 20140088

Title: Case note : Lend Lease Project Management & Construction (Aust) Pty Ltd v Kellogg Brown & Root Pty Ltd.

Authors: KIPIC, Ben
AGUIRRE, Tristan

Source: AUSTRALIAN CONSTRUCTION LAW BULLETIN 25 (8) November 2013 : 141-143

Abstract: Contracting to provide professional services - voiding of limitation of liability provision in professional services for uncertainty - insurance as a conditional precedent to the operation of limitation of liability - extent of limiting of liability.

Legal Cases: Lend Lease Project Management & Construction (Australia) Pty Ltd (formerly Bovis Lend Lease Pty Ltd) v Kellogg Brown & Root Pty Ltd [2013] NSWSC 1142
Upper Hunter County District Council v Australian Chilling & Freezing Co Ltd (1968) 118 CLR 429

Subjects: CONTRACTS
INSURANCE
LIABILITY

Jurisdictions: AUSTRALIA

AGIS No: 20140026
Title: Who's been sitting in my chair? Downie v Jantom Co Pty Ltd.
Authors: LU, Andrew
Source: AUSTRALIAN INSURANCE LAW BULLETIN 29 (1) November 2013 : 2-4
Abstract: Back injury caused by office chair breaking - liability from failure of chair to meet level of fitness or durability - implied condition of contract - workers compensation - damages.

Legal Cases: Downie v Jantom Co Pty Ltd [2013] ACTSC 171

Subjects: DAMAGES
LIABILITY
WORKERS COMPENSATION

Jurisdictions: AUSTRALIA, Australian Capital Territory

LIQUIDATION

AGIS No: 20140124
Title: Court approval of administrator's fees : what to expect when the administrator's conduct is the subject of complaint.
Authors: RENFREY, Ben
Source: INSOLVENCY LAW BULLETIN 14 (3) November 2013 : 42-44
Abstract: Recent authorities on applications for review of remuneration under s 449E(1)(c) of the Corporations Act - court procedure - delay in payment - expectations of liquidator's application.

Legal Cases: Re Anderson Group (2002) 20 ACLC 1607
Re Fehring Livestock Pty Ltd (in liq); Mulvaney v Chamberlain [2012] VSC 501
Re VPlus Superstores Pty Ltd (in liq) [2013] NSWSC 662

Legislation: Corporations Act 2001 (CTH)

Subjects: LIQUIDATION

Jurisdictions: AUSTRALIA

AGIS No: 20140123
Title: Litigation funding primer.
Authors: BALL, Jennifer
Source: INSOLVENCY LAW BULLETIN 14 (3) November 2013 : 38-41
Abstract: Options available to liquidators to fund litigation against creditors and directors - s 564 of the Corporations Act - commercial agreement - access to information from defendant - commercial litigation funding agreements - approval for funding agreement does not provide direction.

Legal Cases: Buiscecx Ltd v Panfida Foods Ltd (in liq) (1998) 28 ACSR 357
Hall v Poolman (2009) 75 NSWLR 99
Re Novo Tank Pty Ltd (in liq) [2013] NSWSC 1118

Legislation: Corporations Act 2001 (CTH)

Subjects: LIQUIDATION
LITIGATION

Jurisdictions: AUSTRALIA

AGIS No: 20140105

Title: Tax update.

Authors: COLEMAN, James

Source: NEW ZEALAND LAW JOURNAL November 2013 : 355-356

Abstract: Litigation in relation to tax debt - priority of tax debt - PAYE deductions not paid to Commissioner of Inland Revenue by company in liquidation - case law.

Legal Cases: Commissioner of Inland Revenue (CIR) v Smith [2000] 2 NZLR 147
Commissioner of Inland Revenue v Jennings Roadfreight Limited (in liquidation) [2013] NZCA 455

Legislation: Tax Administration Act 1994 (NZ)

Subjects: LIQUIDATION
TAXATION

Jurisdictions: NEW ZEALAND

AGIS No: 20140125

Title: Toongabbie Collision Pty Ltd (in liq) (t/as Autoworks Collision Centre) v CGU Insurance Ltd.

Authors: RICHARDSON, David

Source: INSOLVENCY LAW BULLETIN 14 (3) November 2013 : 45-46

Abstract: Application by company director to prosecute proceedings against an insurer - proceedings commenced without consent of liquidator and without leave of the court - authorities in application of this kind - leave granted for proceedings.

Legal Cases: Cadima Express Pty Ltd (in liq) v Deputy Commissioner of Taxation (1999) 157 FLR 424
Carpenter v Pioneer Park Pty Ltd (2008) 66 ACSR 564
Toongabbie Collision Pty Ltd (in liq) (t/as Autoworks Collision Centre) v CGU Insurance Ltd [2013] NSWSC 1409

Subjects: LIQUIDATION

Jurisdictions: AUSTRALIA

LITIGATION

AGIS No: 20140078

Title: Funding insolvent company claims.

Authors: TAYLOR, Lynne

Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (3) June 2013 : 587-615

Abstract: Funding litigation through assignment of right to sue as exception to torts of maintenance and champerty - issues associated with this source of funding following modifications to the torts - legal basis of exception - adequacy of existing controls over operation of exception.

Legal Cases: Contractors Bonding Ltd v Waterhouse (2012) 3 NZLR 826
Saunders v Houghton (2010) 3 NZLR 331

Legislation: Companies Act 1993 (NZ)

Subjects: INSOLVENCY
LITIGATION
TORTS

Jurisdictions: NEW ZEALAND

AGIS No: 20140123

Title: Litigation funding primer.

Authors: BALL, Jennifer

Source: INSOLVENCY LAW BULLETIN 14 (3) November 2013 : 38-41

Abstract: Options available to liquidators to fund litigation against creditors and directors - s 564 of the Corporations Act - commercial agreement - access to information from defendant - commercial litigation funding agreements - approval for funding agreement does not provide direction.

Legal Cases: Buisceux Ltd v Panfida Foods Ltd (in liq) (1998) 28 ACSR 357
Hall v Poolman (2009) 75 NSWLR 99
Re Novo Tank Pty Ltd (in liq) [2013] NSWSC 1118

Legislation: Corporations Act 2001 (CTH)

Subjects: LIQUIDATION
LITIGATION

Jurisdictions: AUSTRALIA

AGIS No: 20140099

Title: Practising the practice note.

Authors: BUCHANAN, Luke
LATTI, Nadia

Source: INHOUSE COUNSEL 17 (2) October 2013 : 40-41

Abstract: Questions arisen about Practice Note SC Eq 11 since commencement - what constitutes exceptional circumstances - impact on processes other than disclosure - interrogatories - notices to produce - subpoenas.

Legal Cases: Leda Manorstead Pty Ltd v Chief Cmr of State Revenue (No 2) [2013] NSWSC 89

Subjects: LEGAL PROFESSION
LITIGATION

Jurisdictions: AUSTRALIA

AGIS No: 20140071

Title: Providing oxygen for the flames? the state of public interest litigation in New Zealand.

Authors: BOOKMAN, Sam

Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (3) June 2013 : 442-466

Abstract: Definition and features of public interest litigation - overview of history of public interest litigation - examination of historical cases from United Kingdom, United States and New Zealand - contemporary New Zealand case law - primary objections to public interest litigation - incompetence of court process - jurisprudential concerns.

Legal Cases: Child Poverty Action Group Inc v Attorney-General (2011) BCL 803
Ministry of Health v Atkinson [2012] NZCA 184
Right to Life New Zealand Inc v Abortion Supervisory Committee (2008) 2 NZLR 825

Legislation: Human Rights Act 1993 (NZ)
New Zealand Bill of Rights Act 1990 (NZ)

Subjects: LITIGATION
PUBLIC INTEREST ACTIONS

Jurisdictions: NEW ZEALAND
UNITED KINGDOM
UNITED STATES

AGIS No: 20140107

Title: The America's Cup and the courts.

Authors: ROSS, Hamish

Source: NEW ZEALAND LAW JOURNAL November 2013 : 359-360

Abstract: History of litigation surrounding the America's Cup yacht race - Deed of Gift - creation of the competition - gifting cup on terms of perpetuity - future of litigation concerning the Cup.

Subjects: LITIGATION
SPORT

Jurisdictions: NEW ZEALAND
UNITED STATES

LOANS

AGIS No: 20140097

Title: GST and vendor finance.

Authors: CRIDLAND, Matthew
RAHIMI, Rohila

Source: AUSTRALIAN PROPERTY LAW BULLETIN 28 (2) November 2013 : 29-31

Abstract: GST risks associated with vendor providing finance to real estate purchaser by way of loan - preferable to provide finance by way of credit arrangement - implications for accounting for GST on cash and non-cash basis - case law.

Legal Cases: Re Rod Mathiesen Truck Hire Pty Ltd (as trustee for Mathiesen Family Trust) and Commissioner of Taxation [2013] AATA 496

Legislation: A New Tax System (Goods and Services Tax) Act 1999 (CTH)

Subjects: GOODS AND SERVICES TAX
LOANS
REAL PROPERTY

Jurisdictions: AUSTRALIA

LOCAL GOVERNMENT

AGIS No: 20140096
Title: Waterfront sellers beware : Gold Coast local laws.
Authors: CHRISTENSEN, Sharon
Source: AUSTRALIAN PROPERTY LAW BULLETIN 28 (2) November 2013 : 23-27

Abstract: New requirement for sellers of waterfront land to disclose application to the property of the Gold Coast City Council Local Law No 17 - circumstances in which obligation of disclosure applies - implications for sellers failing to comply.

Legislation: Local Government Act 2009 (QLD)
Property Law Act 1974 (QLD)

Subjects: LOCAL GOVERNMENT
REAL PROPERTY

Jurisdictions: AUSTRALIA, Queensland

MAORIS

AGIS No: 20140150
Title: A loving excavation : uncovering the constitutional culture of the Maori demos.

Authors: STEPHENS, Mamari
Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (4) October 2013 : 820-843

Abstract: Distinctive and evolving Maori constitutional culture - values of culture relevant to practice of New Zealand constitution - linguistic evidence about words that are prominent in constitutionally relevant Maori language - Maori attitudes on how the exercise of public power should be carried out - Maori civic collectivism.

Subjects: CONSTITUTIONS
MAORIS

Jurisdictions: NEW ZEALAND

MARRIAGE

AGIS No: 20140137
Title: Fifty years of New Zealand family law.
Authors: ATKIN, Bill
CALDWELL, John
HENAGHAN, Mark
TAPP, Pauline
Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (4) October 2013 : 645-666

Abstract: Changes to New Zealand family law over the last fifty years - three areas of substantial change - what constitutes a legal family - changes in exercise of judicial discretion in cases involving children - evolution of the financial and property consequences of family breakdowns - increased legal recognition and protection of variety of familial relationships - current debate surrounding adoption and marriage equality.

Legislation: Care of Children Act 2004 (NZ)
Civil Union Act 2004 (NZ)
Matrimonial Property Act 1976 (NZ)
Status of Children Act 1969 (NZ)

Subjects: CHILDREN
FAMILY LAW
LAW REFORM
MARRIAGE

Jurisdictions: NEW ZEALAND

MEDIATION

AGIS No: 20140131

Title: Elder mediation.

Authors: BARRY, Lise

Source: AUSTRALASIAN DISPUTE RESOLUTION JOURNAL 24 (4) November 2013 : 251-258

Abstract: Consideration of proactive approach to providing accommodations for elders in mediation - assessment of capacity outside mediator expertise - screen parties in to mediation by providing accommodation rather than screening out through capacity assessments - need for mediation standards to reflect requirement for accommodation over exclusions based on ad hoc capacity assessments.

Subjects: AGED
MEDIATION

MEDICAL EVIDENCE

AGIS No: 20140046

Title: Medical privilege and court-ordered psychiatric reports.

Authors: DAWSON, John

Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (2) December 2012 : 239-269

Abstract: New medical privilege regime in New Zealand - use of information from accused person's prior medical records in preparing a report for the court - prohibition of disclosure - scope and effect of medical privilege under the Evidence Act - problematic clauses of s 59(1) of the Evidence Act.

Legislation: Evidence Act 2006 (NZ)
Evidence Amendment Act (No 2) 1980 (NZ)

Subjects: FORENSIC PSYCHIATRY
MEDICAL EVIDENCE

Jurisdictions: NEW ZEALAND

MEDICAL LAW

AGIS No: 20140081
Title: Reconsideration of court approval for treatment for gender identity disorder : Re Jamie.
Authors: WALSH, Caitlin
Source: AUSTRALIAN HEALTH LAW BULLETIN 21 (9) November 2013 : 443-446
Abstract: Treatment of childhood gender identity disorder - court authorisation required for first stage of treatment - parental consent - application for court authorisation for stage two of treatment - implications for future cases.
Legal Cases: Re Jamie [2013] FamCAFC 110
Secretary, Department of Health and Community Services v JWB and SMB (1992) 175 CLR 218
Legislation: Family Law Act 1975 (CTH)
Subjects: CHILD WELFARE
MEDICAL LAW
SEXUAL REASSIGNMENT
Jurisdictions: AUSTRALIA

AGIS No: 20140034
Title: The boundaries of parental decision-making and the requirement to obtain court approval for "special medical procedures" : the recent decision of Re Jamie [2013] FAMCAFC 110.
Authors: SMITH, Malcolm K
Source: QUEENSLAND LAWYER 33 (3) September 2013 : 182-187
Abstract: Parental consent for "special medical procedures" - treatment of childhood gender identity disorder - consideration whether treatment for identity disorder within boundaries of parental consent - second stage of treatment requiring application to court - treatment and Gillick competency - case law.
Legal Cases: Gillick v West Norfolk and Wisbech Area Health Authority (1986) AC 112
Re Jamie [2013] FamCAFC 110
Secretary, Department of Health and Community Services v JWB and SMB (1992) 175 CLR 218
Legislation: Family Law Act 1975 (CTH)
Subjects: CHILDREN
MEDICAL LAW
PARENTAL RIGHTS AND DUTIES
Jurisdictions: AUSTRALIA

AGIS No: 20140084
Title: The role of the court when exercising its parens patriae jurisdiction for approval of medical procedures for a child : Re Joel.
Authors: LE, Thanh
Source: AUSTRALIAN HEALTH LAW BULLETIN 21 (9) November 2013 : 448-450
Abstract: Application for court order to approve bone marrow transplant on child subject to interim parenting order - consent of person with parental responsibility - case law.

Legal Cases: Re Joel [2013] NSWSC 1299
Legislation: Children and Young Persons (Care and Protection) Act 1998 (NSW)
Subjects: CHILD WELFARE
MEDICAL LAW
PARENTAL RIGHTS AND DUTIES
Jurisdictions: AUSTRALIA

MEDICAL NEGLIGENCE

AGIS No: 20140036
Title: Failure to administer a drug and causation.
Authors: STICKLEY, Amanda
Source: QUEENSLAND LAWYER 33 (3) September 2013 : 193-198
Abstract: Damages sought for severe physical and intellectual disabilities resulting from failure to administer a drug - duty of care - obligation to advise of treatment available - likelihood of treatment advice being acted on - scientific evidence - factual causation.

Legal Cases: King v Western Sydney Local Health Network [2013] NSWCA 162
Subjects: DUTY OF CARE
MEDICAL NEGLIGENCE
Jurisdictions: AUSTRALIA

MEDICAL RESEARCH

AGIS No: 20140063
Title: The patentability of human embryonic stem cells in Australia and Europe : section 18(2) reconsidered in light of *Brustle v Greenpeace eV*.
Authors: O'SULLIVAN, Ella
Source: AUSTRALIAN INTELLECTUAL PROPERTY JOURNAL 24 (1) October 2013 : 18-39
Abstract: European and Australian positions regarding patentability of human embryonic stem cells - Australia has had no judicial consideration - s 18(2) of the Patents Act excludes human beings and biological processes from the scope of patentability.

Legislation: Patents Act 1990 (CTH)
Subjects: MEDICAL RESEARCH
PATENTS
Jurisdictions: AUSTRALIA
EUROPE

MENTAL ILLNESS

AGIS No: 20140061
Title: Apply with care : DSM-5 and expert evidence.
Authors: MULLER, Roland
Source: LAW INSTITUTE JOURNAL 87 (11) November 2013 : 58-62

Abstract: Release of the current Diagnostic and Statistical Manual of Mental Disorders (DSM) - DSM guiding diagnosis - evidence - curial acceptance and limitations - legal practitioners' role - forensic applications - practical examples of use.

Subjects: EXPERT EVIDENCE
MENTAL ILLNESS

MINES AND MINERALS

AGIS No: 20140135

Title: The impact of the UN Convention on Contracts for the International Sale of Goods on procurement and construction for Australian mining and resources projects.

Authors: WOO, Caroline
DRAGOVIC, Dan

Source: AUSTRALIAN RESOURCES AND ENERGY LAW JOURNAL 32 (1) April 2013 : 6-18

Abstract: Interpretation of the Convention on Contracts for the International Sale of Goods (CISG) - factors to be considered when determining if a procurement falls within the scope of the CISG - implications if CISG applies to procurement - example of loss of buyer's right to rely on non-conformity of goods supplied - CISG and limitation periods - case law.

Subjects: CONTRACTS
MINES AND MINERALS
SALE OF GOODS

Treaties: Convention on Contracts for the International Sale of Goods

MISCARRIAGE OF JUSTICE

AGIS No: 20140033

Title: Character evidence.

Authors: WEST, A M

Source: QUEENSLAND LAWYER 33 (3) September 2013 : 177-181

Abstract: Entitlement of accused to lead evidence of good character - consequences of failure by counsel to adduce evidence at trial - conduct of counsel resulted in miscarriage of justice - importance of character evidence - case law.

Legal Cases: R v DBB (2013) 1 Qd R 188
Sharma v R [2011] VSCA 356

Subjects: EVIDENCE
MISCARRIAGE OF JUSTICE

Jurisdictions: AUSTRALIA

MISREPRESENTATION

AGIS No: 20140059

Title: A risk to far : Lehman's misselling.

Authors: BRANSGROVE, Lesa

Source: LAW INSTITUTE JOURNAL 87 (11) November 2013 : 50-53

Abstract: Misrepresentation of a financial product by salesperson - synthetic collateralised debt obligations - misleading and deceptive conduct - negligence - breach of contract - breach of fiduciary duty - overview of Federal Court decision.

Legal Cases: Bathurst Regional Council v Local Government Financial Services Pty Ltd (No 5) [2012] FCA 1200

Wingecarribee Shire Council v Lehman Brothers Australia Ltd (in liq) [2012] FCA 1028

Subjects: FINANCIAL SERVICES
INVESTMENTS
MISREPRESENTATION

Jurisdictions: AUSTRALIA

AGIS No: 20140092

Title: False or misleading credence claims : what's the harm.

Authors: LEE, Felicity

Source: COMPETITION AND CONSUMER LAW NEWS 29 (4) November 2013 : 42-51

Abstract: Impact of false and misleading credence claims on consumers and the competitive process - significance of credence attributes - challenges associated with regulating credence claims - court assessment of the harm of false or misleading claims - product safety - place of origin and endorsement - information asymmetry - cruel deception to consumers - deliberateness - consumer harm - unfair market advantage - longer-term effect of false or misleading credence claims on market efficiencies.

Legal Cases: Australian Competition and Consumer Commission (ACCC) v CI & Co Pty Ltd (2010] FCA 1511

Australian Competition and Consumer Commission (ACCC) v Kingisland Meatworks & Cellars Pty Ltd (2013) 99 IPR 548

Australian Competition and Consumer Commission (ACCC) v Marksun Australia Pty Ltd [2011] FCA 695

Legislation: Competition and Consumer Act 2010 (CTH)

Subjects: CONSUMER PROTECTION
MISREPRESENTATION

Jurisdictions: AUSTRALIA

NATIVE TITLE

AGIS No: 20140045

Title: Native title : a right to burn and fire the land? Savanna burning and the Carbon Farming Initiative in northern Australia.

Authors: O'DONNELL, Michael

Source: ENVIRONMENTAL AND PLANNING LAW JOURNAL 30 (6) November 2013 : 553-559

Abstract: Indigenous practice of burning the land as part of land management - use of savanna burning methodology approved under legislation - Carbon Credits (Carbon Farming Initiative) Act 2011 - initiative gives exclusive possession native titleholders with a carbon and legal right to burn the land - native titleholders are eligible for Australian Carbon Credit Units.

Legislation: Carbon Credits (Carbon Farming Initiative) Act 2011 (CTH)

Subjects: INDIGENOUS PEOPLE
NATIVE TITLE

Jurisdictions: AUSTRALIA

NATURAL DISASTERS

AGIS No: 20140031

Title: Insurance law : the meaning of "flood" in policy exclusion : LMT Surgical Pty Ltd v Allianz Australia Insurance Ltd [2013] QSC 181.

Authors: TURNER, Clive

Source: QUEENSLAND LAWYER 33 (3) September 2013 : 171-174

Abstract: Exclusion for "flood" in insurance policies - "altered or modified" natural watercourse - consideration of pipes as canal - water overflow from normal confines of river - amendments to legislation to provide standard definition of flood in relation to "prescribed contract" - case law.

Legal Cases: LMT Surgical Pty Ltd v Allianz Australia Insurance Ltd [2013] QSC 181

Legislation: Insurance Contracts Act 1984 (CTH)
Insurance Contracts Amendment Act 2012 (CTH)

Subjects: CONTRACTS
INSURANCE
NATURAL DISASTERS

Jurisdictions: AUSTRALIA

OCCUPATIONAL HEALTH

AGIS No: 20140035

Title: Kirk (finally) comes to Queensland : NK Collins Industries Pty Ltd v The President of the Industrial Court of Queensland [2013] QCA 179.

Authors: RICHARDSON, Kristy

Source: QUEENSLAND LAWYER 33 (3) September 2013 : 188-192

Abstract: Principles of particularisation - requirement in Kirk that complaint and summons be further particularised to contain details of the acts or omissions or measures alleged to not have been taken to prevent the incident - application of Kirk to appeal for judicial review of decision - appropriate that person charged with failing to discharge an occupation health and safety liability know the specifics of the charge being brought.

Legal Cases: Kirk v Industrial Relations Commission of New South Wales (2010) 239 CLR 531
NK Collins Industries Pty Ltd v President of the Industrial Court of Queensland [2013] QCA 179

Legislation: Workplace Health and Safety Act 1995 (QLD)

Subjects: INDUSTRIAL SAFETY
JUDICIAL REVIEW
OCCUPATIONAL HEALTH

Jurisdictions: AUSTRALIA

OIL AND GAS

AGIS No: 20140136

Title: The Queensland CSG industry : miners versus farmers : do the 2010 Water Act amendments for underground water management ease the tension?

Authors: WALTON, Michael
Source: AUSTRALIAN RESOURCES AND ENERGY LAW JOURNAL 32 (1) April 2013 : 19-40
Abstract: Amendments to the Water Act to provide a balanced underground water management regime to manage impacts on farmers and allow coal seam gas (CSG) industry to exercise water rights - CSG industry in Queensland - regulatory regime for extraction of CSG - impact on groundwater - concerns of farmers and environmentalists - critical assessment of the underground water management regime.
Legislation: Petroleum and Gas (Production and Safety) Act 2004 (QLD)
Water Act 2000 (QLD)
Subjects: OIL AND GAS
WATER RESOURCES
Jurisdictions: AUSTRALIA, Queensland

OMBUDSMAN

AGIS No: 20140147
Title: Constitutional reflections on fifty years of ombudsmen in New Zealand.
Authors: PALMER, Geoffrey
Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (4) October 2013 : 780-800
Abstract: Exploration of the institution of ombudsmen in New Zealand - original vision of the Ombudsman's Office and performance against original idea - relationship of office with Parliament and the executive - drawing complaint resolution functions away from MPs - introduction of the Official Information Act - addition of official information to ombudsman functions - Law Commission report on official information legislation - government response to report - alternate option to modernise and streamline official information legislation and reduce additional workload on Ombudsman's Office.
Legislation: Ombudsmen Act 1975 (NZ)
Subjects: OMBUDSMAN
Jurisdictions: NEW ZEALAND
AGIS No: 20140085
Title: The new Health Ombudsman Act 2013 : a new health service complaints regime for Queensland.
Authors: PHILIP, Katharine
SOUTHGATE, George
Source: AUSTRALIAN HEALTH LAW BULLETIN 21 (9) November 2013 : 451-456
Abstract: Summary of new health service complaints processes in Queensland - objectives of the Health Ombudsman Act - achievement of objectives - complaints regime.
Legislation: Health Ombudsman Act 2013 (QLD)
Subjects: HEALTH SERVICES
OMBUDSMAN
Jurisdictions: AUSTRALIA, Queensland

PARENTAL RIGHTS AND DUTIES

AGIS No: 20140034
Title: The boundaries of parental decision-making and the requirement to obtain court approval for "special medical procedures" : the recent decision of Re Jamie [2013] FAMCAFC 110.
Authors: SMITH, Malcolm K
Source: QUEENSLAND LAWYER 33 (3) September 2013 : 182-187
Abstract: Parental consent for "special medical procedures" - treatment of childhood gender identity disorder - consideration whether treatment for identity disorder within boundaries of parental consent - second stage of treatment requiring application to court - treatment and Gillick competency - case law.

Legal Cases: Gillick v West Norfolk and Wisbech Area Health Authority (1986) AC 112
Re Jamie [2013] FamCAFC 110
Secretary, Department of Health and Community Services v JWB and SMB (1992) 175 CLR 218

Legislation: Family Law Act 1975 (CTH)

Subjects: CHILDREN
MEDICAL LAW
PARENTAL RIGHTS AND DUTIES

Jurisdictions: AUSTRALIA

AGIS No: 20140084
Title: The role of the court when exercising its parens patriae jurisdiction for approval of medical procedures for a child : Re Joel.
Authors: LE, Thanh
Source: AUSTRALIAN HEALTH LAW BULLETIN 21 (9) November 2013 : 448-450
Abstract: Application for court order to approve bone marrow transplant on child subject to interim parenting order - consent of person with parental responsibility - case law.

Legal Cases: Re Joel [2013] NSWSC 1299

Legislation: Children and Young Persons (Care and Protection) Act 1998 (NSW)

Subjects: CHILD WELFARE
MEDICAL LAW
PARENTAL RIGHTS AND DUTIES

Jurisdictions: AUSTRALIA

PARLIAMENTARY COMMITTEES

AGIS No: 20140134
Title: Ensuring Indigenous consent.
Authors: HOWORTH, Paul
Source: ARENA MAGAZINE (125) August / September 2013 : 14-15
Abstract: Implementation of the Human Rights (Parliamentary Scrutiny) Act - introduction of Parliamentary Joint Committee on Human Rights - scrutinise bills for compatibility with human rights treaties - Committee scrutiny of the Stronger Futures legislation against the UNDRIP - findings of the Committee.

Legislation: Human Rights (Parliamentary Scrutiny) Act 2011 (CTH)
Stronger Futures in the Northern Territory
Act 2012 (CTH)

Subjects: INDIGENOUS PEOPLE
PARLIAMENTARY COMMITTEES

Treaties: UN Declaration on the Rights of Indigenous Peoples

Jurisdictions: AUSTRALIA

PARTNERSHIPS

AGIS No: 20140117

Title: PPPs and public law.

Authors: WILLIS, Edward

Source: NEW ZEALAND LAW JOURNAL November 2013 : 380-383

Abstract: Public law component of public-private partnerships (PPPs) - relevance of public law to PPPs - distinction from traditional understandings - accountability under public law - judicial scrutiny.

Legal Cases: Air New Zealand v Wellington International Airport Ltd (2009) 3 NZLR 713
Lab Tests Auckland Ltd v Auckland District Health Board (2009) 1 NZLR 776
Mercury Energy Ltd v Electricity Corporation of New Zealand (1994) 2 NZLR 385

Subjects: PARTNERSHIPS
PUBLIC LAW

Jurisdictions: NEW ZEALAND

PATENTS

AGIS No: 20140068

Title: Biotech patents in Australia : raising the bar on the generally inconvenient exception.

Authors: HUANG, Belinda

Source: AUSTRALIAN INTELLECTUAL PROPERTY JOURNAL 24 (1) October 2013 : 40-58

Abstract: Opportunity to amend the absence of ethical safeguards in Australia's patent system with the Intellectual Property Laws Amendment (Raising the Bar) Act - examines why Parliament didn't include an ethical exclusion against patentability in Act - ramifications of exclusion.

Legal Cases: Cancer Voices Australia v Myriad Genetics Inc [2013] FCA 65

Legislation: Intellectual Property Laws Amendment (Raising the Bar) Act 2012 (CTH)
Patents Act 1990 (CTH)

Subjects: ETHICS
INTELLECTUAL PROPERTY
PATENTS

Jurisdictions: AUSTRALIA

AGIS No: 20140058

Title: Infringement of a patent by authorisation : clear or muddy waters?

Authors: MONOTTI, Ann L

Source: AUSTRALIAN INTELLECTUAL PROPERTY JOURNAL 24 (1) October 2013 : 5-17

Abstract: Scope and meaning of the statutory tort for infringement of a patent by authorisation - patent law - current meaning does not reflect Parliament's intentions - need to look at legislative origins for guidance on what was intended - international dimensions of patent law.

Legislation: Patents Act 1990 (CTH)

Subjects: LEGISLATION
PATENTS

Jurisdictions: AUSTRALIA

AGIS No: 20140063

Title: The patentability of human embryonic stem cells in Australia and Europe : section 18(2) reconsidered in light of *Brustle v Greenpeace eV*.

Authors: O'SULLIVAN, Ella

Source: AUSTRALIAN INTELLECTUAL PROPERTY JOURNAL 24 (1) October 2013 : 18-39

Abstract: European and Australian positions regarding patentability of human embryonic stem cells - Australia has had no judicial consideration - s 18(2) of the Patents Act excludes human beings and biological processes from the scope of patentability.

Legislation: Patents Act 1990 (CTH)

Subjects: MEDICAL RESEARCH
PATENTS

Jurisdictions: AUSTRALIA
EUROPE

PEOPLE WITH DISABILITIES

AGIS No: 20140080

Title: Best interests, capacity and forced sterilisation : a UK perspective.

Authors: LU, Andrew

Source: AUSTRALIAN HEALTH LAW BULLETIN 21 (9) November 2013 : 440-442

Abstract: Non-therapeutic sterilisation - unable to consent to procedure - best interests of person.

Legal Cases: *A NHS Trust v DE* [2013] EWHC 2562

Legislation: Mental Capacity Act 2005 (UK)

Subjects: PEOPLE WITH DISABILITIES
STERILIZATION

Jurisdictions: UNITED KINGDOM

PERFORMANCE APPRAISAL

AGIS No: 20140086

Title: Alternative dispute resolution : use a commercial lens to focus on the "resolution" rather than the "dispute".

Authors: WRIGHT, Dawna

Source: INHOUSE COUNSEL 17 (2) October 2013 : 37-39

Abstract: Importance of learning the "language" of an organisation to understand how it works, key performance indicators (KPSs) and the "tone at the top" when dealing with alternative dispute resolution.

Subjects: ALTERNATIVE DISPUTE RESOLUTION
PERFORMANCE APPRAISAL

Jurisdictions: AUSTRALIA

PRISONERS

AGIS No: 20140128

Title: FDR in prisons : meeting the needs of Aboriginal clients.

Authors: HAMILTON, Karine
HENRY, Pamela

Source: AUSTRALASIAN DISPUTE RESOLUTION JOURNAL 24 (4) November 2013 : 224-229

Abstract: Research on the extension of family relationships centre (FRC) service to Aboriginal family dispute resolution (FDR) clients in prison - interview with prisoners and staff involved in FDR - barriers to uptake of FDR - language difficulties - mistrust of mainstream services - possible strategies for overcoming barriers - developing culturally sensitive forms of FDR.

Subjects: ABORIGINES
DISPUTE RESOLUTION
FAMILIES
PRISONERS

Jurisdictions: AUSTRALIA, Western Australia

PRIVACY

AGIS No: 20140114

Title: Cloud computing and privacy.

Authors: STEADMAN, John

Source: NEW ZEALAND LAW JOURNAL November 2013 : 375-376

Abstract: Storage of individual and business data in the cloud - differences between New Zealand and United States data protection - privacy issues - more protections to data privacy under US laws - data sovereignty.

Legislation: Electronic Communications Privacy Act 1986 (US)
Privacy Act 1993 (NZ)
Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act 2001 (USA Patriot Act) (US)

Subjects: DATA PROTECTION
PRIVACY

Jurisdictions: NEW ZEALAND
UNITED STATES

AGIS No: 20140070

Title: Privacy in the context of piracy : the forgotten issue in the hunt for online copyright pirates.

Authors: SVANTESSON, Dan Jerker B

Source: AUSTRALIAN INTELLECTUAL PROPERTY JOURNAL 24 (1) October 2013 : 59-69

Abstract: How privacy is affected by and affects the application of copyright law in online copyright piracy - whether ISPs can be held responsible for online copyright piracy by their subscribers - iiNet.

Legal Cases: Roadshow Films Pty Ltd v iiNet Ltd (2012) 286 ALR 466

Legislation: Copyright Act 1968 (CTH)
Privacy Act 1988 (CTH)

Subjects: INTELLECTUAL PROPERTY
INTERNET
PRIVACY

Jurisdictions: AUSTRALIA

AGIS No: 20140065

Title: Probing privacy.

Authors: MCDONALD, Barbara

Source: LAW INSTITUTE JOURNAL 87 (11) November 2013 : 82

Abstract: Australian Law Reform Commission inquiry into serious invasions of privacy in the digital era - protection of privacy - terms of reference - regulation of data privacy.

Subjects: AUSTRALIAN LAW REFORM COMMISSION
INTERNET
PRIVACY

Jurisdictions: AUSTRALIA

PRO BONO SERVICES

AGIS No: 20140064

Title: For the greater good.

Authors: MCLEAY, Fiona

Source: LAW INSTITUTE JOURNAL 87 (11) November 2013 : 81

Abstract: Merger of two pro bono organisations in Victoria and New South Wales - overview of JusticeConnect - assistance provided to low-income earners.

Subjects: PRO BONO SERVICES

Jurisdictions: AUSTRALIA, New South Wales
AUSTRALIA, Victoria

PROPERTY LAW

AGIS No: 20140032

Title: A matter of time.

Authors: DIXON, Bill

Source: QUEENSLAND LAWYER 33 (3) September 2013 : 175-176

Abstract: Operation of the standard Real Estate Institute of Queensland contract for the sale of land - impacts on time for settlement - respective obligations of buyer and seller - practical and legal issues from failure to render performance at stipulated time - case law.

Legal Cases: Caprice Property Holdings Pty Ltd v McLeay [2013] QCA 125
Subjects: CONTRACTS
PROPERTY LAW
Jurisdictions: AUSTRALIA

AGIS No: 20140095
Title: GST and real property leases : implications of the MBI case.
Authors: CRIDLAND, Matthew
Source: AUSTRALIAN PROPERTY LAW BULLETIN 28 (2) November 2013 : 18-21

Abstract: Vendors and purchases of tenanted property do not make new or continuing supply to tenant following sale of property - supply made by landlord to tenant - GST implications - implications for tenanted commercial properties and residential premises - case law.

Legal Cases: MBI Properties Pty Ltd v Commissioner of Taxation [2013] FCAFC 112
South Steyne Hotel Pty Ltd v Commissioner of Taxation (2009) 180 FCR 409
Legislation: A New Tax System (Goods and Services Tax) Act 1999 (CTH)
Subjects: LANDLORD AND TENANT
PROPERTY LAW
Jurisdictions: AUSTRALIA

AGIS No: 20140098
Title: The triumph of obstinacy over common sense : Velik v Steingold.
Authors: BOUSTANI, Marie
PALLAVICINI, Stephen
Source: AUSTRALIAN PROPERTY LAW BULLETIN 28 (2) November 2013 : 32-34

Abstract: Validity of notice to complete - repudiation of contract by failing to complete - varying interpretations of clause 55 within contract - case law.

Legal Cases: Velik v Steingold [2013] NSWCA 303
Subjects: CONTRACTS
PROPERTY LAW
Jurisdictions: AUSTRALIA

AGIS No: 20140066
Title: Tough decisions?
Authors: COCKS, Russell
Source: LAW INSTITUTE JOURNAL 87 (11) November 2013 : 84
Abstract: Claiming return of deposit - noncompliance with purchase contract - court discretion to do justice between the parties - case law.
Legal Cases: Putt v Perfect Builders Pty Ltd [2013] VSC 442
Legislation: Property Law Act 1958 (VIC)
Subjects: PROPERTY LAW
Jurisdictions: AUSTRALIA, Victoria

PUBLIC INTEREST ACTIONS

AGIS No: 20140071
Title: Providing oxygen for the flames? the state of public interest litigation in New Zealand.
Authors: BOOKMAN, Sam
Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (3) June 2013 : 442-466
Abstract: Definition and features of public interest litigation - overview of history of public interest litigation - examination of historical cases from United Kingdom, United States and New Zealand - contemporary New Zealand case law - primary objections to public interest litigation - incompetence of court process - jurisprudential concerns.
Legal Cases: Child Poverty Action Group Inc v Attorney-General (2011) BCL 803
Ministry of Health v Atkinson [2012] NZCA 184
Right to Life New Zealand Inc v Abortion Supervisory Committee (2008) 2 NZLR 825
Legislation: Human Rights Act 1993 (NZ)
New Zealand Bill of Rights Act 1990 (NZ)
Subjects: LITIGATION
PUBLIC INTEREST ACTIONS
Jurisdictions: NEW ZEALAND
UNITED KINGDOM
UNITED STATES

PUBLIC INTEREST GROUPS

AGIS No: 20140154
Title: Defining the ideology of public participation : 'democracy', 'devolution', 'deliberation', 'dispute resolution' and a new system for identifying public participation in planning law.
Authors: STOKES, Robert
Source: MACQUARIE JOURNAL OF INTERNATIONAL AND COMPARATIVE ENVIRONMENTAL LAW 8 (2) 2012 : 1-20
Abstract: Analysis of the meaning and purpose of public participation in the context of planning law - public participation as an ideology separated into four elements - democracy - devolution - deliberation - dispute resolution - application of elements as a basis of a systematic framework - exploration of extent the ideology is evident in reforms to planning law and policy.
Legislation: Environmental Planning and Assessment Act 1979 (NSW)
Localism Act 2011 (UK)
Regional Development Agencies Act 1998 (UK)
Subjects: PUBLIC INTEREST GROUPS
TOWN PLANNING
Jurisdictions: AUSTRALIA
UNITED KINGDOM

PUBLIC LAW

AGIS No: 20140117

Title: PPPs and public law.
Authors: WILLIS, Edward
Source: NEW ZEALAND LAW JOURNAL November 2013 : 380-383
Abstract: Public law component of public-private partnerships (PPPs) - relevance of public law to PPPs - distinction from traditional understandings - accountability under public law - judicial scrutiny.
Legal Cases: Air New Zealand v Wellington International Airport Ltd (2009) 3 NZLR 713
Lab Tests Auckland Ltd v Auckland District Health Board (2009) 1 NZLR 776
Mercury Energy Ltd v Electricity Corporation of New Zealand (1994) 2 NZLR 385
Subjects: PARTNERSHIPS
PUBLIC LAW
Jurisdictions: NEW ZEALAND

REAL PROPERTY

AGIS No: 20140097
Title: GST and vendor finance.
Authors: CRIDLAND, Matthew
RAHIMI, Rohila
Source: AUSTRALIAN PROPERTY LAW BULLETIN 28 (2) November 2013 : 29-31
Abstract: GST risks associated with vendor providing finance to real estate purchaser by way of loan - preferable to provide finance by way of credit arrangement - implications for accounting for GST on cash and non-cash basis - case law.
Legal Cases: Re Rod Mathiesen Truck Hire Pty Ltd (as trustee for Mathiesen Family Trust) and Commissioner of Taxation [2013] AATA 496
Legislation: A New Tax System (Goods and Services Tax) Act 1999 (CTH)
Subjects: GOODS AND SERVICES TAX
LOANS
REAL PROPERTY
Jurisdictions: AUSTRALIA

AGIS No: 20140096
Title: Waterfront sellers beware : Gold Coast local laws.
Authors: CHRISTENSEN, Sharon
Source: AUSTRALIAN PROPERTY LAW BULLETIN 28 (2) November 2013 : 23-27
Abstract: New requirement for sellers of waterfront land to disclose application to the property of the Gold Coast City Council Local Law No 17 - circumstances in which obligation of disclosure applies - implications for sellers failing to comply.
Legislation: Local Government Act 2009 (QLD)
Property Law Act 1974 (QLD)
Subjects: LOCAL GOVERNMENT
REAL PROPERTY
Jurisdictions: AUSTRALIA, Queensland

RULE OF LAW

AGIS No: 20140040
Title: The rule of law : disparate application in disparate societies.
Authors: DE JERSEY, Paul
Source: QUEENSLAND LAWYER 33 (3) September 2013 : 210-213
Abstract: Concept of the rule of law - different ways the concept is seen in other nations - speech delivered to the Christian Lawyers Society Inc annual dinner on 16 July 2013.
Subjects: RULE OF LAW

AGIS No: 20140108
Title: Trusts and the rule of law in Singapore.
Authors: SEK KEONG, Chan
Source: SINGAPORE ACADEMY OF LAW JOURNAL (25) September 2013 : 365-378
Abstract: Address delivered at the Singapore Trustees Association Conference 2012 - difference between trust and trusts - trust in banking and financial systems created by Singapore's law and financial regulators - rule of law in Singapore.
Legislation: Trustees Act 1999 (SINGAPORE)
Subjects: RULE OF LAW
TRUSTS AND TRUSTEES
Jurisdictions: SINGAPORE

SALE OF GOODS

AGIS No: 20140135
Title: The impact of the UN Convention on Contracts for the International Sale of Goods on procurement and construction for Australian mining and resources projects.
Authors: WOO, Caroline
DRAGOVIC, Dan
Source: AUSTRALIAN RESOURCES AND ENERGY LAW JOURNAL 32 (1) April 2013 : 6-18
Abstract: Interpretation of the Convention on Contracts for the International Sale of Goods (CISG) - factors to be considered when determining if a procurement falls within the scope of the CISG - implications if CISG applies to procurement - example of loss of buyer's right to rely on non-conformity of goods supplied - CISG and limitation periods - case law.
Subjects: CONTRACTS
MINES AND MINERALS
SALE OF GOODS
Treaties: Convention on Contracts for the International Sale of Goods

SAME SEX MARRIAGE

AGIS No: 20140055
Title: Same-sex marriage : how the cards fall.
Authors: KEOUGH, William
Source: LAW INSTITUTE JOURNAL 87 (11) November 2013 : 36-39
Abstract: Overview of New Zealand's same-sex marriage law - marriage in Australia - recognition of foreign marriages in Australia - international treaties - administration of justice - implications for Australian family law - implications for practitioners.

Legislation: Family Law Act 1975 (CTH)
Marriage (Definition of Marriage) Amendment Act 2013 (NZ)
Marriage Act 1961 (CTH)
Marriage Amendment Act 2004 (CTH)

Subjects: SAME SEX MARRIAGE

Jurisdictions: AUSTRALIA
NEW ZEALAND

SCIENCE AND TECHNOLOGY

AGIS No: 20140151
Title: Science in the criminal courts : tool in service, challenge to legal authority or indispensable ally?
Authors: TINSLEY, Yvette
Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (4) October 2013 : 844-865

Abstract: Examination of law-science relationship - law's conception of science and its impact on legal decision making - applying lessons learnt to use of science in the courtrooms of future - assessment of innovations to address law's reception of expert scientific opinions in criminal proceedings.

Subjects: COURTS
CRIMINAL LAW
SCIENCE AND TECHNOLOGY

Jurisdictions: NEW ZEALAND

SENTENCING

AGIS No: 20140069
Title: Injecting content into the mirage that is proportionality in sentencing.
Authors: BAGARIC, Mirko
Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (3) June 2013 : 411-441

Abstract: Principle of proportionality in sentencing - current role of principle in sentencing - justification - forms of proportionality - ordinal - cardinal - seriousness of offence - evaluating the hardship of sanctions - matching the punishment to the offence.

Legal Cases: Veen v R (No 2) (1988) 164 CLR 465

Legislation: Sentencing Act 2002 (NZ)

Subjects: CRIMINAL LAW
SENTENCING

SEXUAL HARASSMENT

AGIS No: 20140132
Title: Settlement outcomes in sexual harassment complaints.
Authors: MCDONALD, Paula
CHARLESWORTH, Sara
Source: AUSTRALASIAN DISPUTE RESOLUTION JOURNAL 24 (4) November 2013 : 259-269
Abstract: Conciliation settlements in sexual harassment complaints - examination of settlement details of conciliated complaints - interviews with professionals involved in conciliation process - financial outcomes - non-financial outcomes - critique of effectiveness of conciliation within current anti-discrimination laws.
Subjects: ALTERNATIVE DISPUTE RESOLUTION
SEXUAL HARASSMENT
Jurisdictions: AUSTRALIA

SEXUAL OFFENCES

AGIS No: 20140145
Title: "The law as it should be" when prosecuting sexual offences : the contribution of legal academics to law reform.
Authors: MCDONALD, Elisabeth
TINSLEY, Yvette
Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (4) October 2013 : 758-779
Abstract: Current role of legal academics in the law reform process focusing on contributions to developing law and policy on sexual violence - debate on reform of pre-trial and trial process in sexual violence prosecutions - significance of contributions to legal, policy and practice reforms - importance of on-going effective contributions of legal academics.
Subjects: LAW REFORM
LEGAL RESEARCH
SEXUAL OFFENCES
Jurisdictions: NEW ZEALAND

SEXUAL REASSIGNMENT

AGIS No: 20140081
Title: Reconsideration of court approval for treatment for gender identity disorder : Re Jamie.
Authors: WALSH, Caitlin
Source: AUSTRALIAN HEALTH LAW BULLETIN 21 (9) November 2013 : 443-446
Abstract: Treatment of childhood gender identity disorder - court authorisation required for first stage of treatment - parental consent - application for court authorisation for stage two of treatment - implications for future cases.

Legal Cases: Re Jamie [2013] FamCAFC 110
Secretary, Department of Health and Community Services v JWB and SMB (1992) 175 CLR 218

Legislation: Family Law Act 1975 (CTH)

Subjects: CHILD WELFARE
MEDICAL LAW
SEXUAL REASSIGNMENT

Jurisdictions: AUSTRALIA

SHARED PARENTING

AGIS No: 20140133

Title: A quantitative analysis of practitioners' knowledge of fathers and fathers' engagement in family relationship services.

Authors: FLETCHER, Richard
FREEMAN, Emily
ROSS, Nicola
ST GEORGE, Jennifer

Source: AUSTRALASIAN DISPUTE RESOLUTION JOURNAL 24 (4) November 2013 : 270-277

Abstract: Recent reforms to the Australian family law system changed way parenting disputes are settled - community-based services preferable to legal system - study evaluating the father-related knowledge and competence of practitioners working in family relationship services - high levels of confidence with abilities in working with fathers - gaps in knowledge of father-related issues - need for father-inclusive training for practitioners working with separated parents.

Legislation: Family Law Amendment (Shared Parental Responsibility) Act 2006 (CTH)

Subjects: DISPUTE RESOLUTION
FAMILIES
SHARED PARENTING

Jurisdictions: AUSTRALIA

SOCIAL MEDIA

AGIS No: 20140083

Title: LinkedIn : the next employment battleground?

Authors: TICEHURST, Elizabeth

Source: INHOUSE COUNSEL 17 (2) October 2013 : 34-36

Abstract: Potential problems using LinkedIn for "professional" social media - many companies now require employees to join the site - questions over account ownership when a workplace requires employees to create an account - solicitation restraints - failure to update profiles - confidential information - employers need to have a social media policy to clarify expectations.

Subjects: SOCIAL MEDIA
WORKING CONDITIONS

Jurisdictions: AUSTRALIA

SPORT

AGIS No: 20140129
Title: The AFL Tribunal System : an insider's perspective on early neutral evaluation, arbitrary power and judicial intervention.
Authors: COFFEY, Andrew
Source: AUSTRALASIAN DISPUTE RESOLUTION JOURNAL 24 (4) November 2013 : 230-241

Abstract: Punishment of Australian Football League (AFL) players for reportable offences - history of the AFL punishment system - AFL Tribunal - AFL Appeals Board - judicial intervention in the AFL Tribunal System.

Legal Cases: Carlton Football Club Ltd & Williams v Australian Football League (Unreported, VIC. S.Ct., 29 May 1997)
Mitchell v Australian Football League (Unreported, VIC. S.Ct, 12 June 1992)
Sydney Swans & Dunkley v Australian Football League (Unreported, VIC. S.Ct., 26 September 1996)

Subjects: SPORT
TRIBUNALS

Jurisdictions: AUSTRALIA

AGIS No: 20140107
Title: The America's Cup and the courts.
Authors: ROSS, Hamish
Source: NEW ZEALAND LAW JOURNAL November 2013 : 359-360

Abstract: History of litigation surrounding the America's Cup yacht race - Deed of Gift - creation of the competition - gifting cup on terms of perpetuity - future of litigation concerning the Cup.

Subjects: LITIGATION
SPORT

Jurisdictions: NEW ZEALAND
UNITED STATES

STATUTORY INTERPRETATION

AGIS No: 20140073
Title: Statutory interpretation, parliamentary intention and the general anti-avoidance rule.

Authors: RUDDLE, James
Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (3) June 2013 : 497-521

Abstract: Statutory definition of tax avoidance - consideration of problems with definition - resolution of problems through alternative construction of statutory language - alternative approach to analysing the general anti-avoidance rule - conflicting provisions within the Income Tax Act - practical guidance on how tax avoidance cases should be decided.

Legal Cases: Ben Nevis Forestry Ventures Ltd v Commissioner of Inland Revenue (2009) 2 NZLR 289
Challenge Corporation Ltd v Commissioner of Inland Revenue (1986) 2 NZLR 513
Penny v Commissioner of Inland Revenue (2012) 1 NZLR 433

Legislation: Income Tax Act 2007 (NZ)

Subjects: STATUTORY INTERPRETATION
TAX AVOIDANCE
Jurisdictions: NEW ZEALAND

AGIS No: 20140038
Title: Surrogacy : competing interests or a tangled web?
Authors: TROWSE, Philippa
Source: QUEENSLAND LAWYER 33 (3) September 2013 : 199-209
Abstract: Legally problematic nature of overseas commercial surrogacy - competing interests of the illegality of overseas commercial surrogacy arrangements with welfare of the child born - interpretation of Family Law Act by courts to provide intended couples and children with certainty and finality - inconsistent approaches taken by judiciary - case law.
Legal Cases: Ellison v Karnchanit [2012] FamCA 602
Mason v Mason [2013] FamCA 424
Legislation: Family Law Act 1975 (CTH)
Surrogate Parenthood Act 1988 (QLD)
Subjects: STATUTORY INTERPRETATION
SURROGACY
Jurisdictions: AUSTRALIA

STERILIZATION

AGIS No: 20140080
Title: Best interests, capacity and forced sterilisation : a UK perspective.
Authors: LU, Andrew
Source: AUSTRALIAN HEALTH LAW BULLETIN 21 (9) November 2013 : 440-442
Abstract: Non-therapeutic sterilisation - unable to consent to procedure - best interests of person.
Legal Cases: A NHS Trust v DE [2013] EWHC 2562
Legislation: Mental Capacity Act 2005 (UK)
Subjects: PEOPLE WITH DISABILITIES
STERILIZATION
Jurisdictions: UNITED KINGDOM

STRATA TITLES

AGIS No: 20140087
Title: Court of appeal finds builder owed a duty of care to subsequent owner of commercial premises.
Authors: MARYANOV, Elisabeth
LAKE, Michael
Source: AUSTRALIAN CONSTRUCTION LAW BULLETIN 25 (8) November 2013 : 130-134
Abstract: Builder's duty of care to subsequent building owners from suffering loss from latent defects in common property - contract with original owner unlikely to displace duties - recent Court of Appeal decision inconsistent with authorities - principles applied - case law.

Legal Cases: Bryan v Maloney (1995) 182 CLR 609
Owners - Strata Plan No 61288 v Brookfield Australia Investments Ltd [2013] NSWCA 317
Owners Corporation Strata Plan 72535 v Brookfield [2012] NSWSC 712

Subjects: BUILDING LAW
DUTY OF CARE
STRATA TITLES

Jurisdictions: AUSTRALIA

SUPERANNUATION

AGIS No: 20140104
Title: Changes of trustee : getting it right.
Authors: FIGOT, Bryce
LYNCH, Jared
Source: AUSTRALIAN SUPERANNUATION LAW BULLETIN 25 (4) November 2013 : 70-71

Abstract: Change of trustee of self managed superannuation fund (SMSF) - ineffective change of trustee - trustee office determined to be vacant - SMSF deed - regulatory framework in relation to trustee changes - case law.

Legal Cases: Moss Super Pty Ltd v Hayne [2008] VSC 158
Legislation: Superannuation Industry (Supervision) Act 1993 (CTH)
Subjects: SUPERANNUATION
TRUSTS AND TRUSTEES
Jurisdictions: AUSTRALIA

AGIS No: 20140101
Title: Enforcement of employer contribution obligations by trustees of regulated superannuation funds.
Authors: GODDING, Stephen
Source: AUSTRALIAN SUPERANNUATION LAW BULLETIN 25 (4) November 2013 : 58-61

Abstract: Sources of employer contributions obligations - trustee obligations to respond to default on contribution obligations - new reporting measures - obligations on directors - liability for trustees and directors for breach of trustee duties in regard to unpaid contributions.

Legislation: Superannuation Guarantee (Administration) Act 1992 (CTH)
Superannuation Industry (Supervision) Act 1993 (CTH)
Subjects: SUPERANNUATION
Jurisdictions: AUSTRALIA

AGIS No: 20140102
Title: Executive officer remuneration disclosure.
Authors: GIRGIS, Maged
Source: AUSTRALIAN SUPERANNUATION LAW BULLETIN 25 (4) November 2013 : 62-65

Abstract: Requirement to make publicly available remuneration details of executive officers - who is an 'executive officer' - meaning of management - degree of participation.

Legal Cases: Corporate Affairs Commission (Vic) v Bracht (1989) VR 821
Holpitt Pty Ltd v Swaab (1992) 33 FCR 474

Legislation: Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Act 2012

Subjects: COMPANY DIRECTORS
SUPERANNUATION

Jurisdictions: AUSTRALIA

AGIS No: 20140103
Title: What you need to know about super guarantee : pt 2.
Authors: GRAY, Heather
Source: AUSTRALIAN SUPERANNUATION LAW BULLETIN 25 (4) November 2013 : 66-69

Abstract: Superannuation guarantee from fund viewpoint - defined benefit funds - interaction between MySuper and superannuation guarantee - interaction between superannuation guarantee and contributions cap - part 2 of 2 part series - for part 1 see AGIS 20133071.

Legislation: Fair Work Act 2009 (CTH)
Superannuation Guarantee (Administration) Act 1992 (CTH)
Superannuation Laws Amendment (MySuper Capital Gains Tax Relief and Other Measures) Act 2013 (CTH)

Subjects: SUPERANNUATION

Jurisdictions: AUSTRALIA

SURROGACY

AGIS No: 20140038
Title: Surrogacy : competing interests or a tangled web?
Authors: TROWSE, Philippa
Source: QUEENSLAND LAWYER 33 (3) September 2013 : 199-209
Abstract: Legally problematic nature of overseas commercial surrogacy - competing interests of the illegality of overseas commercial surrogacy arrangements with welfare of the child born - interpretation of Family Law Act by courts to provide intended couples and children with certainty and finality - inconsistent approaches taken by judiciary - case law.

Legal Cases: Ellison v Karnchanit [2012] FamCA 602
Mason v Mason [2013] FamCA 424

Legislation: Family Law Act 1975 (CTH)
Surrogate Parenthood Act 1988 (QLD)

Subjects: STATUTORY INTERPRETATION
SURROGACY

Jurisdictions: AUSTRALIA

TAX AVOIDANCE

AGIS No: 20140073
Title: Statutory interpretation, parliamentary intention and the general anti-avoidance rule.
Authors: RUDDLE, James
Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (3) June 2013 : 497-521
Abstract: Statutory definition of tax avoidance - consideration of problems with definition - resolution of problems through alternative construction of statutory language - alternative approach to analysing the general anti-avoidance rule - conflicting provisions within the Income Tax Act - practical guidance on how tax avoidance cases should be decided.
Legal Cases: Ben Nevis Forestry Ventures Ltd v Commissioner of Inland Revenue (2009) 2 NZLR 289
Challenge Corporation Ltd v Commissioner of Inland Revenue (1986) 2 NZLR 513
Penny v Commissioner of Inland Revenue (2012) 1 NZLR 433
Legislation: Income Tax Act 2007 (NZ)
Subjects: STATUTORY INTERPRETATION
TAX AVOIDANCE
Jurisdictions: NEW ZEALAND

AGIS No: 20140075
Title: The possibility of amending New Zealand's general anti-avoidance rule.
Authors: LITTLEWOOD, Michael
Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (3) June 2013 : 522-559
Abstract: Current state of tax avoidance law in New Zealand - assessment of report recommending amendments to the general anti-avoidance rule (GAAR) - difference between tax avoidance and acceptable tax planning - amendments would increase litigation and permit forms of tax avoidance currently prohibited.
Legal Cases: Ben Nevis Forestry Ventures Ltd v Commissioner of Inland Revenue (2009) 2 NZLR 289
Penny v Commissioner of Inland Revenue (2012) 1 NZLR 433
White v CIR (Commissioner of Inland Revenue) (2010) 24 NZTC 24,600
Legislation: Goods and Services Tax Act 1985 (NZ)
Income Tax Act 2007 (NZ)
Subjects: LAW REFORM
TAX AVOIDANCE
Jurisdictions: NEW ZEALAND

AGIS No: 20140050
Title: The scope of the tax evasion offences in section 143B of the Tax Administration Act 1994.
Authors: MULLINEUX, James
Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (2) December 2012 : 347-369
Abstract: Offence of tax evasion in New Zealand - general consideration of the interpretation of criminal provisions - recent literal "text and purpose" approach of the Supreme Court - analysis of tax evasion under section 143B - tax evasion in other jurisdictions.

Legal Cases: District Commissioner of Inland Revenue (CIR) v Gordon (1989) 11 NZTC 6,082
Gilchrist v R (2007) 23 NZTC 21,150
Taylor v Attorney-General (NZ) (1963) NZLR 261

Legislation: Tax Administration Act 1994 (NZ)

Subjects: TAX AVOIDANCE

Jurisdictions: AUSTRALIA
ENGLAND
NEW ZEALAND
WALES

TAXATION

AGIS No: 20140105

Title: Tax update.

Authors: COLEMAN, James

Source: NEW ZEALAND LAW JOURNAL November 2013 : 355-356

Abstract: Litigation in relation to tax debt - priority of tax debt - PAYE deductions not paid to Commissioner of Inland Revenue by company in liquidation - case law.

Legal Cases: Commissioner of Inland Revenue (CIR) v Smith [2000] 2 NZLR 147
Commissioner of Inland Revenue v Jennings Roadfreight Limited (in liquidation) [2013] NZCA 455

Legislation: Tax Administration Act 1994 (NZ)

Subjects: LIQUIDATION
TAXATION

Jurisdictions: NEW ZEALAND

AGIS No: 20140049

Title: The generic tax policy process : a "jewel in our policy formation crown"?

Authors: VIAL, Peter

Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (2) December 2012 : 318-346

Abstract: Overview of the generic tax policy process (GTPP) - development and enactment of the look through company (LTC) rules and reform of qualifying company (QC) rules - extent to which these complied with the GTPP - reasons for divergence from the GTPP - risks of divergence.

Subjects: LAW REFORM
TAXATION

Jurisdictions: NEW ZEALAND

TORTS

AGIS No: 20140078

Title: Funding insolvent company claims.

Authors: TAYLOR, Lynne

Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (3) June 2013 : 587-615

Abstract: Funding litigation through assignment of right to sue as exception to torts of maintenance and champerty - issues associated with this source of funding following modifications to the torts - legal basis of exception - adequacy of existing controls over operation of exception.

Legal Cases: Contractors Bonding Ltd v Waterhouse (2012) 3 NZLR 826
Saunders v Houghton (2010) 3 NZLR 331

Legislation: Companies Act 1993 (NZ)

Subjects: INSOLVENCY
LITIGATION
TORTS

Jurisdictions: NEW ZEALAND

TOWN PLANNING

AGIS No: 20140154

Title: Defining the ideology of public participation : 'democracy', 'devolution', 'deliberation', 'dispute resolution' and a new system for identifying public participation in planning law.

Authors: STOKES, Robert

Source: MACQUARIE JOURNAL OF INTERNATIONAL AND COMPARATIVE ENVIRONMENTAL LAW 8 (2) 2012 : 1-20

Abstract: Analysis of the meaning and purpose of public participation in the context of planning law - public participation as an ideology separated into four elements - democracy - devolution - deliberation - dispute resolution - application of elements as a basis of a systematic framework - exploration of extent the ideology is evident in reforms to planning law and policy.

Legislation: Environmental Planning and Assessment Act 1979 (NSW)
Localism Act 2011 (UK)
Regional Development Agencies Act 1998 (UK)

Subjects: PUBLIC INTEREST GROUPS
TOWN PLANNING

Jurisdictions: AUSTRALIA
UNITED KINGDOM

TRADE MARKS

AGIS No: 20140072

Title: Parallel importing and trade mark use : a tale of two uses.

Authors: BATTY, Rob

Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (3) June 2013 : 467-496

Abstract: Infringing use of trade marks by parallel importers - statutory defences for parallel imports - unintended sales of parallel imported goods is use of mark attributable trade mark to owner - question of genuine use - case law.

Legal Cases: E & J Gallo Winery v Lion Nathan Australia Pty Ltd (2008) 77 IPR 69
Irving's Yeast Vite v Horsenail (1934) 51 RPC 110
Leisureworld Ltd v Elite Fitness Equipment Ltd [2006] NZHC 849

Legislation: Trade Marks Act 2002 (NZ)

Subjects: INTERNATIONAL TRADE
TRADE MARKS
Jurisdictions: NEW ZEALAND

TRADE UNIONS

AGIS No: 20140074
Title: Changes to the Fair Work Act : how do they impact business?
Authors: BAKER, Alison
LUX, Amanda
Source: INHOUSE COUNSEL 17 (2) October 2013 : 23-25
Abstract: Expanded employee and union rights as a result of changes to the Fair Work Act - employers need to make changes to comply with regulations - changes include new family-friendly arrangements, anti-bullying measures, dispute resolution and unfair dismissal.
Legislation: Fair Work Act 2009 (CTH)
Subjects: BUSINESS
TRADE UNIONS
WORKING CONDITIONS
Jurisdictions: AUSTRALIA

TREATIES

AGIS No: 20140140
Title: Tawhaki and Te Tiriti : a principled approach to the constitutional future of the Treaty of Waitangi.
Authors: JONES, Carwyn
Source: NEW ZEALAND UNIVERSITIES LAW REVIEW 25 (4) October 2013 : 703-717
Abstract: Examination of the constitutional future of the Treaty of Waitangi through the story of Tawhaki - settlement of historical claims - constitutional role of the Treaty - the Treaty and the Maori legal system - constitutional arrangements providing a place for the Treaty should be based on the core relationship between kawanatanga and tino ragatiratanga - constitutional korero.
Subjects: CONSTITUTIONAL LAW
TREATIES
Treaties: Treaty of Waitangi
Jurisdictions: NEW ZEALAND

TRIBUNALS

AGIS No: 20140129
Title: The AFL Tribunal System : an insider's perspective on early neutral evaluation, arbitrary power and judicial intervention.
Authors: COFFEY, Andrew
Source: AUSTRALASIAN DISPUTE RESOLUTION JOURNAL 24 (4) November 2013 : 230-241

Abstract: Punishment of Australian Football League (AFL) players for reportable offences - history of the AFL punishment system - AFL Tribunal - AFL Appeals Board - judicial intervention in the AFL Tribunal System.

Legal Cases: Carlton Football Club Ltd & Williams v Australian Football League (Unreported, VIC. S.Ct., 29 May 1997)
Mitchell v Australian Football League (Unreported, VIC. S.Ct., 12 June 1992)
Sydney Swans & Dunkley v Australian Football League (Unreported, VIC. S.Ct., 26 September 1996)

Subjects: SPORT
TRIBUNALS

Jurisdictions: AUSTRALIA

TRUSTS AND TRUSTEES

AGIS No: 20140104

Title: Changes of trustee : getting it right.

Authors: FIGOT, Bryce
LYNCH, Jared

Source: AUSTRALIAN SUPERANNUATION LAW BULLETIN 25 (4) November 2013 : 70-71

Abstract: Change of trustee of self managed superannuation fund (SMSF) - ineffective change of trustee - trustee office determined to be vacant - SMSF deed - regulatory framework in relation to trustee changes - case law.

Legal Cases: Moss Super Pty Ltd v Hayne [2008] VSC 158

Legislation: Superannuation Industry (Supervision) Act 1993 (CTH)

Subjects: SUPERANNUATION
TRUSTS AND TRUSTEES

Jurisdictions: AUSTRALIA

AGIS No: 20140106

Title: The law of trusts.

Authors: MCLAY, Geoff

Source: NEW ZEALAND LAW JOURNAL November 2013 : 357-358

Abstract: Recent Law Commission report reviewing the law of trusts - recommendations - current law - changes resulting from consultations - importance of settlors' intentions.

Legislation: Family Proceedings Act 1980 (NZ)
Property (Relationships) Act 1976 (NZ)
Trustee Act 1956 (NZ)

Subjects: TRUSTS AND TRUSTEES

Jurisdictions: NEW ZEALAND

AGIS No: 20140108

Title: Trusts and the rule of law in Singapore.

Authors: SEK KEONG, Chan

Source: SINGAPORE ACADEMY OF LAW JOURNAL (25) September 2013 : 365-378

Abstract: Address delivered at the Singapore Trustees Association Conference 2012 - difference between trust and trusts - trust in banking and financial systems created by Singapore's law and financial regulators - rule of law in Singapore.

Legislation: Trustees Act 1999 (SINGAPORE)

Subjects: RULE OF LAW
TRUSTS AND TRUSTEES

Jurisdictions: SINGAPORE

AGIS No: 20140109

Title: Use and abuse of administrative law.

Authors: RODRIGUEZ FERRERE, Marcelo

Source: NEW ZEALAND LAW JOURNAL November 2013 : 361-362

Abstract: Inappropriate proceedings - judicial review - duties incumbent on trustee owners of Christchurch Cathedral following earthquake damage - repair and maintenance of cathedral in existing form - terms of trust for cathedral - case law.

Legal Cases: Great Christchurch Buildings Trust v Church Property Trustees [2013] NZCA 331

Legislation: Anglican (Diocese of Christchurch) Church Property Trust Act 2003 (NZ)

Subjects: ADMINISTRATIVE LAW
TRUSTS AND TRUSTEES

Jurisdictions: NEW ZEALAND

UNFAIR DISMISSAL

AGIS No: 20140077

Title: It is not only the "why" but also the "how" : understanding the process to avoid unfair dismissal claims.

Authors: NICKELS, Leanne

Source: INHOUSE COUNSEL 17 (2) October 2013 : 26-29

Abstract: Procedural aspects of implementing a dismissal - legislative requirements - notification of reason for dismissal - opportunity for an employee to respond - use of a support person by employee - issuing warnings to employees - importance of advising on the dismissal process.

Legislation: Fair Work Act 2009 (CTH)

Subjects: UNFAIR DISMISSAL

Jurisdictions: AUSTRALIA

WATER RESOURCES

AGIS No: 20140136

Title: The Queensland CSG industry : miners versus farmers : do the 2010 Water Act amendments for underground water management ease the tension?

Authors: WALTON, Michael

Source: AUSTRALIAN RESOURCES AND ENERGY LAW JOURNAL 32 (1) April 2013 : 19-40

Abstract: Amendments to the Water Act to provide a balanced underground water management regime to manage impacts on farmers and allow coal seam gas (CSG) industry to exercise water rights - CSG industry in Queensland - regulatory regime for extraction of CSG - impact on groundwater - concerns of farmers and environmentalists - critical assessment of the underground water management regime.

Legislation: Petroleum and Gas (Production and Safety) Act 2004 (QLD)
Water Act 2000 (QLD)

Subjects: OIL AND GAS
WATER RESOURCES

Jurisdictions: AUSTRALIA, Queensland

WHISTLEBLOWING

AGIS No: 20140054

Title: A new whistle at work.

Authors: ORIFICI, Adriana
WEBSTER, Tamsin

Source: LAW INSTITUTE JOURNAL 87 (11) November 2013 : 30-34

Abstract: Changes to the whistleblower regime in Victoria - background of the Protected Disclosures Act - broader definition of whistleblowing - procedural changes - vicarious liability and 'reasonable precautions' defence - confidentiality provisions - transfer of employment - non-prevention of certain management action - transitional arrangements - applicability of case law - practical implications.

Legislation: Protected Disclosure Act 2012 (VIC)
Whistleblowers Protection Act 2001 (VIC)

Subjects: LAW REFORM
WHISTLEBLOWING

Jurisdictions: AUSTRALIA, Victoria

WORKERS COMPENSATION

AGIS No: 20140028

Title: Timing is everything : Erzurumlu v Kellogg Superannuation Pty Ltd.

Authors: IACUZZI, Michael
ESBER, Elizabeth

Source: AUSTRALIAN INSURANCE LAW BULLETIN 29 (1) November 2013 : 7-9

Abstract: Interpretation of total and permanent disability (TPD) definition - relevant date for determining TPD - medical evidence must relate to relevant dates for determining TPD - applicable policy wording or trust deed in determining relevant date - case law.

Legal Cases: Erzurumlu v Kellogg Superannuation Pty Ltd [2013] NSWSC 1115

Subjects: INJURIES
WORKERS COMPENSATION

Jurisdictions: AUSTRALIA, New South Wales

AGIS No: 20140026

Title: Who's been sitting in my chair? Downie v Jantom Co Pty Ltd.
Authors: LU, Andrew
Source: AUSTRALIAN INSURANCE LAW BULLETIN 29 (1) November 2013 : 2-4
Abstract: Back injury caused by office chair breaking - liability from failure of chair to meet level of fitness or durability - implied condition of contract - workers compensation - damages.

Legal Cases: Downie v Jantom Co Pty Ltd [2013] ACTSC 171
Subjects: DAMAGES
LIABILITY
WORKERS COMPENSATION
Jurisdictions: AUSTRALIA, Australian Capital Territory

WORKING CONDITIONS

AGIS No: 20140074
Title: Changes to the Fair Work Act : how do they impact business?
Authors: BAKER, Alison
LUX, Amanda
Source: INHOUSE COUNSEL 17 (2) October 2013 : 23-25
Abstract: Expanded employee and union rights as a result of changes to the Fair Work Act - employers need to make changes to comply with regulations - changes include new family-friendly arrangements, anti-bullying measures, dispute resolution and unfair dismissal.
Legislation: Fair Work Act 2009 (CTH)
Subjects: BUSINESS
TRADE UNIONS
WORKING CONDITIONS
Jurisdictions: AUSTRALIA

AGIS No: 20140083
Title: LinkedIn : the next employment battleground?
Authors: TICEHURST, Elizabeth
Source: INHOUSE COUNSEL 17 (2) October 2013 : 34-36
Abstract: Potential problems using LinkedIn for "professional" social media - many companies now require employees to join the site - questions over account ownership when a workplace requires employees to create an account - solicitation restraints - failure to update profiles - confidential information - employers need to have a social media policy to clarify expectations.
Subjects: SOCIAL MEDIA
WORKING CONDITIONS
Jurisdictions: AUSTRALIA

AGIS No: 20140082
Title: Seconding and transferring Australian-based staff to work in international locations.
Authors: HOWARD, Leigh
ELLIOTT, Melissa

Source: INHOUSE COUNSEL 17 (2) October 2013 : 30-33
Abstract: Considerations when sending an Australian employee overseas to work - extension of the Fair Work Act to Australian employees based overseas - whether an Australian employment contract should be terminated or suspended while employee is overseas - income tax, superannuation and long service leave considerations.
Legislation: Fair Work Act 2009 (CTH)
Subjects: EMPLOYMENT
WORKING CONDITIONS
Jurisdictions: AUSTRALIA

YOUNG OFFENDERS

AGIS No: 20140153
Title: Police use of court alternatives for young persons in NSW.
Authors: RINGLAND, Clare
SMITH, Nadine
Source: CRIME AND JUSTICE BULLETIN (167) January 2013 : 1-12
Abstract: Measure of variation in cases involving young persons across NSW Police Force's Local Area Commands (LACs) - proportion of young people diverted from court - factors contributing to cases being diverted - rate of diversion.
Legislation: Young Offenders Act 1997 (NSW)
Subjects: YOUNG OFFENDERS
Jurisdictions: AUSTRALIA, New South Wales

YOUNG PERSONS

AGIS No: 20140143
Title: Youth gangs in a remote Indigenous community : importance of cultural authority and family support.
Authors: CUNNINGHAM, Teresa
IVORY, Bill
CHENHALL, Richard
AND OTHERS
Source: TRENDS AND ISSUES IN CRIME AND CRIMINAL JUSTICE (457) July 2013 : 1-6
Abstract: Research into gangs in the Wadeye Indigenous community - how gangs operate - relationships with community authority and family support mechanisms - research found criminal aspects of gang membership less important than identity construction, leadership and preservation of cultural knowledge and history.
Subjects: INDIGENOUS PEOPLE
YOUNG PERSONS
Jurisdictions: AUSTRALIA, Northern Territory