

Brookers Land Law

13/8/15 Update Summary

LEGISLATION

PROPERTY LAW ACT 2007

Section 77 was amended, as from 6 June 2015, by the Credit Contracts and Consumer Finance Amendment Act 2014.

COMMENTARY

MORTGAGES

8.2 was been extensively revised in light of recent cases and the changes made by the Credit Contracts and Consumer Finance Amendment Act 2014.

Commentary has also been updated in the following locations:

8.1.01, 8.1.02, 8.1.03, 8.1.04, 8.1.05, 8.1.06, 8.1.08, 8.3.02, 8.3.05

The following cases have been included in the commentary:

Carlin v Dolheguy (2011) 11 NZCPR 678 (HC) — statutory definitions — “mortgage” — Land Transfer Act 1952: 8.1.03(1)(a)

Colley v Westpac New Zealand Ltd [2013] NZCA 57, (2013) 13 TCLR 639 — Credit Contracts and Consumer Finance Act 2003 — meaning of “oppressive, harsh,

unjustly burdensome, unconscionable, or in breach of reasonable standards of commercial practice”: 8.2.15

Commerce Commission v Sportzone Motorcycles Ltd (in liq) [2013] NZHC 2531, [2014] 3 NZLR 355 — Credit Contracts and Consumer Finance Act 2003 — initial disclosure: 8.2.06(1)

Commerce Commission v Tiny Terms Ltd DC Auckland CRI-2012-004-11709, 24 January 2014 — Credit Contracts and Consumer Finance Act 2003 — debtor’s right to cancel: 8.2.10

Gulf Harbour Marine Village Residents’ Association Inc v Jan Bain Holdings Ltd [2013] NZHC 2223 — statutory definitions — “mortgage” — encumbrance: 8.1.03(1)(c)

Jenkins-Davies v ANZ Bank New Zealand Ltd [2014] NZHC 114 — Credit Contracts and Consumer Finance Act 2003 — initial disclosure: 8.2.06(1)

Mercedes-Benz Financial Services New Zealand Ltd v Quadrant Wholesalers Ltd [2014] NZHC 1402 — statutory definitions — “mortgage” — Property Law Act 2007: 8.1.03(1)(b)

Nathan v Cooper [2013] NZHC 1559 — Credit Contracts and Consumer Finance Act 2003 — buy-back transactions of land: 8.2.05

Norfolk Nominees Ltd v King [2013] NZHC 398, (2013) 13 TCLR 650 — Credit Contracts and Consumer Finance Act 2003 — variation disclosure: 8.2.06(3)

Roke Realty Ltd v Malones Ltd [2013] NZHC 2520, (2013) 15 NZCPR 8 — implied covenants, powers, and conditions — covenants required for particular types of security — Land Transfer Act 1952, s 119: 8.3.05(1)(d)

Sportzone Motorcycles Ltd (in liq) v Commerce Commission [2015] NZCA 78 — Credit Contracts and Consumer Finance Act 2003 — interest charges: 8.2.11

Wiltshire Investments Ltd v Symons [2013] NZHC 1300 — Credit Contracts and Consumer Finance Act 2003 — meaning of “oppressive, harsh, unjustly burdensome, unconscionable, or in breach of reasonable standards of commercial practice” — reasonable standards of commercial practice: 8.2.15(1)

Wynn Williams & Co v Kain [2011] 3 NZLR 709 (HC) — Credit Contracts and Consumer Finance Act 2003 — consumer credit contracts: 8.2.04

LICENCES

Commentary has been updated in the following locations:

10.1.02, 10.2.01, 10.2.02, 10.2.03, 10.2.05, 10.3, 10.4.02, 10.4.03, 10.5.02, 10.5.03, 10.6.01, 10.6.02, 10.6.03, 10.6.04

The following cases have been included in the commentary:

Gillett v Holt [2001] Ch 210 (CA) — licences and estoppel — detriment: 10.6.02

IDC Group Ltd v Clark [1992] 49 EG 103 (CA) — licences and third parties — the licensor’s interest — constructive trust: 10.5.02(3)

NSW v Koumdjeiv [2005] NSWCA 247, (2005) 63 NSWLR 353 — determination of licences — revocation by the licensor — bare licences: 10.4.03(1)

Paxhaven Holdings Ltd v Attorney-General [1974] 2 NZLR 185 (SC) — licences and third parties — a licensee's standing in tort: 10.5.03

Sealink Travel Group NZ Ltd v Waiheke Shipping Ltd (2008) 9 NZCPR 595 (HC) — licences and third parties — a licensee's standing in tort: 10.5.03

Shattock v Devlin [1990] 2 NZLR 88 (HC) — licences and third parties — a licensee's standing in tort: 10.5.03

Stratulatos v Stratulatos [1988] 2 NZLR 424 (HC) — licences and estoppel — requirements to raise an estoppel: 10.6.01

Westland Savings Bank v Hancock [1987] 2 NZLR 21 (HC) — licences and estoppel — requirements to raise an estoppel: 10.6.01

Wilson Parking New Zealand Ltd v Fanshawe 136 Ltd [2014] NZCA 407, [2014] 3 NZLR 567 — licences and estoppel — remedies: 10.6.04 (see also 10.6.01)

LEASES

Commentary has been updated in the following locations:

11.22.01, 11.22.02, 11.22.03, 11.23.04, 11.24.01A, 11.24.02, 11.24.03, 11.24.05, 11.24.08, 11.24.10, 11.25.01, 11.25.02, 11.25.03, 11.25.04, 11.25.07

PUBLIC WORKS ACT

Commentary has been updated in the following location:

PW24.07

The following case has been included in the commentary:

Olliver Trustee Ltd v Minister for Land Information [2015] NZEnvC 55 — objection to be heard by the Environment Court — role of the Environment Court: PW24.07

EDITORIAL AMENDMENTS

This update contains various editorial amendments necessary for currency of the product.

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