

Profiles . . .



VICTORIA HENSTOCK — Associate

Victoria graduated from Otago University in 1990 with a Bachelor of Laws. She began her law career in Invercargill, practising mainly in criminal and family law. In 1995 she moved to the UK where she specialised in family care and protection law with the Wiltshire County Council.

She returned to New Zealand in 1999 and worked for Brookfields in Auckland, focusing primarily on family law.

Victoria started working with Layburn Hodgins in February 2002 as an associate of the firm. She will be practising in the fields of family and immigration law.

Victoria is a family-focused person with two young children and competently manages the demands of work, family and lifestyle. She is also a keen swimmer and enjoys the outdoors.

RICHARD McGUIRE — Associate



Richard graduated from the University of Canterbury with a Bachelor of Laws in 1991 and commenced practice in Christchurch. After several years of general legal experience, Richard moved to London to travel and for further work opportunities. There he worked for Masons Solicitors, a specialist construction litigation firm. Following his return to Christchurch in 1996 he continued general practice with emphasis on litigation.

Richard came to Layburn Hodgins in January 2002. He is an associate of the firm and practises predominantly in the areas of civil, criminal, family and employment work. Richard is currently a committee member of the Canterbury Criminal Bar Association.

Richard enjoys all sports with a particular emphasis on cricket, having played club cricket for High School Old Boys and the Willows Cricket Club since leaving high school. He has also been involved in administrative areas of cricket with the High School Old Boys Club and the Canterbury Cricket Association. Richard's other interests include skiing, classic/vintage cars and motor racing.

DUNCAN MACINTYRE — Associate



Duncan Macintyre has recently joined Layburn Hodgins as an associate, after many years in private legal practice with another Christchurch law firm. Prior to practising in Christchurch, he had spent some years in Timaru providing legal advice to local authorities and port authorities.

Property transactions, in particular subdivisions, business law, financing, leasing, immigration and family trusts form the core of Duncan's practice. He has over the years provided advice to a large number of Asian clients and is well respected in the Korean community.

Duncan is a keen sportsman, especially in the martial art of jujitsu. He is married with two sons who are also keen on sports.

Sentencing Act 2002 sends warning to employers . . .

LIZ BULGER



Sentencing was once again a major election issue. This was mainly fuelled by the recent enactment of the Sentencing Act 2002. Most people will never be directly affected by this innovative new legislation, however it contains plenty that will interest the general public and could impact on you, either as a person charged with an offence, or as a victim of crime.

Along with tough new sentencing provisions relating to violent and recidivist offenders, there is a new emphasis on fines and reparation. In an attempt to put fines and reparation before other sanctions, the rules have changed as to how financial penalties are implemented, what part they play in the sentencing process and how and when they are imposed.

Offenders, both individuals and companies, are likely to pay higher fines and will, in the majority of cases, be required to pay reparation. The impact of the changes is most likely to be

felt through OSH prosecutions, IRD prosecutions and WINZ matters, where reparation will be uppermost in the sentencing judge's mind.

With OSH prosecutions in particular, the established practice of imposing a fine and paying part, or all, of that fine to victims of industrial or workplace accidents, is no longer available. It is likely that larger fines will be imposed on employers to deter workplace accidents and place an increased emphasis on compliance with OSH workplace health and safety standards.

The rules concerning the circumstances where reparation might be ordered have also been tightened, which means that reparation may become less frequent. However, the changes mean that any future reparation orders will come on top of fines imposed by the courts – not as part of the fine as currently happens. The result for employers: the cost of non-compliance with OSH workplace health and safety standards is potentially much higher.

The new legislation also has more stringent rules in relation to confiscation of motor vehicles for all offences, including driving offences. Potentially, a vehicle can now be confiscated for a first offence.

Persons committing serious offences or second or subsequent driving offences will find it even more difficult to convince a court against confiscating their vehicles. Within the new fines climate, the Court might also be more inclined to seize a vehicle in circumstances where an offender cannot pay a fine.

These new rules have potential ramifications throughout the community and not just for those who have previous convictions.

If you are concerned about the possible effect of the new legislation on you, your company or someone you know, don't hesitate to contact **Liz Bulger** or **Richard McGuire** on (03)377 9718. We can guide you through the new provisions and hopefully ease any of your concerns.

PROPERTY LAW CHANGES: The Property (Relationships) Act

In February 2002 a new law was introduced affecting the division of property when couples separate, or one partner dies.

The new law, *The Property (Relationships) Act*, affects all people in relationships, whether married, de facto or same-sex couples. It applies to all relationships of at least three years, or fewer if there are children of the relationship.

The most important features of the law are:

- Relationship property will be divided equally when you separate, unless the court decides there are extraordinary circumstances.
- The court will have greater powers to postpone the division of property (e.g. the sale of the family home), where it is necessary to avoid undue hardship to children.
- Partners in a relationship may still have separate property but where a person's separate property increases in value in some circumstances it may be treated as relationship property.
- The court can order lump sum payments or the transfer of property to compensate one partner

if the court believes that one partner's income and living standards are likely to be significantly higher after separation.

- The court can intervene where relationship property has been disposed of to a trust.
- If a partner dies, the surviving partner can choose to receive property under the deceased's will or under the new Act.

Couples can choose not to come under the Act. To do so they must enter into a written agreement specifying how their property should be divided if they separate or one partner dies.

For the agreement to be valid each party must have independent advice from separate lawyers before they sign. Signatures must be witnessed by a lawyer who certifies that they have explained the consequences of the agreement to their client.

It is important that you always have your interests protected. Please contact us if you have any concerns about your property rights or would like to make a will. Call **Dominic Flatley** or **Victoria Henstock** on **(03)377 9718**.

Are you Ready for PPSR?



The Personal Property Securities Act 1999 (PPSA) is important new legislation that reforms the law relating to security interests in personal property. The PPSA will affect not only individuals who purchase goods privately (such as a car, a boat or a painting) but also businesses that supply goods i.e. a farmer supplying stock to a meat works.

The PPSA covers any property someone can own other than land. Where personal property is offered as security in a lending or leasing transaction the PPSA refers to the property as *collateral*. There are specific provisions in relation to consumer goods and motor vehicles. Collateral can include book debts and other intangible items.

The Personal Property Securities Act (PPSA) radically reforms rules for determining the priority between security interests in the same personal property. Registration in the PPSR is a key way to secure priority of interest and is critical under the new system. All registrations in the PPSR will have to be filed in electronic form.

The *electronic* noticeboard is accessed via the internet and is available for registrations and searching 24 hours a day, seven days a week. Secured parties can

record specific details about security interests in personal property.

The PPSR became operational on 1st May and replaces four previous registers:

- Motor Vehicle Securities Register
- Company charges registers held at the Companies Office
- Chattels registers held at the High Courts
- Industrial and provident societies' charges registers held at the Companies Office

There is a six-month transitional period from 1st May until 31st October 2002 to allow secured parties to register prior security interests in the PPSR and retain the existing priority date. There will be no automatic transfer of data between the previous and new registers.

What do you need to do?

- Review your documentation and procedures and update where necessary.
- Make sure that your staff are familiar with the Act, its impact and its new requirements.
- Make sure that you have all the information that you need to register on-line.
- Register all relevant security interests.

Individuals purchasing goods privately should check to ensure no security interests are registered if the item is valued at over \$2,000.00. The Act could have serious consequences for those who are unaware or unprepared for the changes ahead.

If you have any questions, please feel free to contact **John Abbott** or **Duncan Macintyre** on **(03)366 2332**.

Layburn Hodgins . . .



John Abbott

Another year has passed and there have been a number of changes at Layburn Hodgins. Most significantly we are pleased to welcome John Abbott as a new partner of the firm. John was officially welcomed with a large party in a Moroccan tent on the rooftop. It was such an excellent night that a midyear roof party may become an annual event.

There have also been some staff changes. Sarah

Pole has now left the firm to live in Canada with her new husband. We remain in contact with her and she is well and enjoying life there.

Victoria Henstock joined us from Brookfields, lawyers in Auckland. Victoria and her family returned to the mainland for a better lifestyle after several years away. Victoria has several years experience both here and in the UK, particularly in the area of family law, and we are extremely pleased to have her on board.

We have also been joined by Richard McGuire who works in litigation. Richard, who has lived in Christchurch most of his life, has had several years experience in the law and several more on the cricket field. Richard has an excellent reputation within the local profession and we are also very pleased to have him on the team.

Duncan Macintyre has joined the firm's property/commercial team on the third floor. Duncan has

several years experience and was previously an associate with Parry Field. He has a loyal following, particularly with the Korean community.

As you will know, Dominic Flatley took over June Johnston's practice upon her appointment as a District Court judge. Dominic hopes that all of June's clients will continue to contact him in relation to existing and new legal requirements. We don't want June's clients to think that they no longer have a lawyer, or that their important documents, wills etc. have not been kept safely – they have been stored in our modern and secure filing system.

We have endeavoured to contact all of June's clients and apologise if we have missed some. We continue to offer the full range of legal services, provide a professional service in all aspects of the law and want to continue to act for them.

Our team is fast gaining the reputation of being one of the most experienced and able legal teams in Christchurch, with leading practitioners in all areas of the law. Our lawyers are specialists and are chosen for their considerable experience and expertise in their individual areas.

We remain committed to servicing all clients, old and new. The firm has intentionally remained small to offer a boutique style and a friendly and personalised service. We aim to be available to all clients without delays in a modern and relaxed atmosphere. It is acknowledged by all at Layburn Hodgins that engaging a lawyer is not always easy and we wish to ensure that your experience is the best it can be.

Partners and Staff
LAYBURN HODGINS
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