

GERALD ALLOWAY, ASSISTANT EDITOR
Victoria University of Wellington - Faculty of Law
gerald.r.alloway@gmail.com

EDDIE CLARK, EDITOR
Lecturer in Law, Victoria University of Wellington - Faculty of Law
eddie.clark@vuw.ac.nz

JOHN PREBBLE QC, EDITOR
Professor of Law, Victoria University of Wellington - Faculty of Law, Gastprofessor, Institut für Österreichisches und Internationales Steuerrecht, Wirtschaftsuniversität Wien, Adjunct Professor of Law, University of Notre Dame Australia - School of Law
john.prebble@vuw.ac.nz

[Browse ALL abstracts for this journal](#)

[Links: Subscribe ~ Unsubscribe](#) | [Distribution](#) | [Network Directors](#) | [Submit ~ Revise Your Papers](#)

Announcements

Victoria University of Wellington Student and Alumni Subseries Issue XXV: General Topic Issue

The General Topic Issue is the eighth in 2017 of several issues of The Student/Alumni sub-Series of the VUW Legal Research Papers.

The Student/Alumni sub-Series was launched in 2015. It publishes a selection of honours and postgraduate papers from Victoria University of Wellington Law School.

The sub-Series includes both general and thematic issues.

Table of Contents

Health and Safety at Work Act 2015: Intention, Implementation and Outcomes in the Hill Country Livestock Farming Industry

[Bronwyn Neal](#), Victoria University of Wellington, Faculty of Law, Student/Alumni

Could a BAT Fly? An Evaluation of the Proposed Bilateral Arbitration Treaty in the New Zealand Context

[Georgia Whelan](#), Victoria University of Wellington, Faculty of Law, Student/Alumni

Surviving Without Choice: An Evaluation of the Discrimination of Beneficiaries with Children within the Social Security System

[Kristina White](#), Victoria University of Wellington, Faculty of Law, Student/Alumni

Emissions Trading Schemes and Carbon Taxes: Reinvestigating the Policy Tools New Zealand Uses to Address Climate Change

[James Churchill](#), Victoria University of Wellington, Faculty of Law, Student/Alumni

[^top](#)

LEGAL SCHOLARSHIP NETWORK: LEGAL STUDIES RESEARCH PAPER SERIES

VICTORIA UNIVERSITY OF WELLINGTON LEGAL RESEARCH PAPERS

"Health and Safety at Work Act 2015: Intention, Implementation and Outcomes in the Hill Country Livestock Farming Industry"

Victoria University of Wellington Legal Research Paper, Student/Alumni Paper No. 30/2017

BRONWYN NEAL, Victoria University of Wellington, Faculty of Law, Student/Alumni

The recently enacted Health and Safety at Work Act 2015 is intended to apply across all industries in New Zealand. The unique workplace environment and industry culture of the hill country livestock farming sector makes application, implementation and enforcement of the Act in this context uniquely challenging. In contrast to other industries the hill country livestock farming industry has an uncontained workplace complicated by family and public involvement. WorkSafe, as a "fair, consistent and engaged" regulator, seeks to establish health and safety as one of the industry's key cornerstones alongside lifestyle, profit and sustainability. Results to date have been undermined by WorkSafe's conflicting enforcement, engagement and education functions. There is a perceived misplaced focus on enforcement of low probability, periphery hazards rather than the key risks that cause accidents. This paper explains the implications of significant changes under the Act for the industry. It also recommends legislative adaptations to address the inadequacies of the farming exception in s 37. An alternative WorkSafe strategy that focuses on effecting compliance through supply chain demand and economic drivers rather than enforcement is also outlined.

"Could a BAT Fly? An Evaluation of the Proposed Bilateral Arbitration Treaty in the New Zealand Context"

Victoria University of Wellington Legal Research Paper, Student/Alumni Paper No. 31/2017

GEORGIA WHELAN, Victoria University of Wellington, Faculty of Law, Student/Alumni
Email: georgia.whelan13@gmail.com

International trade is imperative for economic growth in New Zealand. However, there is lack of engagement from Small to Medium Sized Enterprises given the extensive barriers they face to international markets. The Bilateral Arbitration Treaty (BAT) is one method that aims to increase both trade and access to effective justice. It would replace the default mechanism of cross border litigation with international commercial arbitration for the resolution of international business-to-business disputes. This paper assesses the worth of the BAT in the New Zealand environment considering new issues highlighted by empirical research. These potential impediments include the expense, length and confidentiality of arbitral proceedings. The time length and cost issues raise concerns with access to justice, as protected by s 27 of the New Zealand Bill of Rights Act 1990 (BORA). The confidentiality of BAT proceedings prima facie conflict with open justice and s 14 of BORA. This paper recommends an expedited procedure option and fee structure be included in the terms of the BAT, in addition to the publication of BAT awards, to allay these concerns. Ultimately, the BAT would be a worthwhile pursuit of the New Zealand government to support increasing trade.

"Surviving Without Choice: An Evaluation of the Discrimination of Beneficiaries with Children within the Social Security System"

Victoria University of Wellington Legal Research Paper, Student/Alumni Paper No. 32/2017

KRISTINA WHITE, Victoria University of Wellington, Faculty of Law, Student/Alumni
Email: kristinawhite2@gmail.com

Since its first inception, New Zealand's social security system has been guided by the notion of reciprocal obligations. However, obligations required on the part of beneficiaries, particularly those with children, have become increasingly more burdensome. The most recent amendments require beneficiary parents to return to work earlier and for longer hours. This is in addition to social obligations, which provide direction as to what is considered by the state to be good parenting and deserving of welfare support. The child rearing autonomy of beneficiary parents is also affected by the increase in work testing obligations for beneficiaries who have additional children. In conducting a s 19 discrimination analysis, this paper submits that these provisions constitute prima facie discrimination. Beneficiary parents are treated differently from non-beneficiary parents as the provisions that apply to them affect their ability to make valuable choices with regards to parenting methods, having additional children and returning to work. The discriminatory treatment does not only affect beneficiary parents. Welfare provision inevitably affects the children of beneficiaries who are reliant on this support and whose interests continue to be inadequately considered.

"Emissions Trading Schemes and Carbon Taxes: Reinvestigating the Policy Tools New Zealand Uses to Address Climate Change"

Victoria University of Wellington Legal Research Paper, Student/Alumni Paper No. 33/2017

JAMES CHURCHILL, Victoria University of Wellington, Faculty of Law, Student/Alumni
Email: james.e.churchill@gmail.com

In 2016 there is scientific consensus that the climate is changing and humans are responsible. If

significant action to reduce global greenhouse gas emissions does not occur, the consequences of climate change may be catastrophic. This paper analyses the use of market based policy tools to reduce greenhouse gas emissions in New Zealand. In particular, it considers whether the New Zealand Emissions Trading Scheme should be replaced with a carbon tax. This is done by weighing the difficulties involved in implementing a carbon tax against the benefits that it could bring. Key difficulties discussed include the treatment of stockpiled emissions credits that exist within the New Emissions Trading Scheme and the changing treatment of agriculture and forestry. Potential benefits of a carbon tax include reduced administrative and transactional costs, revenue generation and insulation from vested interests. This paper concludes that the difficulties involved in implementing a carbon tax as New Zealand's main response to climate change are exceeded by the benefits.

[^top](#)

About this eJournal

Victoria University of Wellington Legal Research Papers Series primarily contains scholarly papers by members of the **Faculty of Law at Victoria University of Wellington**. Some issues collect a number of papers on a similar theme to form a suite of papers on a single topic. Others issues are general or distribute mainly recent work.

The Student/Alumni Series is a subseries of the Victoria University of Wellington Legal Research Paper Series. The subseries started in 2015 and publishes papers by students and alumni of Victoria University of Wellington, comprising primarily work for honours and postgraduate courses. Papers are collected into thematic or general issues.

The Victoria University of Wellington was founded in 1899 to mark the Diamond Jubilee of the reign of Queen Victoria of Great Britain and of the then British Empire. Law teaching started in 1900. The Law Faculty was formally constituted in 1907. The first dean was Richard Maclaurin (1870-1920), an eminent scholar of both law and mathematics. Maclaurin went on to lead the Massachusetts Institute of Technology as President in its formative years. Early professors included Sir John Salmond (1862-1924), still one of the Common Law's leading scholars. His texts on jurisprudence and torts have gone through many editions and remain in print.

Alumni include Sir Robin Cooke (1926-2006), one of the leading judges of the British Commonwealth. As Baron Cooke of Thorndon, he sat on over 100 appeals to the Appellate Committee of the House of Lords, one of very few Commonwealth judges ever appointed to do so.

Since 1996 the Law School has occupied the Old Government Building in central Wellington. Designed by William Clayton and opened in 1876 to house New Zealand's then civil service, the building is a particularly fine example of Italianate neo-Renaissance style. Unusually among large colonial official buildings of the time it is constructed of wood, apart from chimneys and vaults.

The School is close to New Zealand's Parliament, courts, and the headquarters of government departments. Throughout Victoria's history, our law teachers have contributed actively to policy formation and to law reform. As a result, in addition to many scholarly articles and books, the Victoria SSRN pages include a number of official reports.

Victoria graduates approximately 230 LLB and LLB(Hons) students each year, and about 60 LLM students. The faculty has an increasing number of doctoral students. Ordinarily there are ten to twelve students engaged in PhD research.

Victoria University observes the British system of academic ranks. In North American terms, lecturers and senior lecturers are tenured doctrinal scholars, not legal writing teachers. A senior lecturer corresponds approximately to a North American associate professor in rank.

Submissions

To submit your research to SSRN, sign in to the **SSRN User Headquarters**, click the My Papers link on left menu and then the Start New Submission button at top of page.

Distribution Services

If your organization is interested in increasing readership for its research by starting a Research Paper Series, or sponsoring a Subject Matter eJournal, please email: **RPS@SSRN.com**

Distributed by

Legal Scholarship Network (LSN), a division of Social Science Electronic Publishing (SSEP) and Social Science Research Network (SSRN)

Directors

LAW SCHOOL RESEARCH PAPERS - LEGAL STUDIES

BERNARD S. BLACK

Northwestern University - Pritzker School of Law, Northwestern University - Kellogg School of Management, European Corporate Governance Institute (ECGI)

Email: bblack@northwestern.edu

RONALD J. GILSON

Stanford Law School, Columbia Law School, European Corporate Governance Institute (ECGI)

Email: rgilson@leland.stanford.edu

Please contact us at the above addresses with your comments, questions or suggestions for LSN-LEG.

[^top](#)

Links: [Subscribe to Journal](#) | [Unsubscribe from Journal](#) | [Join Site Subscription](#) | [Financial Hardship](#)

Subscription Management

You can change your journal subscriptions by logging into [SSRN User HQ](#). If you have questions or problems with this process, please email Support@SSRN.com or call 877-SSRNHelp (877.777.6435 or 585.442.8170). Outside of the United States, call 00+1+585+4428170.

Site Subscription Membership

Many university departments and other institutions have purchased site subscriptions covering all of the eJournals in a particular network. If you want to subscribe to any of the SSRN eJournals, you may be able to do so without charge by first checking to see if your institution currently has a site subscription.

To do this please click on any of the following URLs. Instructions for joining the site are included on these pages.

[Accounting Research Network](#)

[Cognitive Science Network](#)

[Corporate Governance Network](#)

[Economics Research Network](#)

[Entrepreneurship Research & Policy Network](#)

[Financial Economics Network](#)

[Health Economics Network](#)

[Information Systems & eBusiness Network](#)

[Legal Scholarship Network](#)

[Management Research Network](#)

[Political Science Network](#)

[Social Insurance Research Network](#)

[Classics Research Network](#)

[English & American Literature Research Network](#)

[Philosophy Research Network](#)

If your institution or department is not listed as a site, we would be happy to work with you to set one up. Please contact site@ssrn.com for more information.

Individual Membership (for those not covered by a site subscription)

Join a site subscription, request a trial subscription, or purchase a subscription within the SSRN User Headquarters: <https://hq.ssrn.com/Subscriptions.cfm>

Financial Hardship

If you are undergoing financial hardship and believe you cannot pay for an eJournal, please send a detailed explanation to Subscribe@SSRN.com

[^top](#)

To ensure delivery of this eJournal, please add **LSN@publish.ssrn.com (Alloway/Clark/Prebble)** to your email contact list. If you are missing an issue or are having any problems with your subscription, please Email Support@ssrn.com or call 877-SSRNHELP (877.777.6435 or 585.442.8170).

FORWARDING & REDISTRIBUTION

Subscriptions to the journal are for single users. You may forward a particular eJournal issue, or an excerpt from an issue, to an individual or individuals who might be interested in it. It is a violation of copyright to redistribute this eJournal on a recurring basis to another person or persons, without the permission of Social Science Electronic Publishing, Inc. For information about individual subscriptions and site subscriptions, please contact us at Site@SSRN.com

[^top](#)

Copyright © 2017 Elsevier, Inc. All Rights Reserved