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VICTORIA UNIVERSITY OF WELLINGTON LEGAL RESEARCH PAPERS

["The Courts, Family Control and Disability - Aspects of New Zealand's Protection of Personal and Property Rights Act 1988"](#) 

(1988) 18 VUWLR 345.

[Victoria University of Wellington Legal Research Paper No. 36/2015](#)

[BILL ATKIN](#), Victoria University of Wellington - Faculty of Law

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New legislation has been passed in New Zealand to provide for adult guardianship and management of property. While the

potential scope of the Act is very broad, it will be of particular advantage to the elderly, the psychiatrically ill and those with intellectual handicap. While the Act provides for substitute decision-making, intervention in a person's life is to be on "the least restrictive" basis, encouraging the individual to make decisions wherever possible. This article explores the background to the Act, the principles upon which it is based and the stages through which a particular case may go. Special attention is given to the balance of rights between the individual and the individual's family, and to the issues of sterilisation, abortion and organ donation. The law on these latter issues has not been clarified by the new Act, and has been made even more confused by recent judicial pronouncements.

["Adult Guardianship Reforms - Reflections on the New Zealand Model"](#)

(1997) 20 Int'l J L & Psychiatry 77.

[Victoria University of Wellington Legal Research Paper No. 37/2015](#)

BILL ATKIN, Victoria University of Wellington - Faculty of Law

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The New Zealand Protection of Personal and Property Rights Act 1988 reflects a move from the more paternalistic legislation of the past. This article explains the objectives of the Act, and the discretion that the courts hold in making personal and property orders. The success of the Act is reflected upon, nine years after it was passed. Finally, comparisons are made with the Mental Health (Compulsory Assessment and Treatment) Act 1992, where there is an overlapping jurisdiction in some situations but a very different legal approach.

["Adults with Incapacity: The Protection of Personal and Property Rights Act"](#)

Bill Atkin and Anna-Marie Skellern "Adults with Incapacity: The Protection of Personal and Property Rights Act" in J Dawson and K Gledhill (eds) New Zealand's Mental Health Act in Practice (VUP, 2013).

[Victoria University of Wellington Legal Research Paper No. 38/2015](#)

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The New Zealand Mental Health (Compulsory Assessment and Treatment) Act 1992 (MHA) deals with mental disorder, while the Protection of Personal and Property Rights Act 1988 (PPPR Act) covers mental capacity. These two Acts differ widely, but both deal with the fundamental question: when can the State intervene to deny people's liberties? This chapter concerns primarily the latter Act, with comparisons to the MHA. It provides a brief introduction to the PPPR Act, examines its principles, compares these with the MHA and, with the help of case law, looks at a sample of situations where the two Acts appear to overlap. Finally, questions are posed about the current state of the law.

["Adult Guardianship: Some Brief Comparisons with the Law of Children"](#)

(2011) 7 NZFLJ 90

[Victoria University of Wellington Legal Research Paper No. 39/2015](#)

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The law of adult guardianship draws interesting parallels with the law relating to child guardianship. Both revolve around the key points of capacity, proxy decision-making, and dependency. This article explains, however, that the laws may be quite different from one another. By reference to a range of jurisdictions, it contrasts the law for children, which almost universally regards the welfare of the child as paramount, with the law for adults, which differs greatly between countries and states. This article then uses the example of contact to show that the laws of children and adults may respond differently to similar questions of law.

["The Protection of Personal Property Rights Act 1988 -- Update and Reflections"](#)

(2013) 44 VUWLR 439-460.

[Victoria University of Wellington Legal Research Paper No. 40/2015](#)

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This article coincides with the 25th anniversary of the passage of the Protection of Personal and Property Rights Act 1988. The Act provides mechanisms for decision-making on behalf of people who lack capacity to make decisions for themselves. It is of increasing importance as the population ages. The article looks at the origins of the legislation and its

contemporary focus. Recent case law is explored and some challenges for the future outlined. While the need for the Act remains, it may be timely for a fuller review to be undertaken.

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About this eJournal

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 Judicial 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.

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