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Articles

[Pursuit revisited](#)

— *Rosemary Teele Langford*

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Some Australian cases concerning company directors have required pursuit of a conflict (rather than real sensible possibility of conflict) in order to found breach of the duty to avoid conflicts. It has been shown elsewhere that real sensible possibility of conflict is more suitable as a baseline standard. However, it is possible that the concept of pursuit may explain or organise categories of cases and requirements relating to conflicted directors. This article critically analyses the suitability of adopting pursuit as an organising principle in the context of competing directorships, situations in which positive requirements are imposed on conflicted directors, actual conflicts (in the sense used by Millett LJ in *Bristol and West Building Society v Mothew*) and statutory duties concerning improper use of position or of information. Relevant concepts employed by the courts in relation to conflicted directors are also arranged along a spectrum to bring clarity to the analysis.

[Lawful act duress in Australia](#)

— *Claudia Carr*

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A transaction procured by duress, also referred to as ‘illegitimate pressure’, may be set aside or rendered voidable. To establish duress, it must be shown that the defendant exerted causative pressure on the claimant and that such pressure was illegitimate. The term ‘lawful act duress’ refers to lawful acts constituting duress — a doctrine which has been inconsistently applied and rejected by Australian courts. This article considers whether lawful threats and actions amounting to pressure can be illegitimate for the purpose of duress and whether lawful act duress should form part of the general law of Australia.

[How to read New Zealand’s new Trusts Act 2019](#)

— *Geoff McLay*

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The Trusts Act 2019 (NZ), which received royal assent on 30 July 2019 and will come into effect on 1 February 2021, is the most significant private law reform in New Zealand since the Companies Act 1993 (NZ). This article gives essential background to the Act, to read the Act against, and points to the conceptual issues and debates that lie at the heart of successfully navigating the Act.

This article examines the meaning of the duty of loyalty as stipulated in the Trust Law of the People's Republic of China and its supplementary regulations. The analysis of the 'meaning' here is based on an exploration of three specific questions: what is the content and scope of the duty of loyalty; what function(s) does the duty of loyalty perform; and, what remedies are available for breach of the duty of loyalty? Where appropriate, comparisons with the duty of loyalty in the Chinese Company Law and common law jurisdictions will be conducted to delineate the unique characteristics of the duty of loyalty in Chinese trust laws. Based on such analysis, this article then illustrates the relationship between the function(s) of the duty of loyalty and existing remedies available for breach of this duty. The aim of doing so is two-fold: to better understand what it is that distinguishes the duty of loyalty from other kinds of duties, and to identify the shortcomings that can be observed in the operation of the duty of loyalty in the current legal framework.