## **PRESENTER**



## Elizabeth Heany, Morgan Coakle, Auckland

Elizabeth specialises in trusts, estates, relationship property and professional liability with a particular focus on trustee and legal professional liability. She has advised both professional and lay trustees and executors in wide range of contexts and has acted for them in disputes and on applications in the Family Court, High Court and in the Court of Appeal.

The statements and conclusions contained in this book are those of the author(s) only and not those of the New Zealand Law Society. This book has been prepared for the purpose of a Continuing Legal Education course. It is not intended to be a comprehensive statement of the law or practice, and should not be relied upon as such. If advice on the law is required, it should be sought on a formal, professional basis.

## **CONTENTS**

1.	INTRODUCTION	1
2. (195	TRUSTEES UNDER THE TRUSTS ACT 2019 (2019 ACT) AND THE TRUSTEE ACT 1966 ACT)	
3.	BEDDOE ORDERS AND PROSPECTIVE COSTS ORDERS	5
4.	SOURCES OF THE TRUSTEE'S INDEMNITY	7
5. OF '	INDEMNITIES UNDER THE TRUST DEED OR DEED OF RETIREMENT OR REMOV	
6. 2019	STATUTORY INDEMNITIES UNDER S 38(2) OF THE 1956 ACT AND S 81 & 82 OF THE ACT	
7.	POWER OF THE COURT IN RESPECT OF THE TRUSTEE'S INDEMNITY	15
8. INC	THE TOUCHSTONE – A TRUSTEE CAN ONLY RECOVER COSTS PROPERLY	17
9.	FACTORS RELEVANT TO RECOVERING UNDER THE INDEMNITY	19
T	HE TYPE OF TRUST DISPUTE	19
	ROCEEDINGS RAISING QUESTIONS REGARDING THE CONSTRUCTION FOR TRUST INSTRUMENT	20
	ROCEEDINGS ON WHICH DIRECTIONS ARE SOUGHT FOR THE GUIDANCE OF THE TRUSTEE IN THE	20
	DMINISTRATION OR EXECUTION OF THE TRUST ROCEEDINGS IN WHICH THE ASSISTANCE OF THE COURT IS SOUGHT IN RELATION TO THE APPOINTME	
	FOCEEDINGS IN WHICH THE ASSISTANCE OF THE COURT IS SOUGHT IN RELATION TO THE APPOINTMENT TRUSTEES OR THE VESTING OF TRUST PROPERTY	
P	ROCEEDINGS IN WHICH THE RIGHTS OF BENEFICIARIES IN THE ADMINISTRATION OF A TRUST ARE SOU O BE ENFORCED	JGHT
	Breach of trust proceedings	22
	Proceedings for self-dealing and profits from a trust	
	Proceedings for removal of trustees	
	Third party proceedings	24
10.	TRUSTEE'S CONDUCT IN LITIGATION	25
T	HE AMOUNT SPENT	25
	OME SPECIAL CONSIDERATIONS FOR PROFESSIONAL TRUSTEES	
T	HE PROCESS OF RECOVERING UNDER THE INDEMNITY	26
11.	CONCLUSION	27