

PRESENTER



Jared Ormsby, Wynn Williams, Christchurch

Jared practises in the areas of trust and commercial litigation and has advised the Minister of Justice on the Trust Reference Group. He is a member of STEP and is a contributing author to Brookers *Equity and Trusts in New Zealand*.

The statements and conclusions contained in this paper are those of the author(s) only and not those of the New Zealand Law Society. This booklet 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

TRUST LAW REFORM	1
INTRODUCTION	1
OVERVIEW OF TRUSTS BILL AND THE TRUST LAW REFORM PROCESS	1
<i>Introduction.....</i>	1
<i>Purpose of the Bill.....</i>	2
<i>Criticisms of the Bill.....</i>	2
THE LAW COMMISSION REPORT	3
<i>The nature and characteristics of a trust.....</i>	3
<i>Trustees' duties.....</i>	3
<i>Investment</i>	3
<i>Court jurisdiction and review.....</i>	4
<i>The rule against perpetuities.....</i>	4
<i>Advisor trustees</i>	4
<i>Trustee powers</i>	4
<i>Ministry of Justice Reference Group</i>	5
EXPOSURE DRAFT OF THE TRUSTS BILL	5
KEY ASPECTS OF EXPOSURE DRAFT	6
<i>Defining a trust.....</i>	6
<i>Trustee duties</i>	7
<i>Exemption and indemnity clauses</i>	9
<i>The provision of information to beneficiaries</i>	9
<i>Perpetuities</i>	10
<i>Alternative Dispute Resolution (ADR)</i>	11
RESPONSE TO THE EXPOSURE DRAFT BILL	11
NEXT STEPS TOWARDS A TRUSTS ACT	12
<i>Matters in the draft Bill requiring further consideration</i>	12
<i>Inconsistency with the FMCA.....</i>	12
<i>Gross-negligence as the standard of care</i>	13
CONCLUSION	14
<i>Ability of trustees to enter into transactions.....</i>	14
<i>Appointment of investment managers.....</i>	14