PRESENTERS



Greg Kelly, Greg Kelly Law, Wellington

Greg has 35 years' experience in the wills, trusts and estate area. He is a member of the NZLS Property Law and Family Law Sections, and of STEP and chaired the NZLS CLE Trust Conferences in 2009, 2011 and 2015. Greg is a contributor to Butterworth's *Law of Trusts*, probate and administration author for *McGechan on Procedure*, co-author of Garrow and Kelly's *Law of Trusts and Trustees* (6th and 7th editions) and of *Dobbies' Probate and Administration Practice* (5th and 6th editions).



Kimberly Lawrence, Greg Kelly Law, Wellington

Kimberly specialises in trusts, estates, and relationship property. She advises and appears in relation to trust and estate litigation, as well as writing and presenting on contentious trust matters.

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

VARYING TRUST DEEDS	1
EFFECTING A VARIATION PURSUANT TO THE TRUST DEED	
Express variation powers	
CLAUSES IN DEEDS	
HOW FAR CAN A VARIATION POWER GO?	2
Inherent limits on power of variation	3
Other powers that can be used to effect a variation	4
Section 182 Family Proceedings Act 1980 – a new risk on resettlement	4
Power to add and remove beneficiaries	<i>6</i>
VARIATION BY COURT ORDER	
Section 64	8
Section 64A	8
Recent cases under section 64A	
Procedure	11
CHANGES PROPOSED UNDER THE TRUSTS BILL	11
Varying or excluding default duties	
CONCLUSION	13
APPENDIX 1	15
POWERS TO ADVANCE CAPITAL AND INCOME	15