

## 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.

# CONTENTS

<b>VARYING TRUST DEEDS.....</b>	<b>1</b>
EFFECTING A VARIATION PURSUANT TO THE TRUST DEED.....	1
<i>Express variation powers</i> .....	1
CLAUSES IN DEEDS .....	2
HOW FAR CAN A VARIATION POWER GO?.....	2
<i>Inherent limits on power of variation</i> .....	3
<i>Other powers that can be used to effect a variation</i> .....	4
<i>Section 182 Family Proceedings Act 1980 – a new risk on resettlement</i> .....	4
<i>Power to add and remove beneficiaries</i> .....	6
VARIATION BY COURT ORDER.....	8
<i>Section 64</i> .....	8
<i>Section 64A</i> .....	8
<i>Recent cases under section 64A</i> .....	10
<i>Procedure</i> .....	11
CHANGES PROPOSED UNDER THE TRUSTS BILL .....	11
<i>Varying or excluding default duties</i> .....	12
CONCLUSION .....	13
<b>APPENDIX 1.....</b>	<b>15</b>
POWERS TO ADVANCE CAPITAL AND INCOME .....	15