



DRAFTING TRUSTS AND WILL TRUSTS

A Modern Approach

James Kessler QC and Leon Sartin

10th edition

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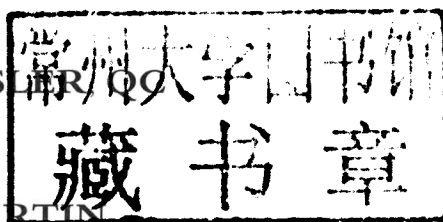
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by

JAMES KESSLER

and

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and
WILL TRUSTS
A Modern Approach



Hogarth: *Marriage à la Mode*: Plate 1 (detail)
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FOREWORD

While “Equity fashions a trust with flexible adaptation on the call of the occasion” (as Cardozo J. stated in *Adams v Champion* (1935) 294 U.S. 231, 237) so that Equity provides the flexible rules of the game, it is the drafter as player of the game who has to fashion the appropriate trust instrument for the settlor. The drafter needs to have a full critical understanding of these rules and the impact of tax law in order to facilitate the requisite endgame. His role is crucial because the execution of ideas is the essence of them.

Back in 1992 James Kessler produced the first edition of this innovative book providing the very assistance needed by drafters to fulfil their role in drafting settlements and will trusts—and I wrote the Foreword when the book contained 11 Chapters followed by illustrative Precedents. Since then, as a result of many changes in law, developments in practice and suggestions of readers, the book has expanded to 33 Chapters in going through ten editions. Moreover, James Kessler duly became a QC, reflecting his well-earned reputation in the field of tax and chancery practice. As a busy Silk and needing to deal with fundamental tax law changes in the Finance Acts 2006–2010 for the improved tenth edition, he has brought in a junior, Leon Sartin, as co-author.

His book has changed the mindset of many traditional prolix drafters and helped to produce a new breed of drafter focusing on the need for plain English but with a real understanding of the technical clauses necessarily employed in the drafts. As a reviewer wrote, the book is “full of erudition and insights imparted with a light touch and an engaging directness.” The author’s refreshingly forthright style makes the book eminently readable as well as soundly instructive. There is little doubt that his book has had the effect of improving the style and content of modern trust instruments. Perhaps this edition may contribute to reversal of Inheritance Tax changes in the FA 2006 discriminating against young and other vulnerable persons as spelled out in Chapter 1.

This book has now established for itself an indispensable place in the library of any serious trust lawyer.

The Honourable Mr Justice David Hayton, M.A., LL.B., LL.D.
*Judge of the Caribbean Court of Justice,
Additional Bencher of Lincoln's Inn and
Fellow of King's College, London
Honorary Member of STEP*
November 2010

PREFACE

Trust drafting is a professional skill. Trust drafting needs trust law, succession law, a considerable amount of tax law (and time and energy to keep up to date); some property law; and a dash of insolvency and family law. That is not all. Many laymen's wishes are unformulated beyond a general desire to put their affairs in order; conversely, some clients have firm ideas as to the disposition of their property which are far from suited to their circumstances. To deal with this calls for empathy and an ability to communicate.

The aim of this work is to aid the drafter by discussing all the issues which arise in drafting settlements and will trusts, and to provide precedents.

The precedents are accompanied with an explanation of why the text is there and the choices that have to be made. The explanation is of the essence; the adoption of a precedent without understanding it fully is a recipe for trouble. The precedents in this book adopt a drafting style which reads simply and naturally.

We also discuss many standard forms and questions which the reader of settlements in common use will often meet. This book will also serve as a guide to the interpretation of trust documentation. Obfuscatory formulae, which spring so lightly from the pen of the experienced practitioner, will baffle the less experienced. Here is some guidance for those who wish to understand their origin, meaning and effect, if any.

Although this book contains many precedents, we hope to persuade the reader to regard standard drafts with an independent eye; as a suggestion and not a solution. The solicitor does not serve his client well if he produces to him for execution any standard draft without consideration of individual circumstances.

It is unusual for a single work to discuss both settlements and will trusts. These topics are usually considered in isolation. More care is normally lavished on lifetime settlements than will trusts; this can be measured by the prolixity of a typical settlement, and the brevity of a typical will. But there are few differences of principle between them. If the will drafter took as much care as the trust drafter, then wills (if longer) would be better documents, and beneficiaries better provided for.

This is a practical book but it tries to address the hard questions which do arise in practice. Topics of trust and tax law are discussed so far as they impinge upon trust drafting. General questions of tax and tax planning are not developed here; the topic of drafting requires a book to itself. Drafting suffers if it is regarded as a mere afterthought to the more serious matter of tax planning. But some of the questions which arise are so interesting that this policy is adopted with regret, with the occasional lapse, and only by the exercise of considerable restraint.

Artificial tax avoidance schemes are beyond the scope of this book. When such arrangements are possible, this has sometimes been indicated. In such cases it would be necessary in any event to obtain independent and specialist advice.

Standard trust drafts need regular review, and so do books on the subject.¹ The authors owe to their readers an obligation to keep this work up to date.

We continue to apply to the text the test of practice at the chancery bar. The experience so gained enables us in each new edition to explain some matters a little more clearly, and investigate some problems a little more deeply. The task can never be accomplished to an author's total satisfaction.

Since the last edition Parliament has passed the long awaited Perpetuities and Accumulations Act 2009. This has improved the law for the future but, regrettably, does nothing to help existing trusts so the mess of the pre-2010 law will continue to plague trustees, beneficiaries and their advisors for the next 80 years if not more. A draft Trusts (Capital and Income) Bill has been published,² but when eventually enacted it will make very little difference in practice. Apart from that, we hope for stability of trust law.

The Courts have decided some interesting cases including *Hashem v Shayif* (Variation of marriage settlement), and some wrong cases, which we hope will be corrected on appeal, including *RSPCA v Sharp* and *Sutton v England*.

Stability of tax law seems unattainable. The FA 2006 left the IHT treatment of trusts in a lamentable state; it will have to be rethought from the foundations, no easy task. (The FAs 2009 and 2010 contented themselves with ever more complicated IHT tinkering.) There might be better times around the corner. The June 2010 budget has seen the publication of "Tax policy making: a new approach", which promises stability, simplicity and scrutiny. That would indeed be a new approach. No doubt the new Office of Tax Simplification will have the good wishes of all readers of this book. As it faces its immensely challenging task, it will need them.

¹ "It is very strange that a clause should have been inserted in 1936 in this form. No doubt it was taken from some older and obsolescent precedent in a book of conveyancing precedents." (*Re Brassey* [1955] 1 All ER 577; the drafter had overlooked the Statute of Westminster 1931 in a trustee investment clause.)

² www.justice.gov.uk/consultations/trusts-capital-income-consult.htm.

We remain indebted to many friends and readers who have commented and continue to comment on the text in particular William Chalk, Neil Gilbert, Albert Levy, Anthony Nixon, Christopher Powell, and Karen Shepherd. Responsibility for errors is, of course, our own. As to responsibility for errors in a document which draws on this book, see paragraph 30.3 (Use and misuse of precedents). We have enjoyed writing this book and will be happy if any readers enjoy reading it.

This book attempts to state the law as at September 1, 2010.

This book is now one of a series covering Wills and Trusts in different jurisdictions, which now includes: Australia, Canada, Cayman Islands, Channel Islands, New Zealand, Northern Ireland and Singapore. Books for Bermuda and BVI are now underway. Any reader who is a trust practitioner in Bahrain, Cyprus, Dubai, Hong Kong, Ireland, Mauritius, Scotland, or any other trust jurisdiction, who is sympathetic to the approach of this book, and interested in such a project, should please contact James Kessler.

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TRUSTS DISCUSSION FORUM

Readers are invited to join the Trusts Discussion Forum, an internet discussion group dedicated to discussion of trust and will drafting and related private client topics, founded by the author and now run by STEP.

To subscribe visit *www.trustsdiscussionforum.co.uk*.
There is no charge.

A NOTE TO THE LAY READER

Our advice is not to draft your own trust or will, but find a competent solicitor to advise you. Self-help guides extol “the benefit of bypassing expensive lawyers”; but the bypass may prove the more expensive route in the long run.

This book is not intended as a self-help guide, and is addressed to professional practitioners, but it is readable for a lay person. If you wish to research this subject in depth, and so take more control of your own legal affairs, read on.

DRAFTING QUOTATIONS¹

He offered to read the draft to the plaintiff; but she refused, as she did not understand law terms; and at the time the deed was executed he repeated the offer with a similar result. It appeared that the plaintiff became acquainted with the effect of the settlement very soon after her marriage, and expressed her dissatisfaction therewith . . .

Wollaston v Tribe (1869)

Le style en doit être concis. Les lois des Douze Tables sont un modèle de précision: les enfants les apprenaient par cœur. Le style des lois doit être simple; l'expression directe s'entend toujours mieux que l'expression réfléchie.²

Montesquieu, *De l'Esprit des Lois*, L. XXIX, 1748

Words . . . are the wildest, freest, most irresponsible, most unteachable of all things. Of course, you can catch them and sort them and place them in alphabetical order in dictionaries. But words do not live in dictionaries; they live in the mind. . . . Thus to lay down any laws for such irreclaimable vagabonds is worse than useless. A few trifling rules of grammar and spelling are all the constraint we can put on them. All we can say about them, as we peer at them over the edge of that deep, dark and only fitfully illuminated cavern in which they live—the mind—all we can say about them is that they seem to like people to think and to feel before they use them, but to think and to feel not about them, but about something different. They are highly sensitive, easily made self-conscious. They do not like to have their purity or their impurity discussed. . . . Nor do they like being lifted out on the point of a pen and examined separately. They hang together, in sentences, in paragraphs, sometimes for whole pages at a time.

¹ See www.kessler.co.uk for more drafting quotations.

² “The style ought to be concise. The laws of the Twelve Tables are a model of concision; children used to learn them by heart. The style should also be plain and simple, a direct expression being better understood than an indirect one.”

They hate being useful; they hate making money; they hate being lectured about in public. In short, they hate anything that stamps them with one meaning or confines them to one attitude, for it is their nature to change.

Virginia Woolf, *The Death of the Moth*

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De Vigier v IRC [1964] 1 W.L.R. 1073; [1964] 2 All E.R. 907; 42 T.C. 25; (1964) 43 A.T.C. 223, HL	23.9
Deeny v Gooda Walker Ltd (No.2) [1996] 1 W.L.R. 426; [1996] 1 All E.R. 933; [1996] L.R.L.R. 109; [1996] S.T.C. 299, HL.....	4.10
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DPP v Schildkamp [1971] A.C. 1; [1970] 2 W.L.R. 279; [1969] 3 All E.R. 1640; (1970) 54 Cr. App. R. 90, HL.....	3.19
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Eland v Baker, 54 E.R. 579; (1867) 29 Beav. 137, Ct of Chancery.....	7.33
Equity & Law Life Assurance Society Plc v Bodfield Ltd (1987) 54 P. & C.R. 290; [1987] 1 E.G.L.R. 1248, CA (Civ Div).....	4.10
Esteem Settlement, The [2001] J.L.R. 7, CA (Jersey).....	5.6
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Foskett v McKeown [2001] 1 A.C. 102; [2000] 2 W.L.R. 1299; [2000] 3 All E.R. 97; [2000] Lloyd's Rep. I.R. 627; [2000] W.T.L.R. 667; (1999-2000) 2 I.T.E.L.R. 711, HL.....	24.12