

David Goddard QC

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CURRICULUM VITAE

Qualifications

BA (Victoria University of Wellington) 1982
BA (Hons) (Victoria University of Wellington) 1983
BA (Hons) (Oxon) 1986
MA (Oxon)
Admitted to the bar of England and Wales: 1988
Admitted to the New Zealand bar: 1989
Appointed Queen's Counsel: 2003

Education

David studied mathematics and French at Victoria University of Wellington, obtaining a first class honours degree in mathematics and the Sir Robert Stout Scholarship for the best first degree in the University across all faculties. He began his legal studies in New Zealand, then studied law at Oxford University (on a Rhodes Scholarship), obtaining a first class honours degree.

Employment

After finishing his studies at Oxford, David spent two years as a lecturer in law at Bristol University. He returned to New Zealand to join Chapman Tripp (a leading New Zealand law firm) in late 1988. He was a litigation partner at that firm from 1991 to 1998. He began practice as a barrister sole in 1999.

From 2001 to 2003 David held a part-time appointment as Special Counsel – International with the New Zealand Ministry of Economic Development, advising on cross-border coordination of business laws.

In 2003 David was appointed Queen's Counsel. He continues to practise at the bar, with chambers in Wellington and Auckland.

Litigation practice

David Goddard specialises in appellate advocacy, appearing frequently before the Court of Appeal and the Supreme Court in a wide range of commercial and public law cases. He has argued some 25 cases in the Supreme Court, including appearances for the Crown in major public law and Treaty of Waitangi cases. David's areas of particular expertise include competition law and regulation, administrative law, constitutional law, contract law, equity and trusts, company law and international law. He is identified by the Chambers & Partners guide as one of New Zealand's top-ranked ("Band 1") barristers.

David has also appeared as counsel before arbitral tribunals, and before the courts of Fiji, Samoa and Vanuatu. He has extensive experience representing clients in mediations and other forms of alternative dispute resolution.

David has been appointed as an arbitrator to determine a number of commercial disputes. He is an Associate Member of the Arbitrators' and Mediators' Institute of New Zealand (AMINZ), and a member of the AMINZ Arbitration Panel and the Arbitration Appeal Panel. In 2011 David was appointed as a member of the Commonwealth Secretariat Appeals Tribunal.

Legal policy practice

David also has a substantial involvement in legal policy advice. His policy practice focuses on advising governments and intergovernmental organisations on reform of commercial laws and institutions to facilitate market activity and economic development.

Projects which David has undertaken include advising Parliamentary Committees and Government Departments on a wide range of commercial law and cross-border issues; representing the New Zealand Government in negotiations with Australia on a number of legal coordination initiatives; conducting a Ministerial Inquiry into Accident Compensation Funding and Accreditation of Physiotherapy Services; and providing policy advice on commercial law and governance issues to Governments and intergovernmental organisations in Bangladesh, Hong Kong, Jamaica, Niue, Samoa, Sri Lanka, Tonga and Vietnam.

David prepared draft legislation for the New Zealand Law Commission's company law reform project in 1988 to 1990, and for its contract statutes review in 1993. He has drafted companies legislation for Sri Lanka, Niue and Samoa.

David was a member of a working group established by the New Zealand and Australian Governments to review arrangements for service of process and enforcement of judgments as between New Zealand and Australia. The Working Group report resulted in a Treaty providing for a major simplification and alignment of the two countries' laws in this field, implemented by legislation in both countries which came into force in 2013. The project had its origins in a paper written by David in 2003.

David has represented the New Zealand Government at a number of meetings of the Hague Conference on Private International Law, from 1999 onwards. He was a Vice-President of the Diplomatic Conference which adopted the Convention on Choice of Court Agreements in 2005. He is currently the chair of a working group established by the Hague Conference in 2012 to prepare proposals in relation to provisions for inclusion in a future instrument relating to recognition and enforcement of judgments.

Teaching and writing

In addition to lecturing at Bristol University from 1986 to 1988, David has taught LLM courses on regulation at Victoria University in Wellington, New Zealand, and at Monash University in Melbourne, Australia.

David is the moderator of the contract law papers of the six New Zealand university law schools, appointed by the Council of Legal Education. He is a member of the editorial board of the *Journal of Private International Law*.

David was for many years chair of the New Zealand Law Society's Continuing Legal Education Committee. He was the legal profession's representative on the board of the Institute of Judicial Studies from 2009 – 2011.

David writes and speaks extensively in his areas of interest. He and a colleague are the authors of New Zealand's most widely-used text on private international law. A list of publications is attached.

February 2016

PUBLICATIONS

Books and contributions to books

Conflict of Laws: the international element in commerce and litigation (New Zealand Law Society seminar booklet, 1991)

“Execution of Documents by Companies” in Prebble (ed) *Dimensions in Business Finance Law* (Butterworths, Wellington, 1992)

New Zealand section of *International Execution against Judgment Debtors* (Oceana Publications Inc, New York) (with Helen McQueen)

Company Law I - Getting started (New Zealand Law Society seminar booklet, 1994) (with Sian Elias QC, Jack Hodder, David Stock)

Morison's Company Law (5th ed, Butterworths, Wellington, 1994) chapters 6 (Reregistration), 13 (Nature and issue of shares), 15 (Share buybacks and financial assistance), 16 (Shareholders' rights and obligations) 46 (Amalgamations) and 48 (Court-approved arrangements, amalgamations and compromises)
(chapters 13, 16, 46 and 48 revised and updated with Liesle Theron 2010 – 2013)

“Conflict of Laws: Jurisdiction and Foreign Judgments” title of *The Laws of New Zealand* (Butterworths, Wellington)

Developments in the Law of Obligations - tort, equitable duties and the effect of contractual relationships (New Zealand Law Society seminar booklet, 1996) (with Professor Charles Rickett)

“Corporate Personality: Limited Recourse and its Limits” in Grantham and Rickett (eds) *Corporate Personality in the 20th Century* (Hart Publishing, Oxford, 1998)

Deception in Commercial Dealings (New Zealand Law Society seminar booklet, 1999) (with Terence Arnold QC)

Private International Law in New Zealand (New Zealand Law Society seminar booklet, 2001) (with Helen McQueen)

“Business laws and regulatory institutions: some approaches to CER coordination” in A Grimes, L Wevers & G Sullivan (eds) *States of Mind: Australia and New Zealand 1901 – 2001* (Institute of Policy Studies & Stout Research Centre, 2002).

“Company Law Reform – Lessons from the New Zealand Experience” in A Borrowdale, D Rowe and L Taylor (eds) *Company Law Writings – A New Zealand Collection* (Centre for Commercial and Corporate Law Inc, 2002) (revised version of article published at (1998) 16 C&SLJ 236))

“Contracts that Lessen Competition – what is section 27 for, and how has it been used?” (with Professor Dennis Carlton) in M Berry & L Evans (eds), *Competition Law at the Turn of the Century: a New Zealand Perspective* (Victoria University Press, 2003)

“Cross-Border Issues” in *Legislation Advisory Committee Guidelines* (2003 edition)

Drafting Better Pleadings (New Zealand Law Society seminar booklet, 2006)

Deception in Commercial Dealings (New Zealand Law Society seminar booklet, 2008) (with Hon Justice Arnold)

Drafting Better Court Documents (New Zealand Law Society seminar booklet, 2009)

Private International Law – litigating in the trans-Tasman context and beyond (New Zealand Law Society seminar booklet, 2012) (with Professor Campbell McLachlan QC)

Drafting Better Court Documents (New Zealand Law Society seminar booklet, 2013)

“The Fruits of the Judgments Project” in *A Commitment to Private International Law: Essays in honour of Hans van Loon* (Permanent Bureau of Hague Conference on Private International Law, April 2013)

“The First Ten Years of the Supreme Court: an Advocate’s View” in Stockley, A; Littlewood, M (eds), *The New Zealand Supreme Court: The First Ten Years* (LexisNexis, 2015) (forthcoming)

Articles and selected papers

“The Myth of Subjectivity” [1987] *Legal Studies* 263

“Equity, Volunteers and Ducks” [1988] *The Conveyancer and Property Lawyer* 19

“Insolvent Trusts and Third Party Contracts” (1987) 2 *Trust Law and Practice* 51

“Solicitors’ Liability to Third Parties: *Clarke v Bruce Lance & Co*” (1988) 4 *Professional Negligence* 129

“The Reciprocal Enforcement of Judgments Amendment Act 1992: a half step towards CER” (1992) *NZ Recent Law Review* 180

“New Zealand’s contract statutes: international transactions” in *New Zealand Law Commission Contract Statutes Review* (NZLC Report 25, 1993)

Book review: *Cheshire and North’s Private International Law (12th ed)* [1993] *NZLJ* 71

“Seals: more dangerous than endangered” [1994] *Butterworths Company and Securities Law Bulletin* 38

“Contracts to issue shares under the Companies Act 1993” [1995] *Butterworths Company and Securities Law Bulletin* 18

“Disclosure in Annual Reports: the season is upon us” [1995] *Butterworths Company and Securities Law Bulletin* 58

“Convergence in corporations laws-towards a facilitative model” (1996) 26 *VUWLR* 191

“Taking Regulation Sceptically” - comment on paper by Professor Michael Trebilcock in *Deregulation of Public Utilities: Current Issues and Perspectives* (Centre for Corporate Law and Securities Regulation, University of Melbourne, 1996)

“Paying Dividends in the Course of Litigation - Solvency Test Issues” [1996] *Butterworths Company and Securities Law Bulletin* 146.

“Long term contracts: a law and economics perspective” [1997] *NZ Law Review* 423

“The 1993 Act comes into its own” [1997] *Butterworths Company and Securities Law Bulletin* 94.

“Company Law Reform – Lessons from the New Zealand Experience” (1998) 16 *C&SLJ* 236

“Tort Liability of Directors; Compromises with Creditors” [1998] *Butterworths Company and Securities Law Bulletin* 62.

“Voidable preferences: when is a creditor preferred?” [1999] *Butterworths Company and Securities Law Bulletin* 10

“Global Disputes - Jurisdiction, Interim Relief and Enforcement of Judgments” (paper presented to New Zealand Triennial Law Conference, Rotorua, April 1999)

“Directors and corporate groups – the New Zealand experience” (paper presented to Law Council of Australia 1999 Corporate Law Workshop, Sydney)

“Making Business Law – the CER Dimension” (paper commissioned by NZ Ministry of Commerce, August 1999)

“Directors’ liability for trading while insolvent: a critical review of the New Zealand regime” in *Company Directors’ Liability for Insolvent Trading* (Centre for Corporate Law and Securities Regulation, University of Melbourne, 2000)

“Security of Contract – why it matters, and what that means” (paper presented to 10th annual Journal of Contract Law Conference, Auckland) (2000) 6 NZBLQ 82, (2000) 16 JCL 123

“Does the Internet require new norms?” *International Law FORUM du droit international* 2: 183-195, 2000

“Cross-border dispute resolution in civil and commercial cases: current developments and new proposals” in *International Legal Challenges for the Twenty-First Century* (Proceedings of a Joint Meeting of the Australian and New Zealand Society of International Law and the American Society of International Law, 26 – 29 June 2000)

“Contracts that Lessen Competition – what is section 27 for, and how has it been used?” (paper presented to Competition Law Conference, November 2000, with Professor Dennis Carlton, University of Chicago)

“Rethinking the Judgments Convention – a Pacific Perspective” *Yearbook of Private International Law* 2001, Volume 3 (2001), pp. 27-62

“Cross-border fraud: is our civil law adequate?” (paper presented to LawAsia Conference/New Zealand Law Conference, Christchurch, October 2001)

“Business laws and regulatory institutions: some approaches to CER coordination” (paper presented to Institute of Policy Studies/Stout Research Centre conference “States of Mind”, Wellington, November 2001)

“Trans-Tasman Legal Coordination – The Next Frontiers” (paper presented to Australian and New Zealand Society of International Law Conference 2003, Wellington NZ)

“Relationship Property Disputes – the International Element” (paper presented to New Zealand Law Society Family Law Conference, Auckland 2003)

“Shareholder approval of directors’ decisions” (paper presented to LexisNexis Corporate Law Masterclass, Auckland, November 2004)

“Section 98 of the Commerce Act 1986: where do the limits lie?” (paper presented to Competition Law & Policy Institute Workshop, Wellington, August 2006)

“Regulatory Error: Review and Appeal Rights” (paper presented to Legal Research Foundation Conference, Auckland, September 2006)

“Case study: Trans-Tasman Court Proceedings And Regulatory Enforcement” (paper presented to Legal Research Foundation Conference, Wellington, March 2007)

“ ‘Are we there yet?’: is there a contract, and what does it contain?” (paper presented to New Zealand Law Society Law of Obligations Intensive, Auckland and Wellington, July 2007)

“Review for error of law – some comments” (paper presented to New Zealand Law Society Judicial Review Intensive, Wellington, September 2007)

“Contract Law Update” (paper presented to New Zealand Law Society Commercial Law Intensive, Wellington and Auckland, May 2010)

“Public Law and Regulation” (paper presented to New Zealand Law Society Public Law Conference, Wellington, March 2011)

“Legal Innovation To Support Trans-Tasman Coordination” (paper presented to Journal of Private International Law Roundtable, Auckland, December 2013)