

CAYMAN ISLANDS



Supplement No. 4 published with Extraordinary
Gazette No. 93 dated 23rd November, 2016

THE TRUSTS (AMENDMENT) LAW, 2016

(LAW 26 OF 2016)

THE TRUSTS (AMENDMENT) LAW, 2016

ARRANGEMENT OF SECTIONS

1. Short title
2. Amendment of section 4 of the Trusts Law (2011 Revision) - power of appointing new or additional trustees
3. Amendment of section 6 - supplemental provisions as to appointment of trustees
4. Amendment of section 8 - retirement of trustee without new appointment
5. Amendment of section 14 - reserved powers
6. Amendment of section 21 - power to compound liabilities
7. Insertion of section 23A - equivalent of the Law of Property Act 1925 of Parliament- validation of appointments if objects are excluded or take illusory shares
8. Amendment of section 25 - power to insure
9. Amendment of section 71 - charitable purposes
10. Amendment of section 105 - trust corporation
11. Amendment of section 110 - application of Law
12. Insertion of new Part X - other transitional provisions

CAYMAN ISLANDS

Law 26 of 2016.

I Assent

Helen Kilpatrick

Governor.

16th November, 2016

**A LAW TO AMEND THE TRUSTS LAW (2011 REVISION), TO
CORRECT DEFICIENCIES AND TECHNICAL ERRORS IN THAT
LAW; AND FOR INCIDENTAL AND CONNECTED PURPOSES**

ENACTED by the Legislature of the Cayman Islands.

1. This Law may be cited as the Trusts (Amendment) Law, 2016. Short title
2. The Trusts Law (2011 Revision), in this Law referred to as the “principal Law”, is amended in section 4(1) by deleting the words “remains out of the Islands for more than twelve months,” and the words “remaining out of the Islands,”. Amendment of section 4 of the Trusts Law (2011 Revision) - power of appointing new or additional trustees
3. The principal Law is amended by repealing section 6(c) and substituting the following paragraph - Amendment of section 6 - supplemental provisions as to appointment of trustees
“(c) it shall not be obligatory to appoint more than one new trustee where only one trustee was originally appointed, or to fill up the original number of trustees where more than two trustees were originally appointed, but (except if either (i) the trust was created before 11 May 1998 and the trustee has by deed executed by the trustee extended the Trusts (Amendment) (Immediate Effect and Reserved Powers) Law, 1998 to the trust or (ii) the trust was created on or after 11 May 1998 and, in either case, either (iii) only one trustee was originally appointed or (iv) a contrary intention is expressed in, or evidenced by, the trust instrument) a trustee shall not be discharged from the trust unless there is either a trust corporation or at least two individuals to act as trustees

to perform the trust; and”.

Amendment of
section 8 - retirement of
trustee without new
appointment

4. The principal Law is amended in section 8 by inserting after subsection (2) the following subsection -

“(3) Subject to section 113(2), the requirement under subsection (1) for there to be a trust corporation or at least two individuals to act as trustees to perform the trust does not apply if -

- (a) only one trustee was originally appointed; or
- (b) a contrary intention is expressed in, or evidenced by, the trust instrument.”.

Amendment of
section 14 - reserved
powers

5. The principal Law is amended in section 14 as follows -

- (a) in subsection (1), by inserting after the words “a trust of” the words “any or all of the following”; and
- (b) in subsection (1)(b), by inserting after the word “capital” the words “, or both,”.

Amendment of
section 21 - power to
compound liabilities

6. The principal Law is amended in section 21 by deleting the words “A personal representative, or two or more trustees acting together,” and substituting the words “A personal representative or trustee”.

Insertion of section
23A - validation of
appointments if objects
are excluded or take
illusory shares

7. The principal Law is amended by inserting after section 23 the following section -

“Validation of
appointments if
objects are excluded
or take illusory shares

23A. (1) An appointment made in exercise of a power to appoint property among two or more objects is not invalid on the ground that -

- (a) an unsubstantial, illusory, or nominal share only is appointed to, or left unappointed to devolve upon, any one or more of the objects of the power; or
- (b) an object of the power is altogether excluded because of the exercise.

(2) Any such appointment is valid despite the fact that any one or more of the objects is not, because of the exercise or default of appointment, to take any share in the property.

(3) This section does not affect a provision in the instrument creating the power declaring the amount of any share from which an object of the power is not to be

excluded.”.

8. The principal Law is amended in section 25(1) by deleting the words “by fire” and substituting the words “due to any event”. Amendment of section 25 - power to insure
9. The principal Law is amended in section 71 by deleting the words “in part”. Amendment of section 71 - charitable purposes
10. The principal Law is amended in section 105(2), definition “trust corporation” by deleting the words “as a private trust company under that Law” and substituting the words “under that Law as a controlled subsidiary or private trust company”. Amendment of section 105 - trust corporation
11. The principal Law is amended in section 110 as follows - Amendment of section 110 - application of Law
 - (a) by deleting the marginal note and substituting the following marginal note “Saving and transitional provisions for Law as originally enacted”;
 - (b) in subsection (1), by deleting the words “Subject to subsection (4), this Law” and substituting the words “This Law”; and
 - (c) by repealing subsection (4).
12. The principal Law is amended by inserting after Part IX the following Part - Insertion of new Part X - other transitional provisions

“PART X - OTHER TRANSITIONAL PROVISIONS

“Transitional provision for sections 13 to 15

112. Sections 13 to 15 only apply to a trust if -

- (a) the trust was created on or after the 11th May, 1998; or
- (b) the sections are or have been expressly extended to apply to the trust by a deed executed by its trustees.

Transitional provisions for Trusts (Amendment) Law, 2016

113. (1) This section applies to the amendments to this Law under the Trusts (Amendment) Law, 2016.

(2) Section 8(3) only applies to a trust if -

- (a) it was created on or after 11th May 1998; or
- (b) section 8(3) is expressly extended to apply to the trust by a deed executed by its trustee.

(3) The following apply, and are deemed to have always applied, to all trusts whenever created -

- (a) the amendments to sections 14 and 71; and

(b) section 23A.

(4) The amendments to section 105(2) are deemed to have taken effect on and from 7th August 2008.”.

Passed by the Legislative Assembly the 24th day of October, 2016.

Juliana O’Connor-Connolly

Speaker.

Zena Merren-Chin

Clerk of the Legislative Assembly.