

CAYMAN ISLANDS



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**THE TRUSTS (FOREIGN ELEMENT)  
(AMENDMENT) LAW, 1995  
(LAW 6 OF 1995)**

CAYMAN ISLANDS

Law 6 of 1995

I Assent

MICHAEL J. GORE  
Governor

12th July, 1995

**A LAW TO AMEND THE TRUSTS  
(FOREIGN ELEMENT) LAW, 1987**

ENACTED by the Legislature of the Cayman Islands.

Short title.

1. This Law may be cited as the Trusts (Foreign Element) (Amendment) Law, 1995.

Amendment of  
section 1.

2. Section 1 of the Trust (Foreign Element) Law, 1987, in this Law referred to as "the principal Law", is amended by repealing the words "the Trust (Foreign Element) Law, 1987" and substituting the words "the Trusts (Foreign Element) Law, 1987".

Amendment of  
section 2.

3. Subsection (1) of section 2 of the principal Law is amended by substituting the following new definition of "heirship right" -

""heirship right" means any right, claim or interest in, against or to property of a person arising, accruing or existing in consequence of, or in anticipation of, that person's death, other than any such right,

claim or interest created by will or other voluntary disposition by such person or resulting from an express limitation in the disposition of the property to such person."

Amendment of section 5.

4. Paragraph (e) of section 5 is amended by repealing the word "real" and substituting the word "immovable".

Amendment of section 6.

5. Section 6 of the principal Law is repealed and the following new section is substituted -

" Exclusion of foreign law.

6. Subject to the same provisos as set out in paragraphs (a) to (f) inclusive of section 5, it is expressly declared that no trust governed by the laws of the Islands and no disposition of property to be held upon the trusts thereof is void, voidable, liable to be set aside or defective in any fashion, nor is the capacity of any settlor to be questioned, nor is the trustee or any beneficiary or any other person to be subjected to any liability or deprived of any right, by reason that -

- (a) the laws of any foreign jurisdiction prohibit or do not recognise the concept of a trust; or
- (b) the trust or disposition avoids or defeats rights, claims or interests conferred by foreign law upon any person by reason of a personal relationship to the settlor or by way of heirship rights, or contravenes any rule of foreign law or any foreign judicial or administrative order or action intended to recognise, protect, enforce or give effect to any such rights, claims or interests."

New sections 6A and 6B.

6. The principal Law is amended by the insertion, immediately following section 6, of the following new sections -

" Heirship rights.

6A. An heirship right conferred by foreign law in relation to the property of a living person shall not be recognised as -

- (a) affecting the ownership of immovable property in the Islands or movable property wherever situate for the purposes of paragraph (a) of section 5 or for any other purpose; or
- (b) constituting an obligation or liability for the purposes of the Fraudulent Dispositions Law, 1989 or for any other purpose.

Foreign Judgments.

6B. A foreign judgment shall not be recognised or enforced or give rise to any estoppel insofar as it is inconsistent with section 6 or section 6A."

Application.

7. This Law applies to every trust and every disposition of property in trust made before or after the commencement of this Law, whether such property is situate in the Islands or elsewhere.

Passed by the Legislative Assembly the 21st day of June, 1995.

SYBIL McLAUGHLIN  
Speaker.

GEORGETTE MYRIE  
Clerk of the Legislative Assembly.