

BULLETIN

The Cayman Islands Trusts (Amendment) Law 2016

The Trusts (Amendment) Law 2016 was gazetted on the 23 November, 2016. It has made a number of welcome amendments to the Trusts Law (2011 Revision) (the "Principal Law").

The main amendments are as follows:

1. The fact that a trustee is outside of the jurisdiction for more than 12 months is no longer a basis for removing the trustee from office.
2. It is not 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. However, an existing trustee cannot be discharged from his duties unless there is either a trust corporation or a minimum of two individuals to act as trustees. These rules do not apply where either:
 - (i) the trust was created before 11 May 1998 and the trustee has by deed 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 only one trustee was originally appointed or a contrary intention is expressed in, or evidenced by, the trust instrument.
3. The amendment has clarified that a settlor may reserve the power to appoint both capital and income under a Trust. This was previously unclear under the Principal Law.
4. The Principal Law previously gave the trustee power to insure property for fires only. The amendment gives the trustee power to insure the property for any eventuality.
5. The common law rule requiring a trustee to appoint at least something to every beneficial object has been removed.
6. The trustee of a Star Trust is no longer restricted to Cayman Islands' licensed trust companies and private trust companies. A trustee may now also be a controlled subsidiary of a Cayman Islands' licensed trust company.

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