

TRUSTS (AMENDMENT) BILL 2014

EXPLANATORY NOTES

These notes are circulated for the information of Members with the approval of the Member in charge of the Bill, Mr R W Henderson MHK.

1. Introduction

These explanatory notes relate to the Trusts (Amendment) Bill 2014. They have been prepared by the Treasury in order to assist readers of the Bill. They do not form part of the Bill and have not been endorsed by the House of Keys.

The notes need to be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill.

2. Background

The Bill will address three small areas within the Island's suite of trust legislation. The legislation that will be amended by this Bill is detailed below:

- (a) In the Trustee Act 1961 the requirement for there to be two individual trustees or a trust corporation to be in place in certain circumstances is to be removed;
- (b) The amendment to the Trustee Act 1961 results in consequential amendments needing to be made to the Settled Land Act 1891;
- (c) Amendments to the Perpetuities and Accumulations Act 1968 will remove the requirement for future dispositions of trust property to vest before the expiry of a statutory perpetuity period; and
- (d) An amendment to the Trusts Act 1995 will widen the exclusions of foreign law concerning trusts governed by Isle of Man law.

3. Overview of Clauses

3.1 Clause 1 sets out the short title of the Bill.

3.2 Clause 2 provides for the commencement of the Bill.

Sub-section (1) provides that the Act is to come into force on an appointed day or days.

Sub-section (2) provides that such an order may contain transitional and saving provisions.

3.3 Clause 3 provides for the consequential amendment of the Settled Land Act 1891. This will enable a settlement under that Act to have one or more trustees (to give valid receipt for capital money) instead of the current position which requires that there are two trustees or a trust corporation in place (or the settlement otherwise provides).

- 3.4 Clause 4 amends the Trustee Act 1961. This amendment will permit a sole trustee that is not a trust corporation to give valid receipt for trust property and will clarify that a trust need only have one trustee (unless the trust otherwise provides).
- 3.5 Clause 5 amends the Perpetuities and Accumulations Act 1968 so as to abolish the rule against perpetuities in relation to future dispositions. This clause also provides the option to create a trust for a specified ascertainable period.
- 3.6 Clause 6 amends the Trusts Act 1995. It does this by:
- (a) widening the exclusion of foreign legal provisions when determining the validity of a trust governed by the laws of the Island or the capacity of the persons connected with it; and
 - (b) excluding the recognition or enforcement of foreign court judgments in so far as these would be inconsistent with the Trusts Act 1995, unless the High Court orders that the judgments are to be recognised.
- 3.7 Clause 7 makes provision for the expiry of the resultant Act either on the day after it comes into effect or, if not all provisions are brought into effect immediately, the day after the last provision comes effect.

This will not affect the validity of the amendments and is simply a matter of "housekeeping" to ensure that the statute books are not cluttered unnecessarily.

OTHER POINTS

The Bill —

- (a) will come into operation by Appointed Day Order;
- (b) is not expected to give rise to any additional public expenditure or public revenue; and
- (c) is considered to be compatible with the Convention rights within the meaning of the Human Rights Act 2001.