

Key Facts Trusts

The Trusts (Jersey) Law, 1984 as amended (the Law), is widely regarded as having established the standard for offshore trust legislation. The Law is a codification of common law trust principles and is held in high regard by international advisers.

Amendment No. 4 to the law passed in November 2006 has modernised the trust law in Jersey by legislating for Jersey's supremacy in matters of jurisdiction, confirming the existence and extent of powers reserved to Settlers, providing for trusts of unlimited duration and removing automatic liability of Directors of Corporate Trustees for breach of trust.

The Law contains the following provisions of note:

- The Royal Court of Jersey will have jurisdiction where the proper law of a trust is Jersey, or where the Trustee of a foreign trust is resident in Jersey, or trust property of a foreign trust is situate in Jersey, or the administration of any trust property of a foreign trust is carried out in Jersey.
- None of the Settlor, the Instigator, the Trustees nor any of the Beneficiaries under a Jersey trust need be residents of Jersey.
- The Beneficiaries must be identifiable by name or ascertainable by reference to a class.
- The maximum duration of a Jersey proper law trust is unlimited.
- The proper law of a Jersey trust may be changed to the law of another jurisdiction.
- No trust may be created over immovable property situate in Jersey.

- Income of the trust may be accumulated.

- A trust must have at least one Trustee and a trust will not fail for having fewer Trustees than required by the Law or the trust instrument.

No government duties or fees are payable with respect to the execution of a Jersey trust. Trusts are not required to be registered.

The Trusts (Amendment) (Jersey) Law 1989 specifically covers the question of forced heirship rules in civil law countries. The Law provides that if a person domiciled outside Jersey transfers or disposes of property during his lifetime to a trust then:

- He shall be deemed to have had capacity to do so if at the time of such transfer or disposition he was of full age and sound mind.

- No rule relating to inheritance or succession of the law of his domicile shall affect any such transfer or disposition or otherwise affect the validity of such trusts.

These amendments are further strengthened by Amendment No. 4.

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