



Wills and trusts: rule against perpetuities is abolished



September 27 2012 | Contributed by Lennox Paton

Private Client & Offshore Services, Bahamas

The Rule Against Perpetuities (Abolition) Act 2011 has abolished the rule against perpetuities in relation to wills and trusts.

As a result, there is no longer a prohibition on trusts of "excessive duration" and trusts created on or after December 30 2011 do not require a perpetuity period to be incorporated into the trust instrument.

Although the rule has not been abolished retrospectively, Section 4(1) of the act provides that in relation to any disposition of an interest in property made before the commencement of the act, a trustee may apply to the court for an order declaring that the act shall apply to the disposition.

In addition, as a result of amendments to the Trustee Act, Section 71 ("Power of Court to Authorise Dealings with Trust Property") of that act now provides that application can be made to the court by the trustees or by any person beneficially interested in relation to trusts created before December 30 2011 to extend the perpetuity period described in the trust instrument for any period not exceeding 150 years.

Therefore, the aforementioned parties that do not wish to approach the court to apply the act to pre-act trusts are given an opportunity to extend the perpetuity period stated therein.

With the abolition of the rule against perpetuities, settlors and testators now have greater flexibility in relation to estate planning. Furthermore, trustees will be in a position to accumulate trust income for such period as they think appropriate given the particular needs of a trust.

With the revised legislation, the Bahamas has shown its commitment to maintaining its competitive position as a leader in the area of private wealth management.

For further information on this topic please contact Arthur Seligman at Lennox Paton by telephone (+1 242 502 5000), fax (+1 242 328 0566) or email (aseligman@lennoxpaton.com).

The materials contained on this website are for general information purposes only and are subject to the disclaimer.

ILO is a premium online legal update service for major companies and law firms worldwide. In-house corporate counsel and other users of legal services, as well as law firm partners, qualify for a free subscription.



Arthur Seligman