

Bills Committee on Trust Law (Amendment) Bill 2013

**Follow-up actions to be taken by the Administration
for the meeting on 4 June 2013**

Proposed abolition of the rule against perpetuities

1. At members' request, the Administration was to provide the following information (to be collected from the industry if necessary), to facilitate their consideration of the proposed abolition of the rule against perpetuities ("RAP") --

- (a) the seven overseas trust jurisdictions which permitted perpetual trusts and the background which led to their decisions to abolish RAP; and
- (b) the impact of the Singapore's decision to relax RAP by extending the perpetual period to 100 years on its trust business.

Clause-by-clause examination of the Bill

Existing Section 4 of the Trustee Ordinance – Authorized investments

2. Section 4(1)(b) stipulates that a trustee may invest any trust funds in his hands, whether at the time in a state of investment or not, in any other investment (including deposits in a bank outside Hong Kong) which may be authorized by the court on summary application for that purpose made in chambers. The Administration was requested to review whether the requirement that the authorization should be made by the court on summary application in chambers was necessary; and if not necessary, whether the relevant part of the provision would be removed.

Clause 27 –Part IVA to IVD added

3. Some members expressed concern on new section 41(W), which was about the proposed statutory control of trustees' exemption clauses. They opined that the meaning of "fraud, willful misconduct or gross negligence" might not be clear under the Bill. The Administration was requested to consider Hon Dennis KWOK's proposed amendments (tabled at the meeting) to this new section.

Clause 40 – Third and Fourth Schedules added

4. Regarding section 1(b) of the new Third Schedule (Application of Statutory Duty of Care), the Administration was requested to consider whether section 6 (discretion of trustees) of the Trustee Ordinance should not be included.

Council Business Division 1
Legislative Council Secretariat
11 June 2013