

REPUBLIC OF CYPRUS
THE INTERNATIONAL TRUSTS LAW OF 1992

A LAW TO PROVIDE FOR REGULATION OF INTERNATIONAL TRUSTS

PART I - INTRODUCTION

The House of Representatives enacts as follows:

Short title.

1. This Law may be cited as the International Trusts Law of 1992.

Interpretation.

2. In this Law, unless the context otherwise requires -

“Court” means the President of a District Court or a Senior District Judge of the district where the trustees or the trustee of the international trust or any one of them who is a resident of the Republic have their residence;

“immovable” has the meaning assigned to this term by the Trustee Law;

“international trust” means a trust in respect of which -

- (a) The settlor is not a permanent resident in the Republic;
- (b) at least one of the trustees for the time being is a permanent resident in the Republic;
- (c) none of the beneficiaries, other than a charitable institution, is not a permanent resident of the Resident of the Republic;
- (d) the trust property does not include any immovable property situated in the Republic;

Provided that a trust shall not fail to qualify as an international trust by reason only that either the settlor or the trustee mentioned in paragraph (b) or any one or more of the

beneficiaries is a partnership or company qualifying under Section 8Y or Section A, of the Income Tax Laws, respectively.

“purpose trust” or “trust for a purpose” means a trust other than -

- (a) Trust with beneficiaries certain individual or legal persons readily ascertainable or not, and
- (b) trust with beneficiaries the whole of certain individuals or legal persons which are ascertained with reference to some personal relation or affinity;

“trust” has the meaning assigned to such term by the Trustee Law and includes also the bequest;

“trustee” means the trustee of the trust or the trustee and includes legal and individual persons.

PART II - PROVISIONS APPLICABLE TO INTERNATIONAL TRUSTS

Validity of international trust.

3.(1) A Settlor who transfers or disposes in any other way an asset to an international trust shall be deemed to have the capacity so to do if such person is at the time of such transfer or disposal of full age and of sound mind, under the law of the country of which he is permanent resident. The law in force in the Republic or in any other country relating to inheritance or succession shall not affect in any way such transfer or disposition or otherwise affect the validity of such international trust.

(2) An International Trust shall not be void or voidable in the event of the settlor’s bankruptcy or liquidation or in any action or proceedings against the settlor at the suit of his creditors notwithstanding any provisions of the law of the Republic or of the law of any country and notwithstanding further that the trust is voluntary and without consideration having been given for the same, or is made on or for the benefit of the settlor, the spouse or children of the settlor or any of them, unless and to the extent that it is proven to the satisfaction of the Court that the international trust was made with the intent to defraud the creditors of the settlor at the time when the payment or transfer of assets was made to the trust. The onus of proof of such intent lies on his creditors.

(3) An action against a trustee of an international trust pursuant to the provisions of subsection (2) must be brought within a period of two years from the date when the transfer or disposal of assets was made to the trust.

Presumption against avoidance of international trust.

4. Unless an international trust contains an express power of revocation it shall be deemed to be irrevocable by the settlor or his legal personal representatives, notwithstanding that it is voluntary.

Duration of international trust.

5.(1) For the purposes of this Law and notwithstanding any legal provision to the contrary, or of a rule of law of the Republic or of any other country the duration period of an international trust may continue until the one hundredth anniversary of the date on which it came into existence when it will terminate, unless terminated sooner due to a relevant direction in the instrument creating it or for any other reason.

(2) Subsection (1) shall not apply to charitable trusts or trusts for a purpose referred to in this Law which may continue in force without any time limitation.

Validity of terms of non distribution of income.

6. A direction in an instrument creating an international trust for non distribution of income is valid for any period within the duration of the trust.

Charitable trusts and trusts for a purpose.

7.(1) Notwithstanding the provisions of the Constitution of the Republic of Cyprus and notwithstanding any legal provision to the contrary of the law of the Republic or the law of any country, an international trust shall be deemed to be charitable where the trust has as main object the achievement of one or more of the following:

- (a)* The relief of poverty;
- (b)* the advancement of education;
- (c)* the advancement of religion;
- (d)* other purposes beneficial to the public as a whole.

(2) An international trust established for one or more of the objects or purposes set out in subsection (1) shall be deemed to be charitable, notwithstanding that -

- (a)* The object or purposes are not of a public nature or for the benefit of the public, but may benefit a section of the public, or that it may also benefit

privately one or more persons or objects or persons within a class of persons; or

- (b) the international trust is liable to be amended or to be terminated whether by the exercise of a power of appointment or disposition of assets; or
- (c) the trustee has the power to defer the distribution of the benefits to any charity of the trust for a period not exceeding the period of the trust; or
- (d) the international trust is or is deemed to be in the class of discretionary trusts.

(3) Notwithstanding any legal provision to the contrary of the law of the Republic or the law of any other country, an international trust shall not be void or voidable by reason only that the trust is a trust for a purpose, provided that when the trust is not a perpetual trust or when it may be terminated, the instrument creating the trust shall specify the event or the events upon which the trust terminates and provides for the disposition of the net assets of the trust upon its termination. An international trust so created shall be enforceable by the settlor or his personal representatives or by the person or persons named in the instrument establishing the trust as the person or persons appointed to enforce the trust and the trust shall be enforceable at the instance of the person or persons so named notwithstanding that such person or persons are not beneficiaries under the trust.

Authorised investments.

8. Subject to the provisions of the instrument creating an international trust, the trustee may at any time invest the whole or any part of the trust funds in any kind of investment:

- (a) Wherever the investment is situated; and
- (b) whether or not the funds have already been invested.

(2) The trustee may vary the investment or retain it in its original state, as long as he exercises the diligence and prudence that a reasonable person would be expected to exercise in making investments.

Power to change the applicable law of the international trust.

9. If the terms of an international trust so provide the applicable law of the trust may be changed to or from the law of the Republic provided that:

- (a) In case of a change from the law of the Republic, to another law, the new applicable law would recognize the validity of the trust and the respective interests of the beneficiaries;

- (b) in case of change from another law to the law of the Republic, such change is recognized by the applicable law of the trust previously in effect.

Variation of international trust by the Court.

10.(1) Subject to the provisions of subsection (2), the Court may on application by order to approve, if it thinks fit, any arrangement which varies or revokes the terms of an international trust or enlarges or modifies the powers of management or administration of the trustees, on behalf of the persons stated hereinafter, whether or not there is another beneficiary who is capable of assenting to the amendment:

- (a) Any person incapacitated at law having directly or indirectly an interest whether vested or contingent under an international trust; or
- (b) any person, whether ascertained or not, who may become entitled, directly or indirectly, to an interest under an international trust as being the person, which at a future date or on the happening of a future event shall be a person of any specified description or a member of any specified class of persons referred to in the instrument creating the international trust; or
- (c) any person unborn; or
- (d) any person in respect of any interest of his that may arise to him by reason of any discretionary power given to any one on the failure on determination of an existing interest that has not yet failed or determined.

(2) The Court shall not approve an arrangement on behalf of any person coming within paragraphs (a), (b) or (c) of subsection (1), unless it is satisfied that the proposed arrangement appears to be for the benefit of that person, but without substantial prejudice of the interests of other interested persons.

(3) Where in the management or administration of an international trust the Court thinks useful the sale, lease, pledge, charge, surrender, release or in other way disposition, or the purchase, investment, acquisition, expenditure or other transaction which cannot be effected by reason of the absence of any power for that purpose vested in the trustee by the terms of the international trust or by Law, the Court may confer on the trustee, either generally or in any particular circumstance, a power for that purpose on such terms and subject to such provisions and conditions as it thinks fit, and may direct in what manner and from what assets any money authorised is to be expended, and the costs of any transaction are to be borne.

(4) An application to the Court under this section may be made by the trustee or by or on behalf of any beneficiary.

Confidentiality relating to international trusts.

11.(1) Subject to the terms of the instrument creating an international trust and if the Court does not issue an order for disclosure according to the provisions of subsection (2), the trustee or any other person including officers of the Government and officials of the Central Bank of Cyprus, cannot disclose to any person who has no right by law to know documents or information:

- (a) By which it is disclosed the name of the settlor or of any beneficiaries;
- (b) by which it is disclosed the trustee's deliberations as to the manner in which a power or discretion was exercised, or a duty conferred or imposed by the law or by the terms of the international trust was performed;
- (c) by which it is disclosed the reason for any particular exercise of such power or discretion or performance of duty or the material upon which such reason has been or might have been based;
- (d) by which it relates to the exercise or proposed exercise of such powers or discretions or the performance or proposed performance of such duty;
- (e) which relate to or form part of the accounts of the international trust:

Provided that where a request is made by a beneficiary for the disclosure of any document or information relating to or forming part of the accounts of the international trust or in the case of a charitable trust, by a charity referred to by name in the instrument creating the trust as a beneficiary, the trustee shall be obliged to disclose the document or other information requested.

(2) Notwithstanding the provisions of any other law and subject to the provisions of subsection (3), a court before which civil or criminal proceedings are pending may by order allow the disclosure of the information or documents referred to in subsection (1) after an application submitted by a litigant or party in the said civil or criminal proceedings, as the case may be.

(3) The court issues an order under subsection (2), if satisfied that the disclosure of the information or the document referred to in subsection (1) is material for the outcome of the proceedings.

(4) For the purposes of this section "information or document" includes information or documents stored in electronic computers and in such a case an order for disclosure is executed by the disclosure or giving of the information or the documents in visible, readable and portable form.

Taxation of international trusts.

12.(1) The income and gains of an international trust derived or deemed to be derived from sources outside the Republic shall be exempt from all tax imposed in the Republic and no estate duty shall be chargeable in respect of assets belonging to an international trust.

(2) Notwithstanding the provisions of the Stamp Law an instrument creating an international trust shall be liable to stamp duty at a fixed rate of J250 Cyprus pounds or such other amount as may from time to time be prescribed by the Council of Ministers.

PART III - MISCELLANEOUS

Application of this Law.

13. This Law shall apply to all international trusts created after the commencement of this Law.

Saving of existing laws.

14.(1) The laws of the Republic applicable to trusts and to transfers of assets to trusts in the Republic prior to the commencement of this Law shall continue in force and shall apply to international trusts except in so far as they are inconsistent with or have been modified by the provisions of this Law.

(2) The Laws and Regulations from time to time applicable to investments made in the Republic by nonpermanent residents of the Republic shall as well apply to any investments in the Republic made by an international trust.

No obligation for registration.

15. International trusts are exempt from the obligation of registration under any law.