TRUST LAW AMENDMENT BILL

The first major amendment to Hong Kong’s Trustee Ordinance and the Perpetuities and Accumulations Ordinance since 1934 was passed today July 17th 2013 and will come into force December 1st 2013. The most significant aspects of the Amendment Bill are as follows:

1. A New UK style statutory duty of care;
2. Abolition of the Rule Against Perpetuities and the Rule Against Excessive Accumulation of Income;
3. New statutory trustees’ powers to insure and to appoint agents nominees and custodians and new corresponding trustees’ duties and liabilities;
4. Statutory Control of Trustees Exemption Clauses;
5. Statutory provisions concerning the validity of reserving investment powers to settlors;
6. Anti-forced heirship provisions; and
7. Beneficiary’s rights to remove trustees without resort to the courts.

The amendments provide a significant modernization of Hong Kong trust law by updating the powers of trustees and the rights of beneficiaries thus making Hong Kong law a more attractive choice as the governing law of private trusts. It is hoped that this will in turn result in a greater number of existing and new trusts being administered in Hong Kong.

On behalf of STEP Hong Kong, I would like to thank all members of the Joint Committee on Trust Law Reform (a joint committee of STEP Hong Kong and the Hong Kong Trustees’ Association) for all their hard work on the Amendment Bill over the last 8 years.

A series of talks on the details of the amended trust law is being planned for September 2013, details of which will follow shortly.

Samantha Bradley
Chairman
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