

UPDATE

Cayman Permits Disapplication of Rule Against Perpetuities

Update prepared by Tony Pursall (London)

The Perpetuities (Amendment) Act 2024 (the **Amendment Act**) was passed by the Cayman Islands Parliament last month and will come into force on a date to be specified.

The Amendment Act will amend the Perpetuities Act (1999 Revision) (as amended, the **Perpetuities Act**) to allow settlors of Cayman Islands trusts established on or after the date it comes into force to disapply the rule against perpetuities and thus create perpetual trusts. If the rule is not disapplied in the trust instrument, the usual 150-year perpetuity period will continue to apply to ordinary (ie non-STAR) trusts. STAR trusts have never been subject to the rule against perpetuities and that will remain the case.

If a non-Cayman trust of unlimited duration, which is not subject to the rule against perpetuities under its current governing law, changes its governing law to that of the Cayman Islands, the trust will not be subject to the rule against perpetuities under Cayman Islands law.

For any ordinary trusts established before the date the Amendment Act comes into force, a trustee, settlor, enforcer or any person with powers or a beneficial interest under a trust may apply to the Grand Court for an order disapplying the rule against perpetuities. The Grand Court may grant the order if it is satisfied that it is not to the detriment of the beneficiaries to do so.

This is a welcome amendment that brings the Cayman Islands into line with other leading trust jurisdictions, including Jersey and Guernsey.

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