



THE LAW SOCIETY'S SUBMISSIONS TRUST LAW (AMENDMENT) BILL 2013

1. The Trustee Ordinance Cap. 29 was enacted in 1934 which was substantially based on the Trustee Act 1925 of UK and it has not been materially reviewed or amended since its enactment. The trust law regime in Hong Kong has fallen behind other comparable common law jurisdictions.
2. Not until 2008 did the Administration start a review of the trust regime in Hong Kong, and two long consultations were carried out in 2009 and 2012.¹ In response to these two consultations, the Law Society has made two submissions on 21 September 2009 and 8 May 2012 respectively².
3. The Trust Law (Amendment) Bill 2013 is a product of these two consultations. We note that some of our proposals have been adopted whilst some have not. The review, and the ensuing Bill, is long overdue and modest in scope. The failure to address a number of proposed modifications to current law is a lost opportunity. It is to be hoped that the Bill is only a first step to bring our trust legislation closer to that of other comparable common law jurisdictions.
4. If the intention is to strengthen and consolidate the status of Hong Kong as an international asset management centre, piecemeal reform is inadequate and the Administration is urged to continue further reform without delay covering the various outstanding issues raised in the consultation submissions of the Law Society and others. As an example, current law on beneficiaries' rights to information remains unsatisfactory. There is a need for clarity in regard to the circumstances in which beneficiaries and others have a right of access to information. This would promote greater certainty between the trustee and beneficiaries, and enhance the choice of Hong Kong law to govern a trust. As a further example, there is an urgent need to legislate for purpose trusts, which are a common feature in financial structuring as well as being useful in certain

¹ The Consultation Paper on the review of Trustee Ordinance and the Consultation Paper on detailed legislative proposals on Trust Law Reform are available at <http://www.fstb.gov.hk/fsb>.

² The Law Society's submissions on 21 September 2009 and 8 May 2012 are available at <http://www.hklawsoc.org.hk>

succession planning, and which the Administration should consider in order to bring Hong Kong in line with modern international practice.

The Law Society of Hong Kong
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