

I Assent

VICTOR GIRARD  
*Deputy Governor-General*

*8<sup>th</sup> September, 2003*

**SAINT LUCIA**

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**No. 21 of 2003**

AN ACT to amend the International Trust Act No. 15 of 2003 so as to protect certain rights and for matters connected therewith.

[15<sup>th</sup> September 2003]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly and the Senate of Saint Lucia, and by the authority of the same, as follows:

**Short Title**

1. This Act may be cited as the International Trust (Amendment) Act 2003.

**Amendment of section 2**

2. Section 2 of the International Trust Act No.15 of 2002 (herein-after referred to as the principal Act) is amended by removing the definition of "Director".

**Amendment of section 5**

3. – (1) There shall be a Registrar of International Trusts who shall be –
  - a) a public officer designated as such by the Minister; or
  - b) the Registrar of International Business Companies.

(2) With the approval of the Minister, the Registrar may designate one or more public officers or any officers of the Registry to be Deputy Registrars.

(3) the Registrar, without divesting himself or herself of any of his or her own powers or duties may in writing authorise a Deputy Registrar to exercise and perform any such powers or duties and may at any time in writing vary or revoke such authorisation .

#### **Amendment of section 7**

4. Section 7 of the principal Act is amended by deleting subsection 7(2) and the (1) after section 7.

#### **Amendment of section 8**

5. Section 8 of the principal Act is amended by replacing subsection (2) as follows –

“(2) An application made under subsection (1) shall be in the prescribed form and shall be accompanied by –

(a) the prescribed fee;

(b) a certificate in the prescribed form signed by the registered trustee certifying that the trust upon registration, will be an international trust.

#### **Amendment of section 21**

6. Section 21 of the principal Act is amended by adding the following new subsection (2) after subsection (1):

“(2) An international trust created for a non charitable purpose in accordance with subsection (1) shall be known as a purpose international trust.”

#### **Amendment of section 34**

7. Section 34 of the principal Act is amended by replacing the heading of the section with:

“Exclusion of heirship, community of property and other rights arising under foreign laws.”

#### **Replacement of section 48**

8. Section 48 of the principal Act is replaced as follows –

##### **“Certain Rights**

48. – (1) Where a disposition to an international trust is set aside by a Court, the if the Court is satisfied that the transferee of such property has not acted in bad faith –

- (i) the transferee shall have a first and paramount charge over the property in an amount equal to the entire costs properly incurred by the transferee in the defense of the action or proceedings to set aside, (and not merely such cost as might otherwise be allowed by the Court); and
- (ii) the relevant disposition, shall be set aside subject to the payment by the creditor of the proper fees, costs, pre-existing rights, claims and interest of the transferee, and of any predecessor transferee who has not acted in bad faith.

(2) Where a disposition to an international trust is set aside by a Court, then if the Court is satisfied that a beneficiary of an international trust has not acted in bad faith, the disposition shall only be set aside subject to the right of such beneficiary to retain any distribution made consequent upon the prior exercise of an international trust, power or discretion vested in the trustee of such trust or any other person and otherwise properly exercised.”

Passed in the House of Assembly this 8<sup>th</sup> day of July, 2003.

BADEN J. ALLAIN  
*Speaker of the House of Assembly*

Passed in the Senate this 6<sup>th</sup> day of August, 2003.

HILFORD DETERVILLE  
*President of the Senate*