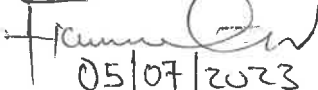


MINISTRY OF JUSTICE
05 JUL 2023
DIRECTORATE: LEGISLATIVE DRAFTING
SCRUTINIZED BY 

AMENDMENTS TRUST ADMINISTRATION BILL

[BILL NO. 16 OF 2023]

CERTIFIED:
ATTORNEY GENERAL


05/07/2023

THAT:

1. In clause 9, substitute clause 9 for the following clause:

“Amendment of trust instrument

9. Where a trust instrument does not contain instruction providing for the amendment of such trust instrument, a trustee may amend that trust instrument on being required to do so by all of the beneficiaries, if all of the following conditions are satisfied -

- (a) the trust is not a testamentary trust;
- (b) every beneficiary or a representative of a class of beneficiary authorised by the beneficiaries, consents to the amendment;
- (c) the trustee receives a written request to amend the trust instrument from or on behalf of each beneficiary;
- (d) the amendment is for the benefit of the beneficiaries; and
- (e) the trustee has agreed to the proposal for amendment.”.

2. In clause 12, substitute subclause (2) for the following subclause:

“(2) Where none of the trustees in respect of a trust whose trust property is located in Namibia are resident in Namibia, the founder, or the Master in terms of section 31 in case the founder is deceased, must appoint a person who is resident in Namibia as co-trustee, and -

- (a) such person must apply, in terms of this Act, for authorisation to act as trustee;
and
- (b) such person is responsible for reporting to the Master in respect of any matter required in terms of this Act and ensuring compliance with this Act.”.

3. In clause 51, substitute subclause (2) for the following subclause:

“(2) Regulations made under subsection (1) may prescribe penalties in respect of a contravention of or a failure to comply with any provision of those regulations not exceeding a fine of N\$ 10 000 000 or imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment.”.