

## **Rule against Perpetuities and Cognate Rules**

With this report [LRC 62-2000 Report on the Rule against Perpetuities and Cognate Rules](#), the Commission recommended the abolition of one of the law's oldest, but most troublesome, rules. The Rule against Perpetuities dates from the seventeenth century, with even earlier antecedents. It was devised to curb a feudal fondness for controlling property from beyond the grave, or "dead-hand" control as it is sometimes called. While this basic objective is not unreasonable, the practical effect of the Rule in the present day differs radically from its purpose. The Report demonstrates the Rule's propensity unexpectedly to strike down perfectly reasonable family gifts, and to frustrate harmless commercial arrangements.

To make matters worse, the Rule is unhappily phrased, the effect of which is twofold. First, the Rule applies arbitrarily in that it catches gifts for odd reasons which have nothing to do with their potential to drag on for years. Secondly, with clever drafting, the Rule is very easily side-stepped.

The possibility exists that, once the Rule against Perpetuities is swept away, some troublesome long trusts will become perfectly valid, when they would otherwise have been defeated by the Rule. In the few cases where this might occur, the facility provided by Variation of Trusts legislation will tidy up any persisting problems. This will, the Commission has stated, be *"a more finely tuned and comprehensive response to these concerns than the Rule against Perpetuities which can, at times, be rather a blunt instrument."*

Annexed to the report is a draft Bill, which implements the recommendations, set out in the report. The practice of drafting legislation is an innovation on the part of the Law Reform Commission and is designed to facilitate speedier implementation of its Reports.