

	BVI	BVI (VISTA)	Cayman	Cayman (STAR)	Cyprus	Guernsey	Hong Kong	Isle of Man	Jersey	Malta	Mauritius	Nevis	New Zealand	Singapore	USA (South Dakota)
English common law applies	Yes	Yes ⁷	Yes ⁷	Yes ⁷	Yes ⁷	Yes ⁷	Yes ⁷	Yes ⁴⁹	Yes ⁷	Yes	Yes	Yes	Yes	Yes	No
Registration requirement	No ¹	No	No	No	Yes ²⁷	No	No	No	No	No	No	Yes	Yes	No	No
Stamp duty on trust deed	Yes	Yes ⁸	Yes ¹⁵	Yes	Yes ²⁸	No	No	No	No	No	No	No	No	No	No
Local resident trustee required	No	Yes	No	Yes	Yes ²⁹	No	No	No	No	No	Yes	No	Yes ⁸¹	No	Yes
Licensed trustee required	Yes	Yes ⁹	Yes ¹⁶	Yes ²²	Yes	Yes	No ³⁹	Yes ⁵⁰	Yes ⁶³	Yes	Yes	No	No	Yes ⁹⁰	No
Settlor residency required	No	No	No	No	No ³⁰	No	No	No ⁵¹	No	No	No	No	No ⁸²	No ⁹¹	No
Beneficiary residency required	No	No	No	No	No ³⁰	No	No	No ⁵²	No	No	No	No ⁷⁶	No ⁸²	No ⁹¹	No
Protector allowed	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Protector required	No	No	No	No	No	No	No	No	No	No	Optional ⁷¹	No	No	No	No
Perpetuity period maximum	360 yrs	No max ¹⁰	150 yrs	No max	No max	No max	No max ⁴⁰	No max ⁵³	No max	125 yrs	99 yrs	No max	80 ⁸³	100 yrs	No max
Restriction on trust property	No	See note 11	No	No	No	No	No	No ⁵⁴	No ⁶⁴	No	No ⁷²	No ⁷⁷	No	No	No
Taxation	No	Exempt	Exempt ¹⁷	Exempt	No ³¹	Exempt ³⁸	Usually exempt ⁴¹	Usually exempt ⁵⁵	Exempt	See note 70	Usually exempt ⁷³	Exempt	No ⁸⁴	Exempt ⁹²	No ⁹⁷
Local reporting requirement	No ²	No	No	No	No ³²	No	No ⁴²	No ⁵⁶	No	No	Yes ⁷⁴	No	Yes ⁸⁵	Yes ⁹³	No
Requirement to keep records	Yes ³	Yes	Yes ¹⁸	Yes ²³	No ³³	Yes	No ⁴³	No ⁵⁷	N/A	Yes	Yes	Yes	Yes	Yes ⁹⁴	Yes ⁹⁸
Purpose trusts (non-charitable) allowed	Yes ⁴	Yes	Yes	Yes ²⁴	Yes	Yes	No	Yes ⁵⁸	Yes ⁶⁵	Yes	Yes	Yes	Yes	No	Yes
Settlor reserved powers trust allowed	Yes	Yes	Yes ¹⁹	Yes	Yes	Yes	Yes ⁴⁴	Yes ⁵⁹	Yes ⁶⁶	Yes	No	Yes	Yes	Yes ⁹⁵	Yes
Asset protection legislation	No ⁵	No	Yes ²⁰	Yes ²⁵	No ³⁴	Yes	No ⁴⁵	No	No	No	Yes	Yes	No ⁸⁶	Yes ⁹⁶	Yes
Statutory duty of care	Yes	No ¹²	No	No	No	No	Yes ⁴⁶	Yes ⁶⁰	N/A	Yes	Yes	Yes ⁷⁸	Yes	Yes	Yes ⁹⁹
Beneficiaries' right to remove trustee	No	See note 13	N/A	N/A	Yes ³⁵	Yes	Yes ⁴⁷	No	Yes ⁶⁷	Yes	Yes ⁷⁵	No ⁷⁹	See note 87	No	No ¹⁰⁰
Beneficiaries' right to information	No ⁶	No ⁶	No ⁶	See note 26	Yes ³⁶	Yes	No ⁶	Yes ⁵¹	Yes ⁶⁸	Yes	Yes	No ⁶	No ⁸⁸	No	Yes ¹⁰¹
Power of the court	Yes	See note 14	See note 21	N/A	Yes ³⁷	Yes	See note 48	Yes ⁵²	See note 69	Yes	Yes	Yes ⁸⁰	Yes ⁸⁹	Yes	See note 102

Summary of Relevant Jurisdiction Trust Legislation
BVI

BVI Trustee Ordinance Act, 1961 – CAP 303 – last amended 2013 and 2015

VISTA Act 2003. Also other BVI legislation germane to trusts apply such as the Banks and Trust Companies Act, 1990 (as amended) – last amended in 2013

Cayman

Trusts Law, Fraudulent Dispositions Law – last amended 2018

Trusts Law PART VIII – Special Trusts Alternative Regime – last amended 2011

Cyprus

The Trustees Law of Cyprus of 1955 (Cap 193) and the International Trusts Law of Cyprus (Law 69(I) of 1992 as amended by Law 20(I)/2012) – last amended September 2013 (Amended to be aligned with the changes in the Fiduciaries Law.)

Guernsey

The Trust (Guernsey) Law, 2007 – not amended to date

Hong Kong

Trustee Ordinance CAP 29 – last amended 1 December 2013

Isle of Man

Trustee Act 1961/Trustee Act 2001 – last amended Trusts (Amendment) Act 2015

Jersey

Trusts (Jersey) Law – last amended September 2013. Amendment 7 came into effect on 8 June 2018.

Malta

Trusts and Trustees Act – last amended 25 April 2014

Mauritius

The Trusts Act 2001 – last amended 1 December 2012

Nevis

Nevis International Exempt Trust Ordinance – last amended 2015

New Zealand

Trustee Act 1956 – last amended 2012

Singapore

Singapore Trustees Act Cap 337 – last amended 31 March 2017

USA (South Dakota)

SD Codified Laws Title 55 and Chapter 21-22 – last amended 2018

Footnotes

- 1 There is no mandatory requirement to register any trust including a VISTA trust with the regulatory authorities in the BVI and, in fact, all trust deeds are exempt from registration. Therefore, the details of a BVI trust will ordinarily remain confidential subject only to disclosure as may be required by an order of the BVI court.
- 2 For reporting requirements other than for FATCA and CRS
- 3 Accounts are not required in the BVI, however Trustees of BVI trusts must maintain records and underlying documentation of the trust for a period of at least five years. The records must be sufficient to show and explain all trust transactions and to enable the trust's financial position to be determined with reasonable accuracy.
- 4 The Trustee Ordinance defines a purpose trust by stating what it is not. A purpose trust is any trust that is not for the benefit of particular persons or some aggregate of persons ascertainable by reference to a personal relationship. A purpose trust may be created for any purpose, whether or not charitable, provided that the purpose is specific, reasonable and possible and not immoral, contrary to public policy or unlawful.
- 5 No specific legislation; only case law
- 6 No provision, case law
- 7 Subject to local laws
- 8 \$200
- 9 VISTA trusts require one designated trustee at least, which can be a licenced trustee or a PTC.
- 10 No maximum period for a VISTA trust. A VISTA trust deed may expressly exclude the rule in Saunders v Vautier (for a maximum of 20 years) whereby beneficiaries acting as a whole can vary or terminate a trust if they all agree to do so (as long as they are not impaired by any incapacity).
- 11 The trustee of a VISTA trust can only hold shares in a BVI incorporated company. However, there is nothing preventing the ownership of other assets by the trust (e.g., cash, property, equities, etc.) which can be held by the underlying BVI company (as opposed to directly by the trustee).
- 12 Not for VISTA Trust – The trustee has no fiduciary duty or duty of care in relation to the assets or the affairs of the company unless there is an intervention call in circumstances specified in the trust deed. There is however a residual power for the court to order or authorise a disposal of shares when retention would be incompatible with the wishes of the settlor (section 11).
- 13 In VISTA trusts, the beneficiaries can appoint a new trustee upon the retirement of an original trustee, as per the trust deed.
- 14 Trustee of VISTA trusts may apply to court for copies of documents, accounts and records of the underlying company, and also for advice and directions.
- 15 CIS40
- 16 If local
- 17 Part VI – Exempted Trusts, at a fee, guarantee exemption for future period
- 18 Section 27A; penalty \$5,000
- 19 Section 14
- 20 See Fraudulent Dispositions Law
- 21 Trustee may apply to Court for advice and directions, Section 48
- 22 Only Cayman or Cayman PTC
- 23 Art 27A; Penalty \$5,000
- 24 Must have an Enforcer
- 25 See Fraudulent Dispositions Law
- 26 Can have disenfranchised beneficiaries, need enforcer
- 27 A Private Register is held with each of the three authorities supervising and regulating the provision of trustee services
- 28 €430
- 29 A foreign co-trustee may be appointed
- 30 Must not be a tax resident of Cyprus in the year preceding the creation of the Trust (except for charitable purposes)
- 31 Where the beneficiary is a resident of Cyprus income is taxed accordingly, no matter where such income was generated. Income generated in Cyprus is taxable.
- 32 Other than regulatory FATCA/CRS obligations
- 33 No Cyprus statutory requirement but Trustees may require for best practice purposes
- 34 Falls under Cyprus Trust legislation Law of 69(I) of 1992 and 20(I) of 2012
- 35 Clause 5 of 20(I) 2012

- 36 If the Trustee considers that this is necessary and in the best interest of the Trust
- 37 Clause 11. of 20(l) of 2012
- 38 Exempt if no Guernsey sourced income or trust parties (aside from trustee)
- 39 If Trustee service is provided as a business then a license from TCSP Registry is required
- 40 80 years for Trusts pre-1 Dec 2013
- 41 Trading profits subject to Profits Tax
- 42 Unless required to file Profits Tax return
- 43 No Hong Kong statutory requirement, but extensive case law has established that "a trustee must be ready with his accounts."
- 44 Section 41X, only with regard to power of investment or asset management
- 45 See time restrictions in sections 49-51 of the Bankruptcy Ordinance
- 46 Section 3A, can choose not to apply in Trust Deed
- 47 Section 40A, unless 40D applies
- 48 Trustee or beneficiary may apply for court's directions; see Section 56
- 49 More correct to state that English common law is generally followed. Historically IOM and English courts have at times each followed precedents set in the other.
- 50 Regulatory requirement for Trustee acting for profit in IOM to be licensed in IOM
- 51 Settlor must be either an individual or an entity, hence there must be a residency of the Settlor. No need for Settlor to be resident in the IOM. Knowledge and documentary evidence of Settlor's residence required to fulfil IOM regulatory obligations.
- 52 No need for beneficiaries to be resident in IOM. Knowledge and documentary evidence of beneficiary residences required to fulfil IOM regulatory obligations. See taxation footnote below.
- 53 Per Trust (Amendment) Act 2015 - A fixed trust period may be included in trust terms and is recommended.
- 54 See the next footnote re potential tax liability if there is IOM source income.
- 55 Exempt from IOM Income Tax provided:
 - (a) No IOM resident is (or can be) a beneficiary; and
 - (b) No IOM source income other than from approved sources (principally banks and building societies in IOM)
- 56 Other than regulatory FATCA/CRS, etc. obligations
- 57 No IOM statutory requirement but extensive case law has established that "a trustee must be ready with his accounts."
- 58 Purpose Trusts Act 1996
- 59 In as much as a trust's terms may include powers reserved to the Settlor - NOT a defined type of trust
- 60 See Trustee Act 2001
- 61 Not provided for under IOM statute but extensive English and IOM case law provides authority
- 62 Trustees may apply to IOM Court for directions in certain circumstances - Trustee Act 1961, e.g., Sections 55 and 61
- 63 If local
- 64 Jersey real estate not allowed
- 65 Must have an enforcer
- 66 See Article 9
- 67 Via Court Article 51 application
- 68 Limited by Article 29 and Common Law
- 69 Trustee or beneficiary may apply for court's directions; see Article 51
- 70 Exempt when all beneficiaries are not resident in Malta
- 71 The appointment of a protector is optional as it depends on the client.
- 72 Approval needs to be sought from the Prime Minister's office for the transfer of immovable property
- 73 A non-resident trust is tax exempt. A resident trust is taxable on its chargeable income at the rate of 15% per annum.
- 74 A filing to be made with the Mauritius Revenue Authority confirming residency of beneficiaries
- 75 Settlor/Protector/Beneficiaries' right to remove trustee
- 76 The beneficiaries must at all times be nonresidents of St. Kitts & Nevis
- 77 The Trust property may not include any real property situated in St. Kitts & Nevis
- 78 May be overridden in a directed trust
- 79 No provision, trust instrument or case law may allow
- 80 Extensive, per Sections 20-30 of the Ordinance
- 81 Or it will not be a New Zealand foreign trust
- 82 Prohibited or it will not be a New Zealand foreign trust
- 83 Trusts Bill 2017, presently before Parliament, will repeal the rule against perpetuities & increase the allowable trust period to 125 years.
- 84 Provided it is a New Zealand foreign trust with no New Zealand sourced income
- 85 Trust document and details of Settlor, Protector and classes of beneficiaries are reportable, together with settlements and distributions. However, this register is closed to all but government statutory authorities and only on the provision of a legitimate reason to access. "Fishing" is not permitted and the register may not be mined for other (AEOI) purposes.
- 86 New Zealand foreign trusts are not automatically subject to New Zealand's asset protection legislation, but a foreign beneficiary may bring action in the New Zealand courts in relation to asset protection/entitlement in relation to assets held in the Trust Fund.
- 87 Dependent on the drafting of the trust document, but usually not until the Settlor and/or Protector are deceased or incapacitated
- 88 Trusts Bill 2017, presently before Parliament, will provide for disclosure of information to beneficiaries but it will be permissible to contract out of this in the Trust Deed.
- 89 Trustee or beneficiary may apply to the Courts for directions, sections 66 & 67
- 90 For Singapore PTCs, a licensed trustee is required to comply with the AML directives
- 91 No restriction on residency
- 92 Exemption only applies to 'Specified Income from Designated Investment'
- 93 Tax exemption statements/nil returns are filed with IRAS
- 94 84A (2) (c) of STA
- 95 90 (5) of STA
- 96 35 of STA (Protective trusts)
- 97 However, US federal tax may apply
- 98 Settlor can waive requirement to provide court accounting and/or to keep accounts
- 99 Settlor can waive or modify in the trust deed
- 100 Settlor can grant beneficiaries the right to remove the trustee in the trust deed
- 101 Settlor can reserve the right to modify, restrict or waive right in the trust deed and grant a continuing power to a third person after the death or incompetency of the settlor
- 102 SDCL 21-22-9 - Parties to trust may seek court supervision
SDCL 55-3-20 - Court may remove trustee
SDCL 55-3-26 - Court may modify terms of trust or terminate trust
SDCL 55-3-28 - Court may reform the terms of trust