

	Bahamas	BVI	BVI (VISTA)	Cayman	Cayman (STAR)	Cyprus	Dubai (DIFC)	Guernsey	Hong Kong	Isle of Man	Jersey	Malta	Mauritius	Nevis	New Zealand	Singapore	USA (South Dakota)
English common law applies	Yes	Yes	Yes ¹³	Yes ¹³	Yes ¹³	Yes ¹³	Yes ⁴⁴	Yes ¹³	Yes ¹³	Yes ⁶⁰	Yes ¹³	Yes	Yes	Yes	Yes	Yes	No
Registration requirement	No	No ⁷	No	No	No	Yes ³³	No	No	No	No	No	No	No	Yes	Yes	No	No
Stamp duty on trust deed	Yes ¹	Yes	Yes ¹⁴	Yes ²¹	Yes	Yes ³⁴	No	No	No	No	No	No	No	No	No	No	No
Local resident trustee required	No	No	Yes	No	Yes	Yes ³⁵	No	No	No	No	No	No	Yes	Yes ⁸⁷	Yes ⁹³	No	Yes
Licensed trustee required	Yes	Yes	Yes ¹⁵	Yes ²²	Yes ²⁸	Yes	No	Yes	No ⁵⁰	Yes ⁶¹	Yes ⁷⁴	Yes	Yes	Yes ⁸⁷	No	Yes ¹⁰²	No
Settlor residency required	No	No	No	No	No	No ³⁶	No	No	No	No ⁶²	No	No	No	No	No ⁹⁴	No	No
Beneficiary residency required	No	No	No	No	No	No ³⁶	No	No	No	No ⁶³	No	No	No	No ⁸⁸	No ⁹⁴	No	No
Protector allowed	Yes	Yes	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	No	No	Optional ⁸²	No	No	No	No
Perpetuity period maximum	No max	360 yrs	No max ¹⁶	150 yrs	No max	No max	No max	No max	No max ⁵¹	No max ⁶⁴	No max	125 yrs	99 yrs	No max	No max ⁹⁵	100 yrs	No max
Restriction on trust property	No	No	See note 17	No	No	No	Yes ⁴⁵	No	No	No ⁶⁵	No ⁷⁵	No	No ⁸³	No ⁸⁹	No	No	No
Taxation	Exempt	No	Exempt	Exempt ²³	Exempt	No ³⁷	Exempt	Exempt ⁴⁹	Usually exempt ⁵²	Usually exempt ⁶⁶	Exempt	See note 81	Usually exempt ⁸⁴	Exempt	No ⁹⁶	Exempt ¹⁰³	No ¹⁰⁸
Local reporting requirement	No	No ⁸	No	No	No	Yes ³⁸	No ⁴⁶	No	No ⁵³	No ⁶⁷	No	No	Yes ⁸⁵	No	Yes ⁹⁷	Yes ¹⁰⁴	No
Requirement to keep records	Yes ²	Yes ⁹	Yes	Yes ²⁴	Yes ²⁹	No ³⁹	Yes ⁴⁷	Yes	No ⁵⁴	No ⁶⁸	N/A	Yes	Yes	Yes	Yes	Yes ¹⁰⁵	Yes ¹⁰⁹
Purpose trusts (non-charitable) allowed	Yes	Yes ¹⁰	Yes	Yes	Yes ³⁰	Yes	Yes	Yes	No	Yes ⁶⁹	Yes ⁷⁶	Yes	Yes	Yes	Yes	No	Yes
Settlor reserved powers trusts allowed	Yes	Yes	Yes	Yes ²⁵	Yes	Yes	Yes	Yes	Yes ⁵⁵	Yes ⁷⁰	Yes ⁷⁷	Yes	No	Yes	Yes	Yes ¹⁰⁶	Yes
Asset protection legislation	Yes	No ¹¹	No	Yes ²⁶	Yes ³¹	No ⁴⁰	No	Yes	No ⁵⁶	No	No	No	Yes	Yes	No ⁹⁸	Yes ¹⁰⁷	Yes
Statutory duty of care	No ³	Yes	No ¹⁸	No	No	No	No	No	Yes ⁵⁷	Yes ⁷¹	N/A	Yes	Yes	Yes ⁹⁰	Yes	Yes	Yes ¹¹⁰
Beneficiaries' right to remove trustee	No ⁴	No	See note 19	N/A	N/A	Yes ⁴¹	No ⁴⁸	Yes	Yes ⁵⁸	No	Yes ⁷⁸	Yes	Yes ⁸⁶	No ⁹¹	See note 99	No	No ¹¹¹
Beneficiaries' right to information	Yes ⁵	No ¹²	No ¹²	No ¹²	See note 32	Yes ⁴²	No	Yes	No ¹²	Yes ⁷²	Yes ⁷⁹	Yes	Yes	No ¹²	Yes ¹⁰⁰	No	Yes ¹¹²
Power of the court	Yes ⁵	Yes	See note 20	See note 27	N/A	Yes ⁴³	Yes	Yes	See note 59	Yes ⁷³	See note 80	Yes	Yes	Yes ⁹²	Yes ¹⁰¹	Yes	See note 113

Summary of Relevant Jurisdiction Trust Legislation
Bahamas

The Trustee Act – last amended 30 December 2016

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 Act (2021 Revision)

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 \$50
- 2 Section 92A of the Act
- 3 Only for investments made at trustee's discretion (see Section 5 of the Act)
- 4 Settlor can reserve right to beneficiaries in the trust deed (see Section 42 of the Act)
- 5 Section 83 of the Act imposes legal obligations on trustees to take reasonable steps to inform vested beneficiaries regarding trust
- 6 Part V of the Act
- 7 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.
- 8 For reporting requirements other than for FATCA and CRS
- 9 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.
- 10 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.
- 11 No specific legislation; only case law
- 12 No provision, case law
- 13 Subject to local laws
- 14 \$200
- 15 VISTA trusts require one designated trustee at least, which can be a licenced trustee or a PTC.
- 16 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).
- 17 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).
- 18 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).
- 19 In VISTA trusts, the beneficiaries can appoint a new trustee upon the retirement of an original trustee, as per the trust deed.
- 20 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.
- 21 CIS40
- 22 If local
- 23 Part VI – Exempted Trusts, at a fee, guarantee exemption for future period
- 24 Section 27A; penalty \$5,000
- 25 Section 14
- 26 See Fraudulent Dispositions Law
- 27 Trustee may apply to Court for advice and directions, Section 48
- 28 Only Cayman or Cayman PTC
- 29 Art 27A; Penalty \$5,000
- 30 Must have an Enforcer
- 31 See Fraudulent Dispositions Law
- 32 Can have disenfranchised beneficiaries, need enforcer
- 33 A Private Register is held with each of the three authorities supervising and regulating the provision of trustee services
- 34 €430
- 35 A foreign co-trustee may be appointed
- 36 Must not be a tax resident of Cyprus in the year preceding the creation of the Trust (except for charitable purposes)
- 37 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.
- 38 The register is accessible without any restrictions only to relevant authorities. Under certain conditions access may be granted to obliged entities only within their CDD framework and with the consent of the trustee; to the general public only if legitimate interest can be demonstrated; and to any natural or legal person that files a written request in relation to a trust or similar legal arrangement that holds or owns a controlling interest in any corporate or other legal entity outside Cyprus or EU member states.

- 39 No Cyprus statutory requirement but Trustees may require for best practice purposes
- 40 Falls under Cyprus Trust legislation Law of 69(l) of 1992 and 20(l) of 2012
- 41 Clause 5 of 20(l) 2012
- 42 If the Trustee considers that this is necessary and in the best interest of the Trust
- 43 Clause 11 of 20(l) of 2012
- 44 DIFC applies best practice globally, not just common law
- 45 There are some restrictions on ownership of freehold property in Dubai
- 46 Unless the Registrar issues a notice, Registrar in turn will only disclose information at the request of a regulator
- 47 For at least 6 years after Trust ceases to exist
- 48 Although a beneficiary may apply to the court to remove a trustee
- 49 Exempt if no Guernsey sourced income or trust parties (aside from trustee)
- 50 If Trustee service is provided as a business then a license from TCSP Registry is required
- 51 80 years for Trusts pre-1 Dec 2013
- 52 Trading profits subject to Profits Tax
- 53 Unless required to file Profits Tax return
- 54 No Hong Kong statutory requirement, but extensive case law has established that "a trustee must be ready with his accounts."
- 55 Section 41X, only with regard to power of investment or asset management
- 56 See time restrictions in sections 49-51 of the Bankruptcy Ordinance
- 57 Section 3A, can choose not to apply in Trust Deed
- 58 Section 40A, unless 40D applies
- 59 Trustee or beneficiary may apply for court's directions; see Section 56
- 60 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.
- 61 Regulatory requirement for Trustee acting for profit in IOM to be licensed in IOM
- 62 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.
- 63 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.
- 64 Per Trust (Amendment) Act 2015 - A fixed trust period may be included in trust terms and is recommended.
- 65 See the next footnote re potential tax liability if there is IOM source income.
- 66 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)
- 67 Other than regulatory FATCA/CRS, etc. obligations
- 68 No IOM statutory requirement but extensive case law has established that "a trustee must be ready with his accounts."
- 69 Purpose Trusts Act 1996
- 70 In as much as a trust's terms may include powers reserved to the Settlor - NOT a defined type of trust
- 71 See Trustee Act 2001
- 72 Not provided for under IOM statute but extensive English and IOM case law provides authority
- 73 Trustees may apply to IOM Court for directions in certain circumstances - Trustee Act 1961, e.g., Sections 55 and 61
- 74 If local
- 75 Jersey real estate not allowed
- 76 Must have an enforcer
- 77 See Article 9
- 78 Via Court Article 51 application
- 79 Limited by Article 29 and Common Law
- 80 Trustee or beneficiary may apply for court's directions; see Article 51
- 81 Exempt when all beneficiaries are not resident in Malta
- 82 The appointment of a protector is optional as it depends on the client.
- 83 Approval needs to be sought from the Prime Minister's office for the transfer of immovable property
- 84 A non-resident trust is tax exempt. A resident trust is taxable on its chargeable income at the rate of 15% per annum.
- 85 A filing to be made with the Mauritius Revenue Authority confirming residency of beneficiaries
- 86 Settlor/Protector/Beneficiaries' right to remove trustee
- 87 Either licensed trustee or Nevis Corporation/LLC
- 88 The beneficiaries must at all times be nonresidents of St. Kitts & Nevis
- 89 The Trust property may not include any real property situated in St. Kitts & Nevis
- 90 May be overridden in a directed trust
- 91 No provision, trust instrument or case law may allow
- 92 Extensive, per Sections 20-30 of the Ordinance
- 93 Or it will not be a New Zealand foreign trust
- 94 Prohibited or it will not be a New Zealand foreign trust
- 95 Trust period is 125 years; there is no perpetuity period so assets can be resettled onto another trust without breaching the perpetuity rules
- 96 Provided it is a New Zealand foreign trust with no New Zealand sourced income
- 97 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.
- 98 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.
- 99 Dependent on the drafting of the trust document, but usually not until the Settlor and/or Protector are deceased or incapacitated
- 100 Trustees must provide basic trust information to beneficiaries but it is permissible to contract out of this in the Trust Deed.
- 101 Trustee or beneficiary may apply to the Courts for directions, sections 66 & 67
- 102 Singapore professional trustees acting as trustees of any trust on a commercial basis must be licensed by the Monetary Authority of Singapore. Private Trust Companies must engage a licensed trust company for compliance functions.
- 103 Exemption only applies if criteria is met in accordance with Section 13 of the Singapore Income Tax Act.
- 104 Tax exemption statements/nil returns are filed with IRAS
- 105 84A (2) (c) of STA
- 106 90 (5) of STA
- 107 35 of STA (Protective trusts)
- 108 However, US federal tax may apply
- 109 Settlor can waive requirement to provide court accounting and/or to keep accounts
- 110 Settlor can waive or modify in the trust deed
- 111 Settlor can grant beneficiaries the right to remove the trustee in the trust deed
- 112 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
- 113 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