

## Is there a provision in law for Purpose Trusts?

Yes, in Jersey a Trust must be for the benefit of persons or for charitable purposes, or for another declared purpose.

## What power is there to vary a Trust?

The Jersey court may approve variations of Trust on behalf of certain persons. The Jersey Court may also confer upon a Trustee either generally or in any particular circumstances a specific power that it does not have under the terms of the Trust (Art 43 TJL).

## Is there protection of Trusts from forced heirship provisions or domicile of the Settlor?

Jersey Law provides that a lifetime transfer of property by a non-Jersey domiciliary to the Trustees of a Jersey Trust cannot be challenged upon the ground that it infringes rules of forced heirship applicable to the Settlor.

## Can the Trust jurisdiction be changed?

It is possible, subject to the terms of the Trust, for a Trust to migrate to or from Jersey, both in terms of a change of proper law and of a change of Trustee.

## Are Trusts governed by a Foreign Law recognised?

The provisions of the Hague Convention have been extended to Jersey.

## More Information

For more information, or to discuss how the expertise of Key Trust Company Limited can assist, please contact our Managing Director, John Perkins, at the address details below or by email: [john.perkins@key-trust.com](mailto:john.perkins@key-trust.com)

*This note is given on the basis that no liability is accepted for any errors of fact or opinion and that professional advice must be obtained before applying the information to particular circumstances.*



Key Trust Company

# Trusts in Jersey Your Questions Answered

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Key Trust Company Limited is licensed by the Jersey Financial Services Commission to undertake Trust Company business.

## Trusts in Jersey Your Questions Answered

### What is the applicable Law?

Jersey Trusts Law is embodied principally in statute: the Trusts (Jersey) Law 1984 (as amended) (TJL) is expanded upon by case law. Judicial decisions are made by the Royal Court of Jersey, which will often look at English and other Commonwealth judicial precedent for guidance on Trust matters.

### Are Trust Companies regulated?

Legislation was introduced during 2000 regulating Trust Companies, requiring all Fiduciaries to be licensed by the Jersey Financial Services Commission.

### Who may be the Settlor?

Any individual capable of freely disposing of property, and corporate bodies with suitable power by their constitution can be Settlers. There is no restriction specifically as to who may be a Settlor.

### Who may be the Beneficiaries?

Any person (which term includes individuals and corporate bodies) can be a Beneficiary, including the Settlor.

### Is writing necessary? Can a Trust be formed orally? Are constructive and resulting Trusts recognised?

There are no formal requirements for Jersey Trusts (other than Unit Trusts), which can be created orally or in writing, provided there is sufficient certainty. The concept of constructive Trustees is recognised by TJL.

### Must there be a Beneficiary?

Trusts must be for persons or charitable purposes, unless they are formed as a Purpose Trust, in which case they can have a purpose instead of a Beneficiary.

### Is Trust registration required?

No registration or filing is required in Jersey in respect of a Trust. There are no stamp duty or other applicable levies. No taxes are payable in Jersey where all of the Trust's Beneficiaries are not Jersey residents.

### Are there any variations on the general bona fide principle?

Articles 17 and 20 TJL provide that a Trustee is obliged to act in the interests of the Beneficiaries and act with due diligence as would a prudent person to the best of his ability and skill and observe the utmost good faith.

### Are Letters of Wishes frequently used?

Letters of Wishes are commonly used. The Trustees should have regard to Letters of Wishes, but are not bound to follow them and are not necessarily protected if they do follow them.

### Is the delegation of powers recognised?

Generally, a Trustee may not delegate his powers unless permitted by the terms of the Trust or as provided in TJL. Article 21 TJL provides that generally a Trustee may delegate management of Trust property to investment managers and may employ accountants, lawyers and other agents.

### What power does the Trust have for making investments?

In matters of investment, the Trustees have all the powers of a natural person acting as Beneficial Owners, subject to the terms of the Trust and subject to the Trustees' duties. The Trustee is bound so far as reasonable and subject to the terms of the Trust to preserve and enhance the value of the Trust property.

### Is it a requirement that the Trust Instrument should authorise charging?

A Trustee may not directly or indirectly profit from this Trusteeship other than as provided by the terms of the Trust or approved by the court. Trust Instruments (almost) invariably provide for the Trustees to be remunerated.