Trust law in Singapore

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The inheritance of English equity

The trust reached Singapore with English law. The Second Charter of Justice, discussed in Chapter III of Part A, introduced the law of England together with the rules of equity developed by the Court of Chancery. The courts of the Straits Settlements applied English equity to the property of European and Asian merchants, to the ancestral trusts of the Chinese community and to the endowments of the Arab and Muslim communities. The trust therefore has a longer history in Singapore than in almost any other Asian jurisdiction, which partly explains why Asian families regard it as a familiar instrument.

The modern statute is the Trustees Act 1967, which follows the model of the English Trustee Act 1925. Like its English model, it deals with the administrative side of the trust: the appointment and removal of trustees, their powers of investment and delegation, and their protection when they act in good faith. The creation of trusts, the three certainties required for an express trust, the duties of loyalty and the remedies for breach remain matters of case law. Where the statute is silent, Singapore courts regard English and other Commonwealth decisions as guidance.[1]

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The Singapore courts have not simply copied English law. In *Lau Siew Kim v Yeo Guan Chye Terence*, the Court of Appeal declined to abolish the presumption of resulting trust and held that its strength varies with the facts and with contemporary attitudes in the community, leaving any wider reform to the legislature.[2] In *Chan Yuen Lan v See Fong Mun*, the court treated the presumptions of resulting trust and advancement as tools of last resort for cases in which direct evidence of intention is absent or inconclusive.[3] These family property cases matter for the financial centre because they show a court willing to restate equitable doctrine for local conditions while remaining within the common law tradition.

The same willingness extends to new forms of property. In *ByBit Fintech Ltd v Ho Kai Xin*, the High Court held that the holder of a crypto-asset has an incorporeal right of property that the common law recognises as a thing in action, so that crypto-assets of this kind can be held on trust. It declared that an employee who had diverted USDT to her own wallets held them on an institutional constructive trust for the exchange.[4] For the trustees of family structures, the decision confirms that tokens can form part of a trust fund like any other asset. Chapter I of Part K returns to the regulatory side of crypto-assets.

The reforms of 2004 and the statute today

The Trustees (Amendment) Act 2004 modernised the powers of trustees, introduced a general power of investment with a statutory duty of care and allowed trustees to delegate investment management under a written policy statement.[5] Chapter V of Part D describes the parliamentary history of the reform. For the practitioner of 2026, three of its results remain decisive: the fixed perpetuity period, the firewall against foreign forced heirship rules and the settlor's power to reserve investment functions.

The common law measured the perpetuity period by lives in being plus twenty-one years, a rule that was difficult to apply and could frustrate a settlor's plans. Singapore now applies a fixed perpetuity period of 100 years, which also prevents any application of trust funds that seeks to postpone final vesting beyond that period, while charitable trusts may exist in perpetuity. A Singapore trust may accumulate

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income without the old statutory restrictions on accumulation.[6] The rule is found in the Civil Law Act.[7] For a family that plans over several generations, the 100-year limit means that the trust deed must provide from the outset for the distribution of the fund before the period expires.

Forced heirship and reserved powers

Many families who settle trusts in Singapore come from jurisdictions whose succession laws reserve fixed shares of an estate for children or spouses. These include civil law countries in Europe and Latin America, countries applying Islamic law and parts of Asia. Section 90 of the Trustees Act protects Singapore trusts against such claims by providing that no foreign rule on inheritance or succession affects the validity of a trust or of a transfer of property to it, where the settlor had capacity under the relevant law.[8] The protection is narrow. Singapore's firewall is limited to forced heirship and does not extend to the non-recognition of foreign judgments, which Jersey and Guernsey provide.[9] Matrimonial claims and the claims of creditors fall outside it, so that a trust settled shortly before a divorce or an insolvency remains exposed to attack under the general law.

Section 90(5) addresses a different concern. Founders of Asian family businesses often wish to separate their wealth from their personal estate while keeping control of its investment. The provision states that a trust is not invalid by reason only that the settlor reserves "any or all powers of investment or asset management functions". The list is short by international standards: Jersey and Guernsey allow settlors to reserve powers over distributions, amendments to the trust and the appointment of trustees and beneficiaries, while Singapore and Hong Kong limit the reservation to investment and asset management.[10]

The limitation has practical consequences. A settlor who wants to keep influence over distributions must rely on a protector, a letter of wishes or a private trust company, each of which leaves the final decision with a fiduciary. Practitioners also warn that a settlor who keeps too much control in fact, whatever the deed says, exposes the trust to attack as a sham or as property that remains his own. The Privy Council in *Webb v Webb* found retained rights under Cook Islands trusts to be

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indistinguishable from ownership, while the English High Court reached a similar result for New Zealand trusts in *Mezhprom v Pugachev*.[11] A Singapore court applying the same equitable principles would ask the same question, so that the conduct of the settlor over the life of the trust matters as much as the drafting of the deed.

The limits of the statute

Singapore's trust law has gaps that its competitors have filled. Non-charitable purpose trusts are not permitted, the court has no statutory power to vary a trust on behalf of minor, unborn or unascertained beneficiaries and there is no statutory version of the Hastings-Bass principle on mistakes by trustees. Singapore courts are thought likely to follow the restrictive approach of *Pitt v Holt*. Singapore also has no statute allowing a trustee to hold the shares of a family company without supervising its management, so settlors rely on anti-Bartlett clauses of the kind that the Hong Kong Court of Final Appeal upheld in *Zhang Hong Li v DBS (Hong Kong) Ltd.*[12]

Critics in the industry argue that these gaps push parts of Singapore structures offshore. A commentator wrote in 2023 that the Act had last been substantially updated nearly twenty years earlier and that, because purpose trusts are unavailable, a family cannot hold the shares of its Singapore private trust company through a Singapore purpose trust. Families turn to Jersey or another jurisdiction for that layer, while the same commentator called for explicit statutory rules on the powers of settlors and protectors.[13] The government has preferred to keep the statute stable, which suits families who value predictability while leaving Singapore behind the offshore centres in flexibility.

Recognition, taxation and transparency

Singapore is not a party to the Hague Convention of 1 July 1985 on the Law Applicable to Trusts and on their Recognition. Its courts recognise foreign trusts at common law by applying the law chosen by the settlor. Singapore imposes no

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requirement that a trust hold local assets or have local administration.[14] In practice, Singapore trustees administer trusts governed by Singapore law alongside trusts governed by Jersey, Guernsey, Cayman or British Virgin Islands law.

Singapore levies no capital gains tax and no inheritance tax. Singapore-source income of a trust is taxed in the hands of the trustees or of the beneficiaries entitled to it, while foreign income may be fully exempt where the settlor and the beneficiaries are all non-resident. Trust instruments are confidential and are not filed with any public registry, although trustees must file tax exemption statements or nil returns with the Inland Revenue Authority of Singapore (IRAS).[15] The exemptions for foreign trusts and for trusts administered by Singapore trustee companies are set out in the Income Tax Act.[16] Estate duty was abolished for deaths on and after 15 February 2008.[17]

Confidentiality towards the public does not mean opacity towards the authorities. Trustees of express trusts governed by Singapore law must obtain and keep information on settlors, trustees, protectors, beneficiaries and other persons with effective control over the trust.[18] Singapore trustees are also reporting financial institutions under the Common Reporting Standard, as Chapter II of this Part explains. A Singapore trust therefore offers privacy from the public while giving no protection from the tax authorities of the beneficiaries' countries of residence.

Notes

1. Trustees Act 1967 (2020 Rev Ed), modelled on the Trustee Act 1925 (England and Wales). On the role of English and Commonwealth precedent where the statute is silent, see Bedell Cristin, "Guernsey, Hong Kong, Jersey and Singapore Trusts: A Jurisdictional Comparison" (August 2020), bedellcristin.com, accessed November 2026, item (3). ↩

2. *Lau Siew Kim v Yeo Guan Chye Terence* [2007] SGCA 54 (Court of Appeal, 30 November 2007), at [46], [51]–[52] and [55], elitigation.sg, accessed November 2026. ↩

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3. *Chan Yuen Lan v See Fong Mun* [2014] SGCA 36 (Court of Appeal, 24 June 2014), at [50]–[52], elitigation.sg, accessed November 2026. ↩
4. *ByBit Fintech Ltd v Ho Kai Xin* [2023] SGHC 199 (Philip Jeyaretnam J, 25 July 2023), at [4], [36] and [41]–[44], elitigation.sg, accessed November 2026. ↩
5. Trustees Act 1967, ss 4–6 (general power of investment, standard investment criteria and advice) and Part IVA (delegation of investment management functions, nominees and custodians), introduced by the Trustees (Amendment) Act 2004 on the model of the English Trustee Act 2000. ↩
6. Bedell Cristin, "Jurisdictional Comparison" (August 2020), cited above, introduction and items (7)–(9): the trust period must not exceed 100 years, "except for charitable trusts which may exist in perpetuity"; funds originating from a Singapore trust must vest in individuals within 100 years, irrespective of any resettlement or change of governing law; no rules against excessive accumulation of income. ↩
7. Civil Law Act 1909 (2020 Rev Ed), ss 32–34 (perpetuity period of 100 years and "wait and see" rule for instruments taking effect on or after 15 December 2004). ↩
8. Trustees Act 1967, s 90(2), as summarised in practitioner literature. See also Chapter V of Part D on the parliamentary history. ↩
9. Bedell Cristin, "Jurisdictional Comparison" (August 2020), cited above, introduction and item (10): Singapore's "firewall" provisions are limited to anti-forced heirship provisions in respect of property and do not extend to the non-recognition of foreign judgments. ↩
10. Sovereign Group, "Singapore Trusts: the increasing risks of reserved powers for trust settlors", 28 May 2024, sovereigngroup.com, accessed November 2026, quoting Trustees Act 1967, s 90(5); Bedell Cristin, "Jurisdictional Comparison" (August 2020), cited above, introduction and item (15). ↩
11. Sovereign Group, "Singapore Trusts: the increasing risks of reserved powers for trust settlors", 28 May 2024, cited above, discussing *Webb v Webb* (Privy Council, 2020, Cook Islands trusts), in which retained rights were held

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"indistinguishable from ownership", and *JSC Mezhdunarodniy Promyshlenniy Bank v Pugachev* (English High Court, New Zealand trusts). ↩

12. Bedell Cristin, "Jurisdictional Comparison" (August 2020), cited above, introduction and items (6), (11) and (14): non-charitable purpose trusts not permitted in Singapore; no power of the courts to vary trusts on behalf of minor, unborn or unascertained beneficiaries; no Hastings-Bass legislation, courts thought likely to follow *Pitt v Holt*; no Singapore statute on the trustee's duty to intervene in a controlled company, while Singapore courts may follow *Zhang Hong Li and Others v DBS (Hong Kong) Limited*, in which Hong Kong's Court of Final Appeal held such provisions in a Jersey trust to be effective. ↩
13. Mark Smallwood (Rapier Consulting), "Is the Singapore Trustees Act Perpetually Unfit for Purpose?", *Hubbis*, 16 August 2023, accessed November 2026. ↩
14. Hague Conference on Private International Law, status table of the Convention of 1 July 1985 on the Law Applicable to Trusts and on their Recognition, hcch.net, accessed November 2026: Singapore is not listed among the Contracting Parties; entry into force for Switzerland on 1 July 2007. Bedell Cristin, "Jurisdictional Comparison" (August 2020), cited above, items (4) and (20). ↩
15. Bedell Cristin, "Jurisdictional Comparison" (August 2020), cited above, items (21)–(22). ↩
16. Income Tax Act 1947, s 13G (exemption for foreign trusts) and related provisions for trusts administered by trustee companies in Singapore. ↩
17. Inland Revenue Authority of Singapore, "Estate Duty", iras.gov.sg, accessed November 2026: "Estate Duty has been removed for deaths on and after 15 February 2008." ↩
18. Trustees Act 1967, provisions on beneficial ownership information of express trusts introduced in 2017 following the FATF mutual evaluation of Singapore of 2016. ↩

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