

Comparison of key trust features for the British Virgin Islands and the Cayman Islands

Harneys' Private Wealth practice advises individual and commercial clients on the establishment, administration and structuring of all types of BVI and Cayman Islands trusts.

Our Private Wealth team has earned a global reputation for excellence due to our personal, commercially sensitive, and pragmatic approach. We are market leaders in estate planning, asset protection, succession planning, and international estate and probate administration.

	BVI	Cayman Islands
Principal legislation	Trustee Act, Revised Edition 2023 Virgin Islands Special Trusts Act 2003 Trustees Relief Act, Revised Edition 2023 Financial Services (Exemptions) Regulations, Revised Edition 2020	Trusts Act (2021 Revision) Banks and Trusts Companies Act (2025 Revision) Perpetuities Act (2025 Revision) Private Trust Companies Regulations (2020 Revision)
English principles of common law & equity	Applied subject to BVI legislation.	Applied subject to Cayman Islands legislation.
Status of the jurisdiction	British Overseas Territory	British Overseas Territory
Court system	Independent court system, with the final court of appeal the Judicial Committee of the Privy Council.	Independent court system, with the final court of appeal the Judicial Committee of the Privy Council.
Types of trusts	Discretionary/fixed interest trust Charitable trust Non-charitable purpose trust Unit trust Pension trust Employee benefit trust VISTA trust	Discretionary trust/fixed interest trust Charitable trust Non-charitable purpose trust (STAR trust) Unit trust Pension trust Employee benefit trust Exempted trust
Reserved power trusts	Most of the above types of trust can be set-up as a reserved power trust and the Trustee Act confirms that the reservation of powers will not invalidate a trust (s86(2)). Reserved power trusts allow a settlor to reserve certain powers for themselves or	Reserved power trusts allow a settlor to reserve certain powers for themselves or another, often as a 'protector', under the trust's terms. Most of the above types of trust can be set-up as a reserved power trust and the Trusts

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	<p>another, often as a 'protector', under the trust's terms.</p> <p>For example, the power to: determine the law governing the trust; remove and appoint trustees; exclude or include beneficiaries in the class of potential beneficiaries; and approve or refuse distributions of income and capital.</p>	<p>Act confirms that the reservation of powers will not invalidate a trust (Part III).</p> <p>The listed reserved powers include the power to: revoke, vary or amend the trust; appoint income or capital; limited beneficial interest in the trust property; act as a director or officer of any company owned by the trust; give binding directions to the trustee in connection with the investment of trust property; appoint, add or remove any trustee, protector or beneficiary; change the trust's governing law or forum for administration; and require the trustee to obtain the consent of the settlor or another before exercising any power.</p>
Special regimes	<p>VISTA trusts – pursuant to Virgin Islands Special Trusts Act (see our guide) – allow a shareholder to establish a BVI trust over their company which disengages the trustee from administrative and managerial responsibility – solving the prudent investor problem.</p>	<p>STAR trusts – pursuant to Part VII Special trusts – Alternative Regime of the Trusts Act (see our guide) – can uniquely have both human beneficiaries and specific purposes as objects of the trust.</p> <p>One trustee must be a Cayman licensed trust corporation or a Cayman PTC.</p> <p>STAR trusts split the concepts of beneficial entitlement and enforcement of a trust, meaning beneficiaries have no right to trust information and only an enforcer has standing to enforce a STAR trust.</p>
Non-charitable purpose trusts	<p>Are permitted under the Trustee Act (ss 84-84A; see our guide).</p> <p>They must have one 'designated person' (certain professionals) or PTC as a trustee, and an enforcer who has both the power and the duty to enforce the trust.</p>	<p>Yes, STAR trusts.</p>
Perpetuity period for private trusts	<p>The maximum perpetuity period for BVI trusts created after May 2013 is 360 years. There are also "wait and see" provisions, such that any disposition creating a trust will be treated as valid unless and until it is certain that all trust assets will only "vest in interest" after the end of the perpetuity period.</p> <p>For pre-2013 trusts, the maximum period was 100 years.</p>	<p>Perpetuity periods for ordinary trusts were abolished by the Perpetuities (Amendment) Act 2024. Previously, the maximum perpetuity period was 150 years. The 2024 Act does not apply retrospectively, but Grand Court approval can be obtained for pre-existing trusts to disapply the existing perpetuity period.</p>
Perpetuity period for special trusts	<p>Perpetuity restrictions do not apply to charitable or non-charitable purpose trusts. A purpose trust instrument may (but need not):</p> <ul style="list-style-type: none"> Specify a date or event on which the trust will cease to be a purpose trust and set out how the trust assets will be disposed of on that date or event. Provide that while the trust is a purpose trust the trustees owe no duty to any persons who will become entitled to the trust assets, or to any purposes for which the 	<p>The rule against perpetuities does not apply to charitable or STAR trusts; nor did it apply to such trusts prior to the Perpetuities (Amendment) Act 2024.</p>

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	trust assets are to be applied, when the trust ceases to be a purpose trust.	
Letter of wishes	BVI trust settlors will commonly issue a non-binding letter of wishes to trustees with guidance on certain matters.	Cayman Island trust settlors will commonly issue a non-binding letter of wishes to trustees with guidance on certain matters.
Nature of trust assets	There are no BVI restrictions on the assets which can be held in a BVI trust, save that a VISTA trust can only directly hold shares in a BVI company. However, there are no restrictions on the assets which can be held in the underlying company under a VISTA trust.	There are no Cayman restrictions on the assets which can be held in a Cayman trust, save that a STAR trust cannot directly or indirectly hold land or an interest in land. However, a STAR trust may hold an interest in a company, partnership or other entity which holds land in the Cayman Islands (Trusts Act, s109).
Trustees	Minimum of one trustee (corporate or individual).	Minimum of one trustee (corporate or individual).
Private trust companies (PTCs)	A PTC is permitted to act as trustee to a trust or a number of trusts provided that the PTC complies with the Financial Services (Exemptions) Regulations.	A PTC is permitted to act as a trustee to a trust or a number of trusts provided that those trusts are 'connected'. A PTC must only carry out 'connected trust business'. PTCs do not need a trust licence and are regulated pursuant to the Private Trust Company Regulations.
Rule in <i>Hastings-Bass</i>	Section 59A of the Trustee Act gives statutory effect to the court's equitable <i>Hastings-Bass</i> jurisdiction to set aside fiduciary decisions taken by trustees and other fiduciaries in the mistaken exercise of a fiduciary power in a way which would not have occurred had the true position been known, typically under a mistake as to the tax consequences.	Section 64A of the Trusts Act gives statutory effect to the court's equitable <i>Hastings-Bass</i> jurisdiction to set aside fiduciary decisions taken by trustees and other fiduciaries in the mistaken exercise of a fiduciary power in a way which would not have occurred had the true position been known, typically under a mistake as to the tax consequences.
Regulation of professional trustees	Yes, by the BVI Financial Services Commission.	Yes, by the Cayman Islands Monetary Authority.
Protectors	Yes, permitted. Where a BVI company holds the office of protector, the company must be a licensed company or a PTC.	Yes, permitted.
Trustees' dealings with third parties	Sections 95 and 96 of the Trustee Act afford third parties dealing with trustees recourse to the trust assets where, when entering into transactions, they have made reasonable enquiry that the trustee has the express power to enter into such transactions and has complied with any express requirement (such as requirements for consent) contained in the trust instrument. If the trust instrument provides that section 97 of the Trustee Act is to apply, the trustee will not be personally liable under any contract into which they enter with a third party if they have	Where a person acting in the capacity as a trustee of a trust forms a business relationship or enters into a one-off transaction with a person conducting relevant financial business, the trustee must take reasonable steps to inform the person that the trustee is acting in the capacity of as a trustee of the trust (Trusts Act, s6A).

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	<p>disclosed (or the other party is aware) that they were contracting as trustee (unless the contract provides otherwise). A claim based on such a contract may be satisfied out of the trust fund.</p> <p>If the trust instrument provides that section 101 of the Trustee Act applies and a third-party lending assets to a trustee requests, the trustee may restrict their powers of investment, distribution and to appoint and remove trustees for the protection of the lender.</p>	
Protection of transfers into trust from creditors' claims	<p>Section 81 of the Conveyancing and Law of Property Act, Revised Edition 2023 provides that every conveyance of property with intent to defraud creditors, shall be voidable at the instance of any person thereby prejudiced. A claim must be brought within six years of the cause of action accruing, which begins to run when the claimant discovered the fraud or with reasonable diligence could have discovered the fraud.</p> <p>In addition, the Trustee Act expressly refers to the Fraudulent Conveyances Act 1571 (sometimes referred to as the Statute of Elizabeth), which provides the transfer is void where any person intends to defraud a creditor.</p> <p>Both provisions provide a defence if the recipient acted in good faith, gave good value and had no notice of the fraud.</p>	<p>The Fraudulent Dispositions Act (1996 Revision) provides that every disposition of property made with an intent to defraud and at an undervalue shall be voidable at the instance of a creditor thereby prejudiced. Any action must be commenced within six years of the disposition.</p>
Firewall provisions	<p>Yes, section 83A of the Trustee Act contains provisions protecting against anti-forced heirship, governing law & non-recognition of foreign judgments.</p>	<p>Yes, Part VII of the Trusts Act contains provisions protecting against anti-forced heirship, governing law & non-recognition of foreign judgments.</p>
Hague Convention on the Law Applicable to Trusts and on their Recognition	<p>The Convention was extended to the BVI by the UK by virtue of the Recognition of Trusts Act 1987 (Overseas Territories) Order 1989, and most of the Convention has been incorporated into the Trustee Act.</p>	<p>The Convention has not been extended to the Cayman Islands, but the Trusts Act has some consistent provisions.</p>
Accounts and records	<p>A trustee is required to maintain records and underlying documentation of the trust and retain the same for a period of at least five years (Trustee Act, s92A).</p> <p>There are additional record keeping requirements for the designated person trustee of a purpose trust and registered agents for PTCs.</p>	<p>A trustee is required to maintain accounts and records (including underlying documentation) of the trustee's trusteeship appropriate to the trust and the property (Trusts Act, s27A).</p> <p>In particular, trustees must maintain and keep records about trust parties (including settlors, beneficiaries, protectors and enforcers) for a period of five years after the trustee ceases to be the trustee of the relevant trust (Trusts (Transparency) Regulations 2019).</p> <p>The trust corporation/PTC trustee of a STAR trust must also keep the terms of the trust, the identifies of the settlor, trustees and enforcer, and details of the property held in</p>

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		the trust (including all trust distributions) in its Cayman Islands office (Trusts Act, s105).
Beneficial ownership information	<p>Trusts are now required to maintain a beneficial ownership register under the BVI's beneficial ownership legislation.</p> <p>Where the trustee is an individual holding 10% or more of the shares in the company, the individual should be recorded as a beneficial owner of the company. Where the trustee (holding 10% or more of the shares in the company) is a company (ie a corporate trustee), the beneficial owners of the corporate trustee should be recorded as the respective beneficial owners. In addition, any beneficiary of the trust administered by the corporate trustee, once vested, should be recorded as a beneficial owner.</p> <p>Beneficial owners of a trust will also include: the settlor; the protector, if any; beneficiaries or class of beneficiaries with a vested interest before or at the time of distribution; and any other natural person exercising ultimate effective control over the trust.</p> <p>Where a company's shares are held by a BVI licensed trustee, the company is only required to file the trustee's name as its beneficial owner.</p>	<p>Trusts are excluded entities under the Cayman Islands beneficial ownership regime (Beneficial Ownership Transparency Act 2023).</p> <p>However, in certain circumstances a trustee of a Legal Person may be considered a beneficial owner.</p>
Regulatory requirements	<p>Registered agents for BVI companies are required to submit information on the beneficial owners of all BVI companies on the Beneficial Ownership Secure Search System (BOSS) which may include details of the trustees and beneficiaries of trusts holding BVI companies. BOSS is not publicly accessible and information on the system is only released on a valid request by authorised UK law enforcement authorities.</p> <p>Unit trusts are subject to a specific set of requirements under the Securities and Investment Business Act, Revised Edition 2020 and the Mutual Funds Regulations, Revised Edition 2020.</p>	<p>There is no filing requirement or register for trusts, save that for unit trusts which are regulated pursuant to the Mutual Funds Act (2025 Revision) and exempted trusts (which are lodged with the Register of Trusts but are not available for public inspection).</p> <p>Trust instruments are confidential documents.</p>
Anti-money laundering (AML) and know your client (KYC) requirements	<p>The BVI has sophisticated AML rules and regulations. KYC documentation and information will be required to be verified in establishing a trust structure in relation to individuals and corporate entities.</p>	<p>The Cayman Islands has sophisticated AML rules and regulations. KYC documentation and information will be required to be verified in establishing a trust structure in relation to individuals and corporate entities.</p>
Taxation	<p>No BVI income, capital, gift or estate taxes apply to BVI law trusts.</p>	<p>No Cayman Islands income, capital, gift or estate taxes apply to Cayman Islands law trusts.</p>

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Trust or stamp duty	Trust duty of US\$200 is payable on a deed of establishing a BVI trust or a deed changing the governing law of an existing trust to that of the BVI. The duty is paid by affixing stamps to the deed.	Stamp duty of CI\$40 is payable on a deed of settlement and declaration of trust. This payment of duty does not involve the submission of the document, so that confidentiality is maintained.



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