

What Is a Trust?

Module 1 Reading List

Cases, statutes, and texts that underpin Trust 101 — Module 1. Compiled by Dr. Matthew Au, Solicitor, Certified Trust Practitioner (CTP).

This reading list accompanies the free Trust 101 video series on the ETRUST | ASIA YouTube channel. Watch free at youtube.com/@etrustasia.

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PART A — FOUNDATIONAL CASES

The five cases below establish the foundational principles examined in Module 1 — the definition of a trust, the three certainties, and the fiduciary position of a trustee. Cases on the constitution of trusts and the termination of trusts will be introduced in Modules 2 and 6 respectively.

CASE 01

Knight v Knight

(1840) 3 Beav 148

The case that established the three certainties required for a valid express trust: certainty of intention, certainty of subject matter, and certainty of objects. Every express private trust must satisfy these three requirements. Knight v Knight remains the foundational authority cited in all trust law texts and examinations.

CASE 02

Keech v Sandford

(1726) Cas t King 61; 25 ER 223

A trustee of a lease renewed the lease for his own benefit after the lessor declined to renew for the benefit of the infant beneficiary. The court held the trustee must hold the renewed lease on trust. Keech v Sandford is the foundation of the strict fiduciary position of a trustee — a trustee cannot profit from their position, regardless of fault.

CASE 03

Westdeutsche Landesbank Girozentrale v Islington LBC

[1996] AC 669 (House of Lords)

Lord Browne-Wilkinson's authoritative statement on what constitutes a trust: "the conscience of the legal owner is affected" by knowledge of the equitable interest. The case is the modern leading authority on the nature and definition of a trust. Required reading for any student of trust law.

CASE 04

Re Kayford Ltd

[1975] 1 WLR 279 (Megarry J)

A mail-order company placed customer deposits in a separate bank account designated a trust account before going into liquidation. Megarry J held a valid trust existed. The case illustrates that certainty of intention does not require formal language — it must be sufficiently clear from all the circumstances that the legal owner is to hold property for another.

CASE 05

Paul v Constance

[1977] 1 WLR 527 (Court of Appeal)

"The money is as much yours as mine." These informal words were held by the Court of Appeal to constitute a valid declaration of trust over a bank account in favour of the plaintiff. Paul v Constance is the leading authority that plain, informal language can suffice to establish certainty of intention.

PART B — HONG KONG STATUTES

Two statutes are essential background for Module 1. Further legislation governing trust duration, licensing, and liability will be introduced in later modules.

Trustee Ordinance (Cap. 29)

The principal statute governing trustees in Hong Kong. Contains provisions on trustee powers of investment, powers to deal with trust property, duties, appointments, retirement, and removal. Every trust in Hong Kong operates within this framework.

Wills Ordinance (Cap. 30)

Sets out the formal requirements for a valid will in Hong Kong. Relevant where a trust is created by will (a will trust) — one of the two primary ways a private trust comes into existence. Understanding Cap. 30 helps distinguish inter vivos trusts from testamentary ones.

PART C — REFERENCE TEXTS

Two texts are recommended for those who wish to read further. Both are accessible to readers without a legal background and are widely used in Hong Kong legal education.

01

Thomas & Hudson: The Law of Trusts

2nd edition, 2010 · Oxford University Press · ISBN 978-0-19-955028-9

A major academic treatment of trust law with strong analytical depth. The chapters on the nature of a trust and the three certainties provide an excellent foundation for everything covered in Module 1. Widely used in Hong Kong academic and postgraduate legal education.

02

Hayton, McFarlane & Mitchell: Text, Cases and Materials on Equity and Trusts

15th edition, 2022 · Sweet & Maxwell · ISBN 978-0-414-10379-5

A case-based approach structured around leading cases with commentary — the most accessible of the major trust law texts for those new to the subject. Reading the extracts from *Knight v Knight*, *Keech v Sandford*, and *Westdeutsche* alongside Module 1 is particularly rewarding.

WHAT'S AHEAD — TRUST 101

Trust 101 is a six-module free video series on the ETRUST | ASIA YouTube channel. Each module is accompanied by a reading list. Watch free and subscribe at youtube.com/@etrustasia.

MOD 01	What Is a Trust? The structure, the parties, the deed — the foundation of everything.	■ July 2026
MOD 02	How Is a Trust Created? The three certainties, formal requirements, and the constitution of a trust.	■ COMING
MOD 03	Trusts and Asset Protection Why the separation of legal and beneficial ownership matters in practice.	■ COMING

MOD 04	Types of Trust Fixed, discretionary, purpose, and charitable trusts — a taxonomy.	■ COMING
MOD 05	The Trust Deed What it contains, what makes it effective, and what to look for.	■ COMING
MOD 06	Trust Governance Administering a trust from creation through variation to termination.	■ COMING

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Practitioners and students pursuing professional qualifications (including the CTP) should also consult Underhill & Hayton (20th ed, LexisNexis), Lewin on Trusts (20th ed, Sweet & Maxwell), the HKTA Code of Practice (www.hktrustees.com), and TCSP licensing guidance at www.cr.gov.hk.

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