LA307-30 Law of Trusts

24/25

Department
>   School of Law

Level
>   Undergraduate Level 3

Module leader
>   Jonathan Garton

Credit value
>   30

Module duration
>   20 weeks

Assessment
>   100% exam

Study location
>   University of Warwick main campus, Coventry

Description

Introductory description

This module studies and evaluates the application of the trust in a variety of areas.

[Module web page](#)

Module aims

A principal aim of this module is to enable the student to study and evaluate the application of the trust in a variety of areas.

The module therefore bears on reasonably well-known social phenomena such as the use of trusts to tie up family property over generations, for example, tax planning through creation of trusts (here or in the Channel Islands or in other appropriate tax havens), controlling the investment activities of financial institutions such as pension funds, attempts by political or quasi-political pressure groups to obtain financial and other advantages by setting themselves up as charitable trusts; the legal and professional standards of conduct affecting ordinary and professional trustees, and remedies for breach of trust.

There is thus a fairly wide, though not overwhelming, range of background material to be drawn upon.

Outline syllabus

This is an indicative module outline only to give an indication of the sort of topics that may be covered. Actual sessions held may differ.

Term 1 indicative topics include:

1. Introduction to the Trust / Definition, Function and Classification
2. Certainty of Intention and Subject Matter
3. Certainty of Objects and the Beneficiary Principle
4. Formalities and Constitution
5. Trusteeship - duty of care and fiduciary duty
6. READING WEEK
7. Breach of Trust
8. Tracing and Recovering Trust Property
9. Third Party Liability
10. Beyond the Express Trust

Term 2 indicative topics include:

1. The Beneficiary Principle Revisited
2. The Settlor Drops Backs In
3. Public Policy and the Express Private Trust
4. The Trust as an Investment Device
5. The Trust as a Security Device
6. Trustee Powers and Duties Revisited
7. Resulting Trusts
8. Constructive Trusts
9. Charitable Trusts

Learning outcomes

By the end of the module, students should be able to:

- Understand the nature of trusts and equitable concepts and their distinctiveness from other legal concepts
- Locate and use primary and secondary sources of English and Commonwealth trusts law
- Identify the social spheres within which express private trusts operate
- Understand the relationship between legal, social political and economic influences upon the nature and functions of trusts in different contexts (e.g. tax and insolvency)
- Apply, with independent thought, subject knowledge and contextual skills both to unfamiliar legal problems and social contexts
- Demonstrate an ability to work independently and to organise time appropriately; to handle information sources with confidence
- Understand the relationship between the settlor, the trustee and the beneficiary, and the various theories explaining their respective rights
- Understand the nature and use of the resulting trust, constructive trust and charitable trust

- Identify the social spheres within which resulting, constructive, and charitable trusts operate
- Understand a range of commercial uses of the express private trust

Indicative reading list

See the core texts and wider reading listed under the Talis link above, plus
Andrew Burrows, 'We Do This At Law But That In Equity' (2002) 22 Oxford Journal of Legal Studies 1
Roger Cotterrell, 'Power, Property and the Law of Trusts' (1987) 14 Critical Legal Studies 77
Feltham 'Informal Trusts and Third Parties' [1987] Conv 246
Youdan, 'Informal Trusts and Third Parties: A Response' [1988] Conv 267
MacFarlane, The Structure of Property Law (Hart, 2008)
MacFarlane and Stevens, 'The Nature of Equitable Property' (2010) 4 Journal of Equity 1;
Zaccaria, 'The Nature of the Beneficiary's Right under a Trust: Proprietary Right, Purely Personal Right or Right Against a Right?' (2019) LQR 135;
Smith, 'Massively Discretionary Trusts' (2019) 25 Trusts and Trustees 397;
Chambers, The Resulting Trust (Clarendon Press 1997);
Swadling, 'Explaining Resulting Trusts' (2008) 124 LQR 72;
Mee, 'Presumed Resulting Trusts, Intention and Declaration' (2014) 74 CLJ 86;
Glister, 'Is there a Presumption of Advancement?' (2011) 33 Sydney LR 39;
Garton, Commercial Trusts Law (Edward Elgar, forthcoming)
plus a range of key cases

[View reading list on Talis Aspire](#)

Research element

Students will conduct research into legal cases, academic literature and other source material required for analysis of the topics covered within the module

Interdisciplinary

Some consideration of social, economic and political issues related to the module content may be required

International

Some comparison of and reference to other legal jurisdictions may be made within the module.

Subject specific skills

Analysis of factual situations and critical evaluation of issues identified by means of (a) independent judgement; (b) synthesis of other approaches derived from relevant literature and/or expertise

Transferable skills

Problem solving
Critical analysis
Written and oral presentation
Collaborative working

Study

Study time

Type	Required
Lectures	18 sessions of 2 hours (12%)
Seminars	14 sessions of 1 hour (5%)
Private study	247 hours (82%)
Assessment	3 hours (1%)
Total	300 hours

Private study description

No private study requirements defined for this module.

Costs

No further costs have been identified for this module.

Assessment

You must pass all assessment components to pass the module.

Students can register for this module without taking any assessment.

Assessment group B2

	Weighting	Study time
Online Examination	100%	3 hours
3 hour open book exam		

- Online examination: No Answerbook required
- LA011: Law of Trust Statutes

Feedback on assessment

Continuing feedback throughout the year in seminars; formative assessment takes the form of a mock exam held during a term 2 seminar, with written feedback and a follow-up feedback seminar. Generic feedback given on exam via Moodle.

[Past exam papers for LA307](#)

Availability

Courses

This module is Core for:

- Year 4 of ULAA-ML34 BA in Law and Sociology (Qualifying Degree)
- Year 5 of ULAA-ML35 BA in Law and Sociology (Qualifying Degree) (with Intercalated year)
- ULAA-M105 Undergraduate Law (3 year) (Qualifying Degree)
  - Year 3 of M105 Law (3 year) (Qualifying Degree)
  - Year 3 of M105 Law (3 year) (Qualifying Degree)
- ULAA-M108 Undergraduate Law (Year Abroad) (Qualifying Degree)
  - Year 4 of M108 Law (Year Abroad) (Qualifying Degree)
  - Year 4 of M108 Law (Year Abroad) (Qualifying Degree)
- Year 4 of ULAA-M10A Undergraduate Law with French Law (Qualifying Degree)
- Year 4 of ULAA-M10C Undergraduate Law with German Law (Qualifying Degree)
- Year 3 of ULAA-M111 Undergraduate Law with Humanities (3 Year) (Qualifying Degree)
- Year 3 of ULAA-M113 Undergraduate Law with Humanities (4 Year) (Qualifying Degree)
- Year 3 of ULAA-M114 Undergraduate Law with Social Sciences (3 Year)
- ULAA-M115 Undergraduate Law with Social Sciences (3 Year) (Qualifying Degree)
  - Year 3 of M115 Law with Social Sciences (3 year) (Qualifying Degree)
  - Year 3 of M115 Law with Social Sciences (3 year) (Qualifying Degree)

This module is Core optional for:

- Year 4 of UIBA-MN34 Law and Business Four Year (Qualifying Degree)
- Year 5 of UIBA-MN37 Undergraduate Law and Business Studies (Qualifying Degree) with Intercalated Year

This module is Optional for:

- Year 3 of UIBA-MN34 Law and Business Four Year (Qualifying Degree)
- Year 3 of ULAA-M300 Undergraduate Law
- ULAA-M106 Undergraduate Law (4 year) (Qualifying Degree)
  - Year 3 of M106 Law (4 year) (Qualifying Degree)
  - Year 4 of M106 Law (4 year) (Qualifying Degree)
- Year 4 of ULAA-M104 Undergraduate Law (Year Abroad)
- Year 3 of UIBA-MN31 Undergraduate Law and Business Studies

- UIBA-MN32 Undergraduate Law and Business Studies
  - Year 3 of MN32 Law and Business Studies (Four-Year)
  - Year 4 of MN32 Law and Business Studies (Four-Year)
- Year 4 of UIBA-MN37 Undergraduate Law and Business Studies (Qualifying Degree) with Intercalated Year
- UIBA-MN35 Undergraduate Law and Business Studies with Intercalated Year (3+1)
  - Year 3 of MN35 Law and Business Studies with Intercalated Year (3+1)
  - Year 4 of MN35 Law and Business Studies with Intercalated Year (3+1)
- UIBA-MN36 Undergraduate Law and Business Studies with Intercalated Year (4+1)
  - Year 4 of MN36 Law and Business Studies with Intercalated Year (4+1)
  - Year 5 of MN36 Law and Business Studies with Intercalated Year (4+1)
- Year 3 of ULAA-M110 Undergraduate Law with Humanities (3 Year)
- UPHA-V7MW Undergraduate Politics, Philosophy and Law
  - Year 3 of V7MW Politics, Philosophy and Law
  - Year 3 of V7MW Politics, Philosophy and Law
- Year 4 of UPHA-V7MX Undergraduate Politics, Philosophy and Law (with Intercalated Year)

This module is Unusual option for:

- UPHA-V7MW Undergraduate Politics, Philosophy and Law
  - Year 2 of V7MW Politics, Philosophy and Law
  - Year 2 of V7MW Politics, Philosophy and Law
  - Year 3 of V7MW Politics, Philosophy and Law
  - Year 3 of V7MW Politics, Philosophy and Law
- Year 4 of UPHA-V7MX Undergraduate Politics, Philosophy and Law (with Intercalated Year)

This module is Option list A for:

- Year 4 of ULAA-M113 Undergraduate Law with Humanities (4 Year) (Qualifying Degree)

This module is Option list B for:

- Year 4 of ULAA-ML33 Undergraduate Law and Sociology

This module is Option list E for:

- UPHA-V7MW Undergraduate Politics, Philosophy and Law
  - Year 2 of V7MW Politics, Philosophy and Law
  - Year 2 of V7MW Politics, Philosophy and Law