

ENGLISH TRUSTS

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Vocabulary

You may consider useful to check new vocabulary on your dictionaries first. Look up the following words (if you don't know them):

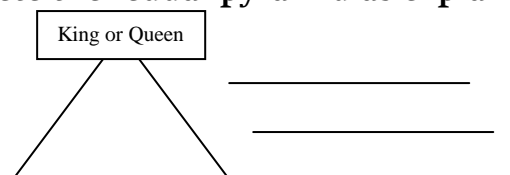
Allegiance	Jurisprudence	Rigid
Assets	Lease (out)	Signatory
Breach (of contract)	Leasehold	Statute
Chancery	Loopholes	Tax avoidance
Charity (institution)	Manor	Tenants
Compulsory	Mortgages	(to) vest
Disputes	Peasant	Wound up
Equity (legal term)	Pension scheme	
Harshness	Produce (as noun)	

Part 1

1. What is the point the lecturer makes about the importance of property versus people in English Law?
2. What does 'mitigate' mean?
3. What does 'damages' mean in the legal context?
4. In this part, which two reasons does the speaker give to study trust as part of the English Law degree?

Part 2

5. Complete the feudal pyramid as explained by the lecturer.



6. Give examples of how a tenant would pay the lord, different from money.
In Britain, who pays the Inheritance Tax?

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Part 3

8. What is the difference between 'freehold' and 'leasehold'?

9. What is a trust?

10. What is the Land Register?

11. Compare the following terms: 'legal owner' and 'beneficial owner' of a property?

Part 4

12. What happens if the legal owner, the trustee, sells the property without authorisation of the beneficial owner?

13. Why do people accept to be a trustee?

14. Define the legal term 'settlor'

15. Give an example on how the industrial and/or financial sectors have applied the concept of 'trust'.

Part 5

16. Why have castles been sold or given to the National Trust instead of keeping them in the family?

17. Why can charities, like the National Trust, maintain properties for ever?

18. How did Common Law affect Women's properties when they got married in the 18th Century?

Part 6

19. Why can trust be set only for persons (without considering the exceptions)?

20. Explain the origins of why pets and animals can still be eligible to be beneficiaries in a trust?

21. What is the reason given by the lecturer on why today you can still find trusts for cats and dogs?
22. Why can't you have a trust for a tortoise?
23. Why do trusts of land require stronger formalities than other types of properties?

Part 7

24. What is a 'nominee'? Under which circumstances can you have a 'nominee'?
24. How can you create trusts in order to avoid tax? What would you have to do?

Part 8

26. How does a trust work in Pension schemes?
27. What is a 'resulting' trust?
29. What would happen if you pay for a product on-line and before your purchase arrives, the company goes bankrupt? Will you get your money back? Why?

Part 9

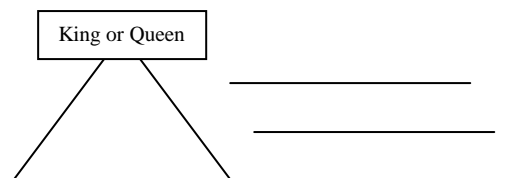
29. Can two people be legal owners of a property? Why?
30. What is a 'constructive' trust? What example does the author give?
31. What characterises Civil Law according to the lecturer? How does this differ from Common Law?

Key

1. It is compulsory to study Land Law and Trust, but not Family Law when taking a Law degree.
2. It means to soften; Common Law can be very strict and rigid, and may need to be mitigated.
- 3 It means financial compensation.
4.
 - 1) Because English people regard Trust as one of their greatest contributions to law.
 - 2) It is particularly useful in mitigating the harshness of the Common Law.

Part 2

5.



(Answer: (from top to bottom) lords (dukes or earls); mesne or lord of manor; and finally tenants)

6. Tenants could go to war for their lords or give produce off their land.
7. The richest percentage of the population (i.e. 5 - 6%). People worth £340,000 or more.

Part 3

8. Freehold properties can be held for ever; leasehold properties can be held for a fixed term.
9. A trust is a legal device. It is a relationship whereby property (land, money, objects, jewellery, paintings, etc.) is given to a person or persons called trustees who hold it for the benefit of another person or persons called beneficiaries. For example, someone might put property in a trust for a son or daughter not yet 18.
10. The Land Register is the entity that lists all the properties in England and Wales, and who owns it, where it is, and the people who have interests and mortgages.
11. The legal owners is the trustee and the property will be under their name. S/he is an owner 'on paper'. The beneficial owner will be the real owner of the property, the owner of equity, the person that decides what happens to the property.

Part 4

12. In this case the legal owner will be accused of breach of trust, and the law will go after them, prosecute them and eventually they can go to prison.
13. You may become a trustee because you have a personal relationship with the owner of the property or because of a financial interest as it is a paid job with professional fees.
14. The settlor is the person who creates the trust. For example, in the case of a marriage settlement, the settlor is the person who puts money in a trust for the couple.
15. For example, company Directors or people who run investments, like in banks, can be trustees of the funds contributed by investors. The bank might hold a trust fund which means that the money belongs to everyone who contributed but someone or the bank can be the legal owner.

Part 5

16. Castles used to pass through the generations. However, this stopped in the 20th Century because the inheritance tax (formerly known as death duties) became too high and it was very expensive to establish Trust to pass the properties through generations. As a consequence, now the properties are sold or given to charities because families cannot afford to manage these big properties anymore.
17. There is a principle in English law that land should be free to move around, so they can be kept by an owner for 60 to 80 years maximum. But charities, like National Trust properties, are exempt from that restriction and can hold land in trust for ever.
18. When they got married, women lost their property in common law because there was a principle (not always honoured) that her husband then had to support her.

Part 6

19. It has to be a person because only a person, the beneficiary, can enforce it (i.e the trustee) and make sure it is carried out. For example, it is possible to have a trust for education of the poor, but not for building a house.
20. When hunting was still allowed in England, the English aristocracy was able to set up a trust for their hounds and horses because they were useful animals in their sport. Nowadays people still at times create a trust for their pets.

21. The lecturer claims that the reason why there are still trusts for cats and dogs is because English people love their pets and they are “useful” animals because they make you happy.
22. Tortoise (who can live hundreds of years) and other animals that have a long life span cannot be beneficiaries of trusts because trusts have a limited duration.
23. Trusts on land require stronger formalities because land is very valuable in the United Kingdom due to its small size. For land you need trusts to be formalised in writing. For other things a verbal statement with witnesses is sufficient.

Part 7

24. The nominee is a trustee. The lecturer gives an example of her brother that lives in the US but has property in Australia. He pays for a nominee that administer his investments.
25. You will create trusts that benefit your family. For example, if you create a trust for your children, each of them will get an income from the trust. Therefore your property is not taxable.

Part 8

26. Pension funds are held in trust. The money from employees is passed to a fund and the person or company that runs that fund is the trustee that will hold the money on trust until you retire.
27. A resulting trust occurs when a club or a society with property on trust comes to an end and the remaining funds will be distributed to the beneficiaries.
28. Yes. In this case, your money to pay for the goods will have been held on trust until you get the goods. So if the company goes bankrupt that money will be returned to the person who sent it before any other creditor can look at the company funds.

Part 9

29. No. Two people can be beneficiaries of a property under a trust, but according to British law there has to be only one legal owner.
30. A constructive trust is a trust that is constructed by the court based on the evidence and history presented. For example, if two people had lived in the same property, but only one of them is the legal and beneficiary owner and the other one has only contributed with the mortgage or other expenses, this evidence can help construct a trust where the two people can become beneficiaries.

31. Civil Law has the laws written down in books, the civil and criminal codes. Common Law, on the other hand, the law is developed through the cases.