

**IN THE CROWN COURT AT SOUTHWARK**

**THE KING**

**v**

**ROBERT VENABLES**

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**GLOSSARY OF TERMS**

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**A: Terms relating to trusts:**

- Settlor:** The ‘settlor’ is a person who transfers property (land, investments, rights under contracts, etc.) to a trustee, so that those assets are thereafter held by the trustee in **trust**. The settlor normally sets out how the assets should be used in a document called a **trust deed**. This is sometimes referred to as the act of ‘subjecting’ property to the terms of a trust, or ‘charging’ property with rights in favour of others.
- Settlement:** This word can be used in a number of ways. (1) It can be used another term for a ‘trust’. Settlers are sometimes described as making ‘settlements’. (2) The word ‘settlement’ also has a special meaning for certain tax purposes. For example, for the purposes of the **Settlements Code**, a ‘settlement’ can include a ‘trust’ but a ‘settlement’ can also refer to other ‘arrangements’, such as a partnership.
- Trust deed:** The trust deed will normally set out what powers are given to the trustee (or to others, e.g. to an **appointor**), and will normally say who the beneficiaries are, i.e., it will set out for whose benefit the property of the trust is to be held.
- Deed Poll:** A document that sets out the terms of a trust, which can be expressly incorporated into a shorter trust document.
- Trust:** Unlike an individual or a company, a ‘trust’ is not a legal person. The term ‘trust’ refers to the legal relationship created by a person (the **settlor**), whereby property (money, investment, land or buildings, paintings, a home, etc.) is transferred by the settlor to the **trustee**, and is thereafter under the control of a trustee, to be held for the benefit of one or more **beneficiaries**.

For example: a grandparent (the settlor) may give their adult daughter “T” (the trustee) a house, but T must hold the house for the benefit of grandchildren (the beneficiaries). The legal relationship between T and the grandchildren as respects the house is called a ‘trust’.

**Trustee:** The term ‘trustee’ (which can apply to a natural person, like Robert Venable, or to a company, like Breangale Ltd) is the person who legally owns the assets or property of a trust (**trust property**). The trustee therefore has the power as well as the duty to manage the trust assets/property. But the trustee must hold and manage the assets in accordance with the terms of the trust deed and for the benefit of the beneficiaries.

For example: if a person (the trustee) owns a house for the benefit of beneficiaries:

- i. The trustee must manage the house (e.g. the trustee must maintain it, rent it out or sell it). This includes (save in relation to bare trusts) paying any tax due on income from that property (e.g. tax on rental income).
- ii. The trustee must also ensure that the right beneficiary benefits from the income or the trust property, in accordance with the terms of the trust – as set out in the trust deed.

**Beneficiary:** A ‘beneficiary’ is the person (or, if more than one, the ‘beneficiaries’ are the people), who may benefit from trust property held by the trustee. Depending on what is written in the trust deed, the beneficiary may benefit from ‘income’ from trust property or ‘capital’ or both. Charities and individuals can be beneficiaries. Beneficiaries can be described as having different ‘interests’ in trust property.

For example:

- i. If a trustee owns a house worth £500,000 and rents it out for £250 a month, a beneficiary who can only benefit from ‘income’ from that trust will be able to benefit only from the rental income from that property paid to the trustee, i.e. from the £250 per month (less any expenses incurred by the trustee).
- ii. If a house is put into a trust set up by one spouse in their will, so that after the death of that spouse the surviving spouse is entitled to occupy the house, or to

receive the income from it during their life, and the house is then to belong to their children, when the surviving spouse dies the children will become entitled to capital.

**Appointor:** A person who has powers to change the terms of any trust (called ‘powers of appointment’). The powers which are given to an appointor can include the power to add or to remove beneficiaries. It can include the power to add or to remove trustees. It can include a power to change other terms of a trust.

**Bare trust:** This describes the relationship between a trustee and beneficiary, where - although the trustee has the legal title to the property - the beneficiary has the right ask for the trustee to pay to him all of the property of the trust (and any income from the trust) as long as they are of sound mind, and 18 or over (in England and Wales). Bare trusts are often used to pass assets on to young people, so that trustees can look after the assets until the beneficiary is old enough.

For example: If a grandparent gives their adult daughter a house on ‘bare trust’ for the grandchildren, the law treats the house and any rental income earned on the house as belonging to the grandchildren – even if the adult daughter can hold onto the income, until the grandchildren are 18 years old.

**IIP trust:** An IIP or **interest in possession** trust, is a trust where the beneficiary has the right to receive income earned by the trustee (less any expenses), where that income arises from the property which is the subject of the IIP trust. The right to income is ‘in possession’, i.e., it is a present right to present income.

For example: You transfer shares that you hold as an investment to trustees. The trust deed says that the trustees must pay the income from those shares to your spouse for the rest of their life, but that, when they die, the shares will pass to your children. Your spouse is the income beneficiary with an ‘interest in possession’ in the trust property.

**Vesting:** The word ‘vesting’ or ‘vested’ is used in trust law to mean that beneficiaries have a fixed right to something. It is the opposite of “contingent” or “conditional”. Where the vesting is absolute (**absolute vesting**), this means there are no longer any trust powers that can be exercised by the trustee over that trust property. Where property ‘vests absolutely’ in the beneficiary, this means it belongs beneficially to

the beneficiary, even if the trustee still legally owns it. The trustee cannot give it to anybody else.

**Minor child:** Someone who is under 18 years of age.

### **B: Terms used in this case relating to partnerships**

**Partnership:** This is an agreement between two or more people to carry on a business in common with a view to profit. They normally therefore share ownership, responsibilities, profits and liabilities arising out of that business. Unlike a company which pays tax on its profits (i.e., any profits earned from a business carried on by the company), partnerships do not pay tax; instead the **partners** each pay tax on their share of the profits of the partnership.

**Partner:** In relation to a partnership, a ‘partner’ is one of the people (and this can be an individual, or a company, or a person acting as ‘trustee’) who has agreed to carry on a business together with the other partners.

#### **Partnership Deed:**

This is the document which sets out the rights and obligations of the partners as regards the partnership business. It sets out how income **profits** derived from the partnership business are to be shared between the partners during any **period of account**. It also sets out who is entitled to what, for example, when the partnership business is sold.

**Profits:** This is the word used to describe the difference between the amounts received (e.g. from clients) and the amounts spent (for example, in producing something). For tax purposes, the profits are the ‘income’ of business, which is subject to tax. You can only work out whether there are ‘profits’ in a business by reference to an **accounting period** (sometimes referred to as a **period of account**). This is because it is not until the end of the period of account that you can work out whether the amounts received will be more than the amounts spent (expenses).

For example: a business could be steadily receiving money from clients (say) for 360 days of an accounting period, but if it has to pay a big expense in the last few days, it may not have any ‘profit’ for the accounting period.

If there are receipts of the business (e.g. payments from clients)– it is possible to make payments **on account** of a partner’s share of the profits. This does not transform the payment to the partner into an allocation of ‘profit’.

**Capital:** The capital of a partnership is the aggregate (total) of the contributions made by the partners, either in cash or in kind, for the purpose of commencing or carrying on the partnership business and intended to be risked by them therein. Each contribution must be of a fixed amount. If it is in cash, it speaks for itself. If it is in kind (e.g. an asset other than cash), it must be valued at a stated amount. It is important to distinguish between the capital of a partnership, a fixed sum, on the one hand, and its assets, which may vary from day to day and include everything belonging to the firm having any money value, on the other.

**Residuary Partner:**

This was the name given in the RVQC Partnership Deed to certain IIP trusts (e.g. the St Roch Trust, the St Augustus Trust, etc.). The trustee of these IIP trusts (i.e., Breamgale Limited) was a partner of the RVQC Partnership entitled to ‘profits’ of the partnership business in each period of account. More specifically, in each **period of account**, Breamgale Limited as trustee of these IIP trusts was entitled to the ‘residue’ of the profits of the RVQC Partnership. In other words, the trustee was entitled to what was left, after profits had been allocated to others.

**C: Terms relating to barristers**

**Barrister:** Barristers are specialist legal advisers and courtroom advocates. Most barristers are self-employed, individual practitioners who usually work as sole practitioners. They normally belong to a set of **chambers**.

**QC (or KC):** QC means Queen’s Counsel. KC means King’s Counsel. The status of QC (while the Queen was alive) and now KC is awarded to barristers who have demonstrated excellence in the highest courts of England and Wales.

**Chambers:** Physical (or virtual) offices from which self-employed barristers practice. Barristers that belong to a set of chambers will share administrative costs (for example, rent and the cost of support staff, like typists or **clerks**).

**Clerk:** A manager and administrator in a set of barristers' chambers. They act as a type of agent between a barrister and their clients. For example, they negotiate fees with clients on behalf of barristers.

**Chancery:** A particular area of law, which, broadly, concerns disputes over trusts, businesses and property. Trust law is one area of chancery law. Barristers practicing in this area of law are called 'chancery barristers'. Barristers practicing in tax law are called 'tax barristers'. Some (but not all) tax barristers are also chancery barristers.