



# Private Trust Companies in Guernsey

The new Guernsey Trusts Law makes several amendments to the Island's fiduciary environment, with not only the introduction of Purpose Trusts but also the abolition of the personal liability of directors in Private Trust Companies (PTCs) as a way of encouraging greater use of such entities.

These legislative developments are further to Guernsey's 50-year experience in providing trust and corporate services, which has cultivated a wealth of expertise and first class infrastructure in the field. The island plays host to some 140 licensed fiduciaries, ranging from international organizations to independent operations, holding more than £200bn assets in trust. The industry's highly skilled workforce is complemented by a network of sophisticated legal, accounting, tax and actuarial advisers, making the Island an ideal home for PTCs.

## What is a PTC?

In essence it is a privately owned company that acts as appointed trustees, usually for a family trust or group of trusts; it is a trust company, albeit one that does not act commercially for any third party trusts. PTCs are often, but by no means exclusively, at the heart of a Family Office established to run a family's affairs.

Traditionally settlors have appointed professionals, family members or friends to act as trustees of their settlements. Though this has proved perfectly acceptable historically, the increased burden and risk on trustees nowadays means that many individuals are reluctant to accept the role.

## Advantages of PTCs

The board of a PTC can – subject to tax considerations – often be populated with the right complement of professionals, specialists, family members and friends, it can be changed quickly, if necessary without compromising the continuity of the underlying trusteeship or administration. A professional trustee is often appointed to the board for many reasons, not least to discharge the day-to-day administration of running the PTC and its underlying trusts.

Under the new law, the personal risk is reduced for an individual acting as a director of the PTC, rather than as a personal trustee. This follows the abolition of section 70 of the old law, which effectively made the directors of trust companies personal guarantors of the liabilities of the trust company.

With the focus on just one family and often with the involvement of members of the family, the PTC's greater understanding of the family gives increased assurance to the family that decisions will be made quickly and sensitively to their interests – particularly, for example, in relation to interests held in family businesses etc.

## Structures for PTCs

There is no standard approach or solution to the structure of a PTC. They will differ according to the family's particular needs. However, simple Guernsey companies are often used, the shares of which will be able to be owned by a Guernsey Purpose Trust.

The structures underlying the PTC should be designed to best suit the various tax, legal and family considerations and should be reviewed periodically as objectives and circumstances change.

Appointing strong-minded professionals is essential to ensure the integrity of the trust is not compromised through improper administration or undue influence from the family. Establishing the structure and ensuring the family's individual and collective requirements and aspirations are achieved, can be a complex and time-consuming process. The commitment and costs involved are naturally likely to be a little more than those associated with a traditional trust company but in the right circumstances the end may justify the means.