

On the Trust Act in China

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The Chinese (Peoples' Republic of China) trust acts came into force on the first day of October, 2001.

This act consists of seven chapter and a series of section, 74; namely, Chapter 1 GENERAL (sect.1 ~ 5), Chapter 2 CREATION OF TRUSTS (sect. 6 ~ 13), Chapter 3 TRUST PROPERTY (sect. 14 ~ 18), Chapter 4 PARTIES OF TRUST (sect. 19 ~ 49), Chapter 5 MODIFICATION AND TERMINATION OF THE TRUSTS (sect. 50~58), Chapter 6 CHARITABLE TRUSTS (sect. 59~73), Chapter 7 SCHEDULE (sect. 74).

From a legal perspective, There are numerous problems with the Chinese trust act. For example, especially, in regard to the definition of trusts, it is not an essential condition of the transfer of property right to trustee from trustor. If that is the case, the Chinese trust act cannot be a trust. That's because a trust has to transfer the property right to the trustee from trustor.

In addition to this, there are no provisions vis-à-vis the administration of the trust and the trust property in the private trust.

I think the Chinese trust act has also many problems from construction point of view.

