



**Directives
Real Property Registry**

SECTION: General

NUMBER: 2001 – 010

SUBJECT: Declarations of Trust

Purpose

This directive outlines how and where “Declarations of Trust” are to be reflected, in the Registry and Land Titles systems, within instruments creating an interest in land.

Reference

- *Registry Act*, Subsection 1.1(2)
- *Land Titles Act*, Sections 58 & 59.
- *Standards for the Practice of Real Property Law*, Section 10 (Standards from Law Society).

Registry Act – Subsection 1.1(2)

“This Act applies to

- (a) the creation or transfer of an interest in land including a lease, and
- (b) the creation or transfer of a right to payment that arises in connection with an interest in or a lease of land other than a right to payment evidenced by a security or instrument.”

Land Titles Act - Section 58(2)

“Where registered land or an interest or estate is registered in trust, no disposition affecting such land, interest or estate may be registered unless the Registrar General is satisfied that the disposition is in accordance with the terms of the trust.”

Land Titles Act - Section 59

“Except as otherwise provided by this Act,

- (a) no memorandum, entry or record shall be made upon the title register of any notice of trust, whether express, implied or constructive; and
- (b) the registrar shall treat any instrument containing any such notice as if there were no trust and the trustee named therein shall be registered as the absolute and beneficial owner of the land.”

Standards – Section 10 – Registry

“In the registry system, the use of the word “trustee” or the words “in trust” following the name of the grantee does not require that a purchaser from that grantee (as grantor) inquire as to the nature of the trust. When the grantee (as grantor) conveys the property the same word or words should follow the grantor’s name. No statutory declaration is required respecting compliance with the trust.”



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Standards – Section 10 – Land Titles

"In the land titles system, where an instrument discloses that a grantee takes an interest in trust, the registrar will register that interest in the name of that grantee followed by the words "in trust". When the grantee disposes of that interest, the Registrar General must be satisfied that the disposition is in accordance with the terms of the trust. For this purpose a statutory declaration or some other evidence of compliance is required."

Directive

Under the Registry Act, there is no requirement to inquire as to the nature of the trust from the trustee. No evidence is required respecting compliance with the trust. However, such evidence may still accompany the disposition by the trustee as grantor.

Under the Land Titles Act, there is a requirement to satisfy the Registrar General that a disposition from the Trustee is in accordance with the terms of the trust.

To reflect that the disposition satisfies the terms of trust, in both Registry and Land Titles, the preferred evidence of compliance is a statutory declaration accompanying the Transfer or the Deed as a Schedule, which forms part of the instrument to be registered.

The statutory declaration, sworn to by the Trustee as transferor or grantor, will indicate that the terms of the trust have been complied with.

No statutory declaration or Notice of Trust can be registered as standalone instruments and any such submission for registration will be rejected, as neither creates nor transfers an interest in land.