

Declaration and Deed of Trust

- Scotland

This Declaration and Deed of Trust may be used together with an application for a new National Friendly policy or in relation to an existing National Friendly policy.

Definitions and directions

In this Trust, unless the context does not permit, the singular shall include the plural and vice versa, and words denoting any gender shall include all genders.

We have included in the margin definitions of words and phrases you may not be familiar with, as well as some directions on how to complete the form.

Creditors:

Any person or company the Settlor owed money to when they died.

Insolvent and insolvency:

Unable to pay debts owed.

What this form is for

A trust form is a legal document used to place assets, such as life insurance or other property, into a trust to ensure they are managed and distributed according to your wishes, often avoiding probate and potentially reducing inheritance tax.

Points to be considered

The person seeking to place the new or existing policy into a trust ("the Trust") is termed the "Settlor". Before declaring a trust over a new or existing policy, you must ensure that the provisions contained in this "Declaration and Deed of Trust" meet your requirements and intentions as Settlor, as it may be difficult, impossible or expensive to vary the provisions at a later date. As a trust can have important legal, tax or financial consequences, you are strongly advised to seek specialist professional advice to ensure that a trust is suitable to meet your needs.

This Trust may be used with single or joint applications/policies and with new or existing National Friendly policies

Standard trust forms are designed to suit most people who wish to create a trust, but they will not be appropriate in every case, and placing a policy in trust can have drawbacks. Prospective settlors should therefore seek independent legal advice before proceeding. Please also read our document, "A Guide to Declarations and Deeds of Trust", before completing this form.

There are many advantages of having a policy issued under a trust. For example:

- (a) Claims can be settled more quickly, as payment of the claim can be made before the granting of Confirmation.
- (b) The proceeds from the policy are not added to the Settlor's estate value and therefore may not be subject to inheritance tax when paid; and
- (c) A policy held in trust will usually be safe from creditors unless the Settlor effected the policy whilst insolvent or aware of potential insolvency.

Definitions and directions

Spouse:

Includes any civil partner registered under the Civil Partnership Act 2004 and widow(er) includes any surviving civil partner so registered. Any references to marriage include registered civil partnership.

Child, children and issue:

Includes any illegitimate step, adopted, or legitimated (whether adopted or legitimated before or after the date hereof) child, children, or issue.

Trustees:

The trustee or trustees as appropriate for the time being of this Trust.

Beneficiaries

The people who can benefit under a trust (called the “Beneficiaries”) are not generally restricted by legislation and the Settlor generally is free to decide who will be a Beneficiary. Under the Married Women’s Policies of Assurance (Scotland) Act 1880, there may be advantages to restricting the Beneficiaries under the trust (e.g. to a legal spouse/registered civil partner and/or biological and legally adopted children). Specialist advice should be sought if you are uncertain about who to name as a beneficiary for legal reasons.

The Settlor can choose what is to be included in this “Declaration and Deed of Trust”.

The policy can be:

Held for named beneficiaries in defined proportions (under an “absolute trust”)

or

for a particular class of Beneficiaries with the particular benefits determined by the trustees of the trust (under a “discretionary trust”).

The trustees may be given the power to add or remove Beneficiaries from the trust.

Trustees - selection and qualification

The people who manage the trust for this policy are termed the “Trustees”. It is recommended that more than one Trustee is appointed. Trustees are appointed at the outset and may include:

- (a) the Settlor (both Settlers in joint cases);
- (b) the Settlor’s spouse or registered civil partner;
- (c) any other person aged 18 or over who is prepared to accept the responsibility of seeing that the benefits of the policy are applied in accordance with the provisions of the Trust; and/or
- (d) a bank, solicitor, accountant or other professional firm. They may, however, charge for their services.

Further Trustees can be appointed by the Settlor and, after his or her death, the Trustees. Please refer to our Trust Guide for further information on who can be a trustee and how many trustees are recommended.

PART 1: DECLARATION

- Insert the name and address of the Settlor (or both of them in joint cases) at the top of the page.

THIS TRUST DEED is made by

Name:

of

Address:

Only applicable for joint cases:

and

Name:

of

Address:

(The above named will be called the Settlor which expression, where two persons are named above, includes both of them)

AS FOLLOWS:

(i)

A. WHERE NEW POLICY APPLIED FOR

Where Part 2A below is completed, the Settlor being the Proposer(s) for the Policy (as defined in Part 2 below) to be issued by **National Deposit Friendly Society Limited (the "Society")** hereby declare(s) that they are effecting the Policy proposed upon an irrevocable Trust for the person or persons specified herein and in accordance with the respective rights and interests as stated herein. The Settlor hereby requests and directs that the Policy be issued by the Society in such manner that the Policy immediately on its being so effected shall vest in the Trustees (as hereinafter defined) to hold the same irrevocably on the trusts and subject to the powers and provisions hereof.

B. WHERE POLICY IN FORCE (PART 2B BELOW COMPLETED)

Where Part 2B below is completed, the Settlor, being the legal and beneficial owner of the Policy (as defined in Part 2 below) already issued by **National Deposit Friendly Society Limited (the "Society")** irrevocably assigns the Policy and all benefits payable under it to the Settlor and the additional Trustees named in Part 6 hereof (if any) to hold the Policy as the Trustees (as hereinafter defined) thereof irrevocably on the trusts and subject to the powers and provisions hereof. The Settlor and Trustee(s) will send a copy of this document to the Society as notice of the assignment effected under this Trust.

(ii)

The Settlor declares that no lien or charge or any other form of security interest shall be created on the Policy (as confirmed in Part 2 below) by payment made by the Settlor and that it shall not be possible for the Settlor to benefit under this Trust in any circumstances whatsoever.

Irrevocable:

Control is permanently transferred to a trustee, offering asset protection and potential tax benefits.

Lien:

A legal claim that entitles a party to retain possession of property until a debt is paid.

Definitions and directions

Beneficiaries:

The Default Beneficiary(ies) and the Discretionary Beneficiaries where this Trust is a Discretionary Trust in accordance with Part 4A and the Absolute Beneficiary(ies) where this Trust is an Absolute Trust (also known as a bare trust) in accordance with Part 4B.

Appointor:

The Settlor during his life or if two persons are the Settlor both of them jointly during their joint lives and thereafter the survivor of them and subject thereto the Trustees.

(iii)

Discretionary Trust or Absolute Trust:

Discretionary Trust

A discretionary trust gives the Trustee(s) the power to decide how much the Beneficiaries receive from the Trust and when they receive it. Beneficiaries under a discretionary trust are usually defined as a class of prospective beneficiaries as opposed to particular named beneficiaries. The Trustee may be given the power (as "Appointor") to alter the potential Beneficiaries. If this type of trust is to be chosen, then the Settlor must initial next to A below.

Absolute Trust

An absolute trust has specific, named Beneficiaries provided at the outset, who cannot be changed in the future. The Trustee(s) has no discretion as to the recipient of the trust assets or the amount that they receive. If this type of trust is chosen, then the Settlor(s) must initial next to B below.

This trust is to be

Settlor's(s') initials

A. A Discretionary Trust in accordance with Part 4A

☐☐

OR

B. An Absolute Trust in accordance with Part 4B

☐☐

PART 2: POLICY SUBJECT TO TRUST

- For a new policy insert the type of policy, the full name(s) of the life/lives assured and, in box A (below), the date of application.
- For an existing policy insert the type of policy, the full name(s) of the life/lives assured and, in box B (below), the policy number.

The policy subject to this Trust (the "**Policy**") means the one or more contracts of life assurance the details of which including the policy numbers or the date of proposal (as appropriate) are specified below.

Policy type

On the life or lives of

A. Date of proposal for the new Policy (i.e. if A in clause (i) of Part 1 on page 3 above applies)

or

B. Policy number(s) of the existing Policy(ies)(i.e. if B in clause (i) of Part 1 on page 3 above applies)

Definitions and directions

Absolute Beneficiary(ies):

Where Part 4B applies, means the one or more persons named in the boxes.

Please write full name, initials will not be accepted here.

PART 3: ABSOLUTE BENEFICIARY(IES)

Title	Full name		% Share if more than one
		→	
		→	
		→	
		→	

Expression of Wishes

If you have initialed box A above and intend to create a discretionary trust in accordance with Part 4A, in the box below, you may indicate to the Trustees how you would like them to exercise their discretion or you may identify any particular factors or considerations to which they should have regard in exercising their powers. The Trustees are not obliged to give effect to your expressed wishes, but may have regard to them where possible and when this is consistent with their duties:

Definitions and directions

Trust Period:

A period of 125 years from the date of this Trust Deed.

Trust Fund:

The Policy the full benefit thereof any assets at any time added thereto by way of further settlement, capital accretion, accumulation of income or otherwise and all assets from time to time representing the same and includes where the context so admits any part or parts thereof.

Discretionary Beneficiaries:

Where Part 4A applies, means:

- (a) any spouse, former spouse, widow or widower of the Settlor, provided that if two persons are the Settlor such person is not one of them;
- (b) the children and remoter issue* (see next page) of the Settlor (or either of them) whenever born;
- (c) every spouse, former spouse, widow or widower of any such child or remoter issue;
- (d) the brothers and sisters of the Settlor (or either of them) and their children;
- (e) any one or more people (other than a Settlor) beneficially entitled under the Will (or any codicil**, see next page) of the Settlor or who would be entitled to an interest in the Settlor's estate if the Settlor had died intestate.
Where the Settlor is two people this provision shall operate with like effect on the death of each of those people;
- (f) any person (other than the Settlor (or either of them)) nominated in writing to the Trustees by the Settlor as a Discretionary Beneficiary, such power of nomination to be exercisable if the Settlor is two persons by them jointly during their joint lives and thereafter by the survivor of them;
- (g) the Default Beneficiaries, as defined below; and
- (h) any charity.

Default Beneficiary(ies):

Where Part 4A applies, means the one or more persons named in the boxes below or such other person or persons as are appointed by the Appointor under the power conferred by paragraph A1 of Part 4 below to be Default Beneficiaries in place of/or in addition to those named below.

PART 4: PRINCIPAL TRUST TERMS

A Where the Trust is a Discretionary Trust:

- A1. During the Trust Period the Appointor shall have power by deed or deeds revocable (whether by the person(s) making the deed or some other person(s)) during the Trust Period or irrevocable to appoint the whole or any part or parts of the Trust Fund and the income thereof for such one or more of the Discretionary Beneficiaries in such one or more shares and for such interests and subject to such trusts powers and provisions (including protective trusts, discretionary trusts or powers operative or exercisable at the discretion of the Appointor or any other persons) as the Appointor shall in their absolute discretion think fit and without prejudice to the generality of the foregoing this power shall include the power to appoint any one or more of the Discretionary Beneficiaries to be new or additional Default Beneficiaries in place of or in addition to those named by the Settlor in paragraph of Part 3 above with such adjustment of the shares of the Default Beneficiaries as the Appointor shall direct. Provided always that no such appointment shall infringe the rule against perpetuities (where this is relevant) or affect the entitlement of any person to any payment made or asset transferred to him. Provided also that where the Appointor are the Trustees no appointment shall be made in favour of a Beneficiary who is one of the Trustees unless there is at least one other Trustee who does not benefit directly or indirectly from the appointment.
- A2. Subject to paragraph A1 of this Part 4A :
 - (i) The Trustees may accumulate the whole or part of the income of the Trust Fund during the Trust Period. Such income shall be added to the Trust Fund; and/or:
 - (ii) The Trustees shall pay or apply the remainder of the income to or for the benefit of such of the Discretionary Beneficiaries as the Trustees think fit during the Trust Period.
- A3. To the extent that any part of the Trust Fund and its income shall not have been appointed or otherwise disposed of by the Trustees during the Trust Period, the Trust Fund shall be held for the absolute benefit of the Default Beneficiaries and, if more than one, in the shares specified and, if no shares are specified, in equal shares.
- A4. During the Trust Period
 - (i) The Trustees shall have power to pay, transfer or apply the whole or any part or parts of the Trust Fund to, or for the benefit of, any Beneficiary entitled to such whole or part; and/or
 - (ii) The Trustees shall have power to lend, with or without security, to any Beneficiary the whole or any part of the Trust Fund upon such conditions as to interest (if any) and repayment and generally upon such terms as the Trustees in their absolute discretion think fit, provided always that any such loan must be repayable before the end of the Trust Period.

Definitions and directions

From previous page:

***Remoter issue:** Children who are direct descendants beyond immediate children of the settlor, for example, Grandchildren, Great Grandchildren and future generations of children who are not yet born.

****Codicil:** A legal document that amends, modifies, or clarifies an existing will without replacing it.

Delete/cross out the words: "The Settlor and" if you do not wish to be appointed as a Trustee.

Please write full name, initials will not be accepted here.

Please use date format DD/MM/YYYY.

B. Where this Trust is an Absolute Trust

- B1. The Trustees shall hold the Trust Fund and any associated income absolutely for the Beneficiary(ies). If more than one beneficiary exists then in the shares specified in paragraph (v) of Part 3 on page 5, or in equal proportions if no shares are specified.
- B2. So long as the Beneficiary is under the age of legal capacity the Trustees shall have power to pay or otherwise apply for or towards that beneficiary's maintenance, education or benefit so much of the income from their share in the Trust Fund as the Trustees may in their absolute discretion think fit. The Trustees shall retain the balance of any such income on trust for that Beneficiary absolutely and, until they reach the age of legal capacity, the Trustees shall invest the same and the resulting income in investments hereby or by law authorised and shall hold the same as an increase to the said balance, provided always that so long as the said Beneficiary is under the age of legal capacity, the Trustees may pay or apply as aforesaid any such balance or growth as if it were income arising in the then current year.
- B3. The Trustees shall in place of any other power to pay or apply capital for the benefit of a Beneficiary have the power to pay, transfer or apply the whole or any part or parts of any of the Trust Fund to which any Beneficiary is entitled to or for the outright benefit only of such Beneficiary. This is subject to the consent of an adult Beneficiary having legal capacity but otherwise in their absolute discretion.

PART 5: APPOINTMENT OF FIRST TRUSTEES

You should then insert the full names, addresses and occupations of the additional Trustees.

The Trustees must sign to evidence their agreement to their appointment and insert the date they sign.

The Settlor hereby appoints the following persons to be Trustees of the Trust Fund:

The Settlor and

We the undersigned hereby agree to accept the duties of Trustees

Title	(i) Full name
Address	
Occupation	
Signature	
Date	
Location	

Definitions and directions

Please write full name, initials will not be accepted here.

Please use date format DD/MM/YYYY.

Please write full name, initials will not be accepted here.

Please use date format DD/MM/YYYY.

Title	(ii) Full name
Address	
Occupation	
Signature	
Date	
Location	

Title	(iii) Full name
Address	
Occupation	
Signature	
Date	
Location	

PART 6: APPOINTMENT OF ADDITIONAL TRUSTEES AND DISMISSAL OF TRUSTEES

- (i) The Appointor has the power to appoint new or additional Trustees. Every appointment of a new or additional Trustee(s) must be made by completing a deed, which is then confirmed in writing to National Deposit Friendly Society Limited.
- (ii) Following any exercise of the Appointor's power, the Appointor may (if they are not the Trustees) require the Trustees to grant a general conveyance of the Trust Fund or a special conveyance of any Trust Property to the Trustees.

PART 7: REMUNERATION AND LIABILITY OF TRUSTEES

- (i) Any Trustee (other than the Settlor or a spouse of the Settlor for the time being) being a solicitor or other person engaged in any profession or business is entitled to charge and to be paid all usual professional or other charges for business done by their firm in connection with this Trust whether in the ordinary course of their profession or business or not.
- (ii) In the execution and administration of this Trust, no Trustee shall be liable for any loss to the Trust Fund arising by reason of any investment made in good faith by any Trustee or by reason of any other matter or thing except wilful fraud or wrongdoing committed by the Trustee who is sought to be made liable and, in the case of a paid Trustee, negligence.

Definitions and directions

PART 8: THE LAW OF THE TRUST

The Trust hereby declared shall be governed by the law of Scotland.

PART 9: DATA PROTECTION

The Settlor(s) consent(s) to the Society providing information, when requested, to the Trustees insofar as they require to fulfil their duties as trustees. The Society may be required by law to disclose the Settlor's information to third parties, including as necessary to comply with any applicable money-laundering regulations.

PART 10: SIGNATURES AND DATE

The Settlor(s) should sign the Trust form and insert the date of signature. The date should be the date the Trust form is signed. Where a new policy is being taken out this date must not be later than the commencement date of the policy. When an existing policy is being placed in trust, the date must not be before the commencement date of the policy.

Each signature must be witnessed.

In Witness Whereof the Settlor executed this document as a Deed on:

Please use date format DD/MM/YYYY.

Date:

Please ensure you sign inside the box.

Signed as a Deed and delivered by the Settlor:

Signature:

The location must be stated.

Place of signing:

Please write full name, initials will not be accepted here.

Name:

All witnesses must be over the age of 18 and independent of the Trust (i.e. not a Settlor, an additional Trustee or a Beneficiary).

In the presence of the Witness named below:

Signature:

Please ensure you sign inside the box.

Name:

Please write full name, initials will not be accepted here.

Address:

If there are two settlors, please turn to the next page and complete the second Settlor information.

Postcode:

Definitions and directions

Please ensure you sign inside the box.

The location must be stated.

Please write full name, initials will not be accepted here.

All witnesses must be over the age of 18 and independent of the Trust (i.e. not a Settlor, an additional Trustee or a Beneficiary).

Please ensure you sign inside the box.

Please write full name, initials will not be accepted here.

Signed as a Deed and delivered by the second Settlor: (if there are two Settlers):

Signature:

Place of
signing:

Name:

In the presence of the Witness named below:

Signature:

Name:

Address:

Postcode:

Here's how you can contact us

We're here to help

You can call us on:

0333 014 6244 8am-6pm Monday to Friday excluding bank holidays.

Calls from UK landlines and mobiles cost no more than a call to an 01 or 02 number and will count towards any inclusive minutes.

Calls are recorded for training and quality purposes.

Or email us at:

info@nationalfriendly.co.uk

Or visit us at:

www.nationalfriendly.co.uk

Or mail us at:

National Friendly
11-12 Queen Square, Bristol
BS1 4NT

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