

Declaration of Trust

What is a Declaration of Trust?

A Declaration of Trust is a legal document which specifies the shares in which a property is owned by two or more individuals.

Why should I make a Declaration of Trust?

- ⦿ You should consider making a Declaration of Trust if:
 - ⦿ you are purchasing a property with someone else;
 - ⦿ moving into someone else's home;
 - ⦿ contributing to the purchase of a property.
- ⦿ The Declaration of Trust will record your agreement as to how the sale proceeds of the property are to be divided between you when you come to sell the property.
- ⦿ the percentage of the deposit each of you have paid towards the purchase price
- ⦿ the percentage each of you have contributed to legal costs, stamp duty and removal costs
- ⦿ the percentage of the property that you will each own
- ⦿ how much you will each contribute to any mortgage repayments
- ⦿ how much you will each contribute to household expenses such as maintenance and improvements.
- ⦿ the mechanisms that you will each accept if the need arises to buy out the other's share of the property.

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What will happen if I do not have a Declaration of Trust?

Problems may arise if there is a relationship breakdown or one of you wishes to sell the property.

Without a Declaration of Trust, a court may order that the sale proceeds should be divided equally amongst the parties. This may be unfair if you have made unequal contributions towards the purchase price of the property or you have spent a significant amount of money on home improvements.

By having a Declaration of Trust at the outset of the purchase, you can decide what will happen if one of you wants to sell your share and/or what proportion of the sale price you will each receive if the property is sold.

When should the Declaration of Trust be drawn up?

It is best to have the Declaration of Trust drawn up when you first purchase a property.

If you are buying a property with someone else then you will need to decide whether you hold the property as Tenants in Common or Joint Tenants - See our Joint Property Factsheet for further explanation.

If you hold the property as Tenants in Common you will usually need a Declaration of Trust to support this. A Declaration of Trust can be drawn up at any time after the initial purchase. This might be suitable where, for example, one person pays for substantial repairs.

For further information please consult a member of our Tax Trust & Estates Team on the following numbers:

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