

Discretionary Trust – Settlor Included (Scots Law)

Assistance with completing the trust deed



This guide is designed to assist with the completion of a discretionary trust deed (settlor included, Scots law version). This trust deed will create a new discretionary trust by assigning the ownership of a new or existing Collective Investment Bond to the chosen trustees.

Please note, neither Quilter Life & Pensions or its staff are authorised to provide legal advice and cannot be held responsible for any actions taken or refrained from being taken as a result of the guidance given in this document.

Tips for getting started

- ✓ Ensure you have the [latest version of the trust deed](#)
- ✓ Ensure you place an application for a Collective Investment Bond in the name of the settlor(s)
- ✓ This trust includes the settlor as a potential beneficiary and is not suitable for inheritance tax mitigation. For details on our range of trusts, including trusts which provide the settlor with access and inheritance tax efficiency, [visit our trust planning pages](#).

When you've completed the deed

- ✓ Remember to include the tax declaration and confirmation of identity forms which are attached to the trust deed.
- ✓ The settlor's financial adviser can deliver the deed to Quilter electronically via [PROMPT](#).
Else, post the deed to Quilter, Sunderland, SR43 4JP
- ✓ The trust will need to be registered within 90 days of the settlement date or risk a £5,000 fine. *The trustees must send Quilter the proof of registration document.*

Discretionary Trust (Probate Trust)

(Scots Law) Settlor included

Notice

This draft document is provided strictly as a draft for consideration of the Settlor's legal advisers. Quilter accepts no responsibility for any loss of whatsoever nature occasioned by the adoption, unamended or otherwise of this draft trust document.

Any advice given on completion of the Discretionary Trust is accordingly given on the basis that, having discussed the trust terms with legal advisers, the draft trust put forward for consideration is adopted duly completed but otherwise unamended.

1 – Introduction

This Declaration of Trust between

The Settlor

Name
Address

and
Name
Address

(the 'Settlor') of the one part (and where there are two persons identified then 'Settlor' means both of them jointly and the survivor of them after the death of the first to die), and

The Original Trustees

Name
Address

and
Name
Address

and
Name
Address

▶ (The First Settlor) Insert the full name and address of the First Settlor.

▶ (The Second Settlor, if any) Insert the full name and address of the Second Settlor.

▶ See note 1. Insert the full name and address of the first Trustee. If the Settlor is to be a Trustee, insert 'The Settlor'.

▶ Full name and address of the additional Trustee (if any).

▶ Full name and address of the additional Trustee (if any).

Enter the name and address of each settlor

The settlor is the person setting up the trust. They will also be the owner of the Collective Investment Bond.

If there are two settlors, then any reference to 'the settlor' in this deed and guide means both of them.

Does it matter which settlor is listed first / second?

No, the order in which you write the settlors does not have any impact.

Enter the name and address of each trustee

- ➔ There is space for three trustees on this page, and a further two on the next page.
- ➔ If the settlor is a trustee, you can write 'the settlor' in name box. You do not need to repeat their address.

Does the settlor have to be a trustee?

No, though keep in mind that only the trustees are entitled to access details about the bond and will receive all correspondence.

How many trustees should there be?

We recommend at least at least one trustee who is not also the settlor and a minimum of two trustees in total.

The Original Trustees (continued)

and
Name

Address

(the Original Trustees) of the other part.

Now this deed witnesses as follows:

- A. the Settlor assigns the property set out in Clause 13, to the Original Trustees and to any other persons who may hereafter be appointed or assumed as Trustees to hold on the following terms
- B. this Trust shall be known as

2 – Definitions

- (1) **'The Trustees'** means the Original Trustees or the trustees of this Trust for the time being.
- (2) **'The Trust Fund'** means:
- (i) the property specified in Clause 13 below;
 - (ii) all money investments or other property paid or transferred by any person to the Trustees or placed under the control of the Trustees and (in either case) accepted by the Trustees as additions to the Trust Property under clause 3, below; and
 - (iii) all property from time to time representing the above.
- (3) **'Trust Property'** means any property comprised in the Trust Fund.
- (4) **'Declaration Date'** means the last date of execution of this deed.
- (5) **'The Trust Period'** means the period of 125 years beginning on the Declaration Date.
- (6) **'The Accumulation Period'** means the period of 21 years beginning on the Declaration Date.
- (7) **'The Beneficiaries'** means:
- (i) the Settlor (including each person comprising the Settlor, and the survivor of them, where this is a Dual Settlor Trust);
 - (ii) the children and descendants of the Settlor (or of either person constituting the Settlor where this is a Dual Settlor Trust);
 - (iii) the spouses, widows, widowers, Civil Partners and surviving Civil Partners of any persons in (i) or (ii) above;
 - (iv) any nieces or nephews of the Settlor (or of either person constituting the Settlor where this is a Dual Settlor Trust);
 - (v) any brothers or sisters of the Settlor (or of either person constituting the Settlor where this is a Dual Settlor Trust);
 - (vi) the persons added under clause (4) below;
 - (vii) the persons or objects named in the following box (if any):
- (viii) at any time during which there are no Beneficiaries under any of (i) to (vii) above, any company, body or trust established for purposes which are charitable under s.7(2) Charities and Trustee Investment (Scotland) Act 2005 and are also charitable under the Charities Act 2011.
- (8) **'Protector'** means the person (if any) shown in Clause 14 below, or such other person as is the Protector for the time being.
- (9) **'Civil Partner'** has the meaning given to it in the Civil Partnership Act 2004 of the United Kingdom (or any replacement legislation).
- (10) Unless the context otherwise requires, a reference to any gender includes a reference to the other genders and the singular includes the plural and vice versa.
- (11) Where the Settlor comprises one person at the Declaration Date, this is a **'Single Settlor Trust'**. Where the Settlor comprises two persons at the Declaration Date, this is a **'Dual Settlor Trust'**.

Enter the name and address of each trustee (continued)

→ There is space for one more trustees on this page

Enter the trust's name

You can give the trust any name you like but keep in mind that this name will be used by Quilter as the addressee for all correspondence – so it should be a name which you don't mind the postal service seeing.

Enter the name of any additional beneficiaries

This box is optional. You can use it to nominate beneficiaries which are not already covered by the standard definition of beneficiary which given section 2(5) (as outlined here) of the deed.

When would I use this box?

This discretionary trust defines the beneficiaries by describing classes.

For example 2(7)(ii) includes children and descendants of the settlor. This means the children, grandchildren and great grandchildren of either settlor are automatically included. This is regardless of whether they're born after the trust's declaration date.

We strongly recommend reviewing the definition of beneficiary as given in the deed. If you would like to include a specific person who is not covered by these definitions, then use the box provided.

If you need more space:

You can write out a list separately. We recommend writing "Section 2(7) Continuation" and the name of your trust in the header.

Write "see continuation page" into this box within the deed.

Enter the Collective Investment Bond's Reference

This is where we define the asset which is to be placed into the trust. This is particularly important as a trust cannot be declared unless the gift is clearly defined.

You must enter either:

Bond ID
Begins with a 3.
Example: 3000012345

Or, Account number
Begins with AC and ends with a hyphen and three digits
Example: AC123456- 002

Where can I find these numbers?

On the confirmation scheduled issued after onboarding the application for the bond via our website.

Other property (if any) / Or part bond assignment

This box is optional. It can be used to either:

- A) *Add property other than a Collective Investment Bond* into the trust.
E.g. Cash.
- B) Assign part of a Collective Investment Bond.
Example: Writing 1 – 500 would assign the first 500 segments of the Collective Investment Bond identified above.

13 – The Trust Property

Bond ID

QR

Bond account number -

Other

Other - This box is optional. You can use it to specify other assets other than a CIB to be assigned to this trust.

Protector's full name

Address

▶ See note 2. Insert the full name and address of the Protector (if any).

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However, we recommend using a person who is not otherwise party to the trust to ensure independence.

15 – Administrative provisions (continued)

11. Change of governing law

The Trustees may during the Trust Period by deed with the consent of the Protector (if any) or otherwise the Settlor during his life, or of two Beneficiaries after his death, declare that from the date of such declaration:

- (a) The law of any Qualifying Jurisdiction governs the validity of this Trust, and its construction, effects and administration, or any severable aspects of this Trust; and
- (b) The courts of any Qualifying Jurisdiction have exclusive jurisdiction in any proceedings involving rights or obligations under this Trust.

In this paragraph a 'Qualifying Jurisdiction' is one which recognises trusts (as defined in the Hague Convention on the Law Applicable to Trusts and on their Recognition).

16 – Law of the Trust

The governing law of this Trust, and of its validity, construction, effects and administration, shall be that of Scotland. All rights or obligations under this deed shall be subject to the jurisdiction of the Scottish courts.

17 – The Settlor's signatures and witnesses

IN WITNESS WHEREOF this deed consisting of this and the preceding pages is signed by the Settlor(s) as shown below and before the Witnesses hereto subscribing.

Signed by First Settlor

In the presence of:

Witness signature

Witness full name

Witness address

Date (dd/mm/yyyy)

Place of signing

Signed by Second Settlor (if any)

In the presence of:

Witness signature

Witness full name

Witness address

Date (dd/mm/yyyy)

Place of signing

► All signatures must be made in blue or black ink. Digital signatures are not permitted.

► The First Settlor's signature.

► Each Settlor, Trustee and Protector signature must be witnessed. A witness must be age 18 or over and cannot be a Settlor, Beneficiary, Trustee or Protector. One person may act as witness for all signatures. For each witness signature, provide full name and address.

► The Second Settlor's signature.

Signatures and witnesses - General guidance

The deed must be signed by the settlor, protector (if any) and all trustees. Each signature requires an independent witness.

- ➔ All signatures must be made in ink. Digital signatures are not permitted.
- ➔ Where the settlor is also a trustee they must sign the deed twice. If they're also the protector, then they must sign in this capacity as well.
- ➔ An independent witness is any adult who is not otherwise a settlor, protector, trustee or potential beneficiary of the trust.
- ➔ The same witness may be used for multiple signatures.
- ➔ You must include the place of signing. This is the town or city where the signature was made.
- ➔ The date of signing is the day which the signature was made.

15 – Administrative provisions (continued)

11. Change of governing law

The Trustees may during the Trust Period by deed with the consent of the Protector (if any) or otherwise the Settlor during his life, or of two Beneficiaries after his death, declare that from the date of such declaration:

- (a) The law of any Qualifying Jurisdiction governs the validity of this Trust, and its construction, effects and administration, or any severable aspects of this Trust; and
- (b) The courts of any Qualifying Jurisdiction have exclusive jurisdiction in any proceedings involving rights or obligations under this Trust.

In this paragraph a ‘Qualifying Jurisdiction’ is one which recognises trusts (as defined in the Hague Convention on the Law Applicable to Trusts and on their Recognition).

16 – Law of the Trust

The governing law of this Trust, and of its validity, construction, effects and administration, shall be that of Scotland. All rights or obligations under this deed shall be subject to the jurisdiction of the Scottish courts.

17 – The Settlor’s signatures and witnesses

IN WITNESS WHEREOF this deed consisting of this and the preceding pages is signed by the Settlor(s) as shown below and before the Witnesses hereto subscribing.

Signed by First Settlor

In the presence of:

Witness signature

Witness full name

Witness address

Date (dd/mm/yyyy)

Place of signing

Signed by Second Settlor (if any)

In the presence of:

Witness signature

Witness full name

Witness address

Date (dd/mm/yyyy)

Place of signing

All signatures must be made in blue or black ink. Digital signatures are not permitted.

The First Settlor’s signature.

Each Settlor, Trustee and Protector signature must be witnessed. Witnesses must be age 18 or over and not be a Settlor, Beneficiary, Trustee or Protector.

One person may act as witness for all signatures. For each witness signature, provide full name and address.

The Second Settlor’s signature.

Settlor signs

Settlor’s witness signs

Settlor’s witness name

Settlor’s witness address

Date of signature

Place of signing

Settlor signs

Settlor’s witness signs

Settlor’s witness name

Settlor’s witness address

Date of signature

Place of signing

18 - The Original Trustees' signatures and witnesses

Delivery of policies

The above named Original Trustee(s) hereby acknowledge and accept our appointment as Trustee(s) and request that the policies be delivered to the Original Trustee(s) or where the box below is completed, an agent acting on behalf of the Original Trustee(s)

as our agent,

Signed by [Signature Line] Trustee

Date of birth [Date Line] (dd/mm/yyyy)

In the presence of:

Witness signature [Signature Line]

Witness full name [Text Line]

Witness address [Text Line]

Date [Date Line] (dd/mm/yyyy)

Place of signing [Text Line]

Signed by [Signature Line] Trustee

Date of birth [Date Line] (dd/mm/yyyy)

In the presence of:

Witness signature [Signature Line]

Witness full name [Text Line]

Witness address [Text Line]

Date [Date Line] (dd/mm/yyyy)

Place of signing [Text Line]

Signed by [Signature Line] Trustee

Date of birth [Date Line] (dd/mm/yyyy)

In the presence of:

Witness signature [Signature Line]

Witness full name [Text Line]

Witness address [Text Line]

Date [Date Line] (dd/mm/yyyy)

Place of signing [Text Line]

See note 4.

Trustee signature and date of birth.

See note 1. Where the Settlor is a UK Trustee they must sign twice. Once in each capacity.

Regional Trustee signature and date of birth (where applicable).

Additional Trustee signature and date of birth (where applicable).

Delivery of Policies

Under Scots law, the settlor's gift must be 'delivered' to the trustees or their agent to complete the declaration of trust.

In the context of a Collective Investment Bond, this may take the form of the delivery of the policy schedule from the settlor to the trustees. The policy confirmation schedule is issued to the settlor once the bond starts.

The box here allows the trustees to specify whether the policy confirmation schedule should be delivered to an agent acting on their behalf. For example, the trustee's legal adviser.

Only complete this box if there is an agent acting for the trustees. If left blank, then the settlor must deliver the policies to the trustees.

Trustee signs

Trustee date of birth

Trustee's witness signs

Trustee's witness name

Trustee's witness address

Date of signing

Place of signing

18 - The Original Trustees' signatures and witnesses

Delivery of policies

The above named Original Trustee(s) hereby acknowledge and accept our appointment as Trustee(s) and request that the policies be delivered to the Original Trustee(s) or where the box below is completed, an agent acting on behalf of the Original Trustee(s)

See note 4.

Trustee signature and date of birth.

See note 1. Where the Settlor is also a Trustee they must sign this deed twice. Once in each capacity.

Additional Trustee signature and date of birth (where applicable)

Signed by _____ Trustee

Date of birth _____ (dd/mm/yyyy)

In the presence of:

Witness signature _____

Witness full name _____

Witness address _____

Date _____ (dd/mm/yyyy)

Place of signing _____

Signed by _____ Trustee

Date of birth _____ (dd/mm/yyyy)

In the presence of:

Witness signature _____

Witness full name _____

Witness address _____

Date _____ (dd/mm/yyyy)

Place of signing _____

Signed by _____ Trustee

Date of birth _____ (dd/mm/yyyy)

In the presence of:

Witness signature _____

Witness full name _____

Witness address _____

Date _____ (dd/mm/yyyy)

Place of signing _____

Trustee signs

Trustee date of birth

Trustee's witness signs

Trustee's witness name

Trustee's witness address

Date of signing

Place of signing

Trustee signs

Trustee date of birth

Trustee's witness signs

Trustee's witness name

Trustee's witness address

Date of signing

Place of signing

18- The Original Trustees' signatures and witnesses (continued)

Signed by Trustee

Date of birth (dd/mm/yyyy)

In the presence of:

Witness signature

Witness full name

Witness address

Date (dd/mm/yyyy)

Place of signing

The common seal of the Original Trustees has been affixed on this date: (dd/mm/yyyy)

In the presence of:

Director/Secretary/ Authorised Signatory Name of Person signing

Place of Sealing and Signing

and the Protector signifies consent to act as Protector of this Trust

19 - The Protector's signature and witnesses

Signature of Protector Protector

Date of birth (dd/mm/yyyy)

In the presence of:

Witness signature


Witness full name

Witness address

Date (dd/mm/yyyy)

Place of signing

[Reset](#)



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Trustee signs
Trustee date of birth
Trustee's witness signs
Trustee's witness name
Trustee's witness address
Date of signing
Place of signing

Corporate trustee's seal

A corporate trustee may sign the deed by placing the company's seal here. You must include:

- ➔ Date on which the seal was applied
- ➔ Signature of a director / secretary or other authorised signatory
- ➔ Address where the seal was applied (usually the company's address)

If the corporate trustee does not use a seal, the signatory(ies) may sign in the trustee signature boxes above.

Protector signs
Protector's date of birth
Protector's witness signs
Protector's witness name
Protector's witness address
Date of signing
Place of signing