

Document Type:	Adjudged
Document Name:	Declaration of Trust

## Introduction

A Declaration of Trust is subject to *ad valorem* voluntary conveyance stamp duty pursuant to Section 71(3)(a)(ii). Section 71(13) provides that where:

- a document transferring property to a trustee has been determined with *ad valorem* stamp duty; and
- there is a further document that evidences or records the fact that the person took the property or interest in the property as a trustee (i.e. the “Declaration of Trust”), then that further document will be “Adjudged Duly Stamped”.

This Document Guide Note applies to a Declaration of Trust where the *ad valorem* stamp duty has been paid on the document evidencing the conveyance of land.

If *ad valorem* stamp duty has **not** been paid on the conveying document, the Declaration of Trust must be **submitted to the Commissioner for assessment** advising the consideration paid and the market value of the property held in trust.

If land is being transferred pursuant to the Declaration of Trust from the trustee to the beneficiary, the transfer must be **submitted to the Commissioner for assessment** together with:

- the Declaration of Trust; and
- evidence that a stamp duty determination has been made on the Declaration of Trust (i.e. Certificate of Stamp Duty, Document ID or stamped document).

## What documents can I self-determine under this document type?

The document can be in the form of:

- an Agreement that acknowledges, evidences or records the creation of the trust arrangement (commonly known as a Declaration of Trust or Acknowledgment of Trust);
- a Deed that acknowledges, evidences or records the creation of the trust arrangement (commonly known as a Declaration of Trust or Acknowledgment of Trust); or

- any other document that acknowledges, evidences or records the creation of the trust arrangement (commonly known as a Declaration of Trust or Acknowledgment of Trust).

## What types of transactions can I self-determine under this document type?

A document that acknowledges, evidences or records a trust arrangement is deemed **suitable** for self-determination under this document type where:

- a previous document that conveyed the property to a trustee has been determined with *ad valorem* stamp duty; and
- the document that acknowledges, evidences or records the trust arrangement is dated on or prior to the date of transfer.

## What evidence do I need to retain for audit purposes?

For audit purposes, you will need to retain the following documentation either in paper form or electronic form:

- a copy of the documents both the conveyance of land document and the document acknowledging, evidencing or recording the trust arrangement;
- evidence that a stamp duty determination has been made (i.e. Certificate of Stamp Duty, Document ID or stamped document); and
- evidence that the purchase funds were provided by the beneficiary of the trust.

## What Section(s) of the *Stamp Duties Act 1923* applies?

Section 71(13)

## What stamp duty is payable on this document?

No stamp duty is payable, the document is **Adjudged Duly Stamped**.

## Examples

### Declaration of Trust (Land)

Bill and Megan Cooke as trustees of the Cooke Family Trust purchase an investment property for \$185 000.

The parties execute a Transfer and on the same day execute a Declaration of Trust, which states that they are holding the property as trustees of the Cooke Family Trust.

All funding for the purchase has been obtained from a bank loan in the name of Bill and Megan Cooke as Trustees of the Cooke Family Trust.

The Declaration of Trust is **Adjudged Duly Stamped**.

The Transfer must be self-determined under one of the following the document type:

[Conveyance of Land | Residential Land/Primary Production Land](#)

[Conveyance of Land | Qualifying Land](#)

## Joint Venture Agreement (Land)

Jim, John and Jane have jointly purchased land and intend to sub-divide this land into three equivalent size allotments.

Jim, John and Jane have entered into a Joint Venture Agreement acknowledging that after the sub-division the parties will transfer:

- Lot 1 to Jim;
- Lot 2 to John; and
- Lot 3 to Jane.

The Joint Venture Agreement also evidences a trust arrangement between Jim, John and Jane.

The Transfer and Joint Venture Agreement, have been executed on the same day. Jim, John and Jane have contributed equally to the purchase funds for the land.

The Joint Venture Agreement is **Adjudged Duly Stamped**.

The Transfer must be self-determined under one of the following the document type:

[Conveyance of Land | Residential Land/Primary Production Land](#)

[Conveyance of Land | Qualifying Land](#)

## Version History

Version No.	Release Date
1	May 2018
2	November 2018
3	July 2019
	Hyperlinks updated – April 2022