

Entering of particulars of express trusts and beneficiaries in the Register of Trade Marks

(Circular No. 7/2014, dated 30 April 2014)

As part of the Registries' efforts to be more business-friendly and promote a more transparent Register, the option of entering a notice of an express trust and its beneficiary (or beneficiaries) will be available as of 30 April 2014¹.

For fresh applications, this can be done by entering the particulars "X in trust for Y" (where X is the trustee and Y is the beneficiary) in the "Name" field in form TM4.

For existing applications, this can be done by entering the particulars "X in trust for Y" (where X is the trustee and Y is the beneficiary) in the "Name" field in form TM26. In addition, the applicant should check the "Name only" box on this form.

For those using form TM26, it should be highlighted that entering a notice of an express trust will apply to all trade marks filed in the name of the proprietor. If an applicant wishes to enter a notice of an express trust only for specific trade marks, this has to be indicated in a separate annex to form TM26, along with details of the specific trade marks to which entry of notice should apply.

Lastly, it should be clarified that the entering of a notice of an express trust is not equivalent to registering a transaction under the Trade Marks Act and hence would not have the same statutory effects (e.g. entitlement to certain damages in respect of infringement). As such, any omission to enter notice would not void any underlying trusts.

¹ To give effect to this practice, the relevant amendments to the Trade Marks Act to remove the prohibition against the taking notice of express trusts will be brought into force on 30 April 2014.