



**DIRECTIVE
Land Registry**

**SECTION: Applications for First
Registration**

NUMBER: 3900-002

**SUBJECT: AFRs – Enabling
deceased owners (sole
or tenant in common)
where the original will is
registered prior to
conversion**

PURPOSE

The directive below outlines how to reflect estate interests where the original will of the owner(s) on title is registered pursuant to section 25 of the *Registry Act*.

REFERENCE

Section 15 – Standards for the Practice of Real Property Law
Sections 9 & 18 – Devolution of Estates Act

DIRECTIVE

Ultimately, the decision to certify ownership and title to a parcel is the responsibility of the lawyer submitting the AFR. This decision is to be based on the results of the title search conducted and the interpretation of the applicable legislation, in conjunction with how the estate of the deceased owner will be dealt with following conversion to the Land Titles system.

When the title search reveals an owner whose original Will has been registered pursuant to section 25 of the *Registry Act*, the determination by the lawyer certifying title as to who should be reflected as owner on the AFR should be based on the following considerations:

- Who was the property devised to?
- Does the Will enable the Executor (Personal Representative) with the power of sale?
- How much time has elapsed since the death of the testator?
- Will the Executor pay debts by selling the real property prior to distributing the estate to the beneficiaries entitled thereto?
- Will both the Executor and the beneficiaries transfer the property following conversion?
- Is this marital property where the devise to other beneficiaries is null and void as a result?

On the AFR:

Once a determination has been made as to who will be reflected on title based on the considerations above, the individual owners may be reflected as follows in the ownership field of the AFR:

- The deceased owner with the ESTATE qualifier, enabled by the Deed where they acquired title, and the Executor (personal representative) with the IN TRUST qualifier, enabled by the Will of the deceased

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- The deceased owner with the ESTATE qualifier, enabled by the Deed where they acquired title, and the names of the beneficiaries entitled thereto, with no qualifiers, all enabled by the Will of the deceased
- The deceased owner with the ESTATE qualifier, enabled by the Deed where they acquired title, the Executor (personal representative) with the IN TRUST qualifier, enabled by the Will of the deceased, and the names of the beneficiaries entitled thereto, with no qualifiers, all enabled by the Will of the deceased
- The beneficiaries under the Will as owners, with no qualifiers, enabled by the Will of the deceased if the certifying lawyer is satisfied that they are, in fact, the owners.

NOTE:

- The deceased owner name does not have to comply with the *Naming Conventions Regulation*
- The name of the Executor (Personal Representative) and the names of the beneficiaries **must** comply with the *Naming Conventions Regulation*
- The address of the deceased owner is the address of the Executor, or the address of one of the beneficiaries
- Please insert a comment in the AFR comment box to explain to staff why the owners in the ownership field are reflected as such (particularly where the submitted ownership differs from what appears in PLANET prior to conversion)

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