

# Married Women's Property Act 1882 flexible trust form

(for use with a new policy)



(Also applies to the Married Women's Policies of Assurance (Scotland) Act 1880 and the Law Reform (Husband and Wife) Act (Northern Ireland) 1964.)

This form enables you to create a trust for the policy which you are about to effect. This could have taxation and other consequences, not only at the time the policy proceeds become payable but also during the continuation of the contract. You are strongly recommended to consult your own professional advisers. Also, if the policy is being effected in conjunction with a mortgage or loan you should consult the lender before proceeding further.

## Your Personal Information

We collect and use your Personal Information as part of this trust process. If you would like more information about how we use and process Personal Information and your rights in relation to it, you can find further detail in our full privacy policy at [aviva.co.uk/privacypolicy](http://aviva.co.uk/privacypolicy) or request a copy by writing to us at: The Data Protection Team, Aviva, PO Box 7684, Pitheavlis, Perth PH2 1JR.

## Trust Registration

If your policy is written into a trust, there may be an action to register the trust with HMRC. Registration is the trustee's responsibility. As part of our checks, we may ask to see evidence that this has been done. If you can't show us proof, this may delay your policy being processed and could delay withdrawals.

You can find more information about the Trust Registration Service on the Government website.

If you're unsure about what you need to do, you should speak to a legal or financial adviser.

## Completion of the MWPA flexible trust form (new policy)

### Box A

Complete the date of the proposal and the policy number. If you do not know your policy number, leave the box blank.

### Boxes B and C

The form is written subject to the law of England. If you wish the law of Scotland or Northern Ireland to apply, you should tick Box B or C as appropriate.

### Box D

The trust form automatically creates a flexible trust, enabling you, or the trustees after your death, to change the beneficiaries at any time during the continuance of the trust. However, if you do not want the trustees to have this power after your death, you should delete the words "or the trustees (being at least two in number or a trust corporation) after my death". Alternatively, if you do not require any flexibility to change beneficiaries at all, you should delete Box D entirely. It should be noted that this will make any future changes very difficult or impossible to effect. You must initial any deletions.

### Box E

This is intended for the name(s) of the person(s) whom you wish to benefit together with the share they are to receive. These must be limited to your spouse and/or your children. If you are unsure what should be written here, or if you wish persons other than your spouse or children to benefit, you should consult your financial adviser, who will be able to assist.

For example: My wife Wilma Smith 100% OR My son Albert Smith 100% OR My son Albert Smith 50% and my daughter Ann Smith 50%. Remember, you can only include the names of your spouse and/or children.

### Box F

As the creator of this trust, you are automatically a trustee and will administer the trust. If you wish to appoint other persons to help you to administer the trust during your lifetime and to distribute the Policy proceeds when they are paid in accordance with the trust wording, you should insert the relevant names and addresses in Box F. Additionally, you should ensure that the persons you have chosen are fully aware that they are trustees of the policy.

### Box G

You should sign the form in Box G.

NB References to 'spouse' are intended to include 'civil partner'.

**Married Women’s Property Act 1882 flexible trust form** (new policy)

(Also for use with new policies under the Married Women’s Policies of Assurance (Scotland) Act 1880 or the Law Reform (Husband and Wife) Act (Northern Ireland) 1964.)

To form part of my proposal to the Company for the policy described in Box A below to be effected on my life

**Box A**

Proposal date

D	D	M	M	Y	Y	Y	Y
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Policy number

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Subject to the instructions contained below I wish the policy to be issued under section 11 of the Married Women’s Property Act 1882. Any proceeds of the policy shall be held by the trustees upon trust for

**Box B**

I wish to substitute the words ‘section 11 of the Married Women’s Property Act 1882’ above by the words ‘section 2 of the Married Women’s Policies of Assurance (Scotland) Act 1880’

**Box C**

I wish to substitute the words ‘section 11 of the Married Women’s Property Act 1882’ above by the words ‘Law Reform (Husband and Wife) Act (Northern Ireland) 1964’

**Box D**

all or any one or more of the potential beneficiaries and in such shares and for such interests as I during my lifetime or the trustees (being at least two in number or a trust corporation) after my death may at any time or times before the Vesting Day by deed or deeds revocable or irrevocable appoint (but so that the power of revocation shall not be capable of being exercised after the Vesting Day) and in default of any such appointment (or so far as any such appointment shall not extend)

- i. As to any critical illness benefit and/or mortgage payment protection benefit for myself absolutely  
(Delete the above sentence if you do not want to receive any critical illness/mortgage payment protection benefit yourself)
- ii. As to any other proceeds or all proceeds where (i) above has been deleted for

**Box E**


**Box F**

I wish the trustees of this policy to be shown as myself and

1. Full name

Address

Post Code

Signature of Trustee

2. Full name

Address

Post Code

Signature of Trustee

3. Full name

Address

Post Code

Signature of Trustee

I declare that the trustee(s) shall hold the trust fund upon the trusts set out above subject to the powers and provisions contained overleaf.  
I wish the Company to insert the policy number in Box A above (if appropriate).

**Box G**

Signature of proposer

## Powers and provisions

1. The trustees are to have power in addition to any powers conferred upon them by law to:
    - a. i. exercise any option contained in the policy
    - ii. convert the policy into any other form of insurance provided the policy is a contract of insurance and not an annuity notwithstanding that such conversion may result in the policy proceeds becoming payable on a date different to that under the policy
    - iii. borrow on the security of the policy
    - iv. sell, surrender or otherwise deal with the policy in such manner as they shall think fit;
  - b. invest any money requiring to be invested in the purchase of or the effecting or keeping up of any policy or policies of insurance on the life or lives of any person or persons or in the purchase of or at interest on the security of any property, real or personal, at their discretion in all respects as if they were beneficially entitled thereto absolutely;
  - c. release or restrict any of the administrative provisions of the trusts of the policy;
  - d. accept as a sufficient discharge the receipt of a parent or guardian of a beneficiary handicapped by minority or otherwise in respect of any income or capital paid to or applied for the benefit of such beneficiary.
  - e. to lend with or without security to any beneficiary the whole or any part or parts of the trust fund upon such conditions as to interest (if any) and repayment and generally upon such terms as the trustees in their absolute discretion think fit provided always that any such loan must be repayable before the vesting day.
2. a. The provisions of the Trustee Act 1925 shall apply in relation to any income as if:
    - i. The words "as the trustees think fit" were substituted in section 31(1)(i) for the words "as may, in all the circumstances, be reasonable";
    - ii. the proviso at the end of section 31(1) were omitted and
    - iii. in section 31(2) the words 'as follows:' and paragraphs (i) and (ii) were replaced by the words 'upon trust for that person absolutely'
  - b. Furthermore the provisions of the Trustee Act 1925 shall apply hereto as if the words 'one half of' were omitted from proviso (a) to section 32(1);
  - c. The trusts contained in this document shall carry the intermediate income.
3. The power of appointment of new or additional trustees shall be vested in me and there shall be no restriction on the number of persons who may be trustees at any one time.
  4. In this trust form:
    - a. 'payment day' shall mean the day when all the proceeds of the policy have been paid or have become payable if earlier PROVIDED that in the case of any benefit which may be payable by more than one sum shall mean the day when the first such sum has been paid or has become payable if earlier;
    - b. 'trustees' shall mean myself whilst a trustee and all other persons (if any) who from time to time and for the time being shall be trustees;
    - c. 'potential beneficiaries' shall mean any person who at any time is my civil partner or to whom I may at any time be married and my children whenever born;
    - d. 'Company' means any life insurance company within the Aviva plc group of companies;
    - e. 'vesting day' shall mean the day on which shall expire the period of 125 years from the proposal date shown in Box A; and
    - f. 'trust fund' shall mean the policy together with the full benefit thereof and any moneys insured thereby or to become payable thereunder and all property at any time held by the trustees upon these trusts whether by way of further settlement, accumulation of income, capital appreciation or otherwise, and all property from time to time representing the foregoing.
  5. Where this trust form applies to more than one policy, it will apply as if it applies to each policy individually ie as if duplicate trusts had been executed in respect of each policy.
  6. I shall have the power to dismiss any trustee by deed giving 30 days' notice to such trustee. The dismissal will not take effect unless and until there is at least one corporate or two individual trustees to act as continuing trustees.
  7. If Box B overleaf has been ticked and Scots law applies:
    - a. Paragraph 1 above shall apply as if sub paragraph b. were substituted by the following:

'b. to pay or apply to any beneficiary under the age of 18 years the whole or any part of the income or capital vested in such beneficiary for his or her behalf in any manner the trustees may think proper or to retain and invest or hold on deposit the same till such beneficiary attains the age of 18 years or to pay over the same for his or her behalf to the legal guardian or the person for the time being having custody of such beneficiary whose discharge shall be sufficient exoneration and subject thereto any income received by the trustees shall be paid to (or in the case of a beneficiary under the age of 18 years held upon trust for the absolute benefit of) the person or persons prospectively and from time to time entitled to receive the policy proceeds and in the shares in which they are so entitled';
    - b. Paragraph 2 shall be regarded as deleted;
    - c. Any trustee hereof (other than myself and any person at any time my spouse) being a person engaged in any profession or business is to be entitled to charge and be paid the usual professional or proper charges for business transacted, time expended and acts done by such trustee or any partners of such trustee in connection with the aforesaid trusts including acts which a trustee not being in a profession or business could have done personally. Any trustee being a trust corporation shall be entitled to remuneration and expenses in accordance with the provisions of its trustee prospectus in force at the date of its appointment; and
    - d. Any trustee hereof (other than myself and any person at any time my spouse) shall be entitled to retain any brokerage or commission which may be received personally or by such trustee's firm in respect of any transaction carried out in connection with these trusts for which such trustee or trustee's firm is in the normal course of business allowed such brokerage or commission notwithstanding that the receipt of such brokerage or commission was procured by an exercise by such trustee or the trustees of his/her or their statutory or non-statutory powers.

8. If box C overleaf has been ticked and Northern Irish law applies paragraphs 2.a. and b. above shall be substituted by the following:
  2. a. The provisions of the Trustee Act (Northern Ireland) 1958 shall apply in relation to any income as if:
    - i. the words 'as the trustees think fit' were substituted in section 32(1)(a) for the words 'as may in all the circumstances be reasonable'
    - ii. section 32(2) were omitted and
    - iii. in section 32(3) the words 'as follows:-' and paragraphs (a) and (b) were replaced by the words 'upon trust for that person absolutely';
  - b. Furthermore the provision of the Trustee Act (Northern Ireland) 1958 shall apply hereto as if the words 'one half of' were omitted from section 33(1)(a).'
9. No lien or charge shall be created on the policy as a result of the payment of a premium by the settlor or any other person.
10. The Company is not to be accountable for the exercise of all or any of the powers set out in this trust or the uses of money derived therefrom.

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