4. Creation of Express Trusts

All books in this flagship series contain carefully selected substantial extracts from key cases, legislation, and academic debate, providing able students with a stand-alone resource. This chapter discusses the formality requirements that must be met in the creation of express trusts. As an example, a declaration of an express trust over land is presented here, which formally requires signed writing. Trusts created by a will also need to satisfy formality requirements and must be constituted by title to the trust property being vested in the trustee. A trust can be constituted using two mutually exclusive methods: by declaration of oneself as a trustee or by transfer of property to trustees. Neither half-secret nor fully secret trusts will comply with statutory formality requirements but, subject to the fulfilment of certain conditions, they will be regarded as valid to ensure that the statutory formalities are not used as an instrument of fraud.