

BENEFICIARY GUIDE: TRUST ACCOUNTS

BUILDING INDUSTRY FAIRNESS
(SECURITY OF PAYMENT) ACT 2017



APRIL 2025

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INTRODUCTION

Trust accounts were introduced in 2018 to protect payments in Queensland's building and construction industry¹. The trust account requirements are set out in the *Building Industry Fairness (Security of Payment) Act 2017* (the BIF Act).

Changes have been made to the BIF Act to support a new trust account framework. From 1 March 2021 project trust accounts will be required for certain (eligible) contracts and a separate retention trust account will be required where cash retentions are withheld.

These are detailed further in this guide.

Where a trust account is required, there are specific processes and obligations that must be met by various parties, including the contracting party and contracted party (trustees of the accounts), subcontractors (who are beneficiaries), auditors and financial institutions. The main responsibilities under the new trust framework lie with the trustee, who is the party responsible for managing the trust account(s).

WHO SHOULD USE THIS GUIDE?

This guide is designed to assist beneficiaries of both project and retention trust accounts understand a trustee's obligations, their rights as beneficiaries and the protections afforded to them by a trust account.

This guide also explains what beneficiaries can expect to occur with payment or release of funds under an eligible contract.

A trustee transitioning a project bank account to the new trust account framework is required by law to give a copy of this guide to beneficiaries of the new trust.

FURTHER RESOURCES

There are other guides available on the QBCC website to support the trust account requirements including:

- [Trustee guide—project trusts](#)
- [Trustee guide—retention trusts](#)

There are also further resources and information available on the [QBCC website](#) that may assist.

HOW TO USE THIS GUIDE

This guide provides information on:

- what are trust accounts and when they are required
- who is a beneficiary of a trust
- what notifications beneficiaries of a trust can expect to receive
- how beneficiaries will be paid from a trust account
- how retentions are to be withheld and released from a trust account
- how the trust account protects beneficiaries
- what information beneficiaries are entitled to request.

A glossary of terms is provided in Part C of this guide on page 13.

¹ Project bank accounts (PBAs) have been required under the BIF Act for certain Queensland Government projects valued between \$1 million and \$10 million since 1 March 2018. The new framework from 1 March 2021 replaces project bank accounts with project trust accounts and retention trust accounts.

PART A—OVERVIEW OF TRUST ACCOUNTS

A

There are two types of trust accounts under the trust account framework—project trust accounts and retention trust accounts. Both are statutory trusts formed under legislation and each protects payments in different ways.

Trusts are established when a person (the trustee) holds property on behalf and for the benefit of the party/parties (the beneficiaries) that will become entitled to the amounts at a pre-determined time.

For project trusts, the trustee holds payment amounts under an eligible contract and its subcontract/s on behalf of the beneficiaries to ensure all subcontractors are paid.

For retention trusts, the trustee holds payment amounts to ensure all work is performed to the standard agreed upon in the contract.



What is a Project Trust Account (PTA)?

A project trust account is an account through which payments required under the eligible contract, between the contracting party (normally the principal) and the contracted party (normally the head contractor) are paid and distributed to the contracted party and subcontractors:

- the contracting party (principal) pays progress payments to the contracted party (head contractor) for work completed in accordance with the eligible contract
- the head contractor pays all subcontractors engaged only from this account
- the head contractor pays itself only from this account.

The project trust account is separate to the head contractor's personal or business account and keeps the project funds and amounts owed to subcontractors separate from funds of other projects, contracts and the head contractor's other cash flow.

The principal does not pay the full contract value into the account upfront. The head contractor's employees and the head contractor's other business/ operating costs must not be paid from the trust account, as they are not beneficiaries. Persons engaged by the head contractor to only supply goods (e.g. materials or equipment) are also not to be paid from the trust account.



What is a Retention Trust Account (RTA)?

Retention trusts are established when an amount (called a retention) is withheld from payment to a contracted party.

This is at times necessary to financially protect the contracting party in case defects in work carried out require repair or otherwise secure the performance of work under the contract. Retention amounts are typically released following practical completion and/or after the end of a defects liability period in accordance with the contract.

Retention trusts are a legal concept, as opposed to a retention trust *account*, which is the account at a financial institution where the property or funds of the trust are held.

Retention amounts withheld are also subject to a statutory charge in favour of the contracted party (i.e. the person from whom the amount has been withheld) to secure their release if and when the retention amount becomes due. However, the charge is released for any amount that the contracting party became entitled to be paid (for example, to correct defective work).

Who is the trustee?

If a project trust is required (see eligibility criteria on page 6 of this guide) the trustee is the contracted party for the eligible contract (usually a head contractor) is responsible for the trust.

For a retention trust, the trustee is the contracting party who withholds the cash retention.

For both project and retention trusts, the party that is the trustee will change slightly as the framework rolls out and reaches key legislative milestones.

- From **1 March 2021** until **31 December 2021** this will mostly be limited to head contractors.
- From **1 January 2022**, private sector principals will also be captured as trustees if withholding cash retentions.

Who is a beneficiary?

A beneficiary is a person (individual or company) for whom amounts are held in trust. All beneficiaries must only be paid from a trust account.

A beneficiary who is paid from a trust account is any contractor or subcontractor who is required to hold a licence or registration to carry out the contracted work.

A beneficiary of a retention trust is the person from whom a cash retention amount has been withheld (as per the terms of their contract).

NOTE: Unlike other types of trusts, trust deeds and other documentation are not required to establish the trust or to establish the beneficial interest in trust amounts. This is because the trust over amounts held is established by the BIF Act and therefore required by law.

What is the role of the Queensland Building and Construction Commission for trust accounts?

The Queensland Building and Construction Commission (QBCC) is responsible for regulating trust accounts. It has a number of powers, responsibilities and oversight functions, and its regulatory role includes:

- receiving notices about trust accounts and maintaining a public register of all trust accounts
- approving financial institutions where trust accounts may be held
- conducting audit programs to establish trust account compliance
- investigating complaints about possible non-compliance with trust laws
- conducting enforcement activities, including the prosecution of alleged offences
- directing trustees and financial institutions in certain cases, where warranted
- provide training, education and awareness to the industry and public.





When is a project trust required?

Only certain contracts will require a project trust account, and only if they meet certain eligibility criteria:

1. the contracting party is as specified for the relevant phase, **and**
2. the contract price is as specified for the relevant phase, **and**
3. more than 50 per cent of the contract price is for project trust work, **and**
4. there is at least one subcontractor engaged for all or part of the contracted work.

It is the responsibility of the contracted party for the eligible contract (usually a head contractor) to know whether a project trust account is required. If a project trust is required, the head contractor must advise subcontractors that they will be beneficiaries of the trust.

In some situations, a subcontractor may be required to establish a project trust (see page 8).

There will be a phased introduction of the trust account framework, with certain contracts for projects becoming subject to project trust requirements at different times.

From:

- **1 March 2021**—eligible state government contracts valued between \$1 million and 10 million (excluding GST). This is the current threshold for PBAs.
- **1 July 2021**—eligible State government and Hospital and Health Services (HHSs) contracts valued at \$1 million or more (excluding GST).
- **1 January 2022**—eligible private sector, local government and state authority contracts valued at \$10 million or more (excluding GST).

Exemptions

There are some exemptions that may apply and which will mean a project trust is **not** required, even if all four of the above mentioned criteria apply to the contract. Examples of exemptions include:

- contracts relating to small-scale residential construction work (one or two living units i.e. a house or duplex).
- contracts solely for maintenance work
- contracts primarily for civil work i.e. less than 50 per cent project trust work
- contracts between the state government and a state government authority
- contracts solely for professional design, advisory or contract administration work
- short-term contracts for work that is to be completed in less than 90 days.

There are also some situations where a project trust may be required after a contract amendment/variation or if there are multiple contracts for the same or adjacent sites.



When is a retention trust required?

Similar to project trusts, only certain contracts where parties will require a retention trust. There is also a phased introduction of the retention trust requirements, with parties requiring this type of trust at different times when eligible cash retention amounts are being withheld.

From

- **1 March 2021**, a head contractor is required to establish a retention trust if:
 - a. a project trust is required for the head contract (i.e. the head has or must have a project trust), **and**
 - b. they are withholding cash retentions from any first-tier subcontractors.

NOTE: Only cash retention amounts payable to first-tier subcontractors for eligible projects must be held within the retention trust. Other retention amounts for other projects can be held separately and must not be deposited into the retention trust account.

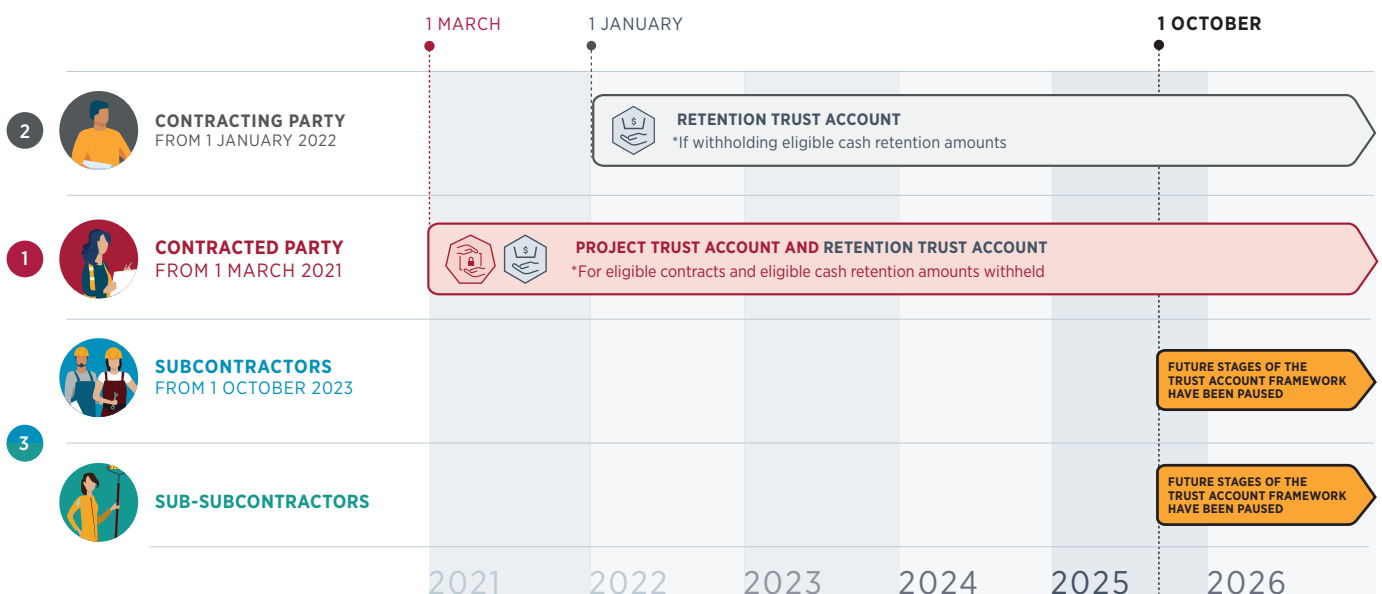
- **1 January 2022**, a principal (for example, owner or developer) is also required to establish a retention trust if:
 - a. they have engaged a contractor to carry out work under an eligible project trust contract, **and**
 - b. they are withholding cash retentions from that contractor.

NOTE: Only cash retention amounts payable to contractors for eligible contracts must be held within the retention trust. Other retention amounts for other contracts can be held separately and must not be deposited into the retention trust account.

A contracting party who is a state government department, a state authority (including a Hospital and Health Service) or a local government is exempt from the requirement to establish a retention trust.

Only one retention trust account is required for each trustee and this one account may hold 'eligible' cash retention amounts across multiple contracts. However, should a trustee wish, they may have multiple retention trust accounts.

TRUST ACCOUNT ELIGIBILITY (INCLUDING FUTURE PHASES)



* On 10 February 2025, the Queensland Government introduced the Building Regulation Renovation (Building Reg Reno). The first tranche of the Building Reg Reno paused the further rollout of trust accounts to private projects below \$10 million.

When does a subcontractor need a project or retention trust?

Trust accounts are required for subcontracts if the following criteria are met:

1. the subcontract is a first-tier subcontract for a head contract
2. a project trust is required for the head contract
3. the subcontractor is a beneficiary of the project trust for the head contract, and
4. the subcontractor is a related entity for the contracted party for the head contract.

What is a related entity?

Related entities fall into a broad range of categories. The contracted party and a subcontractor will be related entities if:

- they are members of the same family
- they are related bodies corporate
- one party is an individual and the other is a corporation—where the individual (or a member of their family) is a majority shareholder, director or secretary of the corporation or a related body corporate of the corporation
- one of the parties is a trustee of a trust—where the other party (or a related entity) is a beneficiary of the trust for trustees of two or more trusts:
 - » one party is a beneficiary of both trusts, or
 - » one party is a beneficiary of one trust, and a related entity
- is a beneficiary of the other trust.

Additionally, two persons can be related entities based on their common interests in a land holding trust.

A family member is taken to be the following:

- the party's spouse
- for the party or their spouse, their:
 - » parent
 - » grandparent
 - » brother, sister, aunt, uncle, nephew or niece
 - » child
 - » grandchild.
- the spouse of a family member (for example, a brother's spouse).

If a related entity subcontract is eligible for a project trust, the subcontractor will be its trustee and must comply with all legislated project trust requirements. The related entity subcontractor will remain a beneficiary of the project trust for the head contract.

Action required for related entity subcontracts

If a related entity subcontract is eligible for a project trust, the subcontractor will be its trustee and must follow all project trust requirements. Refer to the Trustee guide—project trusts, for more information on trustee responsibilities for project trusts.

Note that the related entity subcontractor will remain a beneficiary of the project trust for the head contract.

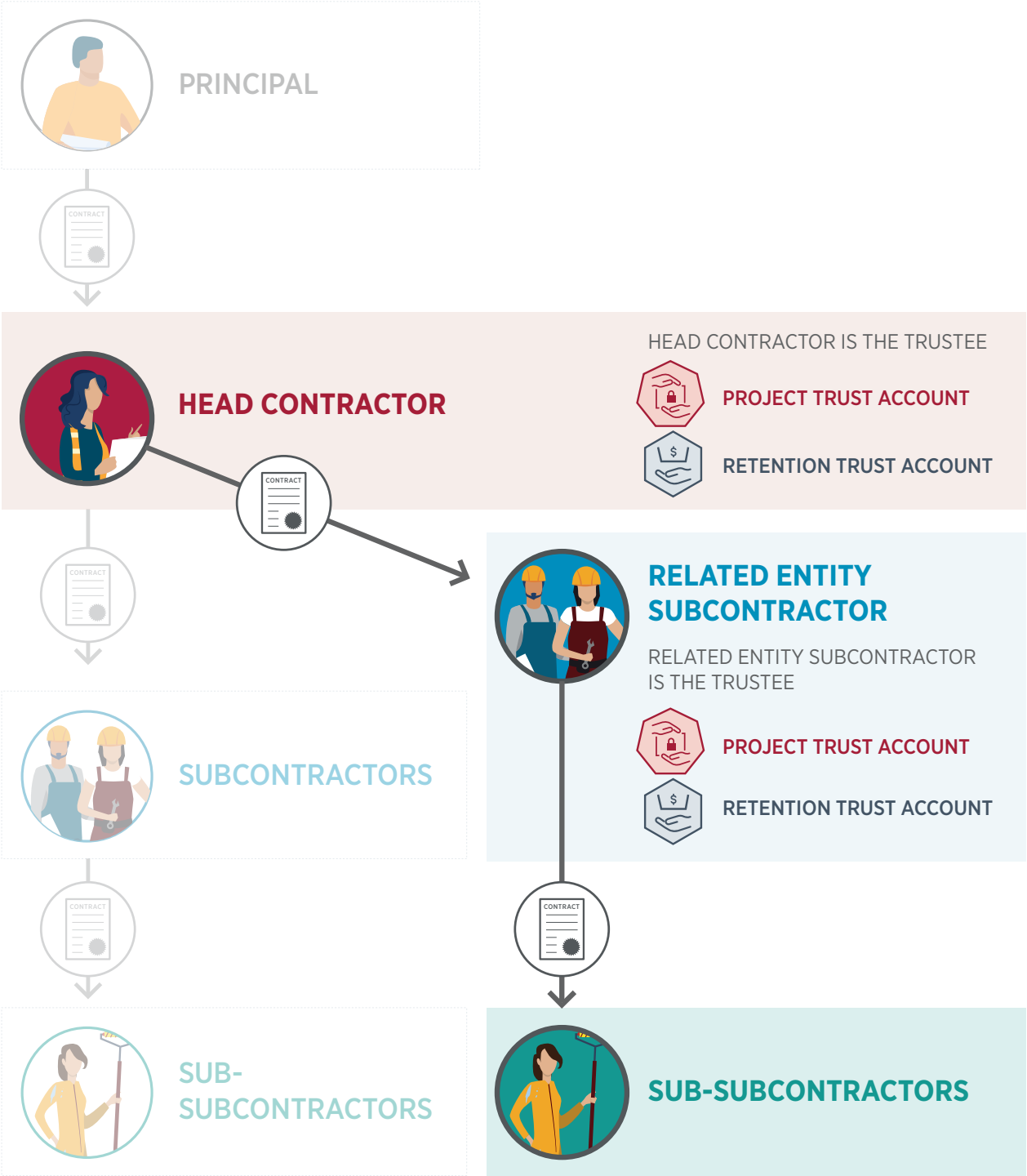
If the related entity subcontractor is withholding cash retentions from a subcontractor they have engaged under the project, they are required to hold those cash retentions in a retention trust account. Refer to the Trustee Guide—retention trusts, for more information on trustee responsibilities for retention trusts.

There are obligations that also apply to the contracting party and the contracted party:

- The contracted party for a head contract that requires a project trust must inform QBCC about entering into a subcontract with a related entity within five business days after entering into the subcontract.
- If the contracting party (principal) knows, or ought reasonably to know that a subcontractor beneficiary is a related entity for the contracted party, they must inform QBCC of this within five business days after they became aware, or ought reasonably to have been aware.



RELATED ENTITY DIAGRAM



PART B—WHAT TO EXPECT AS A BENEFICIARY

B

Beneficiaries of a project trust and/or retention trust will receive notifications and must be paid only from the trust account/s. It is the trustee's obligation to determine when a trust must be established, and for opening and administering the trust account.

PARTIES IN CONTRACTUAL CHAIN

PAYS INTO PROJECT TRUST ACCOUNT



PRINCIPAL

The contracting party (i.e. the party requesting the work) for a head contract. They may own the land or building on which the work is carried out or they fund to work.

PAID FROM PROJECT TRUST ACCOUNT



HEAD CONTRACTOR

The contracted party (i.e. the party engaged to do the work) for a head contract and the contracting party for a first-tier subcontract. They are both the trustee and a beneficiary of the project trust.

When there are insufficient funds in the project trust account to pay subcontractors, the head contractor is required to pay the shortfall into the project trust account.



SUBCONTRACTOR

The party engaged (under a first-tier subcontract) by a head contractor to carry out or contribute to the performance of work. They are a beneficiary of the project trust.

Subcontractors can be on-site construction workers, consultants, engineers, architects, electricians or advisors/inspectors who hold a licence or registration to carry out the contracted work.

PAID FROM SUBCONTRACTOR



SUB-SUBCONTRACTOR

The party engaged (under a second or lower tier subcontract) by a subcontractor to carry out or contribute to the performance of work. They are generally not a beneficiary of the project trust and are paid directly by the subcontractor.

Sub-subcontractors can be on-site construction workers, consultants, engineers, architects, electricians or advisors/inspectors who hold a licence or registration to carry out the contracted work.

PAID DIRECTLY



OTHER PARTIES

(that are not beneficiaries of a project trust)

Persons engaged to only supply goods, as well as some consultants*, are not beneficiaries of project trusts and are paid directly by the party that engaged them (not through the project trust).

**if they are engaged to carry out work that does not require a licence or registration they are engaged by a party other than the head contractor.*

How will a beneficiary know if there is a trust account?

The trustee is required to notify all beneficiaries about a trust account that will be used for their payments or retentions. This notice must be given:

- for a project trust — before the subcontract is entered into (if the trust is already established) or within 10 business days of the trust becoming established;
- for a retention trust—before withholding the first retention amount or within five business days of opening the trust account.

The notice must state the name of the financial institution in which the trust account is held, the trust's account name, BSB and account number and any other information identifying the contract to which the trust account relates.

Online Trust Account Register

Trustees are also required to notify the QBCC of a trust account. These details are published by the QBCC on the [Online Trust Account Register](#).

Anyone can search or check for a trust account by searching the register.

How are beneficiaries paid through the project trust account?

All amounts related to the project must be paid through the project trust account. For beneficiaries, this means that there is no change to the way that they make payment claims or receive payment schedules.

The trustee cannot pay subcontractor beneficiaries in cash or transfer amounts due under the contract through their personal bank account.

Subcontractor beneficiaries may only be paid into their nominated bank account, and this account must be an account that is only controlled by the beneficiary.

Beneficiaries must be given a notice from the trustee every time an amount is paid to them from the project trust or deposited into the retention trust account as cash retention amounts withheld on their behalf. This notice must be given within five business days of the transaction.

Check [Industry guide to security of payment laws](#) for further information on how to submit a payment claim, receiving payment schedules and payment disputes.

How are retention amounts paid?

When it is time to release retention amounts withheld in the retention trust account, the trustee will transfer the amounts directly from the retention trust account into the beneficiary's nominated account.

Beneficiaries must be given a notice from the trustee every time an amount that is being held on their behalf is withdrawn from the retention trust account to:

- release (or pay) retention amounts to the beneficiary, or
- release (or pay) retention amount to the trustee (as per the terms of the contract), or
- pay another party for the correction of defects for work completed.



This notice must be given within five business days of the withdrawal transaction.

Reminder—check [Industry guide to security of payment laws](#) for further information on how to request release of retention amounts withheld.

What information can I request from the trustee?

A beneficiary (current or former) of either a project trust or retention trust, may request (in writing) that the trustee gives them particular trust account information relating to the beneficiary, including:

- a statement of balance
- a copy of transactions
- a copy of the trust records
- a copy of supporting statements given with payment claims to the contracting party by the trustee (for project trust accounts only).

The trustee is only required to provide the information that is relevant to or relates to the beneficiary, not copies of transactions/records that relate to other beneficiaries of the account.

The trustee is not required to provide information already available to the beneficiary requesting the information or information that has not changed since it was last provided.

The trustee must provide the requested documentation within 10 business days of the request.

A template notice that may be used to request this information will soon be available on QBCC's website.

What if I'm not paid?

Under the new framework, there are specific obligations the trustee must adhere to regarding payment to beneficiaries, particularly topping up a project trust or retention trust account if there is an insufficient amount available (a shortfall) to make a payment (or release a retention amount) that is due to be paid to a beneficiary.

If amounts are owing to more than one subcontractor beneficiary and the trustee is not able to cover the shortfall and top up a project trust account before the amounts become due, the trustee is required to make proportional payments to each subcontractor beneficiary that is owed an amount from the trust at that time.

The trustee must notify the QBCC of a proportional payment and must ensure that the remaining amount owed is paid from the trust account when or as funds become available.

If a beneficiary has not been paid by the trustee and the due date for payment has passed, they are encouraged to:

- follow up on payment with the trustee
- consider the broader security of payment laws and payment dispute rights available
- notify the QBCC by lodging a [trust account complaint form](#).

What if the contractor goes insolvent or bankrupt?

A trust account works to protect amounts owed to beneficiaries in the event of an insolvency or bankruptcy, providing further security than if the funds were held in the trustee's personal or business account. Funds are secured for beneficiaries in a number of ways.

The trustee:

- can only pay themselves from a project trust account when there are sufficient funds left to pay other beneficiaries the amounts the trustee is liable to pay at the time of the withdrawal
- must top-up a trust account if an amount is due to be paid to a beneficiary and there is an insufficient amount in the trust account to cover the amount due to be paid
- can only withdraw amounts from the project trust account to pay beneficiaries (not other parties) and there are limitations on when amounts may be withdrawn
- can only withdraw amounts from a retention trust account to pay a beneficiary the retention amount that was withheld from them, or to pay another person to correct defects or omissions in the work completed by the beneficiary, or to pay themselves after the end of the defects liability period in accordance with the terms of the contract.

Retention amounts are also secured by a charge in favour of the beneficiary which remains until the amount is released or it is no longer owed to the beneficiary. The contracted party may enforce the charge as if it was given under a written agreement between it and the contracting party.

Additionally, contractors and subcontractors that are beneficiaries have a beneficial interest in trust amounts—amounts cannot be used by a liquidator or trustee in bankruptcy to pay creditors.

In the event of an insolvency, the QBCC may issue a direction to the trustee and/or financial institution restricting withdrawals from a trust account. The QBCC may also require the trustee to engage a registered company auditor to complete a trust account review, and the QBCC may appoint a special investigator to investigate whether the trustee has contravened the trust account requirements.

There are significant penalties against trustees for contraventions of the trust account laws.

What if there are changes made to the trust account?

Beneficiaries of a trust account must be notified of any significant changes made such as the transfer of an account to a different financial institution. The trust account register on the QBCC website will also be updated to reflect changes to trust account details in the event of a change of account name, transfer of account and closure of account.

How do I make a complaint?

Anyone who has concerns that a trustee is not meeting their obligations can notify the QBCC via the [trust account complaint form](#).

PART C—GLOSSARY OF TERMS

C

Account review report	A report prepared by an auditor following a trust account review, stating their conclusion about whether the trustee complied with the requirements relating to administration of the trust account. (Account reviews have been paused until July 2025 when suitable record keeping software will be widely available).
Approved financial institution	A financial institution approved by the QBCC for providing project trust account and retention trust account products for trustees.
Beneficiary	<p>A person or entity with a beneficial interest in the property held in a trust. A beneficiary is a contractor or subcontractor who is required to hold a licence or registration to carry out the contracted work.</p> <p>For a project trust, beneficiaries include the trustee and relevant subcontractors. For a retention trust, beneficiaries are contracted parties from which eligible cash retention amounts are withheld.</p>
Business day	A day that is not a Saturday or a Sunday, a public holiday, special holiday or bank holiday at the place where work is carried out, or any day between 22–24 December, 27–31 December or 2–10 January.
Contract price	The amount (excluding GST) the contracted party is entitled to be paid (or a reasonable estimate) for the completion of work under the contract.
Contracted party	The party that has been engaged under a contract to carry out work. This is the head contractor for the head contract and the subcontractor for the subcontract.
Contracting party	The party that has engaged another party to carry out work under a contract. This is the owner, developer or principal for the head contract and the head contractor for the subcontract.
Eligible contract	A project trust contract OR a retention trust contract (depending on the context) that requires the establishment of a trust account.
Eligible cash retention amount	Retention amounts withheld by the contracting party in the form of cash. These amounts must be withheld within a retention trust account.
Establishment	A term used when a project or retention trust comes into effect. There are specific steps that must be undertaken for establishment to occur.
Head contract	A contract for work that is not also a subcontract of another contract.
Head contractor	The contracted party for the head contract—can also be the contracting party for a subcontract if they subcontract all or part of the work to be carried out under the head contract.
Hospital and Health Service	A Hospital and Health Service established under the <i>Hospital and Health Boards Act 2011</i> , section 17. This is a consideration for eligibility for a project trust account.
Trust account ledger	A record of transactions for the trust account that identifies each beneficiary's beneficial interests in amounts.
Maintenance work	Work that is required on an ongoing basis to help to prevent the deterioration or failure of a building. It does not include any refurbishments or replacements to enhance or extend the life of a building or testing, taking samples or restoring a sample site.
Project trust	A trust, primarily for the benefit of subcontractors, over (i) amounts paid for a project trust contract by the contracting party to the contracted party, (ii) amounts paid by the contracted party for the project trust contract to subcontractors, and (iii) required deposits into the project trust account.
Project trust account	An account which is held at an approved financial institution and through which a project trust is operated. All payment amounts under a project trust contract and its subcontract/s must be deposited into this account. Withdrawals from this account can only be used to pay beneficiaries amounts they are entitled to.
Project trust contract	A contract for which a project trust is required.
Project trust work	Particular types of work that are taken into consideration when assessing whether a contract requires a project trust.
Reasonable assurance engagement	Refer to the 'Standard on assurance engagements ASAE 3100 – compliance engagements' (Auditing and Assurance Standards Board)

PART C—GLOSSARY OF TERMS CONTINUED

C

Reconciliation	A procedure that involves checking the accuracy of transactions recorded for a trust against the trust account bank statement. Monthly reconciliations are required for trust accounts.
Related entity	A person is a related entity for another person if they have a particular family, corporate, trustee or common land holding trust relationship with the other person.
Retention trust	A trust over eligible cash retention amounts which protect deposits made on behalf of the party/parties that will be entitled to the retention amounts.
Retention trust account	An account through which a retention trust is operated and held at an approved financial institution. It is the account into which all withheld cash retention amounts under an eligible contract are deposited by the contracting party and held until they are required to be released to the party/parties entitled to the amounts.
Retention trust contract	A withholding contract for which a retention trust is required.
Special investigator	An investigator appointed by the QBCC to investigate a trustee's compliance with their legislative requirements in relation to trust accounts. Account reviews have been paused until July 2025 when suitable record keeping software will be widely available).
State authority	An agency, authority, commission, corporation, instrumentality, office or other entity particular established under an Act or by authority of the state for a public or State purpose. A State authority can also be a corporation owned or controlled by the State or local government or a Hospital and Health Service.
Subcontract	A contract that contributes to the completion of work under the head contract.
Subcontractor	A person who is required to carry out the work under a subcontract.
Trust	A relationship that arises when a person or other entity (the trustee) holds property on behalf of and for the benefit of a party/parties with a beneficial interest in the property (that is, the beneficiaries).
Trust account ledger trial balance statement	A record that outlines the balances of amounts held in trust for each beneficiary at the end of each month. This record is used as part of the monthly reconciliation process.
Trust account register	A register available on the QBCC website that displays trust accounts across the state.
Trust account review	A review of the compliance of a trust account carried out by a registered company auditor using the methodology for a reasonable assurance engagement. The auditor completing the review prepares and submits an account review report once the review is completed. (Account reviews have been paused until suitable record keeping software is widely available).
Trust records	Records that must be kept for at least seven years by a trustee in relation to a trust. Trust records must include an individual trust account ledger and other documents relating to the trust account and trust project.
Trustee	The person or entity responsible for the trust. The trustee for a project trust is the contracted party for the project trust contract. The trustee for a retention trust is the contracting party for the retention trust contract.
Work	<p>A general term used in relation to work performed under a contract.</p> <p>Includes labour, the supply of materials, the manufacture or fabrication of a specific component and the supply of any non-administrative labour for work under a contract.</p> <p>Excludes the delivery of goods, plant or machinery hire (that is not connected to labour under a contract), labour performed under a service contract or labour relating to testing materials or taking measurements.</p>

Need more information?

Visit qbcc.qld.gov.au, call us on 139 333 or write to us at GPO Box 5099, Brisbane Q 4001.

