

Trust accounting software

Frequently Asked Questions



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Introduction

The *Building Industry Fairness (Security of Payment) Act 2017* (the BIF Act) and Building Industry Fairness (Security of Payment) Regulation 2018 (BIF Regulation) prescribe a trust account framework for eligible building and construction contracts.

The trust account framework aims to help subcontractors get paid for their work by placing payments for an eligible building contract into trust accounts.

A **project trust account** is a bank account through which project payments are received and paid. An account must be opened for each eligible building project.

A **retention trust account** is a bank account where cash retentions are held until they are due to be paid. Only one account for the business is needed – not one for each contract.

Under the BIF Act, trustees of those accounts must keep certain trust records. These requirements are important to the integrity of the trust and the trust protections, and ensure effective oversight, financial transparency and information sharing.

The four critical elements of compliant trust records include:

1. keeping a separate trust ledger for each trust
2. ensuring all transactions affecting the trust are recorded in the ledger accounts
3. reconciling the ledger account to ensure the accuracy of the records
4. ensuring access to the above trust records and related source documents for 7 years.

A trustee may use a computerised system to assist in keeping records. If software is used, the trustee must ensure the records created and maintained by the software product comply with the legislative requirements.

To assist industry, the Department of Housing and Public Works has been working closely with software providers to clarify record keeping requirements for trust accounts and support the development of software solutions.

The department has prepared the following information in response to frequently asked questions from software providers.

Amendments to the BIF Act

What are the amendments?

Recent amendments to the BIF Act were made to reduce complexity and the cost of complying with the trust account framework by:

- defining a 'subcontractor beneficiary' to be paid from a trust account as any contractor who is required to hold a licence or registration to carry out the contracted work
- pausing the requirement for independent account reviews in recognition of the record keeping and software constraints (trustees no longer need to engage an auditor to review retention trusts)
- removing some prescriptive requirements for trust record keeping (e.g. record of deposits and withdrawals).

The amendments did not introduce any new requirements in relation to trust accounts.

Why were those amendments made?

The government has continued to monitor implementation of the trust account framework.

This included seeking feedback from an Implementation Steering Committee comprised of key industry stakeholders.

Feedback indicated there were opportunities to clarify and simplify areas of the legislation to make it easier for industry to understand and comply.

When do they apply?

The amendments to the BIF Act and Regulation commenced on 1 July 2024.

Project trust accounts (PTA)

When is a PTA required?

PTAs are only required where all of the following criteria are satisfied (and no exemptions apply):

- It is a 'first-tier' contract (i.e. a head contract).
- More than 50% of the contract price is for project trust work.
- There is (or will be) at least one subcontractor engaged for the work.
- The actual (or proposed) contract dates, contract values and contracting party meet the legislated conditions.

The QBCC has detailed information on its [website](#), including a [trust account tool](#), to help trustees work out when a PTA is needed. It also has information about construction management trade [contracts](#). Trustees can call the QBCC on 139 333 to ask questions and seek further clarification on trust accounts.

Who can be paid from a PTA?

The following beneficiaries can be paid from a PTA:

- Subcontractor/s contracted to complete project trust work.
- The trustee may pay themselves amounts entitled to be paid under their contract (e.g. for construction work carried out, operating expenses and supplier costs).

Beneficial interest

What is beneficial interest?

Beneficial interest is the right (of the beneficiaries) to receive benefit from amounts held in trust and/or the extent to which a person has a share in the value of the trust assets.

Contracted parties are beneficiaries of the project or retention trusts and have a beneficial interest in an amount they are entitled to be paid under a contract and any related retentions that are withheld.

The trustee is also a beneficiary of the trust and has a beneficial interest in the remainder of the trust after subtracting the beneficial interest amounts of contracted parties.

Beneficial interest increases and decreases as relevant transactions occur (and is recorded in the ledger accounts).

Trust account records

What trust records will the regulator be requesting?

The regulator of the BIF Act is the Queensland Building and Construction Commission (QBCC). The QBCC has a range of powers to monitor and ensure industry compliance with the trust account requirements.

One way the QBCC monitors compliance is by carrying out audits, including of trust account records.

As part of an audit, the QBCC may choose to inspect:

- trust account ledgers and reconciliation statements
- copies of other trust records (e.g. contracts, payment claims, bank statements).

The trust records will be for a date range relevant to the trust project. It is important that software can produce a balanced trust ledger for a requested date range (e.g. monthly).

To avoid any unintended administration work at the time of the audit it is recommended that copies of the above records can be located easily.

The government will work with software providers to ensure these records are produced to a standard that will satisfy a QBCC audit.

Payment claims

What is a payment claim?

A payment claim is a request for a progress or milestone payment given by the contracted party to the contracting party.

A payment claim must be given on or after a certain date (the reference date) specified in the contract and/or after the contracted work is completed.

If the contract does not state a reference date, the payment claim may be given on or after the last day of the month in which the work is completed.

To be 'valid', the payment claim must:

- be in writing
- identify the work or services to which the payment relates
- state the claimed amount
- request payment (note: including the word 'invoice' or a statement 'payment requested by X date' is sufficient to represent a request for payment).

How is a payment claim recorded in the trust ledger?

The payment claim is a 'transaction' that must be recorded in the trust ledger for the project trust. The regulation does not stipulate what information from the payment claim must be recorded in the trust ledger. Accounting standards require the following information must be recorded in the ledger:

- Date of the transaction.
- Reason for the transaction.
- Amount of the transaction.

The ledger should also record the journal reference number for the entry.

Payment claims are recorded in the trust ledger accounts as a credit for the beneficiary and a debit for the trustee.

Do I need to record a payment claim and a payment schedule in the ledger where the payment schedule confirms the claimed amount?

No. There is no requirement to post both transactions in the ledger. While the payment schedule confirms the payment claim amount, it neither increases nor decreases beneficial interest.

If the payment schedule confirming the payment claim amount is entered, the amount recorded would be \$0.00.

How are recipient-created tax invoices (RCTIs) recorded?

When it's given to the subcontractor as the payment claim:

- Recorded as a **credit** for the beneficiary ledger account, and
- Recorded as a **debit** for the trustee ledger account.

When it's adjusting (increasing) the amount of a payment claim:

- Recorded as a **credit** for the beneficiary ledger account, and
- Recorded as a **debit** for the trustee ledger account.

When it's adjusting (decreasing) the amount of a payment claim:

- Recorded as a **debit** for the beneficiary ledger account, and
- Recorded as a **credit** for the trustee ledger account.

When it's given to the subcontractor as the payment schedule (decreasing the amount of the payment claim):

- Recorded as a **debit** for the beneficiary ledger account, and
- Recorded as a **credit** for the trustee ledger account.

On all occasions, the date the RCTI is given is the transaction date to record in the ledger. The treatment of the RCTI will be subject to how it is provided for in the contract and the related business processes.

How many claims may be submitted per month?

Payment claims can only be accepted as contracted. If the contract allows for 1 payment claim per month, then the contracted party can only submit 1 payment claim per month. Where more than 1 payment claim is given, the contracting party should record the first valid payment claim.

If the contract allows for multiple claims per month, the contracted party must give payment claims on or after the contracted reference dates.

If the contract does not state a reference date, the payment claim may be given on or after the last day of the month in which the work is completed or services supplied.

What is the date a payment claim must be recorded into a ledger?

The giving of a payment claim is a transaction and must be recorded in the respective ledger accounts within 3 business days after the transaction occurs.

For example:

- Payment claim given Thursday 4 July 2024.
- The transaction must be recorded on or by Tuesday 9 July 2024.
- Thursday = Day 0. Friday = Day 1. Monday = Day 2. Tuesday = Day 3.

What if the payment claim is submitted via a payment claim solution?

If a payment claim solution is being used, the payment claim will be considered given to the trustee when:

- the subcontractor enters their claim details through the solution portal, or
- the head contractor issues an RCTI through the solution portal.

This will require the claim data to get to the trust accounting solution within the legislated timeframes. A trust accounting solution is an ERP with a trust accounting module or a standalone solution.

Payment schedules issued by the payment claim solution must also be recorded as a transaction in the trust ledger within 3 business days after the transaction date.

What if the data does not come from the payment claim solution until the end of the month?

The department has received feedback that claims from a payment claim solution are not always getting to the ledger in time to meet the legislated times. The department has met with payment claim solution providers and outlined these requirements. They are working with trust accounting solutions to get the claim data to them as fast as possible.

The department understands this will require development from both solution provider parties.

A trust accounting solution that currently accepts payment claim data but cannot post this to the trust ledger within 3 business days of the transaction occurring will not pass a software assessment. This is due to the transaction not being recorded as legislated.

When must payment claims be paid? Can they be paid early?

Payment claims are to be paid on or by the due date.

Payments can be made before the due date, but it is unlawful to pay after the due date (penalties apply).

Given the trustee cannot pay themselves anything liable to be paid to the subcontractor, there is no reason to not pay early if the funds are available in the trust account.

What if the contract provides for early payment discounts?

Some payment claim solutions offer a discounted claim amount for the subcontractor to be paid early.

This does not breach the conditions of the BIF Act, as long as there is no coercion of the subcontractor to accept these terms. However, it is recommended that subcontractors check the payment terms under their contract carefully (including payment frequency) before requesting early payment of a payment claim and paying additional fees for this service. Everyone has a right to on-time payment.

All subcontractor payments must come from the PTA and trust records must be maintained in accordance with the Act.

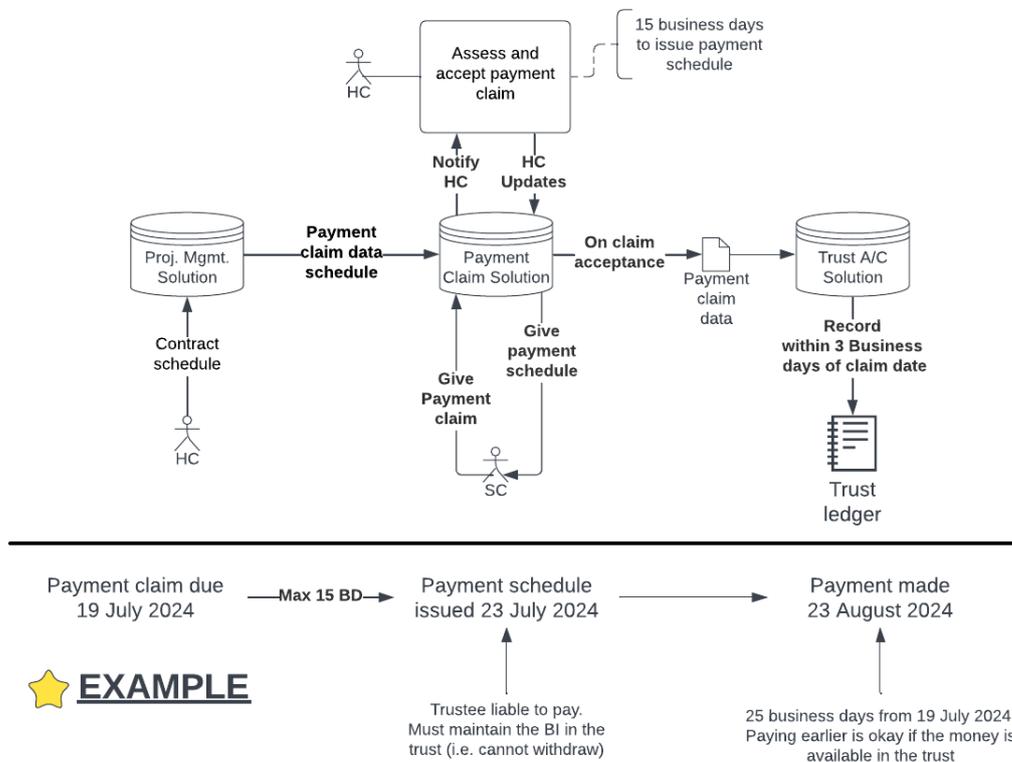


Figure 1 - Payment claim solutions and ledgers

Other software records and transactions

What does software need to do for GST and retentions?

GST is not required to be recorded separately in the ledger accounts.

For example: A subcontractor's payment claim is for \$2,000 plus GST of \$200. The ledger account records beneficial interest of \$2,200.

Some solutions may find it easier to record the two amounts separately. This is acceptable, but it would be recorded as two postings that increase beneficial interest.

How is a payment schedule recorded in the ledger?

A payment schedule decreasing beneficial interest is recorded as a debit in the beneficiary ledger account and a credit in the trustee ledger account.

The date the payment schedule is given is the date recorded.

When can a trustee withdraw money to pay themselves?

The Head Contractor is the trustee but is also a beneficiary of the trust.

The Head Contractor may pay themselves amounts it has a beneficial interest in under the contract (e.g. for construction work carried out, operating expenses and supplier costs).

However, a trustee must ensure when paying themselves that they only withdraw in accordance with the 'order of priority' (under section 20B) up to the balance of amounts they are liable to pay to subcontractors (at the time of the withdrawal).

Liable to pay is applied in accordance with section 10B.

This reflects the government's policy position and is consistent with the QBCC's guidance to industry.

When is an amount liable to be paid?

An amount is liable to be paid on the earlier of any of the following:

- The amount becomes due to be paid (as per the payment terms) e.g. 10 business days after the claim, every second Friday, 25 business days after the claim.
- The amount is certified or assessed as payable e.g. Payment Advice Notice or an RCTI is issued.
- Payment schedule is issued, or if not issued, the last date on which it could have been given has passed (i.e. 15 business days after claim).
- An adjudication decision, court, tribunal, or final dispute resolution is given (date of certificate or order).

Does a trustee need to top-up the trust account when payment claims are recorded?

Trustees are not required to top-up the project trust account so that the balance of the account is always equal to (or greater than) the total of all claimed amounts at all times.

The BIF Act only requires the trustee to ensure there are sufficient funds available in the account to make payments (on the day when the payments are due to be paid). This can be achieved either by topping up the account or by a principal payment/deposit.

For example, a payment claim comes in for \$10,000 on 1 June with a due date for payment of 29 June.

- The claim for payment is recorded in the trust ledger on 2 June.
- The trust account balance on that date is \$8,000.
- There is a shortfall of \$2,000 to cover the beneficial interest.
- The trustee only needs to add the shortfall amount of \$2,000 on the due date for payment. This can be added via a trustee top-up or principal deposit.
- Where an 'over claim' is given, traditional procedures would be adopted.
- Where a subcontractor's claimed amount includes an error (e.g. adding an extra zero) the head contractor can vary this through a payment schedule.
- The recognition of beneficial interest is the date the payment claim is given.
- The decrease in beneficial interest is recorded in the beneficiary ledger account and trustee ledger accounts.

Where a claim is submitted from an entity with no contracted association with the project, the head contractor can ignore this claim and does not need to record the payment claim.