

TRUST ACT 2019

If you do have a Trust, please consider talking to a Trust Lawyer about these new changes



What does the act mean for me as a Trustee?

Now you have mandatory and default duties to adhere to. You must disclose the existence of a Trust to the beneficiaries. You will now need to spend more time with compliance.

What does the act mean for me as a beneficiary?

You must be notified about any Trusts that you are a beneficiary of. You can request more information about the trust, like the Trust Deed and its financial statements



What are the 5 mandatory duties Trustees must follow?

- Know the terms of the Trust
- Act in accordance with terms of the Trust
- Act honestly and in good faith
- Act for benefit of beneficiaries
- Exercise powers for proper purpose

What are some of the documents that must be held by the Trustee?

- The Trust deed
- Any variations to the trust deed
- Records of Trustee decisions
- Keep written contracts entered into
- Financial statements and accounting records



Will the costs of having a Trust increase?

Because Trustees will need to spend more time with compliance, their obligations and maintaining records, legal and accounting costs will most likely increase.

Does the Trust Deed need changing?

All Trust Deeds will need to be reviewed to make sure they comply with the Act. One amendment to consider is a variation power in the trust deed.



What is the benefit of keeping a Trust?

For most Trusts, the primary benefits are protecting assets for the beneficiaries. Trusts can be a flexible way of passing on wealth to future generations

Other benefits may include: (depending on the beneficiaries' circumstance)

- Tax efficiencies for beneficiary income
- Reducing or preventing estate claims
- Protecting assets from spendthrift beneficiaries
- Protection from relationship property claims

The Act makes a number of other changes to Trust Law. It provides more flexibility for Trustees to delegate their powers. New Trusts can now have a maximum duration of up to 125 years. Some Trust disputes may be referred to alternative dispute resolutions like mediation or arbitration. The Act will provide a more simplified process to transfer land when a mentally incapable Trustee is removed, significantly reducing legal cost in these situations.