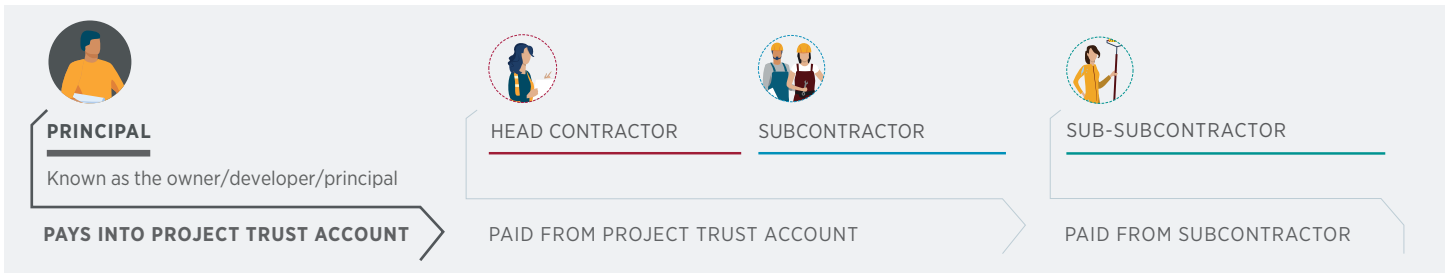


PRINCIPAL TRUST ACCOUNT OBLIGATIONS

UNDER THE *BUILDING INDUSTRY FAIRNESS (SECURITY OF PAYMENT) ACT 2017*

EFFECTIVE JULY 2023



As a principal to a trust project, you have a number of obligations under the *Building Industry Fairness (Security of Payment) Act 2017* (the Act). Failure to uphold these obligations may expose you to significant penalties.

Three key obligations under the Act:

1. All payments made by a Principal to a head contractor (for a trust project) must be paid into that project trust account (Section 19 of the Act).

The only exceptions to this rule are:

- if the amount was due to be paid before the trust was established; or
- the amount is paid into court; or
- the amount is to be withheld because of a payment withholding request you have received; or
- the amount is paid directly to a person in connection with a subcontractor's charge; or
- if you have a reasonable excuse for failing to deposit the amount into the account.

2. Where a Principal is withholding retentions in the form of cash from payments made to the head contractor (for a trust project), they are required to establish and open a retention trust account for those withheld amounts in accordance with Part 3 of the Act.

The only exceptions to this requirement are:

- if retentions are held in a form other than cash; or
- the contracting party is the State, the Commonwealth, a state authority, a local government or another prescribed entity.
- Once you have opened a retention trust account with an approved financial institution, you must advise the QBCC within 5 business days of opening the account.

You can notify the QBCC by using the:

- digital Trust notification form, on the [Online lodgement webpage](#) under Trust account forms, or
- [PDF Trust notification form](#).

3. Where a Principal knows or should reasonably know that a project trust is required for a contract, and a project trust account has not been opened, they are required to notify the QBCC of the head contractor's failure to do so.

- You can notify the QBCC by using the:
- Digital Trust account complaint form, on the [Online lodgement webpage](#) under Trust account forms, or
- [PDF TA6 Trust account complaint form](#).

By having an awareness of your obligations under the Act as they relate to the trust account framework, you are doing your part to help ensure that all parties in the contract chain receive protections that the Act provides.

How to determine eligibility for a trust account

The QBCC's [Trust Account Tool](#) is the simplest way to determine eligibility for a project trust account and or retention trust account.

If the trust account tool is unavailable to you, ask yourself the following questions about the head contract.

- Is the contracting party (the Principal) a Private entity, the State, a state authority, an individual, a local government, or a hospital and health service; and
- Is the contract more than 50% of the contract price is for project trust work; and
- Is the contract price:

for the State, or a hospital and health service - \$1 million or more; or otherwise - \$10 million or more.

Alternately, if the contracting party is a State authority, it may opt in to requiring a project trust account for a contract where more than 50% of the contract price is for [project trust work](#) and the contract price is \$1 million or more.

If your answer to these questions is yes, then the contract requires a project trust account.