

If you have a trust, get ready | Changes are coming.

On behalf of Grant Thornton, we wanted to share the below information for those that have a family trust and/or are a trustee, to ensure that you are updated on important changes coming to the Trusts Act 2019 (**the Act**).

The Act comes into force from **30 January 2021** and applies to all trusts – not just new ones established after that date. The Act comprises 184 sections and there are a number of rules to be aware of.

Below, Paige Cuthbert, Business Advisory Services Partner at Grant Thornton New Zealand outlines the key changes that may require immediate action or investigation.

Trustee duties

The new law clearly states two specific types of trustee duties:

- Trusts Act 2019 Mandatory duties; and
- Trusts Act 2019 Default duties.

No changes are permitted to mandatory duties but some of the default duties can be modified, or excluded, by the trust deed. The Act effectively codifies “best practice” but also makes the role of trustees more onerous and increases their responsibility.

Disclosure of information

This is potentially one of the most contentious changes. Trustees have a duty to make available ‘basic trust information’ to all beneficiaries, including those who may only have a remote chance of receiving a distribution from the trust. It also includes the parent or guardian for a minor beneficiary (or beneficiary who “lacks capacity”).

Record keeping requirements

The Act has an extensive list of documents relating to the administration of the trust that each trustee must hold. For instance, this includes the trust deed, variations made to the trust, records of trust property identifying the assets, liabilities, income and expenses of the trust, records of decisions and so on. Where there is more than one trustee, one trustee can hold the documents on behalf of all trustees (noting however that all must still retain a copy of the trust deed and any variations).

Other key changes

All trustees should:

- become familiar with mandatory and default trustee duties
- review the current list of beneficiaries:
 - Is it appropriate?
 - Can it be amended or narrowed down?
- review the trust records:
 - Does someone hold all the records on behalf all trustees?
 - Who will be the nominated trustee be?
 - Are the current terms of the trust appropriate? Are they flexible?
 - Is the memorandum of wishes up to date?
 - Consider the ongoing objective of the trust – is it still fit for purpose?

We recommend talking to your accountant or legal adviser sooner rather than later to fully understand the impact the new Act may have on your trust and your role as trustee. For more information about these changes, please visit [Grant Thornton's website](#) or contact [Paige Cuthbert](#), Partner at Grant Thornton New Zealand.