

Trusts Bill arrives: How CCH iTrust can help you

With the new Trusts Bill introduced at the beginning of this month, we now have a little more clarity as to what our future will look like.

Although the Trusts Bill reflects much of our existing trust law, there are some novel features, including:

A new rule that trusts have a maximum duration of 125 years.

A provision stating if a trust has a sole trustee, that trustee cannot be the sole beneficiary.

The presumption that trustees must make *basic trust information* available to every beneficiary (or representative of a beneficiary if the beneficiary does not have capacity).

This last feature – the presumption that trustees must disclose basic trust information to beneficiaries – is the most contentious of the changes in the Trust Bill.

What is “basic trust information”?

Basic trust information is defined as:

- the fact that a person is a beneficiary of the trust
- the name and contact details of the trustee
- the occurrence of, and details of, each appointment, removal, and retirement of a trustee as it occurs, and
- the right of the beneficiary to request a copy of the terms of the trust or *trust information*.

“Trust information” is broadly defined to mean any information regarding the terms of the trust, the administration of the trust, or the trust property but does not include the reasons for trustee decisions.

Presumption to disclose information not an absolute requirement

Although there is a presumption to disclose, this does not necessarily mean that trustees *must* disclose basic trust information (or trust information) to all beneficiaries. Trustees will still be able to refuse to provide some or all of the information if, after considering a range of factors, they reasonably consider that the information should not be made available to every beneficiary. The factors that trustees must take into account include:

The nature of the various beneficiary interests in the trust, including the likelihood of the requesting beneficiary receiving trust property in the future;

Whether the information is subject to personal or commercial confidentiality;

The expectations and intentions of the settlor when the trust was created as to whether the beneficiaries, and the qualifying beneficiary in particular, would be given information (if known);

The age and other circumstances of the requesting beneficiary and the other beneficiaries of the trust;

In the case of a family trust, the effect that disclosure would have on relationships within the family and the relationship between the trustees the various beneficiaries to the detriment of the beneficiaries as a whole; and

In a trust that has a large number of beneficiaries or unascertainable beneficiaries, the practicality of giving information to all beneficiaries or all members of a class of beneficiaries.

With regard to basic trust information, trustees are required to assess at regular intervals their decision to disclose (or not).

HOW CCH Entities Trust Manager can help you.

1. We will increase the default vesting date from 80 years to 125 years so that when you add a new trust the date will be automatically calculated for you. CCH Entities also contains a **Vesting Due Report** which can help you to keep track of vesting dates becoming due.

The screenshot shows the 'Vesting Date Due' report in the CCH Entities Trust Manager. The interface includes a search bar, filters for managers, trust statuses, types, and groups, and date range selection. The main table lists trust managers, names, references, and vesting dates.

| Manager | Trust Name | Trust Reference | Vesting Date | Vesting Name |
|--------------------|-----------------------------|----------------------|-------------------|--------------|
| Suzy Taylor | Hensman Family Trust | Client No 013 | 15/09/2010 | |
| Suzy Taylor | Jones Family Trust | Client No 011 | 01/06/2011 | |
| Jenny Dawn Davies | Happy Days Trust | GIN4567 | 14/01/2054 | |
| Doris Upton | Freeman Family Trust | Client No 002 | 13/01/2087 | |
| Suzy Taylor | Cooper Family Trust | Client No 005 | 08/02/2087 | |
| Claire Roper | Tulloch Family Trust | Client No 007 | 03/03/2087 | |
| Suzy Taylor | Masters Family Trust | Client No 003 | 04/05/2087 | |
| Gus Hatton | Pereira Family Trust | Client No 004 | 05/07/2087 | |
| Gus Hatton | Rochdale Family Trust | Client No 009 | 01/01/2088 | |
| Doris Upton | CCH Training Trust | Client No 001 | 01/06/2088 | |

2. **The Health Check Report** can currently tell you if you don't have an independent trustee (ie. a trustee who is not also a settlor or a beneficiary). We are extending this report to show where a trust has a sole trustee who is also the sole beneficiary.

The screenshot shows the 'Trust Health Check' report in the CCH Entities Trust Manager. The interface includes a sidebar menu with 'Reports' highlighted, and a main area displaying the 'Trust Health Check' results for 'The Smith family trust'. The report table lists various sections and their descriptions.

| Section | Health Check Description |
|---------------------|---|
| IRD Number | Trust IRD Number is blank |
| IRD Number | Person IRD Number is blank (John Archer) |
| IRD Number | Person IRD Number is blank (Catherine Archer) |
| IRD Number | Person IRD Number is blank (Amelia Armstrong) |
| Independent Trustee | No Independent Trustee |
| Gifting | Outstanding gifting on account Amelia Armstrong (\$2986500) |
| Gifting | Outstanding gifting on account John Archer (\$2986500) |

3. A basic trust information report for beneficiaries can be created by selecting only the required information when generating a **Trust Summary Report**.

The screenshot shows the 'Trust Reports' interface for 'The Smith family trust'. The left sidebar contains a menu with 'Reports' circled in red. A red arrow points from 'Reports' to the 'Print Summary' button, which is also circled in red. Below the menu is the 'Trust Summary Options' panel with the following checkboxes:

- General Information
- Relationships
- Responsibilities
- Legal Summary
- General Notes
- Firm Only Notes
- Assets
- Gifting/Loan Accounts
- Distributions
- Revenue
- Documents
- Minutes
- Historic Minutes
- Checklists
- Incomplete Tasks
- Completed Tasks
- Firm Only Tasks
- Pagebreak Between Sections

A green 'Print' button is located at the bottom right of the options panel.

4. Use the **Trust Roles Report** and filter to beneficiaries for a list of all named beneficiaries in your database.

The screenshot shows the 'Trust Roles' report interface. The 'Beneficiary' filter is circled in red. Below the filter is a table listing trust roles for various trusts. The table has the following columns: Trust No, Trust Name, Person Name, Role, Trust Status, Manager, Type, and Cal. A green 'Open Trust' button is located to the right of the table.

| Trust No | Trust Name | Person Name | Role | Trust Status | Manager | Type | Cal |
|----------|-------------------------|-----------------------|--|--------------|--------------|--------------|------|
| 2 | McIntyre Training Trust | Justine Colstone | Settlor/Client/Trustee/Beneficiary | Archived | Claire Roper | Family Trust | Gift |
| 2 | McIntyre Training Trust | Alex Durran | Settlor/Trustee/Beneficiary | Archived | Claire Roper | Family Trust | Gift |
| 3 | CCH Training Trust | Justine Colstone | Settlor/Client/Trustee/Beneficiary/Lawyer | Active | Doris Upton | Family Trust | Gift |
| 3 | CCH Training Trust | CCH Training Trust | Beneficiary | Active | Doris Upton | Family Trust | Gift |
| 4 | Freeman Family Trust | Colin Freeman | Settlor/Client/Trustee/Beneficiary | Active | Doris Upton | Family Trust | Gift |
| 4 | Freeman Family Trust | Keith Freeman | Beneficiary | Active | Doris Upton | Family Trust | Gift |
| 4 | Freeman Family Trust | Sarah Freeman | Settlor/Client/Beneficiary | Active | Doris Upton | Family Trust | Gift |
| 4 | Freeman Family Trust | Bertha Blank | Beneficiary/Settlor/Trustee | Active | Doris Upton | Family Trust | Gift |
| 6 | Pereira Family Trust | Gina Pereira | Beneficiary | Passive | Gus Hatton | Family Trust | Gift |
| 6 | Pereira Family Trust | Stella Louise Pereira | Settlor/Client/Trustee/Beneficiary | Passive | Gus Hatton | Family Trust | Gift |
| 6 | Pereira Family Trust | Vince Pereira | Settlor/Client/Trustee/Beneficiary | Passive | Gus Hatton | Family Trust | Gift |
| 7 | Rochdale Family Trust | Mary Rochdale | Settlor/Client/Trustee/Beneficiary | File | Gus Hatton | Family Trust | Gift |
| 8 | Tulloch Family Trust | Wendy Tulloch | Beneficiary | Active | Claire Roper | Family Trust | Gift |
| 8 | Tulloch Family Trust | Bill Craig Tulloch | Settlor/Client/Trustee/Beneficiary/Default Contact | Active | Claire Roper | Family Trust | Gift |
| 8 | Tulloch Family Trust | Joan Tulloch | Settlor/Client/Trustee/Beneficiary | Active | Claire Roper | Family Trust | Gift |
| 9 | Cooper Family Trust | Wendy Tulloch | Beneficiary/Accountant/Adviser | Active | Suzy Taylor | Family Trust | Gift |

5. You can also check the **Beneficiaries by Age Report** to identify those beneficiaries under the age of majority.

Wolters Kluwer

Dashboard Reports Setup About Logout

CCH Companies and CCH iTrust

Beneficiaries by Age CCH Demo System With Data - Karen Rogers

Aged Under: 18 As At: 22/08/2017 Apply

| Trust Name | Name | Age | Date of Birth | Postal Address | Phone No |
|----------------------|---------------|-----|---------------|--|--------------|
| Hensman Family Trust | Tom Cooper | 14 | 30/04/2003 | 21 Crescent Road, Epsom, Auckland | 09 441 345 6 |
| Cooper Family Trust | Tom Cooper | 14 | 30/04/2003 | 21 Crescent Road, Epsom, Auckland | 09 441 345 6 |
| Pereira Family Trust | Gina Pereira | 15 | 01/01/2002 | 53 Clifton Road, Hamilton | 09 123 456 |
| Jones Family Trust | Rogers Jones | 17 | 19/07/2000 | 123 Marsh Ave, Auckland | 09 778 7654 |
| Masters Family Trust | Julie Masters | 17 | 01/01/2000 | 2/43 Kitchener Street, Milford, Auckland | 021 123 456 |
| Masters Family Trust | James Masters | 17 | 01/01/2000 | 2/43 Kitchener Street, Milford, Auckland | 09 123 456 |
| Monday Trust | Yogi Bear | 18 | 17/08/1999 | | |

Open Person Open Trust

New Trust Deed

The new trust deeds have been added to the software. These have been written in such a way that they **CAN BE USED NOW**. Selecting the perpetuity period is part of the document creation process so that they can be used for trusts of both 80 and 125 yrs.

Deeds of Variation

For trusts created with either the original deeds or the new deeds using the 80 year perpetuity period we will provide deeds of variation to change that clause. These are not in the system yet as they **CANNOT BE USED** until after Jan 31st 2021.

Beneficiary Disclosure Letters

4 new beneficiary disclosure letters have been added. These **CAN BE USED NOW**.

There is some discussion as to whether trusts MUST disclose information before Jan 31st or do not have to until AFTER Jan 31st. The letters are available, and firms can use their own discretion as to whether they use them now or not.

Workflows

All new workflows from the Trustee's Handbook, 5th Edition have been added. These **CAN BE USED NOW**.

Minutes

All new minutes from the Trustee's Handbook, 5th Edition have been added. These **CAN BE USED NOW**. There are also additional minutes that are not from the Trustee's Handbook and those are under review.

Resolutions

All new minutes from the Trustee's Handbook, 5th Edition have been added. These **CAN BE USED NOW**. There are also additional resolutions that are not from the Trustee's Handbook and those are under review.

Portal

We are also have our existing Trustee Portal (free for all CCH iTrust users) to allow the sharing of information with any person associated with the trust (including beneficiaries). This is incredibly exciting as firms will have a greater obligation to share information next year and the portal is an acceptable and convenient way to do so. The enhanced portal will allow firms to be specific about which information they share from everything to a single document.

This free portal can be implemented at any time although may choose not to share additional information with beneficiaries until required to do so in Jan 2021.

XERO interface now live

If you have a contact database in Xero we can now link that to your CCH Entities Trust Manager (and CCH Entities - Companies) data. Please contact your account manager for more information.