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## Update to the Trust Registration Service

On 6 October 2020, the Government, via HM Revenue & Customs (HMRC), introduced new rules which extended the scope of the Trust Register to all UK and some non-UK trusts, whether or not the trust has to pay any tax, but with some specific exclusions.

Trusts which must now register include:

- All UK trusts with a trust deed, unless they are specifically excluded. The excluded trusts are detailed below.
- Non-UK trusts which acquire land or property in the UK or have at least one trustee resident in the UK and enter into a 'business relationship' within the UK.

Excluded trusts include:

- Trusts imposed by statute – includes trusts set up under the intestacy laws when a person dies without a valid will and the assets in the estate are held by a trust before passing to relatives; and trusts set up to hold jointly owned assets such as a home owned with someone else as joint tenants, or a joint bank account.
- Trusts imposed by court order – includes trusts holding compensation payments.
- Trusts used to hold money or assets of UK registered pension schemes, such as an occupational pension scheme.
- Trusts holding life insurance policies – the policy must not have a surrender value and only pay out on death, terminal or critical illness or permanent disablement, such as to protect an outstanding mortgage liability.
- UK non-taxable charitable trusts.
- Pilot trusts – includes trusts which were set up before 6 October 2020 and hold no more than £100 in trust capital.
- Will trusts – trusts created by a person's will which come into effect on the person's death but where the assets are held for no longer than two years after death.
- Joint ownership trusts – includes assets held as tenants in common such as land or bank accounts, where trustees and beneficiaries are the same persons.
- Trusts which meet legislative requirements – includes bereaved minors trusts, 18-25 will trusts, trusts for maintenance of historic buildings and personal injury trusts.



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It should be noted the excluded list does not include bare trusts so, for example, where a family member is named on a bank account, this will trigger a requirement to register.

### ***Trustee responsibilities***

The deadline for registering trusts in existence on or after 6 October 2020 is 1 September 2022.

After 1 September 2022, when a new trust is formed it must be registered on the Trust Register within 90 days; and any changes to a trust must be updated within 90 days.

HMRC has advised it will allow a period of grace and a nudge letter will be issued before any penalties are raised. Failure to register, after having received a nudge letter, will incur a penalty of £100.

### ***Information access***

These changes have been introduced as part of the implementation of the Fifth Money Laundering Directive and are intended to help counter money laundering and terrorist financing.

Already UK law enforcement agencies have access to all information held on the Trust Register.

It is important to note the information held on the Register will not be available to the general public. However, these new rules will allow HMRC to disclose information to a third party in specific limited circumstances.

For example, an organisation (or person) which is interested in a specified trust because it is, for example, conducting an investigation into suspected money laundering activity, can request access to details on the Register about the people associated with a trust.



Any applicant will need to give details to explain why they suspect the trust may have been used for a criminal offence and how they will use the trust data.

The information provided about each beneficial owner will include their name, month and year of birth, country of residence, nationality and their role in the trust. HMRC will not give information about beneficial owners if such persons are under 18, lack mental capacity or if they will be at risk following the release of such information.

This document is intended as a general guide and although Chavereys have made every effort to ensure accuracy, they cannot accept liability for any errors of fact or opinion.

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