

Trust Account Framework

Trust record keeping requirements

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Queensland
Government

What are trust records



Trustees must keep 'proper' accounting records that show the true position of all trust money and interests in the trust.



Trust records are important to the integrity of the trust and ensuring the trust protections.



Trust records enable the trusts to be audited (e.g. to ensure trust money is being properly managed) and for beneficiaries' money to be accurately identified in the event of insolvency.

What are trust records

There are four critical elements to trust records:

1. Separate ledgers for each trust account
 - Records beneficial interest and amounts held
2. Monthly reconciliation statements
 - Balances the records and identifies errors
3. Copies of other prescribed 'trust records'
 - Supporting documents and other data to explain transactions
4. Regulator auditing of trust records
 - ensures compliance and proper management of trust money

1. Separate ledger for each trust account

A ledger is a collection of ledger accounts (t-accounts) in which financial information is recorded

The trust ledger records beneficial interests in the trust

A trust ledger must be separate to any other ledger including any accounting record (e.g. building company general books)

A trust ledger records all relevant transactions affecting the balance of the trust account and beneficial interests.

Understanding trust ledgers

There are several key aspects to the keeping of trust ledgers that must be understood:

- What is meant by 'separate' ledger?
- What is trust accounting (why it's different to traditional accounting)?
- What is beneficial interest and when does it arise?
- What ledger accounts must be kept?
- What transactions are relevant to the trust ledger?
- How to record relevant transactions in the ledger?
- What information must be recorded in the ledger?

'Separate' ledgers

- A separate ledger means only transactions affecting the trust account to which it relates are recorded.
- Each ledger must balance all credits and debits for the relevant trust transactions.
- The trust ledger does not record transactions for the building company/contractor.
 - The trust ledger cannot be an extract of the general accounting records
 - Applies the opposite method of credit and debit entry to traditional accounting
 - Does not record assets, liabilities, capital and revenue
- Relevant transactions must be posted to the correct ledger accounts

What is trust accounting?

The 'trust' should be understood as being a separate entity to the company/contractor.

The trust account is not an asset of the company/contractor in the way 'cash at bank' is an asset.

Trust monies are considered 'held by' or 'owed' by the trust to another party.

For this reason (and opposite to traditional accounting):

- the bank ledger account is a debit (DR) accounts
- the beneficiary and trustee ledger accounts are credit (CR) accounts

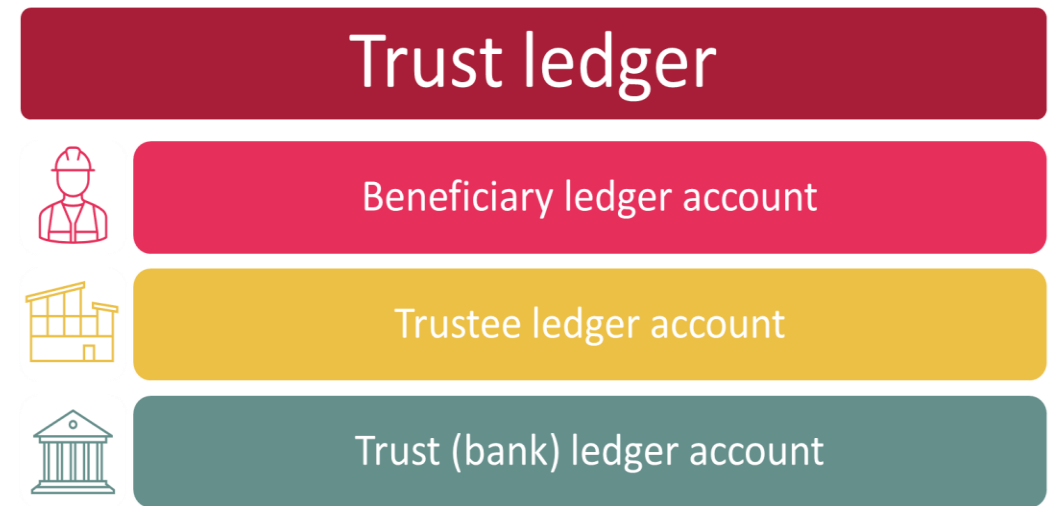
What is beneficial interest?

- Beneficial interest is the right (of the beneficiaries) to receive benefit from amounts held in trust and / or the extent to which a person has a share in the value of the trust assets.
- Contracted parties are beneficiaries of the project or retention trusts and have a beneficial interest in an amount they are entitled to be paid under a contract.
- The trustee is also a beneficiary of the trust and has a beneficial interest in the remainder of the trust after subtracting the beneficial interests amounts of contracted parties.
- Beneficial interest increases and decreases as relevant transactions occur (and is recorded in the ledger accounts)

What ledger accounts must be kept?

Trust ledgers must include ledger accounts for the following:

- Each beneficiary
 - The trustee
 - The trust (bank) account
- This applies for both the project and retention trusts.
 - The ledger accounts should be named in a way to identify its purpose (e.g. name of the beneficiary, name of the trustee).



What is a relevant transaction?

- Any activity or event that effects the financial position and value of beneficial interests in the trust.
- Must be recorded in the corresponding ledger account within 3 business days of occurring.
 - The date recorded in the ledger is the date the event or activity occurred, not the date it was entered.
 - For example, a payment claim given on 1 July 2024 and entered on 3 July 2024 is recorded as 1 July 2024.
 - For example, a payment from the account is recorded as the date the amount was withdrawn, not the date the payment instruction was made.
- The following tables show relevant transactions that effect the trust projects and when they are recorded.

Recording relevant transactions for the project trust

Transaction type	Date of transaction that is recorded	Beneficiary (CR)	Trustee (CR)	Bank (DR)
Payment from principal	Date of deposit to account		CR Payable from trust to trustee	DR Cash received by the trust
Giving a payment claim	Date of the payment claim	CR Payable from the trust to the Subcontractor	DR Receivable to the trust from Trustee	
Giving a payment schedule	Date of payment schedule	DR Reducing amount payable from the trust to the subcontractor	CR Reducing amount receivable to the trust from trustee	
Payment to/withdrawal by Trustee	Date of withdrawal		DR Reducing amount payable by trust to Trustee	CR Cash paid by the trust
Top-up (deposit) by Trustee	Date of deposit to account		CR Payable from trust to trustee	DR Cash received by the trust
Payment to beneficiary	Date of withdrawal	DR Reducing amount payable from trust to subcontractor		CR Cash paid by the trust
Payment of retention to RTA	Date of withdrawal	DR Reducing amount payable from trust to subcontractor		CR Cash paid by the trust

Recording relevant transactions for a retention trust

Transaction type	Date of transaction that is recorded	Beneficiary (CR)	Trustee (CR)	Bank (DR)
Depositing retention amount (when withheld)	Date the amount is withheld	CR Payable from the trust to the Subcontractor		DR Cash received by the trust
Head contractor claim for defects	Date of the payment schedule or agreement	DR Reducing amount payable from the trust to the subcontractor	CR Payable from trust to trustee	
Paying a retention amount to beneficiary (at PC or DLP)	Date of withdrawal	DR Reducing amount payable from the trust to the subcontractor		CR Cash paid by the trust
Paying a third party to correct defects	Date of withdrawal	DR Reducing amount payable from the trust to the subcontractor		CR Cash paid by the trust

What information must be recorded

When posting a transaction to a ledger account, the following information should be shown:

Information	Ledger column name	Examples
Date of the transaction	Date	Date the payment claim was given Date of payment schedule Date of deposit/withdrawal from account Date the retention was withheld
Transaction reference or identifier for the transaction	Reference/ID	Journal reference number
Reason for the transaction	Particulars/Details	Received from, given to, paid to and Invoice number
Amount of the transaction	Debit/(Credit)	Dollar value of the transaction

Dealing with RCTIs

A recipient created tax invoice (RCTI) can either be used:

- in place of a subcontractor giving a payment claim, or
- to adjust the agreed amount of a payment claim given, or
- in place of a subcontractor giving a payment schedule

An RCTI is a relevant transaction affecting the financial position and value of beneficial interests in the trust.

Recording RCTI transactions for the project trust

RCTI purpose	Date of transaction that is recorded	Beneficiary (CR)	Trustee (CR)	Bank (DR)
Given to subcontractor as the payment claim	Date the RCTI is given	CR Payable from the trust to the Subcontractor	DR Receivable to the trust from Trustee	
To adjust (increase) the amount of a payment claim	Date the RCTI is given	CR Payable from the trust to the Subcontractor	DR Receivable to the trust from Trustee	
To adjust (decrease) the amount of a payment claim	Date the RCTI is given	DR Reducing amount payable from the trust to the subcontractor	CR Reducing amount receivable to the trust from trustee	
Given to subcontractor as the payment schedule (decreasing the amount of payment claim)	Date the RCTI is given	DR Reducing amount payable from the trust to the subcontractor	CR Reducing amount receivable to the trust from trustee	

Note, the treatment of the RCTI will be subject to how it is provided for in the contract and the related business processes.

When can trustee withdraw funds to pay themselves?

Withdrawing from the project trust

The trustee is also a beneficiary of the project trust:

- may pay themselves amounts entitled to be paid under their contract (e.g. for construction work carried out, operating expenses and supplier costs).
- can only withdraw up to the balance of amounts liable to be paid to subcontractors (at the time of the withdrawal).
- Liable to pay is applied in accordance with section 10B.

Withdrawing from the retention trust

The trustee is also a beneficiary of the retention trust:

- entitled to be paid a retention amount to pay for correction of defects in the contracted work
- can only withdraw to pay themselves **AFTER** end of defects liability period (DLP)

When is an amount 'liable to be paid'

An amount becomes 'liable' on the earlier of any of the following:

- a) The amount becomes due to be paid (as per the payment terms) e.g. 10 business days after the claim, every second Friday, 25 business days after the claim.
- b) The amount is certified or assessed as payable e.g. Payment Advice Notice or a Recipient Created Tax Invoice is issued.
- c) Payment schedule is issued or if not issued the last date on which it could have been given has passed (i.e. 15 business days after claim).
- d) An adjudication decision is given (date of the adjudication certificate)

2. Monthly reconciliation statement

- The monthly reconciliation statement must be prepared within 5 business days of the end of each month.
 - Example: 30 June 2024 is the end of the month.
 - The reconciliation statement must be prepared after 30 June.
 - Between 1 July 2024 – 5 July 2024

There are two parts to preparing the reconciliation statement:

1. A trail balance of the ledger accounts
 - Confirming the total debit balances equals the total credit balances.
2. A reconciliation of the bank account to the trust ledger account.
 - Confirming the bank statement balance to the trust ledger bank ledger account balance.

Trial balance

- A report showing the closing balances of all ledger accounts at the end of each month
- Acts as an internal audit of the ledger by ensuring all debits and credits have been entered accurately.
- To be a balanced ledger the total of all debit entries must equal the total of credit balances.

Trial balance

Trust Name Trial balance statement For period: 1 June – 30 June 2024 Prepared 1 July 2024		
	CR	DR
Trust ledger accounts		
CJ Carpenter	\$10,000	
Leigh King Plumbing	\$2,000	
Energy Electrical	\$5,200	
Earthworks Excavation	\$ 0.0	
Trustee Building Co		\$8,400
Bank Ledger		\$8,800
Trial Balance Total	\$17,200	\$17,200
Variance (should be nil)		0

Reconciling to the bank

- Comparing the balance of the Trust account (bank) ledger account to the balance of the bank statement.
- Acts as an internal audit of the ledger by ensuring all transactions affecting the value of the trust have been recorded.
- For the project trust, the amount held in the bank account may be less/greater than the balance of beneficial interests in the trust.

Reconciliation

Trust Name Reconciliation statement				
Prepared 1 July 2024				
			\$	\$
<u>BALANCE AS PER BANK STATEMENT AT END OF MONTH</u>				
End of Month Bank Statement Balance				8,800
Add Deposits in Ledger but NOT in bank statement				
Date	Details	Amount	0.00	
Less Withdrawals in the Ledger but NOT in bank statement				
Date	Details	Amount	0.00	
Reconciled Bank Balance				8,800
<u>TRUST ACCOUNT LEDGER BALANCE AT END OF MONTH</u>				
Balance of bank ledger account				8,800

Note: If bank feeds are being used to populate the ledger accounts than there will likely not need to be any adjustments.

A simplified reconciliation statement showing only the balance of the bank statement and balance of the bank ledger account can be produced.

Correcting mistakes in a ledger

- A balance error is an error in the postings that affects the financial position or value of beneficial interests in the trust.
- When there has been a balance error identified in the ledger it must be corrected.
- Examples of 'balance errors' include:
 - posting to the wrong ledger account
 - posting an incorrect amount
 - posting the reverse balance (CR increase instead of a DR decrease)
- Note, editorial errors (e.g. to descriptions) are not required to be 'corrected' but can 'edited' if the software allows.

Correcting mistakes in a ledger

There are two options/ways that a 'balance error' may be corrected (depending on the error to be corrected):

1. Full reversal and re-entry

- Create a new entry that is the opposite of the original posting (which has the effect of cancelling out or reversing the original posting)
- Create a new (correct) entry for transaction
- Examples
 - Posting the reverse balance

2. Rebalancing entry

- Create a new entry for the difference to rebalance/correct the transaction
 - Examples
 - posting to the wrong ledger account
 - posting an incorrect amount

3. Keeping other records

Copies of related documentation must also be kept – in a way that enables them to be accessed or inspected if required and for up to 7 years.

These include:

- Trust ledgers and reconciliation statements
- Bank statements
- Payment instruction files (ABA files)
- Trust notices
- Contracts and contract documentation
- Payment claims, payment schedules and remittances

It is recommended as a part of your business administration processes that copies of the above records are consolidated and/or saved to enable easier location in future (e.g. for audit purposes).

Some software platforms may be able to assist in archiving trust records.

4. Regulator auditing of trust records

The regulator has a range of powers to monitor and ensure industry compliance with the trust account requirements.

One way the regulator monitors compliance is by carrying out audits, including of trust account records.

The QBCC may need to inspect:

- Trust account ledgers and reconciliation statements
- Copies of other trust records (e.g. contracts, payment claims, bank statements)

To avoid any unintended administration work at the time of the audit it is recommended that you ensure copies of the above records can be located easily.

- E.g. consolidated and/or saved as part of your business administration processes
- E.g. printed and filed in monthly record packs

Beneficiary requests for information

Beneficiaries of the trust accounts may request trust information (to the extent this information relates to them), including:

- A statement of balance for the trust account
- A copy of the transactions for the trust account
- A copy of the trust records (including the ledger and other reports)

Some software platforms may be able to assist in producing this information for the beneficiary (e.g. extracts of certain records for a beneficiary).

Changing solutions or archiving

It is feasible that trustees may change software solutions or seek to archive records.

The Act requires that before software systems are changed or records are archived or deleted from the system, steps must be taken to ensure that the records remain accessible in a readable form.

Examples include:

- export all trust records,
- be provided with an extract of their dataset, or
- access a “read only” version of the software in perpetuity.

GST and trust amounts

- The trust framework protects the full amount that the subcontractor is entitled to be paid.
- For a project trust this will be the claimed amount inclusive of any GST payable on that invoice.
- For a retention amount it will be the full amount that may become payable to the subcontractor, inclusive of GST on that amount.
- Recalling that trust ledgers record beneficial interest which is the amount that the beneficiary is entitled to be paid, then the GST inclusive amount is the amount that will need to be recorded in the ledger.
- Amendments have been made to the legislation to confirm this position (yet to commence).
- Many trustees already include the GST amount in the beneficial interest amount recorded and/or held in the trust account.

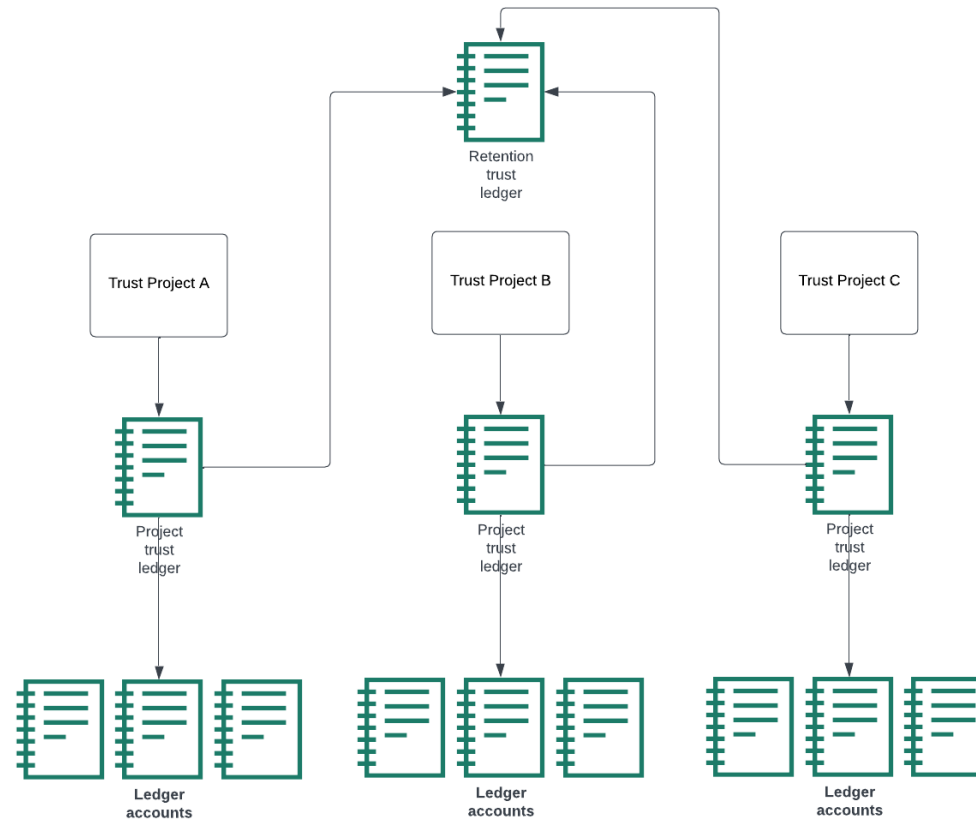
GST and trust amounts, con't

- GST is not required to be recorded separately in the ledger accounts.
- For example: A subcontractor's payment claim is for \$2,000 plus GST of \$200. The ledger account records beneficial interest of \$2,200).
- Note: some accounting platforms may find it easier to record the two amounts separately; this is acceptable, but it would be recorded as two postings that increase beneficial interest.

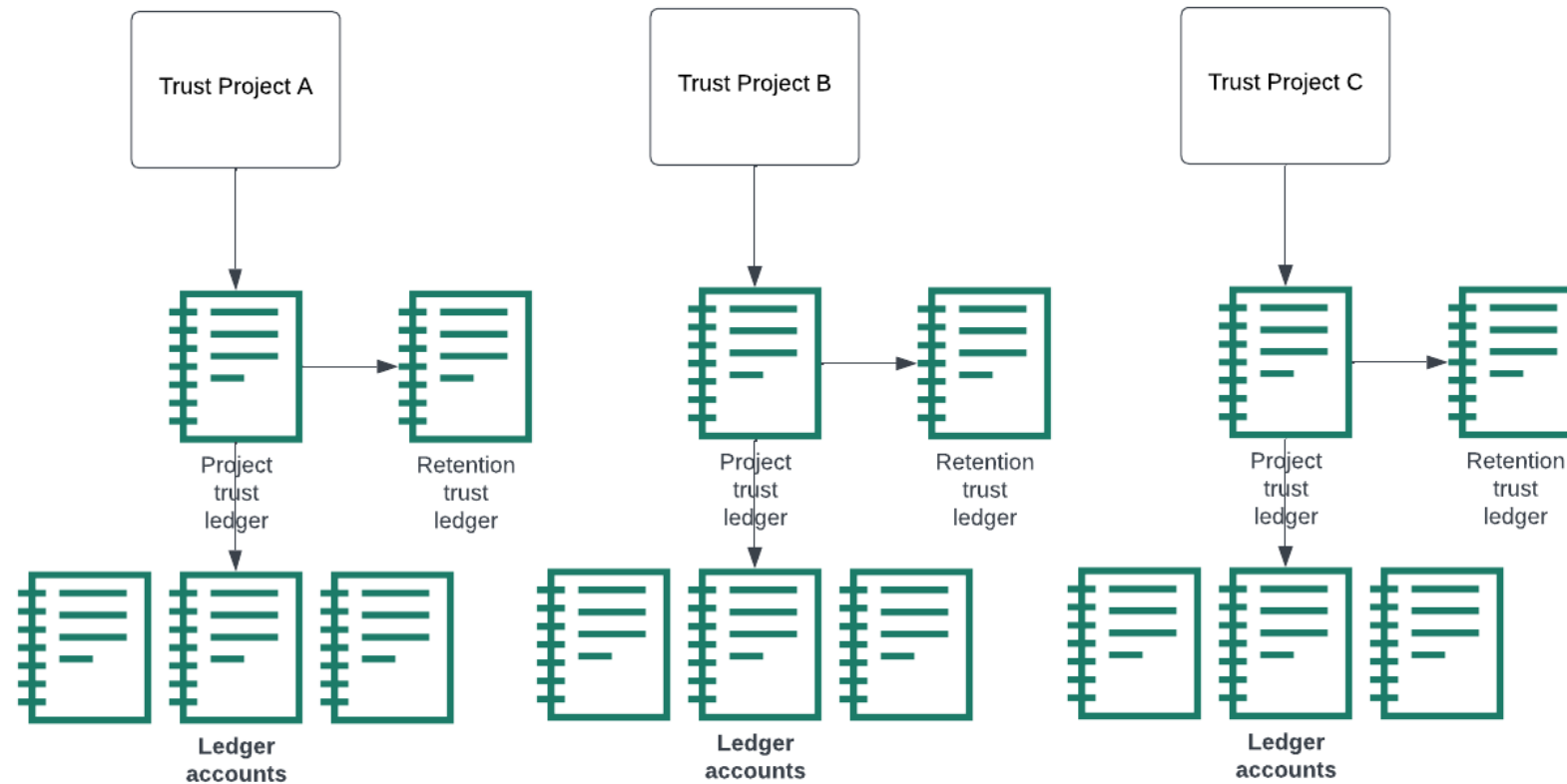
Process maps

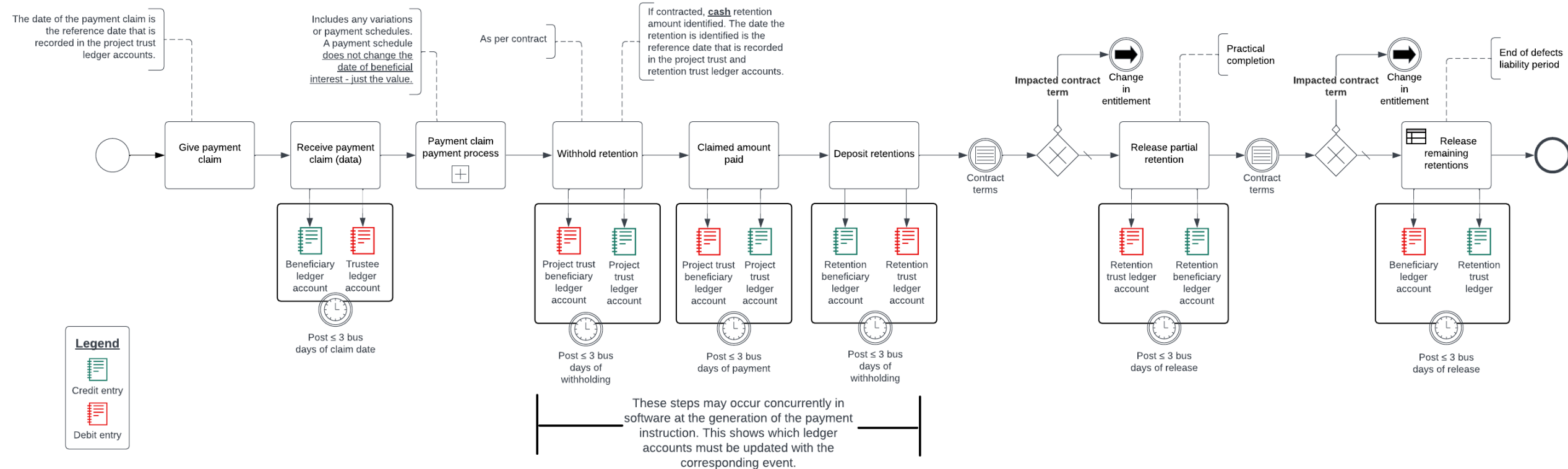
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‘Separate’ ledgers – concurrent projects with a single retention account

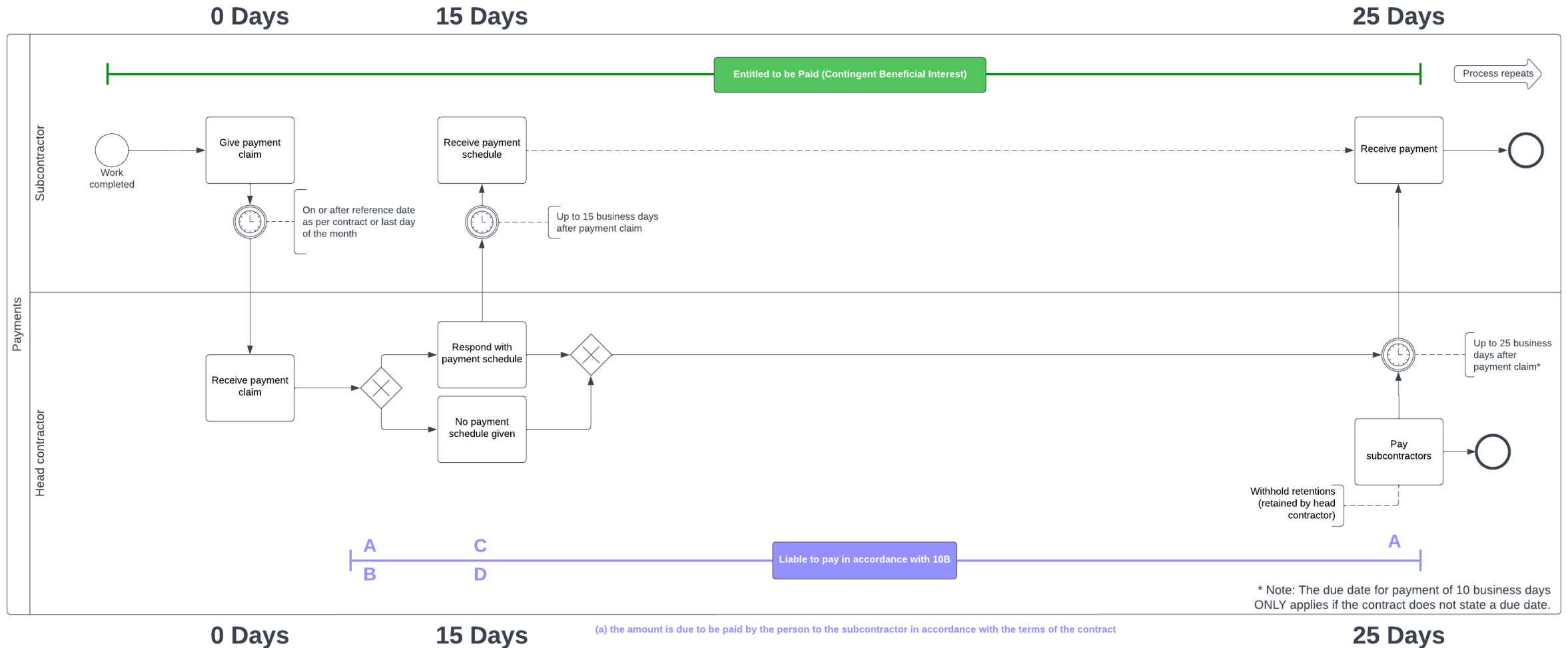


‘Separate’ ledgers - concurrent projects with a multiple retention accounts





Subcontractor payments



- (a) the amount is due to be paid by the person to the subcontractor in accordance with the terms of the contract
- (b) under the subcontract, the amount is certified or otherwise assessed as payable by the person to the subcontractor
- (c) the person gives the subcontractor a payment schedule for the amount
- (d) the person is liable to pay the amount to the subcontractor under section 77