

This form is used to

Approve a trust as a Special Disability Trust.

When to use this form



Use this form when the trust deed has been signed and executed, or upon the death of the Testator establishing the trust within their will.

The information is needed so that Centrelink can approve a trust as a Special Disability Trust.

Note: A trust cannot be a Special Disability Trust without approval by either Centrelink under the *Social Security Act 1991* or the Department of Veterans' Affairs under the *Veterans' Entitlement Act 1986*.

What are Special Disability Trusts?

Special Disability Trusts are trusts created for the primary purpose of providing for the care and accommodation of one beneficiary, this being a person with a severe disability.

For a Special Disability Trust to be established, the principal beneficiary must be assessed as severely disabled, the trust deed must contain the compulsory provisions and the assets and expenditure of the trust be compliant with the purpose of a Special Disability Trust.

Trust deed requirements can be accessed by going to **dss.gov.au** or by calling us on **132 717**.

When these criteria are met, Special Disability Trusts attract concessional treatment under the social security means test to both the person with a severe disability and contributing immediate family members who are of age pension age.

What you must do

Before establishing a Special Disability Trust, call us on **132 717** to check that the intended beneficiary meets the legislative requirements for such a trust.

We recommend that you consult with a financial advisor and/or a solicitor for advice before establishing a Special Disability Trust.

Complete the questions in this form and provide the trust deed, including Schedules A and B and the trust's supporting documents as required in the checklist at the end of this form.

Important Note: If you are making a claim, you must return this form and **all** other supporting documents at the same time you lodge your claim form. The only exception will be if you are waiting for medical evidence or other documents from a third party.

Assistance completing this form

Much of the information required on the form is only available from those who know the details of the trust. We are not able to help you complete the form.

We suggest you talk to the professional assisting you with the trust and consider having them complete the form on your behalf. However, it is still your responsibility to make sure the form is completed and returned.

If a professional provides information, advice or completes the form, or provides the documentation for the trust, we will not reimburse any fees they may charge you for this service.

Keep these Notes (pages 1 to 3) for your information.

Who is a person with a severe disability?

A person who has reached 16 years of age:

- a) whose level of impairment would qualify the person for Disability Support Pension OR who is already receiving a Department of Veterans' Affairs Invalidity Service Pension OR Department of Veterans' Affairs Invalidity Income Support Supplement, and
- b) who has a disability that would, if the person had a sole carer, qualify the carer for Carer Payment or Carer Allowance OR the person is living in an institution, hostel or group home in which care is provided for people with disabilities, and for which funding is provided (wholly or partly) under an agreement between the Commonwealth and states and territories, and
- c) who has a disability as a result of which they have no likelihood of working for more than 7 hours a week for a wage at or above the relevant minimum wage OR is working under the supported wage system.

or

A person under 16 years of age:

- a) who is a person with a severe disability or a severe medical condition, and
- b) who another person (the carer) has been given a qualifying rating of intense under the Disability Care Load Assessment (Child) Determination for caring for that person, and
- c) who a treating health professional has certified in writing that, because of that disability or condition:
 - the person will need personal care for 6 months or more, and
 - the personal care is required to be provided by a specified number of persons.

Who can contribute to a Special Disability Trust?

Anyone can contribute to a Special Disability Trust. However, the principal beneficiary or their partner can only contribute in limited circumstances. Only immediate family members will have access to social security gifting concessions if they or their partner is of age pension age.

Who is an immediate family member?

A natural parent, adoptive parent or step-parent, a legal guardian, a grandparent or a sibling of the person with a severe disability.

Definition of a partner

Under social security and family assistance law, you are considered **partnered** and therefore a member of a couple if you and the person you have a relationship with are either:

- married
- in a registered relationship
- in a de facto relationship.

You are not considered a member of a couple if you and the person are living separately and apart on a permanent or indefinite basis.

Note: Two people not physically living together can still be considered a member of a couple.

You may be considered to be in a de facto relationship if you are not married but have a relationship similar to a married couple.

For more information, go to servicessaustralia.gov.au/moc

What can the trust funds be used on?

During the lifetime of the principal beneficiary, the funds are primarily intended to meet the reasonable care and accommodation needs of the principal beneficiary.

All the income of a Special Disability Trust will be taxed at the beneficiary's personal income tax rates.

The trustee is able to undertake spending on discretionary items not related to the care and accommodation needs of the beneficiary, as long as this expenditure remains compliant within the legislative requirements of a Special Disability Trust. The allowable level of discretionary spending in a financial year is indexed annually each year.

What must be provided for a review?

By 31 March of the following year, the trustee(s) must provide financial statements including:

- a profit and loss statement for the relevant financial year
- a balance sheet with applicable notes for the relevant financial year
- a depreciation schedule for each class of assets for the relevant financial year (where applicable), and
- a copy of the trust tax return for the relevant financial year if required by the Australian Taxation Office or declare that an income tax return was not required to be submitted to the Australian Taxation Office.

Also, each of the trustees must provide a statutory declaration that all information given is true and correct and that the expenditure for the relevant financial year (apart from reasonable trust administration costs and taxes) was:

- spent on care and accommodation costs related to the beneficiary, and
- not spent on payments to any 'immediate family member' for services, including care provided to the beneficiary.

Statutory declaration templates with acceptable wording are available upon request from the Special Disability Trust team. This wording can also be found at dss.gov.au

How will the trust be reviewed?

The Trustee will be sent a letter reminding them of their obligation to provide the trust's financial statements by 31 March.

We will review the financial documents of the trust each year to confirm the trust has complied with the requirements of a Special Disability Trust, including having met the expenditure rules.

Centrelink and persons involved with the trust can make a request for the trustee to provide an independent audit if necessary. We will not reimburse expenses associated with the annual review or any request for an audit.

What if a trust fails to comply with the trust deed?

Failure of the trustee to fulfil their obligations under the trust deed may lead to the trust losing the status of a Special Disability Trust and concessional treatments under social security and taxation law. This includes lodging the trust's financial statements by 31 March. An overpayment could be recoverable from the date the trust commenced for income support recipients.

If it is found that the trustee has abused their right on acting on behalf of the person with a disability, local Public or State Trustees may be appointed to relinquish the trustee of their responsibility.

This page has been left blank intentionally.

Please return this form **within 14 days** of the trust being established, by the execution of the deed or activation through a will. Instructions for returning this form can be found on page 4.

Filling in this form

- Use black or blue pen.
- Print in BLOCK LETTERS.

Details of the Special Disability Trust

1 Principal beneficiary's name

2 Principal beneficiary's date of birth

3 Principal beneficiary's Centrelink Reference Number

4 What is the name of the Special Disability Trust?

Special Disability Trust is defined in the **Notes**.
This will be referred to as 'the trust' in the rest of this form.

5 The trust Centrelink Reference Number (Trust CRN)
(if applicable)

If you have a CRN for this trust, write that number here.
If you do not have a CRN for this trust, write 'NIL'.

5

6 Tax file number (TFN) of the trust (if applicable)

7 The person we can contact about details given on this form including future annual financial statements of the trust. This is the person to whom written notification of the trust as a Special Disability Trust will be provided.

Name of the person

Business name (if applicable)

Their position in relation to the trust

Their postal address

 Postcode

Their daytime
phone number

Their fax number



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8 Details of the parties involved

The **trustee** may be a person or company as named in the trust deed or appointed. For a trustee company, also name the individual directors.

An **appointor** may also be named. It is the person who has the power to appoint or dismiss the trustee(s).

A **settlor** is required, unless the trust was established through a will.

Trustee(s)

1 Name of trustee

Address

Postcode

Centrelink Reference Number (if known)

 - - -

Date of birth (if a person)

 / /

Relationship to beneficiary

2 Name of trustee

Address

Postcode

Centrelink Reference Number (if known)

 - - -

Date of birth (if a person)

 / /

Relationship to beneficiary

Continued

3 Name of trustee

Address

Postcode

Centrelink Reference Number (if known)

 - - -

Date of birth (if a person)

 / /

Relationship to beneficiary

4 Name of trustee

Address

Postcode

Centrelink Reference Number (if known)

 - - -

Date of birth (if a person)

 / /

Relationship to beneficiary

Continued

Appointor – if applicable

1 Name of appointor

Address

Postcode

Centrelink Reference Number (if known)

Date of birth (if a person)

Relationship to beneficiary

2 Name of appointor

Address

Postcode

Centrelink Reference Number (if known)

Date of birth (if a person)

Relationship to beneficiary

Settlor – if applicable

1 Name of settlor

Address

Postcode

Centrelink Reference Number (if known)

Date of birth (if a person)

Relationship to beneficiary

If you need more space, provide a separate sheet with details.

9

Details of contributions to the trust

Have there been contributions beyond the settled sum?

No Go to next question

Yes Give details below

Make sure that all contributions to the trust are recorded below.

1 Full name of contributor

Centrelink Reference Number (if known)

Date of birth

Relationship to beneficiary

Date of contribution

Amount contributed

Description of asset contributed (e.g. cash, shares, real estate)

2 Full name of contributor

Centrelink Reference Number (if known)

Date of birth

Relationship to beneficiary

Date of contribution

Amount contributed

Description of asset contributed (e.g. cash, shares, real estate)

3 Full name of contributor

Centrelink Reference Number (if known)

Date of birth

Relationship to beneficiary

Date of contribution

Amount contributed

Description of asset contributed (e.g. cash, shares, real estate)

If you need more space, provide a separate sheet with details.

Checklist

- 10** Provide **copies** of the following documents which relate to the trust. The copies will not be returned.

Trust deed or Will establishing the Special Disability Trust	<input type="checkbox"/>
Schedule A	<input type="checkbox"/>
Schedule B	<input type="checkbox"/>
Statutory Declaration(s) Section 1209Q(1)	<input type="checkbox"/>
Details and documentation of the assets held by the Trust (for example, bank statements, share certificates)	<input type="checkbox"/>

If applicable:

Additional Statutory Declaration(s) Section 1209Q(1)	<input type="checkbox"/>
Grant of Probate	<input type="checkbox"/>
Inventory of the Estate	<input type="checkbox"/>
Latest income tax return for the trust	<input type="checkbox"/>
Profit and loss statement	<input type="checkbox"/>
Depreciation schedule	<input type="checkbox"/>
Balance sheet	<input type="checkbox"/>
Notes to and forming part of the account	<input type="checkbox"/>
A completed Real estate details (Mod R) form for each real estate property owned by the trust	<input type="checkbox"/>
A copy of the transfer or contract of sale for each real estate property owned by the trust	<input type="checkbox"/>
A copy of the council rates notice for each property owned by the trust	<input type="checkbox"/>
A copy of certificate of title for each property held by the trust	<input type="checkbox"/>

Privacy notice

11 You need to read this

Privacy and your personal information

The privacy and security of your personal information is important to us, and is protected by law. We need to collect this information so we can process and manage your applications and payments, and provide services to you. We only share your information with other parties where you have agreed, or where the law allows or requires it. For more information, go to servicesaustralia.gov.au/privacy

Declaration

12 I declare that:

- the information I have provided in this form is complete and correct and the trust documents provided are genuine.

I understand that:

- if submitting this document as part of a claim, the claim may not be accepted unless supporting documents are lodged at the same time as the claim. The only exception will be if I/they are waiting for medical evidence or other documents from a third party.
- Centrelink can make relevant enquiries to make sure I/the claimant receives the correct entitlement.
- giving false or misleading information is a serious offence.

Full name of the person completing this form

Relationship to the trust (for example, Trustee, solicitor)

Signature

Date

Returning this form

Check that you have answered all the questions you need to answer and that you have signed and dated this form.

Return this form and any supporting documents:

- online** using your Centrelink online account. For more information, go to servicesaustralia.gov.au/submitdocumentsonline
- by post to
Centrelink
PO Box 7819
CANBERRA BC ACT 2610
- in person at one of our service centres, if you are not able to use your Centrelink online account.