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LEGAL ALERT



**The Trust Administration Act, 2026: A New Legal
Framework for Trusts in Kenya**



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Introduction

Kenya's trust law has entered a new era with the enactment of the Trust Administration Act, 2026 (Act No. 28 of 2026) (the "Act"), which was assented to on 8th September 2026 and came into force on 25th September 2026.

The Act repeals the Trustee Act (Cap. 167, Laws of Kenya) and the Trustees (Perpetual Succession) Act (Cap. 164, Laws of Kenya) and introduces a consolidated framework for the creation, registration, incorporation, administration and dissolution of trusts. Among its key reforms are the creation of the Office of the Registrar of Trusts, formal registration requirements for written trusts, beneficial ownership obligations, and clearer duties and responsibilities for trustees. The Act also introduces trust agents and provides a framework for purpose trusts. These changes have practical implications for settlors, trustees and beneficiaries, particularly in relation to compliance, governance, transparency and administration of existing and newly established trusts.

This alert highlights the key changes and what they mean for settlors, trustees and beneficiaries.

A Consolidated Framework

The Act sets out a clearer administrative structure for trusts. It establishes the office of the Registrar of Trusts within the Business Registration Service. The Registrar shall be responsible for establishing the Registry and maintaining the Register of Trusts.

The Registrar shall keep records of dissolved trusts for at least seven (7) years. The Act further allows the

Attorney General to make regulations to guide its implementation. Since the regulations are yet to be issued, trustees and other stakeholders should monitor further developments and be prepared to update their practices once the regulations are published.

Mandatory Registration and Incorporation

The Act introduces a formal registration and incorporation framework for written trusts. While trusts may be written or implied, a written trust must be registered or incorporated in accordance with the Act and its trust deed to be enforceable. However, registration does not by itself give the trust separate legal personality. An established trust that seeks body corporate status, perpetual succession and the ability to hold and deal with property and institute or defend proceedings in its own name must apply for incorporation.

Where a written trust has neither been registered nor incorporated, a person claiming an interest in the trust may apply to the court for its recognition or enforcement. The new framework therefore makes formal registration or incorporation an important requirement for written trusts and requires trustees of existing trusts to review their status and ensure compliance with the Act.

Beneficial Ownership Transparency

The Act introduces new requirements for beneficial ownership transparency in relation to trusts. Every trust must compile and maintain a register of beneficial owners and lodge a copy with the Registrar. Where there is a change in beneficial ownership, the



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trust must update its register and lodge a copy of the changes with the Registrar within twenty-one (21) days.

Trusts incorporated before the commencement of the Act must lodge their registers of beneficial owners with the Registrar within twenty-four (24) months of the Act coming into force, subject to any extension granted by the Registrar.

More broadly, all existing trusts are required to comply with the requirements of the Act within twenty-four (24) months of its commencement, or within such other period as the Registrar may direct. Trustees must also keep beneficial ownership records for at least seven (7) years from the date on which a person ceases to be a beneficial owner. These obligations place greater responsibility on trustees to keep accurate and up-to-date records.

Greater Accountability for Trustees

The Act strengthens the duties and accountability of trustees. Trustees must act within their powers, exercise reasonable care, skill and diligence, preserve trust property and, where there is more than one beneficiary, treat the beneficiaries impartially.

A trustee is also prohibited from deriving, directly or indirectly, any profit from the trusteeship, or permitting another person to derive such profit, except where permitted under the trust deed, approved by the court or otherwise permitted by the Act.

The Act further introduces trust agents, who may be appointed by trustees to provide services such as setting up a trust, providing a registered office

address for a family trust and lodging statutory documents. A trust agent may be an advocate of the High Court of Kenya, a Certified Secretary or a Certified Accountant.

This provides trusts with a formal way to obtain professional support in meeting their legal and administrative obligations. It also promotes better compliance and accountability in the management and administration of trusts under the new framework.

Minimum Trustee Requirements

The Act sets minimum requirements for the number and residency of trustees. Charitable and non-charitable purpose trusts must appoint at least three natural persons as trustees or one corporate trustee. A family trust needs only one trustee. Where trustees are natural persons, at least one must be a Kenyan citizen or resident. These requirements will affect how trusts are structured.

Formal Recognition of Non-Charitable Purpose Trusts

The Act formally recognises non-charitable purpose trusts, allowing trusts to be established for specific purposes rather than solely for the benefit of identified beneficiaries. This gives non-charitable purpose trusts a clear legal basis under Kenyan law. The change provides greater certainty for settlors who wish to structure trusts around particular objectives, including social, cultural or legacy purposes. It also expands the ways in which trusts can be used beyond traditional family and succession planning.

By providing a statutory framework for purpose

A background image showing two hands in business attire forming a protective arch over a small blue piggy bank. The hands are positioned as if shielding the piggy bank, symbolizing trust and protection.

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trusts, the Act provides greater certainty regarding their establishment and administration.

Dissolution of Trusts

The Act provides a clear process for the dissolution of trusts. A trustee, or any person authorised under the trust instrument, may apply to the Registrar for dissolution where the purpose of the trust has been fulfilled or has otherwise ceased to exist, where it is impossible to achieve the purpose of the trust, or where a court has ordered that the trust be dissolved. This provides trustees and settlors with a clearer legal process for winding up trusts and dealing with their assets and obligations when the trust is no longer required.

What This Means for the Future

The Act introduces new responsibilities that trustees and settlors need to understand. Trustees should review existing trust deeds, confirm that the trustees meet the requirements of the Act, and ensure that trust records and beneficial ownership information are accurate and up-to-date. They should also prepare for registration and other compliance requirements under the new framework.

The regulations expected from the Attorney General will provide further guidance on how some of these requirements will work in practice and should therefore be monitored. Trustees may also consider obtaining professional support from advocates, Certified Secretaries and Certified Accountants, including through the use of trust agents. Early preparation will help trusts adjust to the new requirements and maintain proper administration under the Act.

Conclusion

The Trust Administration Act, 2026 marks an important development in Kenya's trust law. Trustees and settlors should therefore take the opportunity to review their existing arrangements, identify any gaps and prepare for the requirements that now apply to trusts.

The transition also provides an opportunity to strengthen governance and ensure that trusts are properly documented and administered. The Act provides a clearer foundation for the continued use and administration of trusts in Kenya, while placing greater emphasis on proper administration, transparency and compliance.

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