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NEWSLETTER

The Trust Administration Act, 2026: A New Dawn

On 8th September 2026, the President assented to The Trust Administration Act No. 28 of 2026 ("**the Act**"). The Act repeals the Trustees (Perpetual Succession) Act and the Trustees Act, consolidating the various statutes governing trusts in Kenya into a single law setting out the formation, registration, incorporation, management, and regulation of trusts and trustees. The Act is due to commence on 25th September 2026. However, the Regulations that will govern how trusts are to be run have not yet been published.

Some of the important features of the Act include:

1. Introduction of beneficial ownership register

Every trust shall keep a register of beneficial owners and lodge with the Registrar a copy of the register of beneficial owners. For existing trusts incorporated before the commencement of the Act, they shall lodge with the Registrar a copy of the beneficial owners within twenty-four months of the commencement of the Act. This means that trusts will no longer operate with the same level of anonymity as under the repealed Acts.

2. Introduction of Trust Agents

The Act establishes the position of trust agent. A trust agent is a person appointed by the trustee to provide services to a trust including formation and set up of a trust, providing a registered office address or lodging statutory documents on the trust's behalf. A trust agent can be an advocate of the High Court, a certified secretary or a certified accountant.

3. Licensing of corporate trustees

All corporate trustees are now subject to licensing under the Act, but the regulations setting out the licensing requirements have not yet been published.

4. Dissolution of trusts

The Act provides a mechanism for dissolution of trusts. This was not provided for under the repealed Acts. Under the Act, a trust may be dissolved by the trustee of a trust or other person authorized under the trust deed, on application to the Registrar, where the purpose of the trust has been fulfilled or has otherwise ceased to exist, where the trustee demonstrates that the purpose cannot be achieved, or by court order.

5. Non-charitable purpose trust

The Act expressly recognizes non-charitable purpose trusts. These are trusts established to fulfil a specific purpose that does not qualify as charitable under law and may be created despite the absence of any beneficiary. They can be useful where a client wishes to apply assets for a specific purpose rather than benefit identifiable persons.

6. Registration and incorporation

The Act requires written trusts to be registered or incorporated. A written trust that is not registered or incorporated is not enforceable, though a person claiming an interest under such a trust may apply to court for its recognition and enforcement.

7. Registrar of Trusts

The Act establishes the office of the Registrar of Trusts within the Business Registration Service, with broad administrative and regulatory powers. The office of the Registrar of Trusts subjects trusts to greater administrative oversight including registration, compliance, and dissolution.

8. Number and composition of trustees

The Act prescribes minimum trustee requirements. For charitable and non-charitable purpose trusts they must have at least three natural persons or one corporate trustee. Family trusts must have at least one trustee, and where the trustees are natural persons, at least one of them must be a Kenyan citizen or resident in Kenya.

9. Transitional provisions

Existing trusts under the repealed Acts shall be deemed to be trusts under the new Act and must comply with its requirement within twenty-four months of the commencement date. The Registrar may issue a new certificate to an existing trust incorporated before the commencement date and recall all certificates issued under the repealed Acts.

Conclusion

The Act streamlines the law on trusts in Kenya. By consolidating the old statutes, introducing beneficial ownership and licensing requirements, imposing stricter penalties for non-compliance, expanding the powers and duties of trustees and the Registrar, it moves trusts into a more transparent and regulated framework. The practical effect is greater scrutiny for trustees and settlors. However, until the Regulations are published, key aspects of how trusts are to be run remain unclear.

If you have any queries regarding this article, feel free to reach out.

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