

THE TRUST ADMINISTRATION ACT, 2026

What Trustees And Existing Trusts Need To Know

26 September 2026

The Trust Administration Act, 2026

A new regulatory regime for trusts in Kenya: what trustees, settlors and families need to do now

Legislation	The Trust Administration Act, 2026 (Act No. 28 of 2026), Kenya Gazette Supplement No. 223
Date of assent	8 September 2026
Commencement	25 September 2026 (the Act is now in force)
Laws repealed	Trustees (Perpetual Succession) Act (Cap. 164) and Trustee Act (Cap. 167)
Regulator	Registrar of Trusts, an office within the Business Registration Service (BRS)
Transition period	Existing trusts must comply within 24 months of commencement (i.e. by September 2028), or such other time as the Registrar may direct
Regulations	To be issued by the Attorney-General under section 96; not yet published

1. Introduction

On 8 September 2026, the President assented to the Trust Administration Act, 2026 (the "Act"). The Act was published on 11 September 2026 and came into force on 25 September 2026. It is the most significant reform of Kenyan trust law in several decades.

The Act repeals the Trustee Act (Cap. 167), which was modelled on the English Trustee Act of 1925, and the Trustees (Perpetual Succession) Act (Cap. 164). In their place, it creates a single statute governing the creation, registration, incorporation, administration, regulation and dissolution of trusts, and it places trusts under the continuing supervision of a new Registrar of Trusts.

The reform reflects Kenya's wider effort to strengthen financial transparency and its anti-money laundering framework. Kenya was placed on the Financial Action Task Force (FATF) list of jurisdictions under increased monitoring in February 2024, and the transparency of trusts and other legal arrangements was among the areas identified for improvement. The central themes of the Act are therefore registration, beneficial ownership disclosure, trustee accountability and regulatory oversight.

Trusts remain a legitimate and effective tool for succession planning, wealth preservation, asset protection and philanthropy. What has changed is the compliance environment around them. This circular summarises the key provisions, the transitional arrangements, the tax and financial reporting points our clients should consider, and the practical steps we recommend.

2. The Act at a Glance: Previous and New Framework

Area	Previous framework	Under the Act
Registration and incorporation	Trust deeds were typically registered at the Lands Registry under the Registration of Documents Act. Trustees could separately apply for incorporation under Cap. 164. No certificate was issued on registration.	A written trust must be registered or incorporated with the Registrar of Trusts to be enforceable. Certificates are issued for both registered ("Registered Trust") and incorporated ("Incorporated Trust") trusts.
Trustee composition	No statutory minimum based on the type of trust.	Charitable and non-charitable purpose trusts: at least three natural-person trustees or one corporate trustee. Family trusts: at least one trustee. Where trustees are natural persons, at least one must be a Kenyan citizen or resident.
Beneficial ownership	No specific beneficial ownership reporting framework for trusts.	Every trust must keep a register of beneficial owners, lodge it with the Registrar and file changes within 21 days.
Annual returns	Incorporated trustees filed a return within one month of each anniversary of incorporation, limited mainly to trustee names and addresses.	Every registered or incorporated trust files annual returns within 30 days of the anniversary of registration or incorporation, in the form to be prescribed.
Corporate trustees	Not expressly recognised as a distinct category.	Must be Kenyan-incorporated, have trustee services as a main object, be licensed, and have a Kenya-resident local contact person.
Trust agents	No statutory framework.	Advocates, Certified Secretaries and Certified Accountants may act as trust agents; appointments and terminations must be notified to the Registrar.
Trustee duties and powers	Largely derived from Cap. 167 and English common law and equity.	Codified duties of care, loyalty, impartiality, record-keeping and segregation of trust property, supported by penalties and criminal offences.
Dissolution	Limited statutory procedure.	Formal process: application to the Registrar, Gazette notice, three-month show-cause period and publication of the dissolution.

3. Key Provisions of the Act

3.1 Registration or incorporation is now mandatory for written trusts

A trust may be written or implied. A written trust must be registered or incorporated under the Act, and it is not enforceable until it is. Failure to register or incorporate is also an express ground on which a trust may be declared invalid. A person claiming an interest under an unregistered written trust may apply to court for its recognition or enforcement.

The Act draws a clear distinction between the two routes:

- **Registration** records the trust with the Registrar. The trust receives a certificate and its name ends with "Registered Trust", but it does not acquire separate legal personality.
- **Incorporation**: The trust becomes a body corporate with perpetual succession, able to sue and be sued and to hold and deal with property in its own name. A registered trust may later convert to an incorporated trust.

Applications must be accompanied by the trust deed, a copy of the register of beneficial owners, a statement of initial trust property and details of the settlor, trustees, beneficiaries, enforcers and the registered address or trust agent. The Act also prescribes the minimum contents of a trust deed and its execution formalities, which many older deeds will not fully meet.

3.2 Types of trusts and structural rules

The Act expressly recognises three categories:

- **Charitable trusts**: formed exclusively for purposes such as relief of poverty, advancement of education, religion or human rights, environmental protection or other purposes beneficial to the public.
- **Non-charitable purpose trusts**: trusts for a specific, lawful purpose capable of fulfilment, which may exist without any beneficiary, provided the deed deals with surplus assets on termination. These are useful for holding assets to be preserved for a defined purpose and for "orphan" special purpose vehicles in financing structures.
- **Family trusts**: living or testamentary trusts established for planning or managing a personal estate. A family trust must be made in contemplation of beneficiaries, for the preservation or creation of wealth for generations, and must be a non-trading entity.

Other structural rules of note:

- A trust is irrevocable unless the deed contains an express power of revocation; an unexercised power of revocation lapses on the settlor's death.
- A settlor may also be a trustee, beneficiary or enforcer, but may not be the sole beneficiary of his or her own trust.
- A settlor may reserve defined powers, for example to amend the trust, direct distributions or investments, appoint or remove trustees and enforcers, or appoint a trust agent.

3.3 Trustees: eligibility, corporate trustees and notifications

An individual trustee must be over 18 and not disqualified. Disqualifications include disqualification as a company director or insolvency practitioner, conviction for an offence carrying more than six months' imprisonment, conviction for corruption or economic crime, and undischarged bankruptcy.

A **corporate trustee** must be a company incorporated under the Companies Act whose main object is to provide trustee services, must be licensed, and must have a local contact person who is a natural person resident in Kenya. The licensing requirements will be set out in the Regulations.

Every appointment, resignation, removal or replacement of a trustee must be notified to the Registrar within 21 days, together with the trustee's written consent where applicable. A trustee who ceases to hold office must vest the trust property in the continuing trustees (or the incorporated trust) and hand over all title documents, accounts and records; failure to do so is a criminal offence.

3.4 Codified duties and powers of trustees

Part VII codifies the core fiduciary duties: to exercise reasonable care, skill and diligence (a higher standard applies to professional trustees), to act within the terms of the deed, to act honestly and in good faith, to avoid conflicts and not to profit from the trusteeship, to treat beneficiaries impartially, to preserve the trust property, and to keep trust property separate and clearly identifiable. Several provisions warrant particular attention:

- **Investment:** a trustee may not invest trust assets unless the trust deed authorises investment, and every investment must be prudent, suited to the trust's purposes, liquidity needs and risk profile, and free of conflicts. Trustees must obtain appropriate legal and financial advice and review investments periodically.
- **Disposal of trust property:** disposing of trust property in a way that frustrates the purpose of the trust or the interests of beneficiaries is a criminal offence carrying fines of up to KES 5 million and/or five years' imprisonment for individuals, and up to KES 20 million for corporate trustees.
- **Confidentiality and disclosure:** trustees must not use or disclose trust information except to enforcers, beneficiaries (subject to the deed), settlors with reserved powers, or as required by anti-money laundering law, court order or other written law. Requests must be answered within 14 days.
- **Delegation:** investment and asset management may be delegated to competent managers. Delegation by power of attorney is limited to three years (renewable), and the Registrar and co-trustees must be notified within 21 days.
- **Exoneration clauses:** a trust deed may not exclude or indemnify a trustee's liability for dishonesty, wilful misconduct or gross negligence. This rule applies to trusts created before or after commencement, so existing exoneration and indemnity clauses should be reviewed.
- **Remuneration:** trustees may be paid only as authorised by the deed, with the written consent of every beneficiary or an enforcer, by court order or under other written law.

3.5 Beneficial ownership transparency

Part IX introduces the most significant practical change. Every trust must compile and keep a register of beneficial owners, lodge a copy with the Registrar and lodge any changes within 21 days. Records must be kept for at least seven years after a person ceases to be a beneficial owner.

A "beneficial owner" is the natural person who ultimately owns or controls the arrangement, including any person exercising ultimate effective control. In the trust context this will ordinarily capture the settlor, trustees, beneficiaries, any enforcer or protector, and any other person with effective control. The detailed information to be recorded will be prescribed in the Regulations.

The Registrar may disclose register information to the trustees, enforcers, beneficiaries and settlors with reserved powers, and to competent authorities, a term that expressly includes the Kenya Revenue Authority, the Central Bank of Kenya and the Financial Reporting Centre, as well as to reporting institutions such as banks. The register is therefore not an open public register, but trusts will no longer operate with the level of privacy they had under the repealed statutes.

3.6 Records, accounts and annual returns

- **Trust records:** trustees must maintain comprehensive records, including information on all parties, the deed and amendments, a list of trust property, transactions, trustee resolutions, contracts, dealings with financial institutions, material irregularities and a register of charges, and retain them for at least seven years. Any amendment to the trust deed or the list of assets must be lodged with the Registrar within 21 days.
- **Accounting records:** every trust must keep accounting records that disclose its financial position with reasonable accuracy and enable an income and expenditure account and balance sheet giving a true and fair view to be prepared, in line with prescribed financial accounting standards.
- **Annual returns:** each trust must file annual returns within 30 days of the anniversary of its registration or incorporation.

3.7 Enforcers and trust agents

The Act formalises the role of the enforcer, who may be appointed by the settlor (or, where there is none, by a beneficiary) to enforce the deed, monitor implementation and take action against trustees. An enforcer may not act as enforcer while also being a trustee, and appointments and changes must be notified to the Registrar within 21 days.

A trust agent may be appointed to assist with formation, provide a registered address for a family trust, keep records or lodge statutory documents. For these purposes a trust agent must be an Advocate of the High Court, a Certified Secretary or a Certified Accountant. Appointments and terminations must be notified to the Registrar within 21 days, and the agent must keep records for seven years.

3.8 The Registrar's powers and enforcement

The Registrar may issue directives requiring an existing trust to provide missing information and directives to trusts in breach of the beneficial ownership provisions. Where trustees fail to comply, the Registrar may, after notice and publication in the Gazette, disqualify the trustees for up to three years and publish their names. The Registrar may also rectify the register and direct a change of trust name.

3.9 Dissolution of trusts

A trust may be dissolved on application to the Registrar where its purpose has been fulfilled or has ceased, where the purpose cannot be achieved, or pursuant to a court order. The Registrar must publish a Gazette notice and allow three months for any person to show cause before dissolving the trust. Trustee liabilities survive dissolution, and trust property is dealt with under the deed or, failing that, by court determination.

4. Penalties and Sanctions

The Act is supported by a graduated system of administrative penalties and criminal offences. In addition, trustees who fail to comply with the Registrar's directives face disqualification for up to three years.

5. Existing Trusts: Transitional Provisions

The Act applies to existing trusts, not only to trusts created after 25 September 2026. Under section 99:

- trusts incorporated under Cap. 164, and trusts created through registration of a deed under the Registration of Documents Act, are deemed to be trusts under the Act;
- all existing trusts must comply with the requirements of the Act within 24 months of commencement, or such other time as the Registrar may direct. The Registrar therefore has power to set a different timetable;
- existing rights, powers, liabilities and duties of the trust continue, and existing settlors, trustees, beneficiaries and enforcers are deemed to hold the corresponding roles under the Act; and
- the Registrar may issue new certificates of incorporation and recall certificates issued under Cap. 164.

Trusts incorporated before commencement must specifically lodge their register of beneficial owners within the same 24-month window, which the Registrar may extend on application.

Our view:

Although the transition window runs to September 2028, we recommend that trustees do not defer action. Registrar directives can impose earlier deadlines; banks and other reporting institutions are likely to request evidence of compliance as part of their customer due diligence; and restructuring steps such as replacing trustees, amending deeds or re-vesting property can take several months, particularly where land is involved. Some obligations, including the 21-day notification requirements for new events, apply from commencement.

The Regulations, which will prescribe forms, fees, beneficial ownership information, licensing of corporate trustees and electronic filing procedures, have not yet been published. Preparatory work (collating documents, mapping beneficial owners and reviewing deeds) can and should proceed now so that filings can be made promptly once the Regulations are issued.

6. Tax and Financial Reporting Considerations

The Act is a trust administration statute; it does not amend the Income Tax Act, the Value Added Tax Act or the Stamp Duty Act. It does, however, have important tax and reporting consequences that trustees and settlors should consider alongside the legal review.

- **Preservation of tax reliefs:** certain reliefs available to family trusts under Kenyan tax legislation depend on the trust being a registered family trust. As the statutes under which many trusts were previously registered or incorporated have been repealed, trustees should ensure that registration or incorporation is regularised under the Act within the transition period, and should monitor future Finance Acts for any conforming amendments to the relevant definitions.
- **Family trusts must be non-trading:** a family trust must be a non-trading entity. Holding shares in family operating companies is a common and appropriate arrangement, but trusts that carry on a trade directly should be reviewed, as their classification, regulatory treatment and tax position may be affected.
- **Visibility to the Kenya Revenue Authority:** KRA is a "competent authority" entitled to access beneficial ownership and register information. Trustees should ensure that information filed with the Registrar is consistent with KRA PIN records, tax returns, withholding tax filings and information exchanged under international tax transparency arrangements. Inconsistencies are likely to prompt enquiries.

- **Restructuring costs:** steps taken to comply, such as converting a registered trust into an incorporated trust, replacing trustees or vesting property in an incorporated trust, may involve transfers of land, shares or other assets. The stamp duty, capital gains tax and registration implications of each step should be assessed before implementation.
- **Financial statements:** the act requires accounting records capable of producing a true and fair income and expenditure account and balance sheet, in line with prescribed accounting standards. Many trusts that have not historically prepared formal accounts will need to establish opening balances, asset registers (including valuations where appropriate) and a regular reporting cycle.
- **Data protection:** trustees and agents processing personal data of beneficiaries and other parties must comply with the Data Protection Act.

7. Recommended Action Plan

We recommend that trustees and settlors of existing trusts, and those considering new structures, undertake the following steps.

No.	Action	Priority
1	Confirm the legal status of the trust: registered under the Registration of Documents Act, incorporated under Cap. 164, both or neither; and locate the executed deed, certificates and all amendments.	Immediate
2	Review the trust deed against section 23 and the Act generally: type and purpose of trust, trustee appointment and removal mechanisms, investment powers, reserved powers, revocability, dispute resolution, and exoneration or indemnity clauses (s. 62).	Immediate
3	Review trustee composition and eligibility: minimum numbers, the Kenyan citizen or resident requirement, disqualification checks, and the licensing position of any corporate trustee.	Immediate
4	Map the beneficial owners: identify the settlor, trustees, beneficiaries, enforcer or protector and any person with effective control, and collect identity and residence information.	Short term
5	Put in place a records and accounting framework: registers under sections 48 and 63, segregation of trust bank accounts and investments, and financial statements.	Short term
6	Decide between registration and incorporation for each trust, considering property holding, perpetual succession and cost; assess tax and stamp duty implications of any restructuring.	Short term
7	Formalise the appointment of a trust agent where a professional assists with filings, records or the registered address, and notify the Registrar within 21 days.	On appointment
8	Establish a compliance calendar: 21-day notifications, beneficial ownership updates, annual returns, record-retention periods and the transition deadline.	Ongoing

No.	Action	Priority
9	Monitor the Regulations and file registration or incorporation, beneficial ownership and other documents once the prescribed forms and procedures are available.	On publication

8. Contact Us

For further information on how the Trust Administration Act, 2026 affects your existing or proposed trust arrangements, please contact:

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Important notice: *This circular is a general summary of the Trust Administration Act, 2026 as published in Kenya Gazette Supplement No. 223 (Acts No. 28) of 11 September 2026, and reflects our understanding as at September 2026. The Regulations under the Act have not yet been issued and may affect the matters described. This circular does not constitute legal or tax advice and should not be relied upon as a substitute for advice on specific circumstances. Where required, matters involving the drafting of legal instruments will be undertaken in conjunction with advocates. No responsibility is accepted for any loss arising from action taken or refrained from as a result of this circular.*