TARRA AGILITY AFRICA.

PRIVATE WEALTH AND TAX ADVISORY| SEPTEMBER 2026

THE TRUST ADMINISTRATION ACT, 2026

A SYNTHESIS FOR SETTLORS, TRUSTEES AND ADVISERS

Executive Summary

On 8 September 2026, the Trust Administration Bill, 2026 was assented to by the President of the Republic of Kenya ushering in a new legal framework under the Trust Administration Act No. 28 of 2026 (the **Act**). The Act commenced on 25 September 2026, and it governs the creation and administration of trusts in Kenya.

The Act repeals the Trustees Act Chapter 167 of the Laws of Kenya and the Trustees (Perpetual Succession) Act Chapter 164 of the Laws of Kenya (the **Repealed Statutes**) and replaces them with a single statute governing the formation, registration, incorporation, administration and dissolution of trusts.

Considered as a whole, the Act moves Kenyan trusts from a largely private, instrument-led regime to one that is registered, transparent and actively supervised. The Act establishes a compliance framework to be administered by a Registrar of Trusts.

Key Takeaways

Registration or incorporation of trusts. A written trust is not enforceable unless registered or incorporated and non-registration is a listed ground of invalidity. Registration alone does not confer legal personality to a trust until the trust is incorporated.

Beneficial ownership disclosure is now statutory. A register of beneficial owners must accompany the application for registration of a trust. Changes to the beneficial ownership of a trust must be lodged within twenty one (21) days. Existing trusts have twenty four (24) months from 25th September 2026 to lodge a copy of their register of beneficial owners with the Registrar of Trusts.

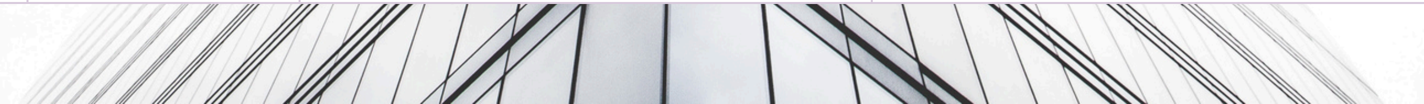
Penalty for abuse of trustee powers. Improper disposal of trust property carries up to KES 5 million and/or five years in prison for an individual, or KES 20 million for a corporate trustee.

Recognition of enforcer, trust agents and corporate trustees. The Act introduces the enforcer, the trust agent and the corporate trustee as statutory categories.

The transition clock. Existing trusts must comply within 24 months of commencement, or such time as the Registrar of Trusts directs. Regulations under s. 96 are needed to operationalize forms, fees, licensing of corporate trustee and beneficial ownership information.

What has Changed

No.	Topic	The Repealed Statutes	Trust Administration Act, 2026
1	**Legal recognition**	Trust deeds were registered under the Registration of Documents Act, incorporation was optional and a certificate issued only on incorporation.	A written trust has to be registered or incorporated under the BRS. Both administered by the Registrar of Trusts.
2	**Trustee regime**	Trustee duties were derived from equity, common law and the trust deed.	Codifies statutory qualifications and disqualifications, duties, powers, liability and indemnity limits.
3	**Number of trustees**	No statutory minimums.	Charitable and non-charitable purpose trusts must at least three(3) natural persons or one (1) corporate trustee. Where trustees are natural persons, at least one (1) must be a Kenyan citizen or resident. Family trusts must have at least one (1) trustee.



What has Changed

No.	Topic	The Repealed Statutes	Trust Administration Act, 2026
4	**Beneficial ownership**	No statutory framework for trusts.	Every trust must have a register of trustees and must maintain the records for at least seven (7) years from the date of termination or dissolution of the trusts.
5	**Names of trusts**	No name reservation framework.	There has to be a name reservation before incorporation and the Registrar has to approve the names. The names of the trusts shall end with the word “Registered Trust” or “Incorporated Trust”.
6	**Annual returns**	The requirement to file annual returns was only applicable to incorporated trustees only, within one month of the anniversary of incorporation. There was no dedicated filing framework.	All registered or incorporated trusts must file annual returns within 30 days of the anniversary of incorporation or registration. A penalty of KES 3,000 applies for each year of failure to comply.

What has changed

No.	Topic	The Repealed Statutes	Trust Administration Act, 2026
7	**Dissolution**	The Registrar could dissolve a corporate body that had ceased to exist or whose objects were incapable of fulfilment.	The Act establishes a structured procedure for application for dissolution, Gazettement, a three (3)-month show-cause period, dissolution notice and a process for restoration of a trust in the event of dissolution by mistake.
8	**Corporate trustees and trust agents**	Not provided for as distinct categories.	The Act provides for corporate trustees (licensed, with a Kenya-resident local contact person) and trust agents (advocate, certified secretary or certified accountant).
9	**Purpose trusts**	No express statutory basis.	The Act recognizes non-charitable purpose trusts, provided the purpose is specific, capable of fulfilment and lawful.

Overview of the Act

Registration versus incorporation

A Registration requires an application to the Registrar, accompanied by a trust deed, prescribed fee, register of beneficial owners, statement of initial trust property and where applicable, enforcer acceptances. The Registrar must refuse registration where the purpose is unlawful or prejudicial to public peace, welfare or good order, but must give reasons within fourteen (14) days of making a determination and allow the applicant to be heard or to regularise the application. The certificate is conclusive evidence of compliance and of registration as an unincorporated trust.

Incorporation begins with name reservation and results in a body corporate with perpetual succession, capacity to sue and be sued, and power to hold property in its own name. A registered trust may convert by applying for incorporation, at which point it ceases to exist as a registered trust.

Types of Trusts

1. **Charitable trusts:** They are establishes exclusively for charitable purposes, which may be pursued in Kenya or elsewhere. They may apply to the Attorney-General for exemption from any provision of the Act, subject to prior approval of the National Assembly committee on delegated legislation.

2. **Non-charitable purpose trusts:** They are valid without beneficiaries if the purpose is specific, capable of fulfilment and lawful.

3. **Family trusts:** for planning or managing personal estates and preserving or creating wealth across generations. A family trust must be a non-trading entity, and may have the settlor as a beneficiary, though never the sole beneficiary.

Trustee Duties, Liability and Exposure

The Act codifies a duty of reasonable care, skill and diligence (with a higher standard for professional trustees), a duty to act within powers and jointly, a no-profit rule, duties to preserve and segregate trust property, and detailed record-keeping. Investment powers require authority in the deed, legal and financial due diligence, and periodic review.

Delegation and powers of attorney are permitted, but the donor trustee remains liable for the donee's acts and omissions. The Act prevents a deed from excluding liability or indemnity for dishonesty, wilful misconduct or gross negligence, and this applies to trusts created before or after commencement. The most significant penalty provisions are summarised below. Amounts are as stated in the Act.

Notably, liability is joint and several among trustees in default while a trustee is not liable for a co-trustee's breach unless they knew or ought to have known and failed to act. Further, resignation to facilitate a breach is ineffective and leaves the trustee liable.

Trustee Duties, Liability and Exposure

Section	Conduct	Natural person	Body corporate
39(6)	Failure to vest property and surrender records on ceasing to be trustee	Fine up to KES 500,000 or 1 year, or both	As per general offence provisions
46(3)	Disposing of trust property so as to frustrate the trust purpose or beneficiary interests	Fine up to KES 5m or 5 years, or both	Fine up to KES 20m
49(3)	Failure to provide trust information within 14 days	Fine up to KES 1m or 2 years, or both	Fine up to KES 3m
58(9)	Failure to give notice of a power of attorney to co-trustees, appointors and Registrar	Fine up to KES 500,000 or 2 years, or both	Fine up to KES 2m
61(2)	Breach of trust (in addition to civil liability for loss and lost profit)	Administrative penalty up to KES 1m	Administrative penalty up to KES 5m
63(3)	Failure to keep register and records (seven years)	Fine up to KES 500,000	Fine up to KES 2m
64(4)	Failure to keep accounting records	Fine up to KES 100,000	Fine up to KES 500,000
73(3)	Failure to comply with a Registrar's direction to change name	Fine up to KES 500,000	Fine up to KES 2m
92	Lodging false or misleading documents or statements	Fine up to KES 1m or 2 years, or both	Fine up to KES 1m (s. 93 general penalty applies)

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Compliance Calender

Most triggers run on a 21-day clock. The table below consolidates them, together with the administrative penalties stated in the Act.

Event or obligation	Deadline	Section	Stated sanction (individual / body corporate)
Appointment of enforcer	21 days	14(2)	None specified
Cessation or change of enforcer	21 days	17(2)–(4)	KES 5,000 / 10,000
Appointment of trustee	21 days	37	KES 7,000 / 14,000
Appointment of additional or substitute trustee	21 days	38(8)–(9)	Up to KES 30,000
Resignation of trustee	21 days	39(9)–(10)	KES 7,000 / 14,000
Removal of trustee (21-day prior notice if under the deed)	21 days	40	KES 7,000 / 14,000
Replacement after death or dissolution (survivors may act for up to 30 days)	21 days	41	KES 7,000 / 14,000
Corporate trustee appoints officer or committee	21 days	44(5)–(6)	KES 50,000
Amendment of deed or asset list	21 days	48(4)–(5)	KES 7,000 / 14,000
Power of attorney by trustee (max. three years, renewable once)	21 days	58(4), (9)	Offence (see section 5)
Appointment or termination of trust agent	21 days	76(2)	None specified
Changes to beneficial ownership	21 days	67	KES 10,000 / 20,000
Annual returns	30 days after anniversary	75	KES 3,000 per year of default
Information requests (parties and competent authorities)	14 days	49(2), 76(5)	Offence under s. 49(3)
Records retention	7 years	48, 63, 64, 68, 76	Offences under ss. 63–64

Existing trusts: Transition

Trusts incorporated under Cap. 164, and trusts created by registration of a deed under the Registration of Documents Act, are deemed to be trusts under the new Act. All existing trusts must comply within 24 months of commencement (that is, by about 25 September 2028) or such time as the Registrar directs.

Compliance covers registration or incorporation, trustee composition and qualification, beneficial ownership, annual returns, record-keeping and accounting, and statutory filings. Because the Act applies to pre-existing trusts, deeds that exclude trustee liability or rely on legacy investment authority should be reviewed early rather than later.

Reccommended Next Steps

A trust “health check” is now the sensible first step for existing arrangements, and new structures should be designed to the Act from the outset.

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