LEGAL ALERT | NOVEMBER 2026

# Trust Administration Act, 2026

Kenya's first comprehensive overhaul of trust law: one framework that carries a trust from formation to dissolution.

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| STATUTE<br>Act No. 28 of 2026 | ASSENTED<br>8 September 2026 |
| COMMENCED<br>25 September 2026 | TRANSITION<br>24 months to comply |

O'BANG LAW
ONG'ANYA OMBO ADVOCATES LLP

+254 208 400 629 / +254 703 672 515 · hello@onganyaombo.com

01 INTRODUCTION

# A single statute for the whole life of a trust

The Trust Administration Act, 2026, No. 28 of 2026 ("the Act"), assented to on 8 September 2026 and commencing on 25 September 2026, is the first comprehensive overhaul of Kenya's trust law.

It consolidates and replaces the fragmented framework that previously governed trusts, repealing the Trustee Act, Cap. 167 ("TA") and the Trustees (Perpetual Succession) Act, Cap. 164 ("TPSA").

The repealed Acts only regulated the administration of trusts and the incorporation of trustees. They did not address the creation, validity, supervision and transparency of trusts.

In their place, the Act establishes one framework that governs a trust from creation, through management, to dissolution. It introduces a dedicated Registrar and register of trusts, codifies modern fiduciary duties and the licensing of professional trustees, and imposes beneficial-ownership disclosure obligations aligned with Kenya's anti-money-laundering framework.

REPEALED
**Trustee Act, Cap. 167**

REPEALED
**Trustees (Perpetual Succession) Act, Cap. 164**

## AT A GLANCE

| | | | |
|---|---|---|---|
| **12** | **4** | **7** | **24** |
| Parts of the Act compared against the repealed framework | Entirely new regimes, including registration and beneficial ownership | Years for which beneficial-ownership records must be retained | Months for existing trusts to attain compliance, under s 99(2)(b) |

## KEY DATES

**8 Sep 2026**
Act assented to

**25 Sep 2026**
Act commences; TA and TPSA repealed

**Sep 2028**
End of the 24-month window for existing trusts to comply

02 SUMMARY OF THE ACT

# What has changed, part by part

NEW Not in the repealed framework AMENDED Retained with changes MAINTAINED Substantially retained

| PART | BEFORE (TA / TPSA) | UNDER THE ACT | COMMENT |
|---|---|---|---|
| 01 **Trust and Trust Formation** | TA governed only the administration of an existing trust. Types of trust, irrevocability, validity, the enforcer, beneficiaries and disclaimer were introduced into TPSA by the 2021 amendment (ss 3A–3J). The four-trustee cap sat in TA, s 36. | Sets out how a trust is created, its recognition and enforceability (a written trust is unenforceable unless registered or incorporated), grounds of invalidation, irrevocable trusts, types of trust, the four-trustee cap, the settlor and its powers, the enforcer, beneficiaries and disclaimer. | LARGELY MAINTAINED Adds a statutory test of creation and makes registration a condition of enforceability. |
| 02 **Registration of a Trust** | No structured registration regime. An unincorporated trust arose by registering the trust deed under the Registration of Documents Act, Cap. 285 (RDA), conferring no separate legal personality. | A dedicated registration regime, with trusts registered with the Registrar of Trusts. | NEW Moves registration from the RDA into the trust statute. |
| 03 **Incorporation of a Trust** | TPSA provided for incorporation of trustees as a body corporate with perpetual succession, a common seal and power to sue and hold property, on a certificate from the (Companies) Registrar. | Incorporation is retained. A new pathway allows an already-registered trust to be incorporated. | MAINTAINED Only the steps change, from registration to incorporation. |
| 04 **Property of a Trust** | On incorporation, the certificate vested all trust property in the body corporate in a one-off title-vesting rule, silent on management or failure. | Trustees must manage property strictly per the deed. On revocation or invalidity, property passes per the deed or by the court. Illicitly acquired property is excluded and forfeitable under POCAMLA. | MOSTLY MAINTAINED Illegal-property provision added, aligned to Kenya's AML-CFT laws. |
| 05 **Trustees** | Trustees could be appointed, retire, or have property vested in them, with succession on death, but there was no standard for who could serve and no regulation of trustees. | Retains appointment, resignation, removal and change of trustees, and prescribes who may serve: qualification and disqualification criteria, licensing of corporate trustees, and a resident contact person in Kenya for each. | LARGELY MAINTAINED Trustee eligibility and corporate-trustee licensing are new. |
| 06 **Duties and General Powers of Trustees** | Powers were scattered across TA (maintenance and accumulation during minority, advancement, sale, agents, delegation, insurance), with investment tied to the law of England. No unified duty of care. | One framework of duties: care, skill and diligence; acting within powers; no profit from trusteeship; preservation, segregation and record-keeping of trust property; access to information. Powers are restated. | AMENDED Powers maintained; statutory duties introduced, including a professional standard of care. Link to English investment law repealed. |

## 02 SUMMARY OF THE ACT (CONTINUED)

| PART | BEFORE (TA / TPSA) | UNDER THE ACT | COMMENT |
|---|---|---|---|
| 07 **Remuneration, Indemnity and Liability of a Trustee** | A trustee had an implied indemnity and a right of reimbursement, could be relieved of personal liability, and could only be remunerated where the court authorised it. | Remuneration and expenses, liability and indemnity are brought into one framework, recognising professional-trustee remuneration and adding duties to keep registers and accounting records. | MAINTAINED Consolidated; professional-trustee remuneration recognised and record-keeping duties added. |
| 08 **Beneficial Owners of a Trust** | No beneficial-ownership obligations existed. | Every trust must keep a register of its beneficial owners, lodge it with the Registrar, update changes promptly and retain records for seven years. Breaches attract penalties and disqualification. | NEW Aligns Kenya's trust framework with its AML-CFT provisions. |
| 09 **Powers of the Court in Relation to Vesting Orders** | The court's power to transfer legal title where a trustee had died, disappeared or refused to act was spread across a long catalogue of narrowly defined scenarios, plus a separate power to appoint someone to convey. | Retains the court's power to make vesting orders and to appoint a person to convey, streamlined into a single set of provisions. | MAINTAINED Previous position kept; provisions streamlined. |
| 10 **Change of Name, Annual Returns and Trust Agent** | Under TPSA, the Registrar could order a change of name or dissolution, and the annual return was limited to the trustees' names and addresses. | Provides for change of name and empowers the Registrar to direct one, subject to a court-quashing route. Expands the annual return and introduces the trust agent: an advocate, certified secretary or certified accountant. | AMENDED Change of name largely maintained; annual returns broadened; trust agent newly introduced. |
| 11 **Registrar and Register of Trusts** | The Companies Registrar, under TPSA, merely granted certificates and kept a register, with a minimal supervisory role. | A designated Registry and a Registrar of Trusts. Sets out the Register and the Registrar's functions, with powers to issue directives, receive electronic lodgements, keep an official seal, effect rectification and charge fees. | NEW Not present in the previous framework. |
| 12 **Dissolution of a Trust** | The Registrar had only a bare power to dissolve a trust whose objects had become incapable of fulfilment, with no procedure or restoration. | A full dissolution process: withdrawal of an application, restoration where dissolution was by mistake or by the court, the effect of restoration, and how property is dealt with on dissolution. | NEW Not present in the previous framework. |

03 CONCLUSION

# From a fragmented regime to one framework

The Act trades a fragmented framework for one that carries a trust from formation to dissolution. Existing trusts are deemed to subsist under the Act, but must attain compliance within twenty-four (24) months of its commencement.

### Points for settlors and trustees to review

01 **Registration and enforceability.** A written trust is unenforceable unless registered or incorporated under the Act.

02 **Beneficial-ownership register.** Keep it, lodge it with the Registrar, update it promptly and retain records for seven years.

03 **Trustee eligibility.** Check qualification and disqualification criteria, corporate-trustee licensing and the resident contact person in Kenya.

04 **Duties and records.** Align administration with the statutory duties, segregation of trust property, registers and accounting records.

05 **Annual returns and trust agent.** Prepare for the expanded annual return and the role of the trust agent.

**24 MONTHS**

Section 99(2)(b) gives subsisting trusts twenty-four months from commencement on 25 September 2026 to comply. We advise settlors and trustees to review their trusts now.

**Ombo Malumbe**
Partner · Corporate, Commercial, Tax & Cross-Border Practice
om@onganyaombo.com
+254 724 026 355

**Jack Ong'anya**
Managing Partner · Litigation & ADR
jb@onganyaombo.com
+254 711 185 636

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