

## Amendments to the Trustees Perpetual Succession Act (Cap 164)

On 24th April 2024, the President assented into law the Statute Law (Miscellaneous Amendments) (No. 2) Bill of 2023 which made certain amendments to the Trustees Perpetual Succession Act Cap 164 (“Act”). The Act governs the incorporation of various types of trust in Kenya.

Below are some of the key amendments to the Act.

### 1. Trust incorporation

The most notable amendment is the assigning of the responsibility of incorporation of trusts, under the Registry of Documents Act to the Registrar of Companies, away from the Principal Land Registrar. The Registrar of Companies will also be tasked with the responsibility of maintaining a register of all incorporated trusts.

### 2. Change of prescribed application form

The application form for incorporation has changed from Form A to Form TR1.

### 3. Revision of official fees

The official fees for incorporation has been revised upwards from KES 3,500 to KES 10,000 and an inspection fee of KES 500 has been introduced to inspect the register of trusts.

### 4. Enforcer

Where a trust has appointed an enforcer, details of the enforcer (copy of ID, PIN certificate and passport pictures) will need to be submitted together with the incorporation documents. Additionally, there is now a provision for the application for incorporation to be lodged by an enforcer. This goes to affirm the recognition of enforcers under trusts.

The changes to the Act aim to reduce the length of time it takes for trusts to be incorporated and to enhance transparency when it comes to incorporation of trusts. We are awaiting for the Registrar of Companies to introduce regulations about trust incorporation and management which will provide more clarity and guidance to all stakeholders on the incorporation of trust. In the meantime, incorporation of trusts is still being undertaken by the Principal Registrar at the Lands Registry.

If you require any further information or clarification, please contact us.



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