

Trusts: Now an administrative nightmare?

South Africa's recent greylisting has necessitated urgent changes to *inter alia* the Trust Property Control Act 57 of 1988 (Act).

Amendments have been made to sections 1, 6, 8, 10, 11, 19, 20 of the Act, as well as the regulations thereto, and came into effect on 1 April 2023. In particular, sections 10, 11 and 19 place obligations on trustees.



These obligations rest on the shoulders of all trustees, no matter the nature of the trust concerned, or the value therein, including:

- family and family business trusts;
- commercial and business trusts; and
- public benefit organisation trusts.



Three primary obligations have arisen, namely to:

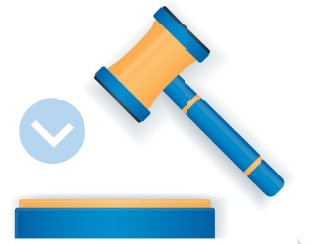
- Collect, record and maintain details pertaining to beneficial ownership of the trust.
- Lodge such information with the Master of the High Court (Master) by means of an electronic register.
- Collect, record and maintain details pertaining to accountable institutions with which trustees have dealings.
- Failure by trustees to comply with their obligations under the Act will be liable, in terms of section 19 thereof, for:
 - a fine not exceeding R10 million;
 - imprisonment for a period not exceeding five years; or
 - both such fine and imprisonment.



We look forward to applying our expertise in the fiduciary field to help you navigate these changes to the trust legislation to ensure compliance therewith.

Our other related services include:

- Advising on registering trusts and appointing trustees.
- Advising on governance issues to ensure that trustees are at all times acting in accordance with the relevant trust deed and associated legislation.
- Preparing all documents to ensure compliance with the Act and other associated legislation.
- Administering trusts as a trustee or agent to:
 - Ensure compliance with all formalities in the relevant trust deed and associated legislation.
 - Attend to the tax returns of the trust, including ensuring compliance with recent requirements from the South African Revenue Service to report on all distributions from trusts.
 - Prepare statements of administration.
 - Prepare necessary trustee resolutions.
 - Attend trustee meetings.
 - General communication between relevant parties, including the Master.
 - Training relating to the above areas.



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BBBEE STATUS: LEVEL ONE CONTRIBUTOR

Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

PLEASE NOTE

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