

BILLS SUPPLEMENT

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Bill No. 26 *Trustees Incorporation (Amendment) Bill* **2022**

**THE TRUSTEES INCORPORATION (AMENDMENT)
BILL, 2022**

MEMORANDUM

1. Policy and principles of Bill

The policy behind the Bill is to enact provisions to strengthen and implement the system of sanctions for violations of beneficial ownership transparency obligations for trusts.

2. Defects in existing law

Uganda's AML/CFT Mutual Evaluation Report (MER) was adopted in 2016. The MER contains an assessment of Uganda's AML/CFT legal and regulatory regime. The MER highlighted several matters that Uganda needs to address in its AML/CFT legal and regulatory framework for Uganda to be considered compliant with the FATF Recommendations.

Specifically, Recommendations 24 and 25 of the FATF Recommendations require Uganda to enact provisions to strengthen and implement the system of sanctions for violations of beneficial ownership transparency obligations for legal arrangements including trusts.

Further, Uganda is required to undertake robust legal reforms to address the deficiencies in the existing legal framework on beneficial ownership information of legal persons and arrangements for partnerships.

At present, the Trustees Incorporation Act doesn't provide for the mandatory registration of trustees and collection of beneficial ownership information which is a requirement of Recommendation 24 and 25 of the FATF Recommendations. Currently, trust deeds arising out of the Trustees Incorporation Act and other laws on trusts are registered by Uganda Registration Services Bureau (URSB) as legal documents under the Documents Registration Act, Cap 81. This does not meet the requirements of the FATF.

3. Remedies proposed in Bill

The intention of the Bill, therefore, is to amend the Trustees Incorporation Act to widen the nature of trustees required to register with the Minister and to define beneficial owners in the context of trusts.

The Bill also seeks to provide for a register of beneficial owners to be kept by a trustee or trustees which shall contain particulars of beneficial owners and other related matters. Further, the Bill seeks to empower the Minister to prescribe additional reporting requirements to be complied with by a trustee or trustees with beneficial owners.

Lastly, the Bill provides for a fine for failure to comply with the provisions on beneficial ownership

Provisions of Bill

The Bill has 3 clauses.

Clause 1 seeks to renumber section 1 as section 1A.

Clause 2 provides for the definitions of beneficial owner and currency point.

Clause 3 widens the nature of trustees required to register with the Minister.

Clause 4 provides for a register of beneficial owners and related matters.

NORBERT MAO,
Minister of Justice and Constitutional Affairs.

A BILL for an Act

ENTITLED

**THE TRUSTEES INCORPORATION (AMENDMENT)
ACT, 2022**

An Act to amend the Trustees Incorporation Act to widen the nature of trustees required to register with the Minister; to define beneficial owners; to require trustees to keep a register of beneficial owners; to empower the Minister to make regulations for generally giving effect to the provisions on beneficial ownership and for related matters.

BE IT ENACTED by Parliament as follows—

1. Amendment of section 1 of Cap. 165

The Trustees Incorporation Act, Cap. 165, hereinafter referred to as the “principal Act” is amended by renumbering section 1 as section 1A.

2. Insertion new section 1 in principal Act

The principal Act is amended by inserting immediately before section 1A the following—

“1. Interpretation

In this Act, unless the context otherwise requires—

“beneficial owner” means a natural person who ultimately owns or controls trustees or a trustee or the natural person on whose behalf a transaction is conducted by trustees or a trustee, and includes a natural person who exercises ultimate control over trustees or a trustee;”.

“currency point” has the value assigned to it in Schedule 1.”

3. Amendment of section 2 of principal Act

Section 2 of the principal Act is amended by substituting for subsection (1) the following—

“(1) Trustees or a trustee may be appointed by any body or association of persons established for any religious, educational, literary, scientific, social, athletic, charitable or other lawful purpose, or any persons who have constituted themselves for any such purpose, may apply, in the manner provided in this Act, to the Minister for a certificate of registration of the trustees or trustee of such body or association of persons as a corporate body.

(1a) Upon the appointment of trustees or a trustee under subsection (1), the trustees or trustee shall apply for a certificate of registration in terms of this Act.”

4. Insertion of new section 3A in principal Act

The principal Act is amended by inserting immediately after section 3 the following—

“3A. Trustee to keep register of beneficial owners.

(1) Trustees, or a trustee, with beneficial owners shall keep a register of its beneficial owners and shall enter in the register the following particulars—

(a) the names and postal addresses of each beneficial owner;

- (b) the national identification numbers (NIN) of the beneficial owners;
- (c) the nature of the beneficial ownership;
- (d) the date on which each beneficial owner was entered in the register as a beneficial owner;
- (e) the date on which any person ceased to be a beneficial owner;
- (f) any other information as the Minister may prescribe by regulations.

(2) The register of beneficial owners shall be kept at the registered office of the trustees or trustee except that—

- (a) if the work of making it up is done at another office, it may be kept at that other office; and
- (b) if the trustees or trustee arranges with some other person for the making up of a register on behalf of the trustees or trustee by that other person, it may be kept at the office of that person at which the work is done but it shall not be kept at a place outside Uganda.

(3) Trustees or a trustee shall send notice to the Minister of the place where its register of beneficial owner is kept and of any change of place within fourteen days after creating the register or changing the place, where the register is kept.

(4) The Minister may, by statutory instrument, make regulations generally for giving effect to the provisions on beneficial owners including prescribing penalties for breach of the regulations.

(5) Where trustees or a trustee defaults in complying with subsection (1), (2) or (3), every trustee who is in default is liable to a daily default fine of twenty five currency points.”

5. Amendment of Schedule to principal Act

The Schedule to the principal Act is amended by renumbering it as Schedule 2.

6. Insertion of new Schedule in principal Act

The principal Act is amended by inserting immediately before Schedule 2 the following—

“SCHEDULE 1

A currency point is equivalent to twenty thousand shillings”