A BILL

entitled

TRUSTEE AMENDMENT ACT 2026

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WHEREAS it is expedient to amend the Trustee Act 1975 to streamline record-keeping requirements, to provide for the appointment of a supervisor for certain trustees and to include provision relating to confidentiality and disclosure of beneficial ownership information kept by trustees, and to make consequential amendments to the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008;

Be it enacted by The King's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act, which amends the Trustee Act 1975 (the "principal Act"), may be cited as the Trustee Amendment Act 2026.

Amends section 1

2 In section 1 of the principal Act (interpretation), insert the following definitions in alphabetical order—

" "beneficial owner", in relation to a trust, has the meaning given in section 1A;

"Minister" means the Minister of Finance;

"supervisory authority" means a supervisory authority designated under section 63A;".

Inserts section 1A

3 After section 1 of the principal Act, insert—

"**Meaning of beneficial owner**

1A (1) In this Act, "beneficial owner", in relation to a trust, means each of the following—

(a) the settlor;

(b) the trustees;

(c) the protector (if any);

(d) the beneficiaries;

(e) where the beneficiaries have not (or have not all) been determined, the class of persons in whose main interest the trust is set up, or operates;

(f) any other individual who has control over the trust.

(2) In paragraph (1)(f), "control" means a power (whether exercisable alone, jointly with another person or with the consent of another person) under the trust instrument or by law to—

(a) dispose of, advance, lend, invest (other than as an investment manager), pay or apply trust property;

(b) vary or terminate the trust;

(c) add or remove a person as a beneficiary or to or from a class of beneficiaries;

(d) appoint or remove trustees or give another individual control over the trust; or

(e) direct, withhold consent to or veto the exercise of a power mentioned in paragraphs (a) to (d).

(3) Where an individual is the beneficial owner, as defined by section 6 of the Beneficial Ownership Act 2025 ("the 2025 Act"), of a body corporate or other entity which has control over the trust, the individual is to be regarded as having control over the trust.

(4) But an individual does not have control over a trust solely as a result of—

(a) his consent being required in accordance with section 24(1)(c) (power of advancement); or

(b) the power exercisable collectively at common law to vary or extinguish a trust where the beneficiaries under the trust are of full age and capacity and (taken together) absolutely entitled to the property subject to the trust.

(5) If any of the persons listed in subsection (1) is a body corporate or other entity, any requirement in this Act to keep information relating to the beneficial owner in relation to the trust includes information relating to the beneficial owner, as defined by section 6 of the 2025 Act, of that body or entity.

(6) For the purposes of subsections (3) and (5), it is immaterial whether the 2025 Act applies to the body corporate or entity in question.".

Inserts section 13ZA and repeals sections 13A, 13AA and 13B

4 (1) After section 13 of the principal Act, insert—

"**Accounts and records**

13ZA (1) A trustee shall keep or cause to be kept accurate and adequate records (including underlying documentation) with respect to proof of the identity and residential address of the beneficial owners.

(2) A trustee shall keep or cause to be kept accurate and adequate accounts and records (including underlying documentation) of the trustee's trusteeship appropriate to the trust and trust property with respect to—

(a) assets;

(b) liabilities;

(c) additions to trust and distributions, purchases and sales; and

(d) income and expenses.

(3) A trustee shall keep or cause to be kept an accurate and adequate record of the names and addresses of the regulated agents and service providers who provide service to the trust of which he is the trustee.

(4) All accounts and records required to be kept under this section shall be—

(a) kept current, accurate and updated on a timely basis; and

(b) retained for at least five years after the trustee's involvement with the trust ceases.

(5) Failure to comply with this section may render a trustee liable to a civil penalty under section 54A.

(6) Subject to section 13AB, this section applies to trustees—

(a) whether they are professional or non-professional trustees;

(b) whether they are individuals or a body corporate;

(c) whether or not they are required to hold a licence under the Trusts (Regulation of Trust Business) Act 2001;

(d) whether or not they are exempted by or under an exemption order made under section 10 of that Act; and

(e) whether or not they are subject to the requirements of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008.”.

(2) In consequence of the new section 13ZA inserted by subsection (1), the following sections of the principal Act are repealed—

(a) section 13A (accounts and records);

(b) section 13AA (accounts and records - non-professional trustees);

(c) section 13B (information to be retained by exempted company and exempted trustee).

Amends section 13AB

5 In section 13AB of the principal Act (exemption - non-professional trustee), delete “section 13AA(1) and (3)” and substitute “section 13ZA”.

Amends section 54A

6 In section 54A of the principal Act (civil penalty)—

(a) delete subsection (1) and substitute—

“(1) Where a trustee knowingly and wilfully contravenes—

(a) section 13ZA; or

(b) regulations made under section 63B requiring registration with, and provision of information or submission of returns to, a supervisory authority,

the court may impose a civil penalty up to a maximum amount of $20,000 for each contravention.”;

(b) in subsection (2), delete “pursuant to section 13AA” and substitute “under subsection (1)”;

(c) in subsection (4), delete “non-professional”.

Inserts sections 63A to 63C

7 After the heading “Part VI General Provisions” in the principal Act, insert—

“**Designation of supervisory authority**

63A (1) The Minister may by order designate one or more supervisory authorities for the purpose of overseeing compliance with this Act by trustees.

(2) Different supervisory authorities may be designated in relation to different descriptions of trustees.

(3) This section does not apply to trustees who are prohibited from carrying on trust business without a licence granted by the Bermuda Monetary Authority under the Trusts (Regulation of Trust Business) Act 2001.

Regulations and orders

63B (1) The Minister may make regulations for the purposes of this Act, prescribing anything that is necessary or expedient for the carrying out of the provisions of this Act or to give effect to it.

(2) Without prejudice to the generality of subsection (1), the regulations may in particular—

(a) require trustees to register with a supervisory authority, on payment of such fee as may be prescribed;

(b) require trustees to provide information and submit such returns as may be required by the supervisory authority within prescribed timelines;

(c) prescribe the purposes for which, and the persons to whom, the supervisory authority may disclose information provided by the trustees;

(d) provide that failure to comply with the regulations may result in the imposition of a civil penalty under this Act.

(3) Regulations and orders made under this Act shall be subject to the negative resolution procedure; save that regulations prescribing a fee for registration with a supervisory authority shall be subject to the affirmative resolution procedure.

Confidentiality and disclosure of information

63C The following sections of the Beneficial Ownership Act 2025—

(a) section 21(1) to (3) (confidentiality);

(b) section 22 (privileged information);

(c) section 23 (application of Public Access to Information Act 2010); and

(d) section 24 (application of Personal Information Protection Act 2016),

apply, with the necessary modifications, to information relating to the beneficial owners of a trust kept by trustees for the purposes of section 13ZA (accounts and records) as those sections apply to beneficial ownership information under the Beneficial Ownership Act 2025.”.

Consequential amendments

8 In the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008, in regulation 3 (meaning of beneficial owner)—

(a) after paragraph (3)(b) insert—

“(ba) the trustees;

(bb) the protector (if any);”;

(b) in paragraph (3)(c), delete “any individual” and substitute “any other individual”;

(c) in paragraph (4), in the definition of “control”—

(i) in subparagraph (a), after “invest” insert “(other than as an investment manager)”;

(ii) in subparagraph (b), after “vary” insert “or terminate”;

(iii) in subparagraph (d), after “remove trustees” insert “or give another individual control over the trust”.

Commencement and transitional provision

9 (1) This Act comes into effect on such date (“the commencement date”) as the Minister of Finance may appoint by notice published in the Gazette.

(2) No civil penalty shall be imposed on a non-professional trustee under section 54A(1) of the principal Act (as amended by section 6 of this Act) for any act or omission occurring during the period of six months beginning with the commencement date, if that act or omission would not have constituted a contravention of section 13AA of the principal Act (accounts and records — non-professional trustees) before its repeal by this Act.

TRUSTEE AMENDMENT BILL 2026

EXPLANATORY MEMORANDUM

This Bill seeks to amend the Trustee Act 1975 to streamline record-keeping requirements, to provide for the appointment of a supervisor for certain trustees and to include provision relating to confidentiality and disclosure of beneficial ownership information kept by trustees, and to make consequential amendments to the definition of "beneficial owner" in the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008.

Clause 1 provides the title.

Clause 2 inserts new definitions into section 1 of the principal Act for the purposes of these amendments.

Clause 3 inserts new section 1A into the principal Act to provide a definition of "beneficial owner" in relation to a trust, which aligns with the definition in regulation 3 of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008.

Clause 4 inserts new section 13ZA into the principal Act to align the record keeping duties of all trustees in relation to beneficial ownership information, accounts, information relating to regulated agents and service providers etc. All accounts and records must be kept current, accurate and updated on a timely basis, and retained for a period of five years after the trustee's involvement with the trust ceases. Failure to comply with the section may render a trustee liable to a civil penalty under section 54A.
Sections 13A, 13AA and 13B of the principal Act, which set out differing record-keeping duties for different types of trustee, with different consequences for breach, are repealed.

Clause 5 makes a consequential amendment to section 13AB of the principal Act to clarify the exemption for non-professional trustees.

Clause 6 broadens section 54 of the principal Act so that civil penalties for breach of record keeping duties may be imposed by a court on any trustee (the provision currently applies only to non-professional trustees). The maximum amount of the civil penalty is $20,000 for each contravention of section 13ZA or regulations made under new section 63B (inserted by clause 7).

Clause 7 inserts new sections 63A to 63C into the principal Act. Section 63A empowers the Minister to designate one or more supervisory authorities for the purpose of overseeing compliance with the principal Act by trustees, other than trustees who are prohibited from carrying on trust business without a licence granted by the Bermuda Monetary Authority under the Trusts (Regulation of Trust Business) Act 2001. Section 63B is a regulation-making power. Regulations may in particular require trustees to register with a supervisory authority and provide information and submit returns to the supervisory authority, and prescribe the purposes for which, and the persons to whom, the supervisory authority may disclose information provided by the trustees. Section 63 applies, with the necessary modifications, sections 21 to 24 of the Beneficial Ownership

Act 2025 (which relate to confidentiality and disclosure of information) to information relating to the beneficial owners of a trust kept by trustees for the purposes of section 13ZA (accounts and records) (inserted by clause 4).

Clause 8 makes minor consequential amendments to regulation 3(3) and (4) of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008 (meaning of beneficial owner in the case of a trust) for consistency with the definition in section 1A of the principal Act (inserted by clause 3).

Clause 9 empowers the Minister to appoint the commencement day by notice, and provides a six month transitional period to give non-professional trustees time to comply with new record-keeping requirements under section 13ZA before a civil penalty can be imposed for breach.