



LEGAL TAKE

— PRIVATE CLIENT · BRIEFING NOTE

Family Trusts in Kenya

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A guide for anyone considering a trust, Kenyan or foreign, at home or abroad. The objective is simple: keep control clear, provide for your family, and make sure your wealth is looked after.

KEY POINTS

- A trust works while you are alive and after. A will only takes effect on death.
- Trusts must be registered with the Registrar of Trusts under the Trust Administration Act, 2026.
- Tax relief applies to specific transactions, not automatically.

1. The basics

A trust lets someone else hold and manage your assets for your family. There are four roles:

ROLE	WHO	WHAT THEY DO
Settlor	You	Set up the trust and transfer assets into it.
Trustees	Family members, a professional, a company, or a mix	Manage the trust assets under the trust deed.
Beneficiaries	Your family	Benefit from the trust.
Enforcer	An independent person	Makes sure the trustees follow the rules.

A trust can run for life and beyond. Keep a will for anything the trust does not cover.

2. Types of trust

TYPE	HOW IT WORKS
Revocable	You can cancel it.
Irrevocable	You cannot cancel it. The law assumes this unless the deed says otherwise.
Fixed	Each beneficiary's share is set.

TYPE	HOW IT WORKS
Discretionary	Trustees decide who receives what, and when.

Most families start with a discretionary trust. It gives trustees room to respond as circumstances change.

3. Setting it up

The law. The Trust Administration Act, 2026, in force since 25 September 2026, together with the rules on succession, tax and land.

Registration. The trust is registered with the Registrar of Trusts at the Business Registration Service before it can properly hold assets.

Trustees. At least one trustee must be a Kenyan citizen or resident. You can be a trustee and a beneficiary at the same time.

4. Why use a trust

Continuity. The trust carries on if you are unwell or pass away.

No probate. Assets already in the trust do not go through the court process.

Protecting children. Funds can be released by age, need or milestone.

Protection. Assets are protected only if they were genuinely handed over to the trust.

5. Tax in Kenya

TAX	THE POSITION
Income tax	Depends on where the trust's income comes from.
Capital gains tax	Relief is available when assets are transferred into the trust.
Stamp duty	Relief is available, subject to conditions.

TAX	THE POSITION
KRA PIN and returns	The trust needs its own KRA PIN and files returns every year.

Being registered does not make a trust tax-free. The reliefs introduced in 2019 still apply, but the rules have moved since, so check the current position before transferring anything.

6. Land and citizenship

The Constitution limits non-citizens to leasehold interests of up to 99 years. Before land goes into a trust, check the title and its terms, the citizenship of those involved, and whether it should be held by the trustees, the trust itself or a company.

7. How much control you keep

Reserved powers. You can keep some say, within limits. Keep too much and the trustees become a formality, which weakens the trust.

Enforcer. An independent check on the trustees.

Letter of wishes. A private note to the trustees on what you would like to happen.

Disputes. The deed sets the process, and the courts step in if it does not resolve matters.

8. Staying compliant

Annual return. Due within 30 days of each registration anniversary.

Changes. Changes to trustees, beneficiaries or the deed are filed within 21 days.

Beneficial ownership. Recorded with the Registrar, but not open to the public.

Records. Accounts, decisions and documents kept up to date. Good records protect the trust, and you, if anything is ever questioned.

9. If you hold assets abroad

A Kenyan trust is governed by Kenyan law. Assets abroad follow the rules of the country where they are, including how the trust is taxed there, what must be reported, and the tax on gifts and on death. We coordinate with your adviser in that country, but you will need a lawyer licensed there. We do not set up cross-border trusts.

10. Cost and timing

Setting it up. Legal work, drafting, registration and valuations.

Keeping it running. Yearly trustee, accounting and compliance costs.

Timing. Usually a few months to about a year from start to finish.

We give a clear, scoped fee once we know your assets and how you want the trust structured.

WE RECOMMEND

- An independent enforcer alongside every trust deed.
- A letter of wishes for your trustees.
- Transferring assets promptly once the trust is registered.
- Reviewing an existing trust against the 2026 Act now.

TALK TO US

Every situation is different. This is where we get specific to yours.

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