

GOVERNMENT NOTICE**DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT****No. R.****2023****TRUST PROPERTY CONTROL ACT, 1988****REGULATIONS RELATING TO BENEFICIAL OWNERSHIP REGISTERS AND RECORDS
OF DETAILS OF ACCOUNTABLE INSTITUTIONS, 2023**

The Minister of Justice and Correctional Services has, in terms of sections 6(1H)(a), 11(1)(e) and 11A of the Trust Property Control Act, 1988 (Act No. 57 of 1988), and after consultation with the Minister of Finance and the Financial Intelligence Centre, made the regulations in the Schedule hereto.

SCHEDULE

Definitions and interpretation

1. In these Regulations “**the Act**” means the Trust Property Control Act, 1988 (Act 57 of 1988), and any word or expression to which a meaning has been assigned in the Act bears the meaning so assigned, unless the context otherwise indicates.

Establishment and maintenance of a public register of persons disqualified from serving as trustees

2. The public register that the Master is required to establish and maintain by section 6(1H)(a) of the Act must be an electronic register, and the register must be established and maintained in such a manner that provides for—

- (a) the recording, from a court order received from the Registrar of the Court in terms of section 6(1F) of the Act, of the—
 - (i) names of the disqualified person;
 - (ii) identity number or passport number of the disqualified person; and
 - (iii) grounds on which the person is disqualified from serving as a trustee;
- (b) adequate measures against loss of information as a result of damage to or failure of the medium on which the information is kept;
- (c) adequate security measures; and
- (d) simple access to the public to the register.

Recording of details of accountable institutions by trustee

3. A trustee must record the following details of an accountable institution contemplated in section 11(1)(e) of the Act:

- (a) The name of the accountable institution;
- (b) if the accountable institution is a person other than a natural person, the registration number of such person;
- (c) if the accountable institution is a natural person, the official identification document number of the natural person, indicating the type of document and the country of issue;
- (d) if the trustee used or uses the accountable institution to perform the trustee’s functions, the nature of the functions;

- (e) if the trustee obtained or obtains services from the accountable institution, the nature of services;
- (f) if the trustee entered into a single transaction with the accountable institution, the date on which the transaction was entered into; and
- (g) if the trustee entered into a business relationship as defined in the Financial Intelligence Centre Act, 2001 (Act No.38 of 2001) with the accountable institution, the date on which the business relationship was entered into.

Beneficial ownership information to be recorded by trustee

4. (1) A trustee must keep a record of the following information relating to each identified beneficial owner of the trust:

- (a) The full names;
- (b) date of birth;
- (c) nationality;
- (d) an official identification document number, indicating the type of document and the country of issue;
- (e) residential address;
- (f) if different from residential address, the beneficial owner's address for service of notices;
- (g) other means of contact;
- (h) the grounds on which the person is a beneficial owner of the trust;
- (i) the date on which the person became a beneficial owner of the trust; and
- (j) where applicable, the date on which the person ceased to be a beneficial owner of the trust.

(2) A trustee must keep a certified copy of an official identification document of each identified beneficial owner of the trust, and the information recorded in terms of subregulation (1) (a) to (e) must appear the same way as it appears on the certified copy of the identification document.

The Master's register on the beneficial ownership of trusts

5. (1) The register on the beneficial owners of trusts that the Master is required to keep by section 11A(2) of the Act must be an electronic register, and the register must be kept in such a manner that provides for—

- (a) access to registered users through a username and a password;

- (b) adequate measures against loss of information as a result of damage to or failure of the medium on which the information is kept;
- (c) adequate security measures;
- (d) a trustee to lodge, on the electronic register, the information of each beneficial owner that the trustee is keeping in terms of section 11(A)(1)(a);
- (e) a trustee to update the information that the trustee has lodged on the electronic register;
- (f) a trustee to upload documents;
- (g) a trustee to only have access to the information that the trustee has lodged and the documents that the trustee has uploaded on the electronic register;
- (h) a search functionality available to designated officials referred to in regulation 6 and other authorised officials;
- (i) a trustee to sign off electronically on the information the trustee has lodged.

Access to information contained in a beneficial ownership register

6. (1) The Master and a trustee must make the information contained in the beneficial ownership register that the Master and a trustee keep in terms of section 11A of the Act available to—

- (a) the National Prosecuting Authority;
- (b) an investigating authority in the Republic;
- (c) the Independent Police Investigative Directorate;
- (d) an intelligence service;
- (e) the Intelligence Division of the National Defence Force;
- (f) a Special Investigating Unit;
- (g) an investigative division in an organ of state;
- (h) the Public Protector;
- (i) the South African Revenue Service; and
- (j) a person who is entitled to receive such information in terms of other national legislation.

(2) The entities and authorities referred to in subregulation (1) must designate officials who will have access to the beneficial ownership register kept by the Master.

(3) The Master must, upon receipt of the details of officials so designated create enable the officials to access the register.

Short title and commencement

7. (1) These Regulations are called Regulations Relating to Beneficial Ownership Registers and Records of Details of Accountable Institutions, 2023, and shall come into operation on 2023.