



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

N\$8.00

WINDHOEK - 2 September 2023

No. 8205

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Government Notice

MINISTRY OF JUSTICE

No. 289

2023

TRUST ADMINISTRATION REGULATIONS: TRUST ADMINISTRATION ACT, 2023

Under section 51 of the Trust Administration Act, 2023 (Act No. 11 of 2023), I, after consultation with the Master of the High Court, have made the regulations set out in the Schedule.

Y. DAUSAB
MINISTER OF JUSTICE

Windhoek, 31 August 2023

SCHEDULE**ARRANGEMENT OF REGULATIONS**

1. Definitions
2. Eligibility criteria for natural persons to apply for registration as trust practitioners
3. Eligibility criteria for juristic persons to apply for registration as trust practitioners
4. Application to register as trust practitioner
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ANNEXURE – FORMS

Form D – Application for registration as trust practitioner (Natural persons)

Form E – Application for registration as trust practitioner (Juristic persons)

Definitions

1. In these regulations a word or an expression to which a meaning has been assigned in the Trust Administration Act, 2023 (Act No. 11 of 2023) has that meaning, and unless the context otherwise indicates –

“qualification” means a bachelor’s degree, a diploma, a certificate or a credit bearing short learning programme;

“the Act” means the Trust Administration Act, 2023 (Act No. 11 of 2023); and

“trust practitioner” means a person registered as a trust practitioner in terms of section 27 of the Act.

Eligibility criteria for natural persons to apply for registration as trust practitioners

2. (1) Under section 27(3) of the Act, persons eligible to apply for registration as trust practitioners, in addition to legal practitioners, accountants and auditors referred to in that section are the following:

- (a) persons who have at least five years of experience in providing the services referred to in section 28 of the Act; or
- (b) persons with not less than two years experience providing the services referred to in section 28 of the Act but with a qualification in another field related to commerce or law including but not limited to -
 - (i) business administration;
 - (ii) business management;
 - (iii) business science;
 - (iv) economics;
 - (v) banking;

- (vi) investments;
- (vii) actuarial sciences;
- (viii) finance;
- (ix) financial planning;
- (x) estate planning; or
- (xi) administration of estates and trusts.

(2) A person who wishes to be registered as a trust practitioner under the Act must, in accordance with the fit and proper person guidelines issued under section 27(3) read with section 49 of the Act, demonstrate to the Master in writing that they are a fit and proper person.

Eligibility criteria for juristic persons to apply for registration as trust practitioners

3. Juristic persons seeking registration as trust practitioners under section 27(5) of the Act must -

- (a) be incorporated or registered in accordance with the Companies Act or Close Corporations Act;
- (b) have a registered office in Namibia;
- (c) appoint a natural person who meets the criteria for appointment as trust practitioner set out in the Act to act as nominee to carry out trust services on its behalf; and
- (d) demonstrate that its nominee is a fit and proper person in accordance with the guidelines issued by the Master under section 49 of the Act, read with section 27 of the Act, to act on its behalf.

Application for registration as trust practitioner

4. Any eligible person seeking registration as a trust practitioner under section 27(4) or section 27(5) of the Act, must apply in writing for registration as a trust practitioner to the Master on Form D set out in the Annexure for natural persons or on Form E set out in the Annexure for juristic persons.

Acknowledgment of receipt

5. The Master must within three days of receiving a complete application for registration as trust practitioner under the Act issue an acknowledgment of receipt to the applicant.

Processing of application, making of decision and notification

6. (1) The Master must consider each application for registration as a trust practitioner made in accordance with the Act.

(2) The Master may request additional information or clarification from the applicant, if necessary, during the application consideration process.

(3) The Master must either approve or refuse the application for registration within 21 days from the date of receiving a complete application.

(4) The Master must notify the applicant for registration as trust practitioner in writing of the decision and -

- (a) in the case of approval, proceed to register the successful applicant as a trust practitioner; or
- (b) in the case of refusal, in writing provide the applicant with grounds for the decision and any necessary guidance for rectification or reapplication, if applicable.

Form D**Application for registration as Trust Practitioner**
(in accordance with the Trust Administration Act, 2023)**MASTER OF THE
HIGH COURT****NATURAL PERSONS**

PART A: PARTICULARS OF PRACTITIONER			
Full legal name			
Place of Birth		Date of birth	
Nationalities			
Identity number/ Passport Number			
Tax residencies			
Tax Identification Number (TIN)			
Country of residence			
Residential address			
Business address			
Accreditation Body (if applicable)		Practice number or registration number	
Tel/Mobile Number		Email address	
Occupation			
Employer (if applicable)			
PART B: QUALIFICATIONS AND EXPERIENCE			
Name of Qualification:			
Years of experience:			
PART C: FIT AND PROPER PERSON¹			
Fit and Proper Declaration form in terms of Section 27:			
Has not breached a fiduciary obligation			
Has educational and professional qualifications			
Is a member of a relevant professional body and is in good standing with that body			
Has proof of registration with the Financial Intelligence Centre as a Trust and Companies Service Provider			
Has knowledge of the legal and other professional responsibilities assumed or likely to be assumed			
Has integrity			
Has competence, diligence and soundness of judgment for fulfilling the responsibilities of the position			

¹ Indicate your answer as yes or no.

Could have a potential conflict of interest with clients or potential clients	
Has not perpetrated or participated in grossly negligent, deceitful, fraudulent or otherwise discreditable business or professional practices	

I, the undersigned, declare that, to the best of my knowledge, all information provided above is accurate, true and correct.

Signature		Date	
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Form E**Application for registration as Trust Practitioner**
(in accordance with the Trust Administration Act, 2023)**MASTER OF THE
HIGH COURT****JURISTIC PERSONS**

PART A: COMPANY INFORMATION			
Full Legal name of Company			
Registration Number		Date of registration	
Country of incorporation			
Tax residencies			
Tax Identification Number (TIN)			
Country of residence			
Business address			
Tel/Mobile Number		Email address	
Fax Number			
PART B: PARTICULARS OF NOMINEE			
Full legal name			
Place of Birth		Date of birth (DD-MM-YYYY)	
Nationalities			
Identity number/ Passport Number			
Tax residencies			
Tax Identification Number (TIN)			
Country of residence			
Residential address			
Business address			
Accreditation Body (if applicable)		Practice number or registration number	
Tel/Mobile Number		Email address	
Occupation			
Employer (if applicable)			
PART C: QUALIFICATIONS AND EXPERIENCE			
Name of Qualification:			
Years of experience:			

PART D: FIT AND PROPER PERSON¹	
Fit and Proper Declaration form in terms of Section 27:	
Has not breached a fiduciary obligation	
Has educational and professional qualifications	
Is a member of a relevant professional body and is in good standing with that body	
Has proof of registration with the Financial Intelligence Centre as a Trust and Companies Service Provider	
Has knowledge of the legal and other professional responsibilities assumed or likely to be assumed	
Has integrity	
Has competence, diligence and soundness of judgment for fulfilling the responsibilities of the position	
Could have a potential conflict of interest with clients or potential clients	
Has not perpetrated or participated in grossly negligent, deceitful, fraudulent or otherwise discreditable business or professional practices	

¹ Indicate your answer as yes or no.

I, the undersigned, declare that, to the best of my knowledge, all information provided above is accurate, true and correct.

Signature		Date	
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