GUIDANCE FOR NON-PROFESSIONAL TRUSTEES

Understanding and meeting record-keeping and beneficial ownership obligations under the Trustee Act 1975, as amended by the Trustee Amendment Act 2026

2026

NATIONAL ANTI-MONEY LAUNDERING COMMITTEE

Introduction

The 2026 amendments to the Trustee Act 1975 are intended to align Bermuda's trust record-keeping framework with international standards and support compliance with FATF Recommendation 25. The amendments, made by the Trustee Amendment Act 2026 (which came into operation on September 14, 2026), introduce a single set of core record-keeping requirements for trustees, strengthen beneficial ownership transparency, and provide for civil penalties where specified requirements are knowingly and wilfully breached. This Guidance has been produced with specific reference to these elements of the Trustee Act. It is not guidance on the Trustee Act 1975 as a whole.

For a Non-Professional Trustee ("NPT"), the central practical requirement is to establish and maintain reliable trust records (referred to in this Guidance as a "trust file") that identify the trust's beneficial owners, explain who controls or benefits from the trust, record the trust's property and transactions, and can be produced when lawfully required. Records must be accurate, current, supported by underlying documents and retained for at least five years after the trustee's involvement ends.

A six-month transitional period has been provided, commencing on September 14, 2026 (the date on which the Trustee Amendment Act 2026 came into operation) and ending on March 13, 2027, to give NPTs time to comply with the new record-keeping requirements under section 25A before a civil penalty can be imposed for breach.

NPTs should not wait until the end of the transitional period. Review each trust now, identify any missing information, obtain supporting documents and establish a routine for recording changes and transactions.

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1. Purpose of this guidance

This Guidance is intended to assist non-professional trustees ("NPTs") in understanding and meeting their obligations under the provisions of the Trustee Act 1975 that form part of Bermuda's anti-money laundering/anti-terrorist financing/counter-proliferation financing (AML/ATF/CPF) framework. The record-keeping obligations described in this Guidance are set out in Part IIA (sections 25A to 25H) of the Trustee Act 1975, inserted by the Trustee Amendment Act 2026, and give effect to FATF Recommendation 25. This Guidance is for individuals who act as trustees without reward in a family or friendship situation. It explains, in practical terms, the records that an NPT should keep and how those records should be maintained so that reliable information about a trust, its beneficial owners and its activities is available when lawfully required.

The requirements as set out in Bermuda's Trustee Act have been designed to support FATF Recommendation 25, which is intended to prevent trusts and similar legal arrangements from being misused for money laundering, terrorist financing, proliferation financing and related criminal activity. Recommendation 25 requires adequate, accurate and up-to-date beneficial ownership information to be available to competent authorities in a timely manner. These statutory requirements give effect to Recommendation 25 in Bermuda law, and this Guidance refers to both so that trustees, and international assessors, can see how Bermuda's framework aligns with international standards.

The obligations in FATF Recommendation 25 apply to all trustees of express trusts, whether or not they act by way of business. Acting as a trustee in a personal or family capacity does not exempt you from these requirements.

This is general guidance, not legal advice. Trustees remain responsible for understanding all their duties, the trust instrument and the law applicable to their trust. Trustees should consider obtaining independent legal or accounting advice where the trust is complex, information is disputed, assets are difficult to value, or there is uncertainty about who controls or benefits from the trust.

2. Who is a non-professional trustee?

Under the Trustee Act 1975, an NPT is a natural person who acts as trustee without reward in the context of a family situation or a friendship situation. You are an NPT, and subject to the record-keeping requirements described in this Guidance, even if:

- you act jointly with another trustee, unless that co-trustee is a licensed trustee (as set out in section 4, below);
- the trust has only a small amount of property;
- the trust was created informally or many years ago; or
- a lawyer, accountant, bank, investment manager or licensed trustee assists you.

A person who provides trustee services as a business, trade, profession or vocation is not an NPT and is subject to licensing and other regulatory requirements, unless an exemption applies (for example, under an exemption order made under section 10 of the Trusts (Regulation of Trust Business) Act 2001).

A trustee who accepts payment for services rendered does not fall within the definition of an NPT. The defining characteristic of an NPT is that the person acts as trustee without reward, in other words,

otherwise than by way of business, typically in a personal capacity, such as a family member or friend administering a family trust. Remuneration is the clearest indicator that this line has been crossed: where a trustee receives a fee, commission or other reward for the performance of trustee functions, the trusteeship is being carried on by way of business, trade, profession or vocation, and the trustee falls to be treated as a professional trustee. Acting as trustee by way of business constitutes trust business for the purposes of the Trusts (Regulation of Trust Business) Act 2001, engaging the licensing regime (subject to any applicable exemption), and brings the trustee within the scope of relevant financial business under the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008, attracting the corresponding customer due diligence, record-keeping, reporting and supervisory obligations.

3. Your core obligations at a glance

Obligation	What it means in practice
Disclose your status as a trustee	You must disclose your status as a trustee to regulated agents and service providers, as defined in section 1 of the Trustee Act (including banks and other AML/ATF regulated financial institutions, independent professionals such as lawyers and accountants, and real estate brokers and agents), whenever you conduct business with them on behalf of the trust. You must not conceal or misrepresent the capacity in which you are acting. (section 2A of the Trustee Act)
Identify beneficial owners	Identify every person or class falling within the statutory definition and keep proof of each individual's identity and residential address (section 25A(1) of the Trustee Act).
Keep trust accounts and records	Maintain adequate records of the trust's assets, liabilities, additions, distributions, purchases, sales, income and expenses, together with supporting documents. (section 25A(2) of the Trustee Act).
Record service providers	Keep the names and addresses of regulated agents and service providers who provide services to the trust. (section 25A(3) of the Trustee Act).
Keep information current	Review and update records promptly when circumstances change. Do not wait for an annual review if you learn of a change. (section 25A(4)(a) of the Trustee Act).
Retain records	Keep all required records for at least five years after your involvement with the trust ends. (section 25A(4)(b) of the Trustee Act).
Respond to lawful requirements	Maintain the confidentiality of your records, but provide information or returns where regulations or a lawful request from a competent authority require this, respecting privilege and data-protection rules (see section 11 of this Guidance for who may make lawful requests). (sections 25D and 63B(2)(b) of the Trustee Act).

4. Using a licensed trustee or record keeper

Section 25C of the Trustee Act exempts an NPT from the record-keeping requirements of section 25A where the NPT is a co-trustee and at least one other co-trustee is a licensed trustee under the Trusts (Regulation of Trust Business) Act 2001, or where the NPT appoints such a licensed trustee to maintain the trust records. Before relying on this exemption:

- confirm the licensed trustee's status;
- put the appointment and scope of record-keeping responsibilities in writing;
- ensure all necessary information is supplied promptly to the licensed trustee;
- agree how updates, lawful requests, record access and retention will be handled; and
- keep evidence that the exemption applies.

NPTs should remain aware that delegating record maintenance does not remove your wider fiduciary duties as trustee. You should remain sufficiently informed to administer the trust properly and to satisfy yourself that the agreed arrangements are working.

5. Identifying the beneficial owners

For a trust, each of the following is defined as a "beneficial owner". There is no ownership-percentage threshold and more than one category can apply to the same person.

Where any of the persons listed below is a body corporate or other entity rather than an individual, you must identify and record the natural person(s) who beneficially own that body or entity, as defined by section 6 of the Beneficial Ownership Act 2025, whether or not that Act otherwise applies to the entity (section 25B(4) and (5) of the Trustee Act).

Category	Who must be identified
Settlor	Every person who created or provided property to establish the trust, as applicable to the trust's circumstances.
Trustees	Every current trustee, including each NPT and any professional, licensed or corporate trustee.
Protector	Every protector, if the trust has one.
Beneficiaries	Every determined beneficiary. If beneficiaries have not all been determined, record the class of persons in whose main interest the trust is established or operates (for example, "the grandchildren of the settlor").
Other controllers	Any other individual with a power, under the trust instrument or by law, to dispose of, advance, lend, invest, pay or apply trust property; direct, make or approve trust distributions; vary or terminate the trust; add or remove beneficiaries; appoint or remove trustees or give another individual control

Category	Who must be identified
	over the trust; or direct, withhold consent to or veto the exercise of any of those powers (section 25B of the Trustee Act).

Control may be exercised alone, jointly or with another person's consent, and may arise under the trust instrument or by law. An individual who beneficially owns an entity that controls the trust is treated as controlling the trust.

An individual is not treated as controlling a trust solely because their consent is required under section 24(1)(c) of the Trustee Act (power of advancement), or solely because adult beneficiaries with full capacity and absolute entitlement can collectively vary or extinguish the trust at common law.

6. What identification records should be kept?

Section 25A(1) of the Trustee Act requires accurate and adequate records, including underlying documentation, proving the identity and residential address of each beneficial owner who is an individual (natural person). The following sets out a practical minimum for the trust file. The examples are not exhaustive.

Record	Practical examples
Identity	A clear copy of a valid passport or other reliable government-issued photo identification; full legal name; date of birth; nationality; and date the document was checked.
Residential address	A recent utility bill, bank statement, government correspondence or other reliable document showing the individual's current residential address, if not already on the Identity document above.
Role in the trust	Trust deed and amendments; deed of appointment or retirement; letter of wishes where relevant; protector appointment; beneficiary schedule; or a trustee minute recording the person's role.
Control	The clause, deed, agreement or legal basis giving the person a relevant power, plus a short note explaining how the control test is met.
Entity ownership chain	Where a beneficial owner or controller of the trust is a body corporate or other entity: constitutional documents, official registry extracts, ownership charts and reliable evidence tracing the entity to the natural person(s) who beneficially own it.
Verification record	A short note that the NPT has checked the information, along with when it was checked and what document or source was used, together with any discrepancy found, and how it was resolved.

Where beneficiaries are described as a class, record the wording of the class exactly, the source document, and enough information to understand who may fall within it. When a member of the class becomes a clearly identified individual beneficiary, update the file and obtain their required individual information.

7. Trust accounts and transaction records

Records must be appropriate to the trust and its property. Section 25A(2) of the Trustee Act requires accurate and adequate accounts and records (including underlying documentation) of the trusteeship, appropriate to the trust and trust property, covering assets, liabilities, additions to the trust and distributions, purchases and sales, and income and expenses; the table below reflects these elements. They should allow another competent person to understand what the trust owns and owes, how money and property moved, why a transaction occurred, who authorised it, and the trust's financial position.

Area	Records to keep
Assets	A current asset register; bank and investment statements; share certificates; title deeds; property records; insurance documents; valuations; records for vehicles, art, jewellery, digital assets or other property.
Liabilities	Loan and mortgage documents; invoices; tax liabilities; guarantees; professional fees; outstanding expenses and other obligations.
Additions	Evidence of money or property added to the trust, the contributor, date, value, purpose and supporting transfer documents.
Distributions	Trustee decision or minute; beneficiary; date; amount or property; purpose; payment evidence; and any tax or professional advice relied upon.
Purchases and sales	Contracts, invoices, completion statements, valuations, ownership documents, payment records and trustee approvals.
Income and expenses	Bank records, receipts, rental or dividend statements, tax records, invoices, reconciliations and annual accounts or summaries.

Funds should not be mixed. NPTs should use a bank or investment account in the name of the trust or clearly designated for the trust as appropriate. Keep trust property and records separate from your personal property and records.

8. Regulated agents and service providers

Keep an accurate, current record of the name and address of every regulated agent and service provider that provides a service to the trust. Depending on the trust, this may include a licensed trustee, bank, investment manager, accountant, lawyer, corporate service provider, real estate broker or agent, auditor, tax adviser, insurer, custodian or administrator. The term "regulated agents and service providers" is

defined in section 1 of the Trustee Act and includes AML/ATF regulated financial institutions and independent professionals (each as defined in regulation 2(1) of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008), and real estate agents and brokers (as defined in section 2 of the Real Estate Brokers' Licensing Act 2017). Remember that under section 2A of the Trustee Act you must disclose your status as trustee to regulated agents and service providers whenever you conduct business with them on behalf of the trust (see section 11 of this Guidance).

For each provider, record the service supplied, engagement date, end date, contact details and relevant engagement letter or agreement. Keep the record even if the provider holds copies of the trust records.

9. Keeping information accurate, current and timely

The following steps will help ensure that your records are created and kept accurate and up to date on a timely basis:

1. Create a master trust file and a beneficial ownership schedule for the trust. Keep the trust deed and any amendments, together with identification details for each party listed in section 5 of this Guidance.
2. Verify information against reliable, independent documents or sources and record the verification performed.
3. Update the file promptly after any change to a trustee, settlor, protector, beneficiary, class of beneficiaries, controller, service provider, address, trust asset or transaction, recording in each case the date on which the change occurred.
4. Review the complete file at least annually and whenever a significant event occurs.
5. Record the review date, reviewer, changes identified, actions taken and any unresolved issue.

Significant events include a deed of variation, addition or removal of a beneficiary, appointment or retirement of a trustee or protector, change in a person's powers, major addition or distribution, acquisition or disposal of a material asset, change of address, appointment of a new service provider, or information suggesting that a record is wrong or incomplete. Where a trustee changes, see section 12 of this Guidance for how records should be handed over to the continuing or incoming trustee.

10. Storage, security and confidentiality

Records may be kept electronically or in paper form, provided they remain complete, legible, secure and readily retrievable. Use sensible safeguards proportionate to the sensitivity and volume of information.

- Keep your records confidential: share information only with the trustees, authorised advisers, service providers or competent authorities who need it.
- Use strong passwords, multi-factor authentication and encrypted or access-controlled storage for electronic files.
- Keep secure backups and test that records can be restored.
- Protect paper files from loss, damage and unauthorised access.
- Use secure methods when transmitting identity or financial information.

- Keep a record of disclosures: what was disclosed, to whom, when, under what authority and by whom.

Sections 25D to 25G of the Trustee Act address confidentiality, legal professional privilege, public access to information and data protection. In particular, legal professional privilege is preserved (section 25E), information held under section 25A must not be disclosed in response to a request under the Public Access to Information Act 2010 (section 25F), and nothing in the Trustee Act authorises disclosure of personal information in contravention of the Personal Information Protection Act 2016 (section 25G).

11. Disclosure of trust information to service providers and competent authorities

Holding trust information and disclosing it are distinct obligations. Sections 25A to 25C of the Trustee Act deal with the records a trustee must hold: accurate, adequate and current information about the trust's beneficial owners, its accounts and transactions, and its regulated agents and service providers. Separate provisions deal with when, and to whom, that information must be disclosed.

As noted above, you must disclose your status as trustee to regulated agents and service providers whenever you conduct business with them on behalf of the trust. These service providers may have their own customer due diligence obligations which require you to disclose certain information about the trust to them. This is appropriate and protected under law.

Competent authorities exercising their statutory powers, including the Bermuda Police Service (BPS), the Financial Intelligence Agency (FIA), the Registrar of Companies (RoC) and any supervisory authority designated under section 63A of the Trustee Act, may make lawful requests for information from an NPT. When approached with a request by a competent authority, take basic steps to confirm the authenticity of the request prior to sharing the requested information.

A trustee must protect trust information but must also provide it where a valid statutory requirement or lawful request applies. A requirement imposed by or under the Trustee Act has effect despite any duty of confidentiality or other restriction on disclosure, and compliance in good faith is an absolute defence to any claim (section 25D). Legal professional privilege is preserved (section 25E). If a request is unclear, urgent, unusually broad or may involve privileged material, obtain legal advice promptly rather than ignoring it.

12. Record retention requirements when you cease to be a trustee

All accounts and records required by section 25A must be retained for at least five years after your involvement with the trust ceases. Your resignation or the appointment of a new trustee or the winding up of the trust does not end this retention duty.

If you are retiring, or your trusteeship is otherwise coming to an end (including where the trust is wound up), prepare a dated inventory of the records transferred to the continuing or replacement trustee, obtain written acknowledgement of receipt, retain secure copies or arrange reliable continuing access for the required period, and record the date on which your five-year retention period will end. Do not destroy records while litigation, an investigation, a legal hold, tax requirement or other longer retention obligation applies.

13. Warning indicators and unusual activity

As trustee, you have a duty to take reasonable care that the trust is not misused for money laundering, terrorist financing, proliferation financing or other criminal purposes. An NPT should understand the trust's purpose, property, beneficiaries and expected activity. In plain terms, if something about the trust's money, property or the people involved does not make sense to you, pause and ask questions before acting. The following may indicate that further enquiries or professional advice are needed:

- pressure to complete a payment, distribution, appointment or change urgently without a clear explanation;
- unexplained additions, transfers or withdrawals, or transactions inconsistent with the trust's purpose;
- instructions to use a trustee's personal account or to send assets to an unrelated third party;
- reluctance to provide identity, address, source-of-funds, ownership or control information;
- frequent or unexplained changes to trustees, protectors, beneficiaries, controllers or service providers;
- complex ownership chains or overseas connections with no clear lawful or commercial reason;
- conflicting information, altered documents or information that cannot be independently verified;
- a transaction involving a sanctioned person or entity, or one that is subject to another legal or regulatory restriction; or
- the structure of the trust appears needlessly complex or difficult to understand.

If you notice any of these indicators, pause before proceeding, document the concern and obtain appropriate legal or professional advice. Do not alert a person if doing so could tip them off about your concerns. You may be required to file a suspicious activity report with the Financial Intelligence Agency (FIA). If in doubt, seek urgent advice from a Bermuda lawyer or other appropriately qualified adviser, or contact the FIA for guidance on whether and how a report of suspicious activity should be made.

14. Good-governance practices

The following practices help an NPT demonstrate proper administration of the trust and reduce the risk of misuse:

- hold regular meetings with any co-trustees or conduct documented reviews appropriate to the trust's level of activity;
- record material decisions, the information considered, any advice received and the reasons for the decision;
- define the roles of co-trustees, authorised signatories, advisers, and regulated agents and service providers;
- review bank, investment and other financial activity regularly and investigate discrepancies;
- identify and manage conflicts of interest, including recording disclosures and how the conflict was addressed;

- where there are co-trustees, use dual approval for significant payments and asset transfers; a sole trustee should use another appropriate safeguard, such as documenting the decision and any advice received before acting; and
- review your records at least annually and after any material change to the trust.

A simple family trust may not need elaborate procedures, but every trust should have records sufficient to show what the trustees decided, what happened to the trust property and why.

15. Consequences of non-compliance

Where a trustee knowingly and wilfully contravenes section 25A of the Trustee Act, or 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 of up to $20,000 for each contravention. A civil penalty is enforceable as a civil debt. A trustee on whom a civil penalty is imposed may appeal within seven days of the court's order (section 54A(4) of the Trustee Act); legal advice should be sought promptly if a penalty is imposed.

Good record-keeping also protects the trustee and beneficiaries by providing evidence of the trust's property, decisions and transactions and by reducing the risk of loss, dispute or delay.

16. Practical checklists

The following checklists, together with the suggested beneficial ownership schedule in section 17, are sample tools intended to assist NPTs in meeting their record-keeping and other obligations.

Checklist of Practical Steps

- **Create a trust file:** keep the trust deed and any amendments, together with identification details for each party listed in section 5.
- **Record the service providers:** note the name and contact details of any advisor, accountant or manager engaged for the trust.
- **Diarise a review:** check the file at least annually and update it promptly when circumstances change.
- **Identify yourself:** always inform banks and other institutions that you are acting as trustee when opening accounts or transacting for the trust.
- **Retain records:** keep all records for at least five years after you cease to be trustee.
- **Comply with competent authorities where information is requested:** NPTs should be aware that they may receive requests for information from competent authorities including, but not limited to, the Bermuda Police Service (BPS), Financial Intelligence Agency (FIA), and Registrar of Companies (RoC).
- **Seek advice where unsure:** if the trust structure is complex, or a party is a company or another trust, consider obtaining professional advice to ensure the beneficial owners are correctly identified.

File checklist

- ☐ Trust deed and every amendment, appointment, retirement and variation
- ☐ Current list of trustees, settlor(s), protector(s), beneficiaries/classes and other controllers
- ☐ Identity and residential-address evidence for each individual beneficial owner
- ☐ Entity ownership and control records traced to natural persons where required
- ☐ Current asset and liability registers with supporting documents
- ☐ Records of additions, distributions, purchases, sales, income and expenses
- ☐ Bank, investment and other account statements and reconciliations
- ☐ Trustee minutes, written resolutions and reasons for material decisions
- ☐ Current register of regulated agents and service providers
- ☐ Annual review and change log
- ☐ Disclosure/request log
- ☐ Secure backup and access arrangements
- ☐ Retirement/transfer inventory and five-year retention end date, where applicable
- ☐ Evidence supporting any reliance on the section 25C exemption

17. Suggested beneficial ownership schedule

The schedule below can be used to record beneficial ownership information in respect of a trust. One row should be maintained for each individual or class. You may add rows and supporting pages as needed.

Field	Information to record
Trust	Trust name/reference and date established
Person or class	Full legal name, or exact class description
Role	Settlor / trustee / protector / beneficiary / class / other controller / entity beneficial owner
Identity details	Date of birth, nationality, ID type/number/expiry and verification date
Address	Residential address, evidence used and verification date
Control basis	Relevant trust provision, legal power or ownership chain
Status dates	Date role began, changes and date role ended
Review	Last review date, reviewer and next review date

18. Questions and further information

For questions about this Guidance or the AML/ATF/CPF framework, contact:

The Office of NAMLC at info-NAMLC@gov.bm

Legal and policy sources

- Trustee Act 1975 (current consolidated law), particularly sections 1, 2A, 25A to 25H, 54A, 63A and 63B.
- Trustee Amendment Act 2026, which came into operation on September 14, 2026.
- Beneficial Ownership Act 2025, especially section 6 (meaning of beneficial owner).
- Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008, regulations 2 and 3.
- Financial Intelligence Agency Act 2007, section 16.
- Financial Action Task Force, Recommendation 25 and Interpretive Note to Recommendation 25.
- Financial Action Task Force, Guidance on Beneficial Ownership and Transparency of Legal Arrangements (March 2024).