

**CHAPTER 352**  
**THE PROBATE AND ADMINISTRATION OF ESTATES ACT**

[PRINCIPAL LEGISLATION]

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**SCHEDULES**

**CHAPTER 352  
THE PROBATE AND ADMINISTRATION OF ESTATES ACT**

**An Act to provide for the grant of probates of wills and letters of administration to the estates of deceased persons, to make certain provisions with regard to the powers and duties of executors and administrators; administration of wakf property; benevolent payments in Islamic estates, and related matters.**

[1st March, 1963]

[R.L. Cap. 445]  
[R.L. Cap. 29]  
[R.L. Cap. 30]  
[R.L. Cap. 326]  
Acts Nos.  
9 of 1963  
55 of 1963  
33 of 1964  
9 of 1965  
41 of 1966  
18 of 1970  
23 of 1971  
3 of 1979  
12 of 1979  
10 of 1987

## **PART I**

### **PRELIMINARY PROVISIONS (ss 1-2)**

#### **1. Short title and application**

(1) This Act may be cited as the Probate and Administration of Estates Act.

(2) Subject to the provisions of section 87 and Part IX, this Act shall apply to the administration of the estates of all persons dying domiciled, or leaving property, in Tanzania whether before, on or after the date upon which it comes into operation.

#### **2. Interpretation**

(1) In this Part, unless the context otherwise requires—

**"administrator"** means a person appointed by the court to administer the estate of a deceased person when there is no executor or no executor is able and willing to act, and includes, when Part VIII applies and subject to the provisions thereof, a person appointed an administrator under that Part;

**"codicil"** means an instrument made in relation to a will, and explaining, altering or adding to its dispositions;

**"contention"** in relation to a grant of probate or letters of administration means the appearance of any person to oppose the application for the grant, and "contentious" has a like meaning;

**"court"** means the High Court and includes, in any case in which a District Delegate has

jurisdiction, a District Delegate, but does not include a district court;

**"demonstrative legacy"** means a legacy directed to be paid out of specified property;

**"district court"** has the meaning ascribed thereto in the Magistrates Courts Act \*(1);

**"District Delegate"** means a resident magistrate appointed a District Delegate under section 5;

**"executor"** means a person to whom the execution of the last will of a deceased person is, by the testator's appointment, confided;

**"general legacy"** means a legacy other than a specific or demonstrative legacy;

**"Minister"** means the Minister responsible for legal affairs;

**"probate"** means the copy of a will, or, in the case of an oral will, a statement of the contents thereof, certified under the seal of the court, with a grant of administration to the estate of the testator;

**"Probate Rules"** means rules made under section 9;

**"rules of Court"** include rules of court made by the High Court under section 4 of the Judicature and Application of Laws Act \*(2) and the rules contained in or made under the Civil Procedure Code \*(3);

**"small estate"** means an estate the gross value of which a court, district court or other authority having jurisdiction in probate or administration is satisfied does not exceed ten thousand shillings;

**"specific legacy"** means a legacy of specified property;

**"trust corporation"** means—

- (a) the Public Trustee; or
- (b) the Administrator General; or
- (c) any incorporated-banking or insurance or guarantee or trust company which has a capital (in stock or shares) for the time being issued of not less than two hundred and fifty thousand pounds, of which not less than one hundred thousand pounds shall have been paid up in cash; or
- (d) any body corporate which has a capital (in stock or shares) for the time being issued of not less than two hundred and fifty thousand pounds, of which not less than one hundred thousand pounds shall have been paid up in cash, and which is for the time being empowered (by Act of Parliament of the United Republic charter, memorandum of association, deed of settlement or other instrument constituting it or defining its

powers) to undertake trusts, but for so long a time only as such body corporate shall not, by any prospectus, circular, advertisement or other document issued by it or on its behalf, state or hold out that any liability attaches to the Public Trustee or to the general revenue of the United Republic in respect of any act or omission of such body corporate when acting as an executor or administrator; and

**"will"** means the legal declaration of the intentions of a testator with respect to his property, which he desires to be carried into effect after his death.

(2) Notwithstanding anything contained in the definition of "trust corporation" in subsection (1) of this section, a company or body corporate which would be a trust corporation but for the fact that it does not for the time being fulfil the requirements as to capital in paragraphs (c) or (d) of the said definition may act as executor or administrator in any case with the leave of the High Court and on giving such security as the High Court may determine, and thereupon for the purposes of so acting as executor or administrator shall be deemed to be and to have the powers, rights and duties of a trust corporation under this Act.

## **PART II**

### **JURISDICTION IN PROBATE AND ADMINISTRATION OF ESTATES (ss 3-9)**

#### **3. Jurisdiction of High Court in probate and administration**

The High Court shall have jurisdiction in all matters relating to probate and the administration of deceased's estates, with power to grant probates of wills and letters of administration to the estates of deceased persons and to alter or revoke such grants.

#### **4. Jurisdiction of High Court to re-seal certain grants**

The High Court shall have jurisdiction to re-seal grants of probate and letters of administration made by a court of probate in any part of the Commonwealth in accordance with the provisions of Part X of this Act.

#### **5. Jurisdiction of District Delegates**

(1) The Chief Justice may, from time to time, appoint such resident magistrates as he thinks fit to be District Delegates.

(2) A District Delegate shall have jurisdiction in all matters relating to probate and administration of estates with power to grant probate and letters of administration of estates if the deceased, at the time of his death, had his fixed place of abode within the area for which the Delegate is appointed—

- (a) in non-contentious cases;
- (b) in contentious cases, if the Delegate is satisfied that the gross value of the estate does not exceed fifteen thousand shillings, or the High Court authorises the Delegate to

exercise jurisdiction in such circumstances as are specified in subsection (3).

(3) No act of a District Delegate exercising jurisdiction in probate or administration of estates shall be invalid by reason only that it is afterwards discovered that the gross value of the estate exceeded fifteen thousand shillings, but where the District Delegate becomes aware of such circumstances in any contentious case, he shall report the matter to the High Court which shall either direct the transfer of the proceedings to itself or authorise the Delegate to exercise jurisdiction therein.

(4) A District Delegate shall not have jurisdiction to exercise any of the powers herein expressly conferred on the High Court.

## **6. Jurisdiction of district courts**

(1) A district court presided over by a district magistrate shall have jurisdiction in the administration of small estates, with power to appoint administrators of small estates using the form specified in the Fourth Schedule to this Act, where the deceased died within the jurisdiction of the court.

(2) The jurisdiction of a district court shall be exercised in accordance with the provisions of Parts VIII and IX.

## **7. Consular officers**

(1) Where any person who is a national of a State to which this section applies is named as executor in the will of a deceased person disposing of property in Tanzania, or is otherwise a person to whom a grant of representation to the estate in Tanzania of a deceased person may be made, then if the court is satisfied, on the application of a consular officer of the said State, that the said national is not resident in Tanzania, and if no application for a grant of such representation is made by a person duly authorised by power of attorney to act for him in that behalf, the court shall make to that officer any such grant of representation to the estate of the deceased as would be made to him if he were so authorised as aforesaid.

(2) Letters of administration granted to a consular officer shall be granted to him in his official style and title and not in his personal name, but the person officiating as such consular officer shall personally take the administrator's oath. Such letters of administration and the estate of the deceased shall pass from such consular officer to his successors in office, and shall vest in each such consular officer for the time being during his continuance in office without any order of the court or any conveyance, assignment or other instrument whatsoever.

(3) Sureties shall not be required to an administration bond given by a consular officer upon the grant of any letters of administration by virtue of this section.

(4) Where any person who is a national of a State to which this section applies—

(a) is entitled to any money or other property in Tanzania forming part of the estate of a

deceased person, or to receive payment in Tanzania of any money becoming due on the death of a deceased person; or

- (b) is among the persons to whom any money or other property of a deceased person may, under any Act whether passed before or after the commencement of this Act, be paid or delivered without grant of probate or other proof of title, then if the said national; is not resident in Tanzania, a consular officer of that State shall have the right and power to receive and give a valid discharge for any such money or property as if he were duly authorised by power of attorney to act for him in that behalf:

Provided that no person shall be authorised or required by this subsection to pay or deliver any money or property to a consular officer if it is within his knowledge that any other person in Tanzania has been expressly authorised to receive that money or property on behalf of the said national.

(5) Notwithstanding any rule of law conferring immunity or privilege in respect of the official acts and documents of consular officers, a consular officer shall not be entitled to any immunity or privilege in respect of any act done by virtue of powers conferred on him by or under this section, or in respect of any document for the time being in his possession relating thereto.

(6) This section applies to the States specified in the First Schedule, and the Minister may, by order in the *Gazette*, add to or delete from the First Schedule, any foreign State.

#### **8. Powers under this Act may be exercised in chambers**

Subject to any Probate Rules in that behalf, the jurisdiction of the court or a district court under this Act may be exercised in chambers—

- (a) in non-contentious cases; and
- (b) in contentious cases to the same extent as jurisdiction may be exercised in chambers in a suit conducted in accordance with Civil Procedure Code \*(4) or any enactment replacing the same or any rules of court.

#### **9. Probate Rules**

The Chief Justice may make Probate Rules for regulating proceedings for the grant of probate and letters of administration or the appointment of an administrator, for such purposes as, in this Act it is provided that Probate Rules may be made, for the preservation, and copying and inspection of wills, grants of probate and administration of estates and appointments of administrators, for fees including fees payable to administrators appointed under subsection (1) of section 75 and forms, and generally for the better carrying out of the provisions of this Act.

### **PART III PROTECTION OF ESTATES PENDING GRANT AND EXECUTORS OF THEIR OWN WRONG (ss 10-17)**

## **10. Receiver pending grant**

Where any person dies leaving property within Tanzania, the court may, if it appears on the application of the Administrator-General or of any person claiming to be interested in such property, or having the custody or control thereof at the time of the death of the deceased, or being at such time an attorney of the deceased, that there is danger that such property may be wasted, appoint the Administrator-General or such other person as the court thinks fit, to be a receiver of such property pending a grant of probate or letters of administration.

## **11. Sale by order of court**

The court may, on application by a receiver appointed under section 10, or any person interested in the estate, order the sale of the whole or any part of such property, if it appears that such sale will be beneficial to the estate.

## **12. Application of rules relating to receivers**

A receiver appointed under section 10 shall be subject to all rules of court relating to receivers generally:

Provided that neither the Administrator-General nor the Public Trustee shall be required to furnish security.

## **13. Penalty for contempt**

Any person who, without lawful authority, removes or attempts to remove from Tanzania any portion of the property of which a receiver has been appointed under section 10, or destroys, conceals, or refuses to yield up the same to the receiver, commits an offence and on conviction is liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

## **14. No suit against receiver**

No suit shall be brought against a receiver appointed under section 10 in relation to anything done or intended to be done by him in respect of the property of the deceased in exercise or intended exercise of the powers vested in him; but any person aggrieved by anything so done, or intended to be done, may apply to the court for directions in the matter, and the court may make such order as is just.

## **15. Receiver's lien**

A receiver appointed under section 10 shall have a lien upon the property entrusted to him for all costs and expenses properly incurred by him in the exercise of his duties as such receiver.

## **16. Executors of their own wrong**

A person who intermeddles with the estate of the deceased or does any other act which belongs to the office of executor, while there is no rightful executor or administrator in existence, thereby makes himself an executor of his own wrong:

Provided that–

- (a) intermeddling with the goods of the deceased for the purpose of preserving them or providing for his funeral or for the immediate necessities of his family or property; or
- (b) dealing in the ordinary course of business with goods of the deceased received from another; or
- (c) action by an administrative officer under section 14 of the Administrator-General (Powers and Functions) Act \*(5);
- (d) action by a receiver appointed under section 10,

does not make an executor of his own wrong.

#### **17. Liability of executor of his own wrong**

Where a person has so acted as to become an executor of his own wrong, he is answerable to the rightful executor or administrator, or to any legatee or creditor of the deceased, to the extent of the assets which have come into his hands, after deducting payments made to the rightful executor or administrator, and payments made in due course of administration.

### **PART IV RENUNCIATION BY EXECUTORS (ss 18-20)**

#### **18. Express renunciation of right to probate**

A person who is entitled to probate may expressly renounce his right to such grant orally on the hearing of any application or in writing signed by the person so renouncing and attested by any person before whom an affidavit may be sworn.

#### **19. Citation and constructive renunciation**

(1) Any person having or claiming any interest in the estate of a deceased person or any creditor of a deceased person may cause to be issued a citation directed to the executor or executors appointed by the deceased's will calling upon him or them to accept or renounce his or their executorship.

(2) Any person so cited may enter an appearance to the citation, but if he makes a default in appearance thereto, he shall be deemed to have renounced his executorship; and if, having appeared, he does not proceed to apply for probate, the person so citing may apply for an order that the person cited, unless he applies for and obtains probate within a time limited by the order, shall be deemed to have renounced his right thereto, and an order may be made

accordingly.

## **20. Effect of renunciation**

The renunciation, whether made expressly or constructively, shall preclude the person so renouncing from applying thereafter for probate:

Provided that the court may at any time allow the person so renouncing to withdraw his renunciation for the purpose of taking a grant, if it is shown that such withdrawal is for the benefit of the estate or persons interested therein.

## **PART V**

### **GRANT OF PROBATE AND LETTERS OF ADMINISTRATION BY THE COURT (ss 21-47)**

#### **A.- General Provisions (ss 21-23)**

## **21. Trust corporations**

(1) A trust corporation—

- (a) may be granted probate of the will of any person, if it is named as executor therein; or
- (b) may be granted letters of administration.

(2) A trust corporation may be granted probate or letters of administration either solely or jointly with another person.

(3) Probate or letters of administration shall not be granted to a syndicate or nominee on behalf of a trust corporation.

## **22. Number of executors and administrators**

(1) Probate or letters of administration shall not be granted to more than four persons in respect of the same property, and letters of administration shall, if there is a minority or if a life interest arises under the will or on an intestacy, be granted either to a trust corporation, solely or jointly with an individual or to not less than two individuals:

Provided that in granting letters of administration the court may act on such *prima facie* evidence, furnished by the applicant or any other person, as to whether or not there is a minority or life interest, as may be prescribed by Probate Rules.

(2) If there is only one personal representative (not being a trust corporation) then, during the minority of a beneficiary or the subsistence of a life interest and until the estate is fully administered, the court may, on the application of any person interested or of the guardian, committee or receiver of any such person appoint one or more personal representative in addition to the existing personal representatives, in accordance with Probate Rules.

### **23. Minors and persons of unsound mind**

Probate or letters of administration shall not be granted to any person who is a minor or of unsound mind.

#### ***B.- Probate (ss 24-28)***

### **24. Grant of probate**

(1) Probate may be granted only to an executor appointed by the will.

(2) The appointment may be express or by necessary implication.

(3) Where several executors are appointed, probate may be granted to them all simultaneously or at different times.

(4) If an executor is appointed by the will for a limited purpose only, probate shall not be granted to him except limited to that purpose.

### **25. Probate of copy, draft or contents of written wills and of the contents of oral wills**

(1) Where a written will has been lost or misplaced after the death of the testator, or has been destroyed by wrong or accident and not by any act of the testator—

(a) if a copy or draft of the will has been preserved, probate may be granted of such copy or draft, until the original or a wills properly authenticated copy of it is admitted to probate;

(b) if no such copy or draft has been preserved, probate may be granted of the contents of the will, if they can be established by evidence, limited as aforesaid.

(2) Where a written will is in the possession of a person outside Tanzania, who has refused or neglected to deliver it up, but a copy has been transmitted to the executor, and it is necessary for the interests of the estate that probate should be granted without waiting for the arrival of the original, probate may be granted of the copy so transmitted, limited as aforesaid.

(3) Probate may be granted of the contents of an oral will, if they can be established by evidence.

### **26. Codicil propounded after probate**

Where, after probate has been granted, a codicil of the will is propounded, probate may be granted of the codicil:

Provided that where the codicil expressly or impliedly revokes the appointment of any executors to whom probate has been granted, such probate shall be revoked, and a new probate granted of the will and codicil together.

## **27. Authenticated copy of will proved abroad**

Where a will has been proved and deposited in a court of competent jurisdiction situated outside Tanzania, and a properly authenticated copy of the will is produced, probate may be granted of such copy or letters of administration granted with a copy of such copy attached.

## **28. Effect of probate**

Probate of a will when granted establishes the will and evidences the title of the executor from the death of the testator.

### ***C.- Letters of Administration with the Will Annexed (ss 29-32)***

## **29. Failure of executors**

Where—

- (a) no executor is appointed by a will; or
- (b) the executor or all the executors appointed by a will have renounced, or are persons to whom probate may not be granted; or
- (c) no executor survives the testator; or
- (d) all the executors die before obtaining probate or before having administered all the estate of the deceased; or
- (e) the executors appointed by any will do not appear and take out probate,

letters of administration with the will annexed may be granted of the whole estate or so much thereof as may be unadministered to such person or persons as the court deems the fittest to administer the estate:

Provided that a prior right to such grant shall belong to the following persons in the following order—

- (i) a universal or residuary legatee;
- (ii) a personal representative of a deceased universal or residuary legatee;
- (iii) such person or persons, being beneficiaries under the will, as would have been entitled to a grant of letters of administration if the deceased had died intestate;
- (iv) a legatee having a beneficial interest;
- (v) a creditor of the deceased:

And provided further, that a court shall not grant letters of administration with the will

annexed in respect of a will by which an executor is appointed, if the executor–

- (i) is living and his whereabouts are known; and
- (ii) is a person to whom probate may be granted; and
- (iii) has not renounced his office,

unless and until a citation has been issued calling upon the executor to accept or renounce his office and the executor has renounced or has been deemed to have renounced his office in accordance with the provisions of sections 18 and 19.

### **30. Attorney of absent executor**

Where any executor is absent from Tanzania, and there is no other executor within Tanzania willing to act, letters of administration with the will annexed may be granted to a lawfully constituted attorney, ordinarily resident within Tanzania, of the absent executor, limited until the absent executor obtains probate for himself, and in the meantime to any purpose to which the attorney's authority is limited.

### **31. Attorney of person entitled to letters of administration**

Where any person, to whom letters of administration might be granted under section 29, is absent from Tanzania, letters of administration with the will annexed may be granted to his lawfully constituted attorney ordinarily resident in Tanzania, limited in the manner provided in section 30.

### **32. Codicil propounded after letters of administration granted**

The provisions of section 26 shall apply in the case of a grant of letters of administration with the will annexed in like manner as they apply in the case of a grant of probate.

### ***D.- Letters of Administration on Intestacy (ss 33-34)***

### **33. Letters of administration on intestacy**

(1) Where the deceased has died intestate, letters of administration of his estate may be granted to any person who, according to the rules for the distribution of the estate of an intestate applicable in the case of such deceased, would be entitled to the whole or any part of such deceased's estate.

(2) Where more than one person applies for letters of administration, it shall be in the discretion of the court to make a grant to any one or more of them, and in the exercise of its discretion the court shall take into account greater and immediate interests in the deceased's estate in priority to lesser or more remote interests.

(3) Where no such person applies, letters of administration may be granted to a creditor of

the deceased.

(4) Where it appears to the court to be necessary or convenient to appoint some person to administer the estate or any part thereof other than the person who under ordinary circumstances would be entitled to a grant of administration, the court may, in its discretion, having regard to consanguinity, amount of interest, the safety of the estate and probability that it will be properly administered, appoint such person as it thinks fit to be administrator; and in every such case letters of administration may be limited or not as the court thinks fit.

#### **34. Attorney of person entitled to administration**

Where a person entitled to letters of administration in the case of an intestacy is absent from Tanzania and no person equally entitled is willing to act, letters of administration may be granted to a lawfully constituted attorney, ordinary resident in Tanzania, of such person, limited until such person obtains letters of administration himself and in the meantime to any purpose to which the attorney's authority is limited.

#### ***E.- Letters of Administration for Special Purposes (ss 35-41)***

#### **35. Until will produced**

When no will of the deceased is forthcoming, but there is reason to believe that there is a will in existence, letters of administration may be granted, limited until the will or an authenticated copy thereof is produced.

#### **36. During minority**

(1) Where a minor would, but for his minority, be entitled to probate or letters of administration, letters of administration with or without the will annexed may, subject to the provisions of subsection (1) of section 22, be granted to the guardian of the person and property of the minor, or to such person as the court thinks fit, limited until the minor comes of age and obtains a grant to himself.

(2) Where there are two or more minor executors or persons so entitled, any grant made under subsection (1) of this section shall be limited until one or other of them shall obtain a grant.

#### **37. During unsoundness of mind**

Where a person of unsound mind would, but for his unsoundness of mind, be entitled to probate or letters of administration, with or without the will annexed may be granted to the person to whom the care of his estate has been committed by a competent authority, or to such person as to the court seems fit, for the use and benefit of the person of unsound mind, limited until he becomes of sound mind and obtains a grant to himself.

#### **38. *Pendente lite***

Pending the determination of any proceedings touching the validity of the will of a deceased person or for obtaining or revoking any probate or any grant of letters of administration, the court may appoint an administrator of the estate of such deceased person, who shall have all the rights and powers of a general administrator other than the right of distributing such estate, and every such administrator shall be subject to the immediate control of the court and shall act under its direction.

### **39. Collection and preservation of property**

In any case in which it appears necessary for preserving the property of a deceased person, the court may grant, to any person whom it thinks fit, letters of administration limited to the collection and preservation of the property of the deceased, and giving discharges for debts due to his estate and to such other acts (other than the distribution of estates as the court shall think fit) subject to the directions of the court.

### **40. Suits**

(1) When it is necessary that the representative of a deceased person be made a party to a pending suit, and the executor or person entitled to letters of administration is unable or unwilling to act, letters of administration may be granted to the nominee of a party in such suit, limited for the purpose of representing the deceased in the said suit, or in any other suit which may be commenced in the same or in any other court between the parties, or any other parties, touching the matters at issue in the said suit, and until a final decree shall be made therein and carried into complete execution.

(2) If, at the expiration of twelve months from the date of any probate or letters of administration, the executor or administrator to whom the same has or have been granted is absent from Tanzania, the court may grant to any person whom it thinks fit letters of administration limited to the purpose of becoming and being made a party to a suit to be brought against the executor or administrator, and carrying the decree which may be made therein into effect.

### **41. Trust property**

Where a person dies, leaving property of which he was the sole or surviving trustee, or in which he had no beneficial interest on his own account, and leaves no general representative, or one who is unable or unwilling to act as such, letters of administration, limited to such property, may be granted to the beneficiary, or to some other person on his behalf.

### ***F.- Grants with Exception (ss 42-43)***

### **42. Grants with exception**

Whenever the nature of the case requires that an exception be made, probate or letters of administration with or without the will annexed shall be granted subject to such exception.

#### **43. Grants of excepted part**

Whenever a grant with exception of probate or letters of administration with or without the will annexed has been made, further grant may be made of the part of the estate so excepted.

#### ***G.- Effect of Grant of Letters of Administration (s 44)***

#### **44. Effect of grant of letters of administration**

Subject to all such limitation and exceptions contained therein and, where the grant is made for a special purpose, for that purpose only, letters of administration entitle the administrator to all rights belonging to the deceased as if the administration had been granted at the moment after his death:

Provided that letters of administration shall not render valid any intermediate acts of the administrator tending to the diminution or damage of an intestate's estate.

#### ***H.- Death of Executors and Administrators and Effluxion of Time of Limited Grants (ss 45-47)***

#### **45. Death of one of several personal representatives**

Where probate or letters of administration have been granted to more than one executor or administrator and one of them dies, the representation of the estate administered shall, in the absence of any direction in the will or grant accrue to the surviving executor or executors or administrator or administrators.

#### **46. Death of sole or surviving personal representative**

On the death of a sole or sole surviving executor who has proved the will or of a sole or sole surviving administrator, letters of administration may be granted in respect of that part of the estate not fully administered, and in granting such letters of administration the court shall apply the same provisions as apply to original grants:

Provided that where one or more executors have proved the will or letters of administration with the will annexed have been issued, the court may grant letters of administration under this section without citing an executor who has not proved the will.

#### **47. Effluxion of time of limited grants**

When a limited grant has expired by effluxion of time, or the happening of the limited event or contingency on which it was and there is still some part of the deceased's estate unadministered, letters of administration shall be granted to those persons to whom original grants might have been made.

### **PART VI REVOCATION AND ALTERATION OF GRANTS AND REMOVAL OF EXECUTORS AND**

## **ADMINISTRATORS (ss 48-51)**

### **48. Rectification of errors**

Errors in names and descriptions, or in setting forth the time and place of the deceased's death, or the purpose in a limited grant, may be rectified by the court, and the grant of probate or letters of administration may be altered and amended accordingly.

### **49. Revocation of grants and removal of executors**

(1) The grant of probate and letters of administration may be revoked or annulled for any of the following reasons—

- (a) that the proceedings to obtain the grant were defective in substance;
- (b) that the grant was obtained fraudulently by making a false suggestion, or by concealing from the court something material to the case;
- (c) that the grant was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant, though such allegation was made in ignorance or inadvertently;
- (d) that the grant has become useless and inoperative;
- (e) that the person to whom the grant was made has wilfully and without reasonable cause omitted to exhibit an inventory or account in accordance with the provisions of Part XI or has exhibited under that Part an inventory or account which is untrue in a material respect.

(2) Where it is satisfied that the due and proper administration of the estate and the interests of the persons beneficially entitled thereto so require, the High Court may suspend or remove an executor or administrator (other than the Administrator-General or the Public Trustee) and provide for the succession of another person to the office of such executor or administrator who may cease to hold office, and for the vesting in such person of any property belonging to the estate.

### **50. Payments by or to representatives whose grants are revoked**

(1) Where any probate is, or letters of administration, revoked, all payments *bona fide* made to any executor or administrator under such probate or administration before the revocation thereof shall, notwithstanding such revocation, be a legal discharge to the person making the same.

(2) The executor or administrator who shall have acted under any such revoked probate or administration may retain and reimburse himself out of the assets of the deceased in respect of any payments made by him which the person to whom probate or letters of administration shall

be afterwards granted might have lawfully made.

#### **51. Surrender of revoked grants**

(1) When a grant of probate or letters of administration is revoked under this Act, the person to whom the grant was made shall forthwith deliver up the probate or letters to the court which made the grant.

(2) If such person wilfully and without sufficient cause omits so to deliver up the probate or letters, he commits an offence and on conviction is liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment.

### **PART VII PRACTICE AND PROCEDURE IN GRANTING PROBATE AND LETTERS OF ADMINISTRATION (OTHER THAN OF SMALL ESTATES) (ss 52-72)**

#### **52. Procedure in the Court**

Except as hereinafter provided, and subject to any Probate Rules made in that behalf—

- (a) the proceedings of the court relating to the grant of probate and letters of administration shall be regulated, so far as the circumstances of the case admit, by the Civil Procedure Code \*(6), or any enactment replacing the same; and
- (b) in any case in which there is contention, the proceedings shall take, as nearly as may be the form of a suit in which the petitioner for the grant shall be plaintiff and any person who appears to oppose the proceedings shall be defendant.

#### **53. Application to High Court or District Delegate**

(1) Application for probate or letters of administration may be made to the High Court or to the District Delegate appointed for the area in which the deceased at the time of his death had his fixed place of abode.

(2) An application for probate or letters of administration to a District Delegate, if made and verified in the manner hereinafter provided, shall be conclusive for the purpose of authorising the grant of probate or letters of administration, and no such grant shall be impeached by reason that the deceased had no fixed place of abode within the area for which the Delegate is appointed unless by a proceeding to revoke the grant if obtained by a fraud upon the court.

#### **54. District Delegate to stay proceedings and report to High Court in certain cases**

(1) Where an application for probate or letters of administration is made to a District Delegate and either—

- (a) the application is made in respect of an estate the gross value of which exceeds fifteen

thousand shillings, and is opposed; or

- (b) it otherwise appears to the District Delegate that probate or letters of administration ought not to be granted by him,

the District Delegate shall stay the proceedings and report the matter to the High Court.

(2) Upon the receipt of any such report, the High Court may authorise the District Delegate to proceed in the matter of the application according to such instructions as to the High Court may seem necessary, or may forbid any further proceeding by the District Delegate in relation to the matter of such application, leaving the party applying for the grant in question to make application to the High Court.

(3) Where the High Court forbids any further proceeding by the District Delegate, the application, with any documents that may have been filed therewith, shall be returned to the person by whom the application was made, in order that the same may be presented to the High Court, unless the District Delegate thinks it necessary for the purposes of justice to impound the same, which he is hereby authorised to do; and in that case the same shall be sent by him to the High Court.

#### **55. Petition for probate and letters of administration annexed with the will**

(1) Application for probate or for letters of administration shall be made by a petition with the will, or, in the cases mentioned in section 25, a copy, draft or statement of the contents thereof annexed with the will stating—

- (a) the date and place of the will testator's death;
- (b) that the writing annexed is his last will and testament, or as the case may be;
- (c) the amount and nature of assets which are likely to come to the petitioner's hands;
- (d) the names and addresses, so far as they are known, of all the executors named in the will, and, where the application is for probate, that the petitioner is an executor so named; and
- (e) whether any proceedings for the grant of probate or letters of administration, or otherwise for the administration of the estate have been commenced before any other court of authority, whether inside Tanzania or outside it.

(2) In addition to these particulars, the petition shall further state, when the application is to a District Delegate, that the deceased at the time of his death had a fixed place of abode within the jurisdiction of such Delegate.

(3) In cases where the will, copy, draft or statement of the contents thereof, is written in any language other than English, a translation thereof, shall be annexed to the petition by a person

competent to translate the same, and such translation shall be verified by that person.

#### **56. Petition for letters of administration**

- (1) Application for letters of administration shall be made by petition, stating—
  - (a) the date and place of the deceased's death;
  - (b) the family or other relatives of the deceased, and their respective residences;
  - (c) the right in which the petitioner claims;
  - (d) the amount and nature of assets which are likely to come to the petitioner's hands;
  - (e) that diligent search has been made, and no valid will has been discovered; and
  - (f) whether any proceedings for the grant of letters of administration, or otherwise for the administration of the estate, have been commenced before any other court or authority, whether within Tanzania or outside it.

(2) In addition to these particulars the petition shall further state, when the application is to a District Delegate, that the deceased at the time of his death had a fixed place of abode within the jurisdiction of such Delegate.

#### **57. Verification of petition**

(1) The petition for probate or letters of administration shall in all cases be signed by the petitioner and his advocate, if any, and shall be verified by the petitioner.

(2) Where the application is for probate, or for letters of administration with the will annexed, the petition shall also be verified by at least one of the witnesses to the will:

Provided that the court may dispense with verification by a witness when it is satisfied that it cannot be obtained or that it cannot be obtained without undue delay or expense.

(3) If any petition or declaration which is hereby required to be verified contains any averment which the person making the verification knows or believes to be false or does not believe to be true, such person shall commit an offence and on conviction is liable to imprisonment for a term not exceeding seven years.

#### **58. Caveats against grant of probate or administration**

(1) Any person having or asserting an interest in the estate of the deceased may enter a caveat against the probate grant or letters of administration.

(2) A caveat may be entered with the High Court or, where the deceased at the time of his death had his fixed place of abode within an area for which a District Delegate has been appointed or application for probate or letters of administration has been made to a District

Delegate, with that District Delegate.

(3) Immediately on a caveat being entered with a District Delegate he shall send a copy thereof to the High Court.

(4) Where a caveat lodged with the High Court discloses that the deceased at the time of his death, has his fixed place of abode within an area for which a District Delegate is appointed, the Registrar shall send a copy thereof to that District Delegate.

(5) A caveat shall remain in force for four months after the date upon which it was lodged (unless sooner withdrawn) but, subject to the provisions of section 59, may be renewed.

#### **59. Proceedings subsequent to caveat**

(1) Save as provided in this section, no proceedings shall be taken on a petition for probate or letters of administration after a caveat against the grant or a copy thereof has been entered with a court to whom application has been made so long as the caveat remains in force.

(2) Where a caveat has been entered, any person who petitions for a grant of probate or letters of administration shall apply for the issue of a citation to the caveator calling upon him to state, within such time as may be specified therein, whether he supports the grant of probate or letters of administration to the petitioner and, if he does not, requiring him to enter an appearance to the petition.

(3) Where a caveator enters an appearance the court shall proceed with the petition in accordance with paragraph (b) of section 52.

(4) Where a caveator gives notice that he supports the petition, or where he fails to give notice to that effect and fails to enter an appearance to the petition within the time limited therefor, the caveat shall be deemed to have been withdrawn and no further caveat may be entered by or on behalf of the caveator.

#### **60. Order to produce testamentary papers**

(1) The court may order any person to produce and bring into court any paper or writing being or purporting to be testamentary, which may be shown to be in the possession or under the control of such person.

(2) If it be not shown that any such paper or writing is in the possession or under the control of such person, but there is reason to believe that he has other knowledge of any such paper or writing or of an oral will, the court may direct him to attend for the purpose of being examined respecting the same, and such person shall be bound to answer such questions as may be put to him by the court and, if so ordered, to bring in any such paper or writing in his possession or under his control.

#### **61. Court may examine petitioner, require further evidence and issue citations**

(1) In all cases it shall be lawful for the court, if it thinks fit—

- (a) to examine the petitioner in person upon oath;
- (b) to require further evidence of the death of the deceased and of the due execution of the will, or the right of the petitioner to the letters of administration, as the case may be; and
- (c) to issue citations calling upon all or any persons claiming to have any interest in the estate of the deceased to come and see the proceedings before the grant of probate or letters of administration.

(2) The citation shall be exhibited in some conspicuous part of the court-house, and otherwise published or made known in such manner as Probate Rules may require or as the court issuing the same may direct.

#### **62. Time before which grant not to be made**

No probate of a will shall be granted until after the expiration of seven clear days, and no letters of administration shall be granted until after the expiration of fourteen clear days, from the day of the testator's or intestate's death.

#### **63. Grant of probate and administration**

Whenever it appears to the court that probate of a will or letters of administration should be granted, such probate or administration shall be granted under the seal of the court.

#### **64. Refusal of letters of administration**

Notwithstanding anything in the preceding sections, it shall be in the discretion of the court to make an order refusing, for reasons to be recorded by it in writing, to grant any application for letters of administration made under this Act.

#### **65. Directions to executor or administrator**

The court may give to an executor or administrator any general or special directions in regard to the estate or in regard to the administration thereof.

#### **66. Oath**

Upon the grant of any probate or letters of administration the grantee shall take an oath faithfully to administer the estate and to account for the same:

Provided that this section shall not apply where the grantee is the Public Trustee or the Administrator-General.

#### **67. Administration bond**

Every person to whom letters of administration are granted and, if the court so directs, any person to whom probate is granted shall give a bond with one or more surety or sureties, engaging for the due collection, getting in, and administering the estate if the deceased:

Provided that the court may, for good reasons, dispense with a bond or sureties, or both, in any particular case.

#### **68. Assignment of administration bond**

The court may, on application made by petition and on being satisfied that the engagement of any such bond has not been kept, and upon such terms as to security, or providing that the money received be paid into court, or otherwise as the court may think fit, assign the same to some proper person, who shall thereupon be entitled to sue on the said bond in his own name as if the same had been originally given to him instead of to the court, and shall be entitled to recover thereon, as trustee for all persons interested, the full amount recoverable in respect of any breach thereof.

#### **69. Deposit of original wills**

All original wills of which probate and letters of administration with the will annexed have been granted by a court shall be deposited and preserved in the Registry of the High Court, and any wills so deposited and copies of all grants of probate and letters of administration shall, subject to the control of the High Court and the provisions of Probate Rules, be open to inspection.

#### **70. Conclusiveness of probate and letters of administration**

Probate and letters of administration shall—

- (a) have effect over all the property, movable and immovable, of the deceased throughout Tanzania; and
- (b) be conclusive as to the representative title against all debtors of the deceased, and all persons holding property which belongs to him; and
- (c) afford full indemnity to all debtors paying their debts, and all persons delivering up such property to the person to whom such probate or letters of administration shall have been granted.

#### **71. Grantee alone to act as representative**

After any grant of probate or letters of administration, no person other than the person to whom the same shall have been granted shall have power to sue or prosecute any suit, or otherwise act as representative of the deceased, until such probate or letters of administration shall have been revoked or annulled.

## **72. Appeals and revision**

(1) An appeal shall lie from an order granting or refusing probate or letters of administration made in contentious cases as if such order were a decree, and from any other order made in such cases if an appeal would lie therefrom in a suit according to the provisions of the Civil Procedure Code \*(7) or any enactment replacing the same.

(2) The provisions of Civil Procedure Code \*(8), shall apply, *mutatis mutandis*, in respect of proceedings before a District Delegate under this Act.

### **PART VIII (ss 73-91)**

#### **A. PRACTICE AND PROCEDURE IN APPOINTING, AND REVOKING THE APPOINTMENT OF, ADMINISTRATORS OF SMALL ESTATES (ss 73-87)**

## **73. Application of Part VIII**

(1) This Part shall apply when application is made to a district court presided over by a District Magistrate for the appointment of an administrator of a small estate, or when a direction is given, under Part IX, that this Part shall apply to any particular small estate.

(2) Except as may be provided in this Part, where this Part applies, the provisions of Parts IV, V, VI and VII (other than the provisions of sections 52(b), 60, 61, 62, 65, 70 and 71 shall not apply.

(3) Where this Part applies a district court may exercise the powers conferred on a court under those provisions of Part VII which apply.

## **74. Selection of administrator**

A district court may appoint as administrator one or more persons interested in the estate or in the due administration thereof and, in selecting an administrator, shall, unless for any reason it considers inexpedient so to do, have regard to any wishes which may have been expressed by the deceased.

## **75. Administrator-General's administration and appointment of officer of the court or impartial person**

(1) Where a district court is of the opinion that, having regard to the safety of the estate and the proper administration thereof, it is desirable that the estate should be administered by the Administrator-General or an officer of the district court or some reputable or impartial person able and willing to administer the estate it may adjourn an application for an appointment in order that it may be ascertained whether the Administrator-General will undertake the administration of the estate under section 52 of the Administrator-General (Powers and Functions) Act \*(9) or may appoint an officer of the district court or some such person aforesaid as administrator.

(2) An appointment of an administrator under this Part shall not be made if there has been a previous grant of probate of the will of the deceased or letters of administration of his estate, or if the Administrator-General has himself lawfully undertaken the Administration of the estate.

#### **76. Appointments to be under seal**

(1) An appointment of an administrator of a small estate shall be made under the seal of the district court.

(2) Every administrator shall sign an undertaking to administer the estate faithfully.

#### **77. Security for due administration**

A district court may, if it thinks fit, require an administrator of a small estate to give security for the due administration of the estate.

#### **78. Wills**

(1) A district court may allow a will to be proved either by oral evidence or by affidavit, and may accept as proof of a will information which appears to the court to be credible though it is not legal evidence.

(2) A copy of any written will or, in the case of an oral will, as statement of the contents thereof of the deceased shall be annexed to the appointment of the administrator.

(3) The original will shall be deposited and preserved in the Registry of the High Court, and the provisions of section 69 shall apply, *mutatis mutandis*, to such wills and to copies of appointments made under this Part.

#### **79. Appointment may be for whole estate or specified assets**

An appointment of an administrator under this Part may authorise the administration of either the whole estate or of the assets specified in the appointment, and shall be effective throughout Tanzania.

#### **80. Effect of appointment**

(1) The appointment of an administrator under this Part shall operate to vest the assets to which the appointment relates in the administrator as such, who shall, as respects those assets, have the same powers and be subject to the same liabilities as if appropriate letters of administration of the estate had been granted to him.

(2) An administrator appointed under this Part shall not, unless the district court which appointed him otherwise orders, be liable to file any inventory or accounts or to give security.

(3) Where an administrator is required to file an inventory or account, the provisions of section 103 shall apply as if the district court had granted letters of administration to the

administrator.

### **81. Unclaimed assets**

An administrator appointed under this Part who has in his hands any assets to which no person substantiates a lawful claim within one year from the death of the deceased shall forthwith inform the Administrator-General and, if so required by the Administrator-General, shall transfer those assets to the Administrator-General, and those assets shall then be subject to the provisions of sections 48 and 49 of the Administrator-General (Powers and Functions) Act \*(10).

### **82. Revocation of appointment**

The appointment of any administrator may be revoked by the district court which made the appointment for any reason which would justify the revocation of probate or letters of administration or the removal of an executor, and with like consequences.

### **83. Appeals to High Court**

(1) Subject to the Probate Rules, every appointment, direction, or decision of a district court under this Part shall be subject to appeal to the High Court.

(2) Probate Rules may restrict and regulate such right of appeal to any extent and in any manner.

### **84. District Courts to make returns to High Court**

Every district court shall make such returns to the High Court as may be prescribed by Probate Rules of all its proceedings under this Part.

### **85. Restriction on grant of probate or letters of administration of small estates**

(1) Where an administrator of a small estate has been appointed under this Part, no grant of probate of the will of the deceased or of letters of administration of his estate shall be made—

- (a) by a District Delegate, unless and until the appointment of an administrator is revoked by the district court which made the appointment; or
- (b) by the High Court unless it considers the grant is necessary in the interests of justice or for the protection of any beneficiary or creditor.

(2) A grant by the High Court of probate of the will of the deceased or of letters of administration of his estate shall operate to revoke any appointment of an administrator under this Part. Such revocation shall have the same effect as does the revocation of letters of administration.

(3) Except as provided in this section and in section 86, nothing in this Part shall affect any jurisdiction to grant or revoke probate of the will of the deceased or letters of administration of

his estate.

#### **86. Validity of appointments in respect of estates exceeding ten thousand shillings**

(1) No appointment of an administrator under this Part shall be invalid by reason only that it is afterwards discovered that the value of the gross estate of the deceased exceeded ten thousand shillings, but, where it becomes aware of such case, the district court shall report the matter to the High Court which may, if it thinks fit, grant probate or letters of administration.

(2) Where the High Court grants probate or letters of administration under this section, the provisions of subsection (2) of section 85 shall apply.

#### **87. Administration of estates under one thousand shillings**

(1) Where the gross value of an estate is less than one thousand shillings it shall not be necessary for an administrator to be appointed and such an estate may be administered by the surviving spouse of the deceased or, if there is no surviving spouse, the nearest relative of the deceased who is available to act, who shall for that purpose be deemed to have been appointed administrator of the estate:

Provided that where this Act is applied under the provisions of Part IX, the person who may administer such an estate shall be the nearest male relative of such deceased:

Provided further that the Minister may if he thinks fit, by order in the *Gazette*, increase the amount which may be administered under the provisions of this section.

(2) A district court presided over by a District magistrate may as respects any such estate within its jurisdiction, prohibit, restrict or regulate the exercise of the power conferred by this section and may substitute any other person for the surviving spouse or nearest relative, as the case may be, as the person who is to administer the estate where, in the opinion of the court, such substitution is necessary to conform with the practice or custom recognised as applicable to the case by the parties concerned or is desirable on other grounds.

### **B. ADMINISTRATION OF SMALL ESTATES (ss 88-91) \* (11)**

#### **88. Law applicable to member of specific tribe estates**

(1) The estate of every deceased person by virtue of which an order or direction under Part IX applies shall be administered according to the following provisions—

- (a) The estate of a member of a tribe shall be administered according to the law of that tribe unless the deceased at any time professed Islam religion and the court exercising jurisdiction over his estate is satisfied from the written or oral declarations of the deceased or his acts or manner of life that the deceased intended his estate to be administered, either wholly or in part, according to Islamic law, in which case the estate shall be administered, either wholly or in part as the case may be, according to that

law.

- (b) The estate of a Swahili shall be administered according to Islamic law unless the court exercising jurisdiction over his estate is satisfied from the written or oral declarations of the deceased or his acts or manner of life that he intended his estate to be administered, either wholly or in part, according to any customary law, in which case the estate shall be administered, either wholly or in part, as the case may be according to that customary law.

(2) If at any time any person to whose estate this Act applies by virtue of an order, or direction under Part IX thereof professed the Christian religion, and the court exercising jurisdiction over his estate is satisfied in the manner aforesaid that the deceased intended his estate to be administered, either wholly or in part, according to the law applicable in Tanzania to the administration of the estates of persons professing the Christian religion then his estate shall be administered, either wholly or in part, as the case may be, according to that law.

(3) The President may, if he thinks fit, from time to time, by order published in the *Gazette* declare what is, for the purpose of this Act, the law of any tribe, either generally or on any particular point.

(4) Notwithstanding any customary or Islamic law to the contrary—

- (a) every creditor shall have the same rights and remedies against a deceased estate (including the right to follow assets); and
- (b) a person shall not be deprived of a right to succession to property by reason of that person having renounced or having been excluded from the communion of any religion.

## **89. Wills of members of tribe**

(1) In the administration of the estate of a deceased person by virtue of an order or direction under Part IX of this Act any testamentary disposition purporting to dispose of any part of that estate shall be recognised as a valid will, if it complies with the following requirements—

- (a) where the estate is to be administered according to customary law if either—
  - (i) the disposition is recognised as valid by such customary law; or
  - (ii) the disposition is valid in accordance with the provisions of an order of the Minister, whereby it is declared any testamentary disposition, made by the deceased or by any member of a class of persons which includes the deceased and made in accordance with the provisions of the Indian Succession Act, 1865, relating to wills, and shall to the extent and subject to the limitations specified in the order be recognised as valid;
- (b) where the estate is to be administered according to the law applicable to the estates of

persons professing the Christian religion, if the disposition is made in accordance with the provisions of the Indian Succession Act, 1865, relating to wills; and

- (c) where the estate is to be administered according to Islamic law, if the disposition is recognised as valid by that law.

(2) A testamentary disposition to which this section applies shall not be acted on until it has been declared to be a valid will by the court exercising jurisdiction over the estate.

(3) The original of any testamentary disposition declared to be a valid will under the provisions of this section shall, if in writing, be preserved by the court; in such manner as may be prescribed by rules of court, and a copy of the will shall be given to the administrator of the estate.

(4) Where any oral testamentary disposition is declared to be a valid will under the provisions of this section, such disposition shall be reduced to writing by the court, and one copy thereof shall be preserved in the manner aforesaid, and another copy shall be given to the administrator of the estate.

#### **90. Omitted**

[Law applicable to estate of Somalis.]

#### **91. Omitted**

[References to Cap. 16 of the Revised Edition, 1928, in other Ordinances \*(12).]

### **PART IX ESTATES ADMINISTERED IN ACCORDANCE WITH CUSTOMARY LAW, CUSTOM AND ISLAMIC LAW (ss 92-93)**

#### **92. Cases in which Act applies to estates administered in accordance with customary law and custom**

(1) The provisions of this Act shall not apply to the administration of any estates for the administration of which a primary court has jurisdiction unless—

- (a) the Minister, by order published in the *Gazette*, directs that they shall apply to any specified class of such estates, or to such estates in any particular area, or to a specified class of such estates in a particular area; or
- (b) the High Court, either of its own motion, or upon the application of a district court, or where the estate is not a small estate, of an interested party, directs that they shall apply in any particular case; or
- (c) a district court presided over by a district magistrate of its own motion or upon the application of an interested party, directs that Part VIII shall apply to any particular

small estate,

and in any such case the provisions of this Act shall apply to the extent and in the manner in this Part specified:

Provided that a district court shall not give any direction under paragraph (c) of this subsection where an order for the administration of an estate has been made by, or proceedings in respect of inheritance have been commenced in primary court, unless the proceedings have been transferred to such district court under section 47 of the Magistrate's Courts Act \*(13).

(2) Where the High Court directs that this Act shall apply, it may itself exercise its original jurisdiction in respect of that estate, or order that a District Delegate shall exercise jurisdiction (and in either of such cases the provisions of this Act other than Part VIII, shall apply) or may where the estate is a small estate, direct that a district court presided over by a District magistrate shall exercise jurisdiction (in which case the provisions of this Act other than Parts IV, V and VI and sections 51(1), 53 to 59 (inclusive), 63, 64, 66 to 69 (inclusive) and 72, shall apply).

(3) [Repealed by Act No. 55 of 1963: R.L. Cap. 537.]

### **93. Effect of directions of High Court on orders made by primary courts**

(1) Where an order for the administration of an estate has been made by, or proceedings in respect of inheritance have been commenced in a primary court, the High Court shall not give any directions under paragraph (b) of subsection (1) of section 88 unless it considers that it is necessary in the interests of justice or for the protection of a beneficiary or creditor that the estate should be administered under this Act.

(2) Where the High Court gives any directions in any such circumstances as aforesaid, it shall forthwith communicate them to the primary court by which the order for administration was made or in which the proceedings have been commenced, as the case may be, and the primary court shall revoke the order for administration, or stay the proceedings until a grant of probate or letters of administration has been made, or an administrator has been appointed under this Act.

(3) Where an order for administration has been revoked by a primary court under this section, all payments *bona fide* made to a person lawfully acting under any such order shall, notwithstanding the revocation thereof, be a legal discharge to the person making the same, and a person lawfully acting under such order shall be entitled to exercise such powers of retention and re-imburement as if he were an administrator whose letters of administration are revoked under Part VI.

## **PART X RE-SEALING OF PROBATES AND LETTERS OF ADMINISTRATION (ss 94-98)**

#### **94. Interpretation**

In this Part and in section 4–

"court of probate" means any court or authority, by whatever name designated, having jurisdiction in matters of probate;

"probate" and "letters of administration" include confirmation and any instrument having in any other part of the Commonwealth the same effect which under this Act is given to probate and letters of administration respectively.

#### **95. Sealing of probates and letters of administration granted outside Tanzania**

Where a court of probate in any part of the Commonwealth, has, either before or after the passing of this Act, granted probate or letters of administration in respect of the estate of a deceased person, the probate or letters so granted may, on being produced to, and a copy thereof deposited with the High Court, be sealed with the seal of that court, and thereupon shall be of the like force and effect, and have the same operation in Tanzania as if granted by that court.

#### **96. Conditions to be fulfilled before sealing**

The High Court shall, before sealing a probate or letters of administration under this Part, be satisfied in the case of letters of administration, that security has been given in a sum sufficient in amount to cover the property, if any, in Tanzania to which the letters of administration relate, and may, in any case, require such evidence as it thinks fit, as to the domicile of the deceased person.

#### **97. Security**

The High Court may also, if it thinks fit, on the application of any creditor, require, before sealing, that adequate security be given for the payment of debts due from the estate to creditor residing in Tanzania.

#### **98. Duplicates and copies**

For the purposes of this Act, a duplicate of any probate or letters of administration sealed with the seal of the court granting the same, or a copy thereof certified as correct by or under the authority of the court granting the same, shall have the same effect as the original.

### **PART XI**

#### **POWERS AND DUTIES OF EXECUTORS AND ADMINISTRATORS (ss 99-113)**

#### **99. Character and property of executor or administrator as such**

The executor or administrator, as the case may be, of a deceased person is his legal representative for all purposes, and all the property of the deceased person vests in him as

such:

Provided that nothing in this section contained shall operate so as to vest in an executor or administrator—

- (a) any property of a deceased person which would otherwise pass by survivorship to some other person; or
- (b) any property vested in a corporation sole as such.

#### **100. Powers in respect of causes of action and debts**

An executor or administrator has the same power to sue in respect of all causes of action that survive the deceased, and may exercise the same powers for the recovery of debts due to him at the time of his death, as the deceased had when living.

#### **101. Power to dispose of property, etc.**

An executor or administrator has, in respect of the property vested in him under section 99, power to dispose of movable property, as he thinks fit, and the powers of sale, mortgage, leasing of and otherwise in relation to immovable property conferred by written law upon trustees of a trust for sale.

#### **102. Expenditure on care and management**

An executor or administrator may, in addition to any other powers of expenditure lawfully exercisable by him, incur expenditure—

- (a) on such acts as may be necessary for the proper care and management of any property belonging to the estate; and
- (b) with the sanction of the court, or of a district court having jurisdiction in the case, on such religious, charitable and other objects, and on such improvements, as may be reasonable and proper in the case of such property.

#### **103. Executor or administrator not to derive benefit from office**

(1) Unless there is express provision to that effect in the will, no executor or administrator shall derive any pecuniary benefit from his office.

(2) If an executor or administrator purchases, either directly or indirectly, any part of the property of the deceased, the sale is voidable at the instance of any other person interested in the property sold or in the proceeds of sale.

(3) Nothing in this section shall apply to any fee prescribed by or under the law.

#### **104. Powers of several executors or administrators exercisable by one**

When there are or administrators, the powers of all may, in executors the absence of any direction to the contrary in the will or grant of letters of administration, be exercised by any one of them who has proved the will or taken out administration.

#### **105. Powers of special personal representatives**

For the avoidance of doubt it is hereby declared that–

- (a) the administrator of effects unadministered has, with respect to such effects, the same powers as the original executor or administrator; and
- (b) an administrator to whom a grant has been made under section 36 during minority has all the powers of an ordinary executor or administrator.

#### **106. Provision for funeral**

It is the duty of an executor to provide funds for the performance of the necessary funeral ceremonies of the deceased in a manner suitable to his condition, if he has left property sufficient for the purpose.

#### **107. Inventory and accounts**

(1) An executor or administrator shall, within six months from the grant of probate or letters of administration, or within such further time as the court which granted the probate or letters may from time to time appoint or require, exhibit in that court an inventory containing a full and true estimate of all the property in possession, and all the credits, and also all the debts owing by any person to which the executor or administrator is entitled in that character, and shall in like manner, within one year from the grant or within such further time as the court may from time to time appoint, exhibit an account of the estate, showing the assets which have come to his hands and in the manner in which they have been applied or disposed of.

(2) If the administration is not completed within one year from the grant of probate or letters of administration, the executor or administrator shall at intervals of not more than six months, or within such further time as the court which granted the probate or letters of administration may from time to time appoint or require, and on the completion of the administration, exhibit in the like manner an account showing the assets which have come into his hands and the manner in which they have been applied or disposed of since the last account was exhibited.

(3) If an executor or administrator, on being required by the court to exhibit an inventory or account under this section, omits to comply with the requisition within the time limited in the requisition for compliance therewith, he commits an offence and on conviction is liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding six months.

(4) If an executor or administrator exhibits an intentionally false inventory or account under this section he commits an offence and on conviction is liable to imprisonment for a term not exceeding seven years.

(5) Any beneficiary under a will, person entitled to a share under an intestacy or unsatisfied creditor shall be entitled to inspect the inventory and accounts of an executor or administrator.

(6) This section shall not apply to the Administrator-General unless the Court otherwise directs.

#### **108. General duties of administration**

(1) The executor or administrator shall, with reasonable diligence, collect the property of the deceased and the debts that were due to him, pay the debts of the deceased and the debts and costs of administration, and distribute the estate to the persons or for the purposes entitled to the same or to trustees for such persons or for the purposes entitled to the same or to trustees for such persons or purposes or in accordance with the provisions of this Act, as the case may be.

(2) Subject to the provisions of this Act, an executor or administrator is not bound to distribute the estate of the deceased before the expiration of one year from the death of the deceased.

#### **109. Order of payment of debts**

(1) There shall be paid, in the following order, before all other debts—

- (a) first, funeral expenses to a reasonable amount, according to the degree and condition of the deceased, and death bed charges, including fees for medical attendance and board and lodging for one month previous to his death;
- (b) secondly, the expenses of obtaining probate or letters of administration, including the costs incurred for or in respect of any judicial proceedings that may be necessary for administering the estate; and
- (c) thirdly, wages due for services rendered to the deceased of any workman, labourer or domestic servant within four months next preceding his death.

(2) After payment of the debts specified in subsection (1), then there shall be paid any other debts of the deceased according to their respective priorities.

(3) Subject to the foregoing provisions of this section, an executor or administrator shall pay all such debts as he knows of, equally and rateably, as far as the assets of the deceased extend.

#### **110. Debts to be paid before legacies**

(1) Debts of every description must be paid before any legacy.

(2) If the estate of the deceased is subject to any contingent liabilities, an executor or administrator is not bound to pay any legacy without a sufficient indemnity to meet the liabilities

whenever they may become due.

#### **111. Abatement of general legacies and equality of legacies**

(1) If the assets, after payment of debts, necessary expenses and specific legacies, are not sufficient to pay all the general legacies in full, the latter shall abate or be diminished in equal proportions.

(2) In the absence of any direction to the contrary in the will, the executor has no right to pay one legatee in preference to another, nor to retain any money on account of a legacy to himself or to any person for whom he is a trustee.

(3) For the purpose of abatement, a legacy for life, a sum appropriated by the will to produce an annuity; and the value of an annuity when no sum has been appropriate to produce it, shall be treated as general legacies.

#### **112. Abatement of specific legacies**

(1) Where there is a specific legacy, and the assets are sufficient for the payment of debts and necessary expenses, the thing specified must be delivered to the legatee without any abatement.

(2) If the assets are not sufficient to answer the debts and expenses and the specific legacies, an abatement shall be made from the specific legacies rateably in proportion to their respective amounts.

#### **113. Right to demonstrative legacy**

Where there is a demonstrative legacy, and the assets are sufficient for the payment of debts and necessary expenses, the legatee has a preferential claim for payment of his legacy out of the fund from which the legacy is directed to be paid until such fund is exhausted, and if, after the fund is exhausted, part of the legacy still remains unpaid, he is entitled to rank for the remainder against the general assets as for a legacy of the amount of such unpaid remainder.

### **PART XII LEGACIES AND ANNUITIES (ss 114-129)**

#### **114. Assent necessary to complete legatee's title**

(1) The assent of the executor is necessary to complete legatee's title to his legacy.

(2) The assent of an executor to a legacy may be conditional, and if the condition be one which he has a right to enforce, and it is not performed, there is no assent.

#### **115. Assent to specific legacy**

(1) The assent of the executor to a specific bequest shall be sufficient to divest his interest

as executor therein, and to transfer the subject of the bequest to the legatee, unless the nature or the circumstances of the property require that it shall be transferred in a particular way.

(2) The assent may be verbal, and it may be either express or implied from the conduct of the executor.

#### **116. Assent of executor to own legacy**

(1) When the executor is a legatee, his assent to his own legacy is necessary to complete his title to it, in the same way as it is required when the bequest is to another person, and his assent may in like manner be express or implied.

(2) Assent shall be implied if in his manner of administering the property the executor does any act which is referable to his character of legatee and is not referable to his character of executor.

#### **117. Effect of executor's assent**

The assent of the executor to a legacy gives effect to it from the death of the testator.

#### **118. Commencement of annuities when no time fixed by will**

Where an annuity is given by the will, and no time is fixed for its commencement, it shall commence from the testator's death, and the first payment shall be made at the expiration of a year next after that event:

Provided that an executor may make advances prior to the expiration of such year up to the amount which has accrued due at the date of any such advance.

#### **119. Payment of annuities when time fixed**

Where there is a direction that an annuity shall be paid quarterly or monthly, the first payment shall be due at the end of the first quarter or first month, as the case may be, after the testator's death, and shall, if the executor thinks fit, be paid when due; but the executor shall not be bound to pay it until the end of the year.

#### **120. General provisions as to annuities**

(1) An annuity shall, in the absence of any provisions to the contrary in the will, accrue from day to day, and, if the annuitant dies in the interval between times of payment, an apportioned share of the annuity shall be paid to his representative.

(2) Where there is a direction that the first payment of an annuity shall be made within one month or any other division of time from the death of the testator, or on a day certain, the successive payments are to be made on the anniversary of the earliest day on which the will authorises the first payment to be made.

### **121. Investment in securities authorised by Probate Rules**

(1) Where a legacy, not being a specific legacy, is given for life, the sum bequeathed shall at the end of a year from the testator's death be invested in such securities as Probate Rules may authorise or direct, and the proceeds thereof shall be paid to the legatee as the same shall accrue due.

(2) Where a general legacy is given to be paid at a future time, the executor shall invest a sum sufficient to meet it in such securities as Probate Rules may authorise or direct, and the intermediate interest shall form part of the residue of the testator's estate.

(3) Where an annuity is given and no fund is charged with its payment or appropriated by the will to answer it, a sum sufficient to produce the annuity shall be invested for that purpose in such securities as Probate Rules may authorise or direct.

### **122. Contingent bequests**

Where a bequest is contingent, the executor is not bound to invest the amount of the legacy, but may transfer the whole residue of the estate to the residuary legatee (if any) on his giving sufficient security for the payment of the legacy if it shall become due.

### **123. Directions of testator as to investment**

(1) Where the testator has bequeathed the residue of his estate to a person for life with a direction that it shall be invested in certain specified securities, so much of the estate as is not at the time of his death invested in securities of the specified kind shall be converted into money and invested in such securities.

(2) Such conversion and investment shall be made at such times and in such manner as the executor in his discretion thinks fit; and, until such conversion and investment shall be completed, the person who would be for the time being entitled to the income of the fund when so invested shall receive interest at the rate of four *per centum* per annum upon the market-value (to be computed as of the date of the testator's death) of such part of the fund as shall not yet have been so invested.

### **124. Minors entitled to immediate payment or possession**

(1) Where, by the terms of a bequest, the legatee is entitled to the immediate payment or possession of the money or thing bequeathed, but is a minor and there is no direction in the will to pay it to any person on his behalf, the executor or administrator shall, unless the same is paid or transferred to the Public Trustee in accordance with the provisions of the Public Trustee (Powers and Functions) Act \*(14), pay or deliver the same into the court by which the probate was, or letters of administration with the will annexed were, granted, to the account of the legatee.

(2) Such payment into the court shall be a sufficient discharge for the money so paid.

(3) Such money, when paid in to the court, shall be invested in the purchase of such securities as Probate Rules may authorise or direct, which, with the interest thereon, shall be transferred or paid to the person entitled thereto, or otherwise applied for his benefit, as the court may direct.

(4) Where the legatee is a ward of the High Court, payment shall be made to the High Court notwithstanding that the grant of probate or letters of administration was made by a District Delegate and notwithstanding the provisions of the Public Trustee's Act.

(5) Where the estate is administered by an administrator appointed under Part VIII of this Act and the legacy is not paid or transferred to the Public Trustee, the administrator shall pay or transfer the same in accordance with the provisions of Probate Rules.

#### **125. Produce of legacies**

(1) The legatee of a specific legacy is entitled to the clear produce thereof, if any, from the testator's death:

Provided that a specific bequest contingent in its terms does not comprise the produce of the legacy; between the death of the testator and the vesting of the legacy: the clear produce in such a case forms part of the residue of the testator's estate.

(2) The legatee under a general residuary bequest is entitled to the produce of the residuary fund from the testator's death:

Provided that a general residuary bequest contingent in its terms does not comprise the income which may accrue upon the fund bequeathed between the death of the testator and the vesting of the legacy; such income goes as undisposed of.

#### **126. Interest on general legacies**

(1) Where no time has been fixed for the payment of a general legacy, interest begins to run from the expiration of one year from the testator's death:

Provided that—

- (a) where the legacy is bequeathed in satisfaction of a debt, interest runs from the death of the testator;
- (b) where a sum is bequeathed to a minor with a direction to pay for his maintenance out of it, interest is payable from the death of the testator.

(2) Where a time has been fixed for the payment of a general legacy, interest begins to run from the time so fixed. The interest up to such time forms part of the residue of the testator's estate.

(3) The rate of interest shall be four *per centum* per annum.

### **127. Interest on annuities**

(1) No interest is payable on the arrears of an annuity within the first year from the death of the testator, although a period earlier than the expiration of that year may have been fixed by the will for making the first payment of the annuity.

(2) Where a sum of money is directed to be invested to produce an annuity, interest at four *per centum* per annum is payable on it from the death of the testator.

### **128. Residue to be paid to residuary legatee**

The surplus or residue of the deceased's property, after payment of debts and legacies, shall be paid to the residuary legatee when any has been appointed by the will.

### **129. Transfer of assets from Tanzania to executor or administrator in country of domicile**

Where a person not having his domicile in Tanzania has died leaving assets both in Tanzania and in the country in which he had his domicile at the time of his death, and there has been a grant of probate or letters of administration in Tanzania with respect to the assets there and a grant of administration in the country of domicile with respect to the assets in that country, the executor or administrator, as the case may be, in Tanzania, after having given such notices as are referred to in section 134 and after having discharged, at the expiration of the time therein named, such lawful claims as he knows of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of Tanzania who are entitled thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons.

## **PART XIII REFUNDING OF LEGACIES (ss 130-137)**

### **130. Refund of legacy paid under court order**

An executor who has paid a legacy under the order of a court is entitled to call upon the legatee to refund in the event of the assets proving insufficient to pay all the legacies.

### **131. No refund if paid voluntarily**

When an executor has voluntarily paid a legacy, he cannot call upon a legatee to refund in the event of the assets proving insufficient to pay all the legacies.

### **132. Refund when legacy becomes due on performance with further time allowed**

(1) When the time prescribed by the will for the performance of a condition has elapsed, without the condition having been performed, and the executor has thereupon, without fraud, distributed the of condition assets, in such case, if further time has, under subsection (2) of this section, been allowed for the performance accordingly, the legacy cannot be claimed from the

executor, but those to whom he has paid it are liable to refund the amount.

(2) Where the will requires an act to be performed by the legatee within a specified time, either as a condition to be fulfilled before the legacy is enjoyed or as a condition upon the non-fulfilment of which before the subject-matter of the bequest is to go over to another person, or the bequest is to cease to have effect, the act must be performed within the time specified, unless the performance of it be prevented by fraud, in which case such further time shall be allowed as is requisite to make up for the delay caused by such fraud.

### **133. When legatees compellable to refund in proportion**

When the executor has paid away the assets in legacies, and he is afterwards obliged to discharge a debt of which he had no previous notice, he is entitled to call upon each legatee to refund in proportion.

### **134. Distribution of assets**

(1) Where an executor or administrator has given such notices as may be prescribed by Probate Rules, for creditors and others to send in to him their claims against the estate of the deceased, he shall, at the expiration of the time therein named for sending in claims, be at liberty to distribute the assets, or any part thereof, in discharge of such lawful claims as he knows of, and shall not be liable for the assets so distributed to any person of whose claim he has not had notice at the time of such distribution.

(2) Nothing contained in this section shall prejudice the right of any creditor or claimant to follow the assets, or any part thereof, in the hands of the persons who may have received the same respectively.

### **135. When creditor may call upon legatee to refund**

A creditor who has not received payment of his debt may call upon a legatee who has received payment of his legacy to refund, whether the assets of the testator's estate were or were not sufficient at the time of his death to pay both debts and legacies, and whether the payment of the legacy by the executor was voluntary or not.

### **136. Legatee's rights to require other legatees to refund**

(1) If the assets were sufficient to satisfy all the legacies at the time of the testator's death a legatee who has not received payment of his legacy, or who has been compelled to refund, under section 135, cannot oblige one who has received payment in full or refund, whether the legacy was paid to him with or without suit, although the assets have subsequently become deficient by the wasting of the executor.

(2) If the assets were not sufficient to satisfy all the legacies at the time of the testator's death, a legatee who has not received payment of his legacy must, before he can call on a satisfied legatee to refund, first proceed against the executor if he is solvent; but, if the executor

is insolvent or not liable to pay, the unsatisfied legatee can oblige each satisfied legatee to refund in proportion.

(3) The refunding by one legatee to another shall not exceed the sum by which the satisfied legacy ought to have been reduced if the estate had been properly administered.

#### **137. Refunding to be without interest**

The refunding shall, in all cases, be without interest.

### **PART XIV DEVASTATION (ss 138-139)**

#### **138. Liability for misapplication**

When an executor or administrator misapplies the estate of the deceased, or subjects it to loss or damage, he is liable to make good the loss or damage so occasioned.

#### **139. Liability for neglect**

When an executor or administrator occasions a loss to the estate by neglecting to get in any part of the property of the deceased, he is liable to make good the amount.

### **PART XV ADMINISTRATION OF WAKF PROPERTY (ss 140-158)**

#### **140. Interpretation**

In this part, unless the context otherwise requires—

"Commissioner" means a member of the Wakf Commission appointed under section 142 of this Act;

"trustee" includes any person, whether alone or jointly with another, in control of any property the subject of a wakf or in receipt of any rents or profits thereof;

"wakf" means an endowment or dedication in accordance with Islamic law of any property within Tanzania for religious, charitable or benevolent purposes or for the maintenance and support of any member of the family of the person endowing or dedicating such property;

"Wakf Commission" means the Wakf Commission of Tanzania constituted under section 142 of this Act.

#### **141. Wakfs to be valid and effective**

Notwithstanding the provisions of the Law of Real Property and Conveyancing Act \*(15) and any law thereby applied to the Tanzania, the making by any person, after the date of the coming into operation of this Act, of a wakf which, but for the provisions of the said Act and

applied law, would be effective and valid, shall not be unlawful, ineffective or invalid and any provision of the said Act or applied law which would operate to render ineffective or invalid any of the terms or provisions of any wakf so made, shall have no effect.

#### **142. Constitution of Wakf Commission**

(1) There is hereby constituted a body to be known as the Wakf Commission of Tanzania.

(2) The Wakf Commission shall consist of not less than eight persons to be appointed by the President of whom not less than five shall be Muslim.

(3) The President shall appoint a Chairman and a Secretary from among the members of the Wakf Commission.

(4) Members of the Wakf Commission shall hold office during the pleasure of the President.

(5) No proceedings or act whatsoever of the Wakf Commission shall be invalidated in consequence only of there being any vacancy in the number of members at the time of such proceedings or act.

#### **143. Wakf Commission to be a body corporate with a common seal**

(1) The Wakf Commission shall be a body corporate having perpetual succession and a common seal with power to acquire, hold or alienate property whether movable, or immovable, and shall have all the powers, functions and duties conferred and imposed by this Act.

(2) The Wakf Commission may sue and be sued in its corporate name and may for all purposes be described by that name.

(3) The seal of the Wakf Commission, which shall be of such design as the President may approve, shall be authenticated by the signature of the Chairman, or a Commissioner other than the Secretary authorised to act in that behalf, and the Secretary, and such seal shall be officially and judicially noticed.

(4) All documents (other than those relating to dealings in land which shall be sealed with the seal of the Wakf Commission) made by, and all decisions of, the Wakf Commission may be signified under the hand of the Chairman, and a Commissioner authorised in that behalf, or the Secretary.

#### **144. Meetings and quorum**

(1) The Wakf Commission shall hold a meeting at least once every three months.

(2) The Chairman shall preside over all meetings of the Wakf Commission at which he is present and in his absence from any meeting the commissioners present shall elect a Commissioner to preside over the meeting.

(3) A quorum of the Wakf Commission shall be four of whom one shall be either the

Chairman or the Secretary.

#### **145. Register of wakf property and trustees**

(1) The Minister may from time to time by notice in the *Gazette* direct that this section shall apply to any area of Tanzania specified in the direction and thereupon this section shall apply as herein provided.

(2) Where a direction has been made, as provided in subsection (1) of this section, this section shall apply to the following wakfs (herein referred to as registrable wakfs), that is to say—

- (a) any wakf in respect of which the whole or any part of the property comprised therein consists of immovable property, the whole or any part of which is situated wholly or partly in an area to which this section has been applied; and
- (b) any wakf in respect of which any one of the trustees normally resides in any area to which this section has been applied.

(3) Whenever a wakf becomes a registrable wakf it shall continue as a registrable wakf notwithstanding any change in the nature of the property comprised therein, or the situation thereof, or any change of ordinary residence of any of the trustees thereof;

(4) The Wakf Commission shall keep, in such form and containing such particulars as may be prescribed, a register of all property the subject of a registrable wakf and of all trustees of such property.

(5) Every trustee of property the subject of a registrable wakf shall, within three months of the date on which it becomes a registrable wakf, whichever is the later, apply to the Wakf Commission to register the same, and such application shall be in such form and shall contain such particulars and be accompanied by such fee as may be prescribed.

(6) Every trustee of property the subject of a registrable wakf shall, within three months of the date on which it becomes a registrable wakf, or within three months from the date on which he becomes such a trustee, whichever is the later, apply to the Wakf Commission to be registered as such, and such application shall be in such form and shall contain such particulars and be accompanied by such fee as may be prescribed.

(7) Where a person has ceased to be a trustee of property the subject of a registrable wakf such person shall, within one month of the date on which he has so ceased to be trustee, notify the Wakf Commission of the fact that he has so ceased to be a trustee, and he shall be deemed to be a trustee until the Wakf Commission has been so notified:

Provided that—

- (a) where such person has ceased to be a trustee by reason of his death the notification required to be made under this subsection shall be made by the person who has

succeeded him as trustee;

- (b) where there is more than one trustee of the property the subject of a registrable wakf the notification required to be made under this subsection may be made by the remaining trustee or trustees.

(8) The Secretary to the Wakf Commission shall, by certificate issued under his hand notify every change of trustees of property the subject of a registrable wakf—

- (a) in the case of property relating to land registered under the provisions of the Land Registration Act \*(16), or of any Act amending or replacing the same to the Registrar of Titles;
- (b) in the case of property relating to land not so registered, to the Registrar of Documents,

and every such certificate shall specify the land to which it relates.

(9) All fees specified in the Fifth Schedule to this Act, which are for the registration or property, the subject of a registrable wakf and for the registration of trustees shall be credited by the Wakf Commission to a fund to be known as the General Administration Fund.

(10) Any trustee who, without reasonable cause the proof of which lies on him, fails to comply with the provisions of subsection (2) or (3) of this section commits an offence against this Act.

#### **146. Wakf Commission may hold an inquiry and take over administration of wakfs**

(1) In any case in which it appears to the Wakf Commission that—

- (a) there is no properly constituted trustee of a wakf; or
- (b) any trustee who has acted or is acting in an improper, unauthorised, or unlawful manner; or
- (c) a change of administration of a wakf would be beneficial to such wakf,

the Wakf Commission may, of their own motion, or on the motion of any person interested in such wakf, hold an inquiry. Notice of such an inquiry shall be given, in such manner as may be prescribed, to all persons having any interest in the wakf and such persons shall by such notice be invited to appear and give evidence before the Wakf Commission.

(2) If after holding such an inquiry the Wakf Commission finds that there is no properly constituted trustee of the wakf, or that any trustee has acted or is acting in an improper, unauthorised or unlawful manner, or that a change of administration would be beneficial to the wakf, the Wakf Commission may make an order either declaring that the property the subject of the wakf shall in future be administered by the Wakf Commission or appointing some other

person or persons to be a trustee or trustees and such order shall specify the property to which it relates.

(3) Upon the making of an order under the provisions of subsection (2) of this section—

- (a) declaring that the property the subject of the Wakf shall be administered by the Wakf Commission, such property shall, subject to any law relating to the registration of land for the time being in force, thereupon vest in the Wakf Commission;
- (b) appointing a new trustee or trustees of the wakf, the property the subject of such wakf shall, subject to any law relating to the registration of land for the time being in force, thereupon vest in such new trustee or trustees:

Provided that the provisions of this subsection shall not apply in any case where the order made by the Wakf Commission has been reversed on appeal under the provisions of subsection (5) of this section.

(4) The Secretary to the Wakf Commission shall send a copy certified under his hand of any order made under subsection (2) of this section to the Registrar of Titles where the order relates to any land registered under the provisions of the Land Registration Act \*(17) or any Act amending or replacing the same and to the Registrar of Documents where the order relates to any land not so registered.

(5) Any person aggrieved by an order of the Wakf Commission made under this section may appeal to an Appeals Tribunal, to be appointed by the President for that purpose, to have the matter reconsidered by the Appeals Tribunal, and the decision of the Appeals Tribunal thereon shall be final and conclusive.

(6) Any person appealing to the Appeal Tribunal under the provisions of subsection (5) of this section shall have the right to appear or to be represented by an advocate before the Appeals Tribunal on the hearing of such appeal.

#### **147. Trustees of wakfs may be called upon to produce evidence of proper administration of their trusts**

(1) The Wakf Commission may at any time call upon any trustee of wakf property to satisfy it that such property is being properly administered and may require such trustee to produce any documents or books, whether of account or otherwise, in his possession or control relating to such property.

(2) Any trustee who fails to comply with any requirement to produce any documents or books in his possession or control made by the Wakf Commission under subsection (1) of this section commits an offence against this Act.

#### **148. Certain contracts or agreements relating to wakf property must be sanctioned by Wakf Commission**

No contract or agreement of any description whatsoever purporting to sell or otherwise alienate any property the subject of a wakf or purporting to mortgage such property or purporting to lease the same for any period exceeding one year shall be valid unless the sanction in writing of the Wakf Commission has first been obtained.

#### **149. Titles to wakf property shall not be acquired by prescription or adverse possession after commencement of this part**

Notwithstanding anything to the contrary in any Act or law for the time being in force, no title to any property the subject of a wakf shall, after the commencement of this Part be acquired by any person by reason of such person having been in adverse possession thereof or by reason of any law of prescription.

#### **150. How wakf property to be administered**

(1) Subject to the provisions in subsection (2) of this section all property the subject of any wakf which is administered by the Wakf Commission shall be administered in accordance with the intentions of the maker of the wakf if such intentions are lawful according to Islamic law and are capable of being carried into effect, and whether such intentions are ascertainable by reference to tradition or by reference to any other evidence lawfully obtainable.

(2) In any case where in the opinion of the Wakf Commission the intentions of the maker of a wakf are unlawful or unascertainable or are incapable of being carried out or where any surplus revenue remains after fulfilling the intentions of the maker of the wakf, the Wakf Commission shall apply the property the subject of the wakf, or any surplus property or revenue therefrom, as the case may be, for such religious, benevolent or charitable purposes on behalf of Muslims as appear to the Wakf Commission to be proper:

Provided that it shall not be lawful for the Wakf Commissioners to apply any property, surplus property or revenue therefrom under the provisions of this subsection for any purpose connected with another wakf so long as there still exists any property the subject of such latter wakf.

#### **151. Wakf Commission may dispose of wakf property in certain circumstances**

If it appears to the Wakf Commission that in respect of any of the intentions of the maker cannot reasonably be carried into effect and that it is accordingly expedient that the property the subject of the wakf or any part thereof should be leased, exchanged or sold, the Wakf Commission may cause such property or part thereof to be leased, exchanged or sold and shall apply the proceeds of such lease, exchange or sale in the manner provided by subsection (2) of section 150 of this Act.

#### **152. Permission requisite to build mosques or to establish cemeteries**

(1) No person who is the dedicator of property as wakf or a trustee of such property shall build or cause to be built a mosque or shall establish or cause to be established a cemetery

unless, prior thereto, he shall first have obtained the consent in writing of the Wakf Commission in that behalf and have satisfied the Wakf Commission that the proposed mosque or cemetery is or is about to be so well and sufficiently endowed as to provide for its due maintenance and good order.

(2) Any person who fails to comply with the provisions of subsection (1) of this section commits an offence against this Act.

### **153. Fees**

(1) Where any property which is the subject of a wakf is administered by the Wakf Commission there shall be charged by the Wakf Commission in respect of its duties such fee as may be prescribed.

(2) The moneys derived from such fees shall be applied by the Wakf Commission towards the administrative costs of the Wakf Commission.

(3) If over any period of twelve months such fees exceed the administrative costs of the Wakf Commission over the same period the surplus may be paid into the Wakf Commission Charitable Fund by the Wakf Commission.

(4) The Wakf Commission Charitable Fund shall be used for such charitable purposes as the Wakf Commission may consider proper.

### **154. Accounts and audit**

The Wakf Commission shall keep proper accounts of all property and money which comes into their hands and such accounts shall be audited by an auditor approved by the President at such times as the Minister may direct.

### **155. Banking accounts**

The Wakf Commission shall open a banking account or banking accounts into which all moneys received by the Wakf Commission shall be paid and out of which all payments authorised by the Wakf Commission shall be made. Any such banking account shall be operated by the Chairman, or a Commissioner duly authorised in that behalf by the Wakf Commission, and the Secretary.

### **156. Rent Restriction Act not to apply to wakf properties**

The provisions of the Rent Restriction Act \*(18), or of any Act amending or replacing the same, shall not apply to any wakf properties which are administered by the Wakf Commission under the provisions of this Act.

### **157. Penalties**

Any person who commits an offence against this Act shall on conviction be liable to a fine

not exceeding two thousand shillings or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

#### **158. Regulations**

(1) The Minister may make regulations for all Regulations or any of the following purposes—

- (a) prescribing the procedure to be followed by the Wakf Commission in the exercise of its powers, duties and functions under the provisions of this Act, including the delegation of the said powers, duties and functions, or any of them, other than those under section 146, to any person or body of persons;
- (b) prescribing the time within which and the manner in which appeals to the Appeals Tribunal shall be made, the fees to be paid, and generally the procedure to be followed in any such appeal;
- (c) prescribing anything required to be prescribed under the provisions of this Act;
- (d) generally for the better carrying out of the provisions of this Act.

(2) Regulations made under this section may provide in respect of a breach of the provisions thereof a penalty not in excess of the penalties specified in section 157 of this Act.

### **PART XVI ISLAMIC ESTATES [BENEVOLENT PAYMENTS] (s 159)**

#### **159. Discretion of district officer to make payments**

In any case in which, according to the Islamic Law, the whole or any part of an estate is payable to the Treasury (Beit-el-Mal), a district officer may, in his discretion, order that the whole or a part of the amount so payable but not exceeding a sum of one thousand shillings be distributed, in such proportions as he may think fit, among the husband, wife or wives, or other dependants of the deceased:

Provided that where the estate is one to which this Act applies, a District Officer shall not make an order under this section without the prior consent of the court which has jurisdiction in the administration of such estate or, if the estate is administered by the Administrator-General, of the Administrator-General.

### **PART XVII MISCELLANEOUS PROVISIONS (ss 160-168)**

#### **160. Provisions applied to administrator with will annexed**

In Parts XII and XIII the provisions as to an executor shall apply also to an administrator with the will annexed.

### **161. Depository of the wills of living persons**

Subject to the provisions of Probate Rules, the wills of living persons may be deposited in the Registry of the High Court, and every such will so deposited shall be preserved in the Registry under the control and direction of the High Court.

### **162. Affidavits in the case of trust corporations**

Any officer authorised for the purpose by a trust corporation or a director or member of the governing body thereof may, on behalf of the corporation, take an oath, swear affidavits, give security or do any other act or thing which a court may require with a view to the grant to the corporation of probate or administration, and the acts of an officer so authorised, director or member, shall be binding on the corporation.

### **163. Validity of testamentary dispositions and rights to maintenance preserved**

Nothing herein contained shall—

- (a) validate any testamentary disposition which would otherwise have been invalid;
- (b) invalidate any such disposition which would otherwise have been valid; or
- (c) deprive any person of any right of maintenance to which he would otherwise have been entitled.

### **164. Amendment**

[Amends certain Ordinances.]

[s. 140]

### **165. Certain Acts disapplied**

(1) The Acts specified in the First Part of the Third Schedule are disapplied to Tanzania to the extent specified in the fourth column of that Schedule.

(2) [Repeals various Ordinances.]

### **166. Savings**

(1) The continuity of the law relating to the grant of probate and letters of administration, the appointment of administrators and the administration of estates shall not be affected by the repeal or disapplication of any of the enactments or any of the provisions specified in the Second and Third Schedules, and where any application has been made for any grant or appointment under any such enactments or provisions or the administration of any estate has been commenced thereunder, it shall continue under the provisions of this Act.

(2) All grants of probate and letters of administration made in Tanzania under the Indian

Succession Act, 1865, or the Indian Probate and Administration Act, 1881, every appointment of an administrator under the Administration (Small Estates) Ordinance \*(19), every sealing of probate or letters of administration under the Probates (Re-sealing) Ordinance \* (20) and all orders and directions given by a court of competent jurisdiction in Tanzania under any of the said enactments shall have effect as if they were made, appointed, sealed or given as the case may be, under the appropriate provisions of this Act, and in particular, but without prejudice to the generality of the foregoing, the appointment of an administrator of the estate of a deceased African under the Administration (Small Estates) Ordinance shall have effect notwithstanding that the value of the estate exceeds the value of a small estate.

(3) Notwithstanding the repeal or disapplication of any enactment or any of the provisions specified in the Second and Third Schedules—

- (a) the appointment of any District Delegate;
- (b) the Probates (Re-sealing) Rules \*(21);
- (c) the Administration (Small Estates) Rules \*(22);
- (d) any order made or direction given under section 17 of the Administration (Small Estates) Ordinance \*(23);
- (e) leave granted under section 2 of the Administration of Estates by Corporations Ordinance,

shall be deemed to have been made, issued or given, as the case may be, under the appropriate provision of this Act.

#### **167. Transitional provisions**

(1) Where securities are registered or inscribed in the name of a syndicate on behalf of a trust corporation or land or any charge is registered in the name of such a syndicate, such securities, land or charge shall be transferred by the syndicate to the corporation, or as the corporation directs:

Provided that no such transfer shall operate as a breach of covenant or condition against alienation or give rise to a forfeiture.

(2) Where an application is made to the High Court for the sealing of probate or letters of administration under Part X in respect of the estate of any person who died before the twentieth day of October, 1959, the High Court shall before sealing the same, be satisfied that estate duty has been paid or that security for the payment thereof has been given to the satisfaction of the Estate Duty Commissioners in respect of so much, if any, of the estate as is liable to estate duty in Tanzania:

Provided that this subsection shall not apply where the application is made by or on behalf of

the Administrator-General.

(3) Where a testator died before the date upon which this Act came into operation bequeathing legacies which, immediately prior to that date, bore interest under the provisions of exception to section 130 or the exception to section 312 of the Indian Succession Act, 1865, then, notwithstanding section 126 of this Act, those provisions of these Acts shall continue to apply to such legacies.

(4) Where a person, whose estate is being administered under or in accordance with the provisions of this Act, died before the date on which this Act came into operation, the provisions of paragraph (c) of subsection (1) of section 109 of this Act shall be read as if the words "three months" were substituted for the words "four months" therein.

(5) Where a person, whose estate is being administered under or in accordance with the provisions of this Act, died before the date on which this Act came into operation and any interest is payable under sections 123, 126 or 127 of this Act in respect of a period after that date, such interest shall be paid at the rate prescribed in this Act in respect of the period after that date.

#### **168. Saving of powers of Administrator-General and Public Trustee**

Subject to the provisions of subsection (4) of section 124 nothing in this Act shall be construed as derogating from the provisions of the Administrator-General (Powers and Functions) Act \*(24) or the Public Trustee (Powers and Functions) Act \*(25) or affect the rights, duties or privileges of the Administrator-General or the Public Trustee or an Assistant Administrator-General.

### **FIRST SCHEDULE STATES TO WHICH SECTION 7 APPLIES**

(Section 7(6))

The United States of America.

The Italian Republic.

The French Republic.

The United States of Mexico.

The Federal Republic of Germany.

The Kingdom of Norway.

The Kingdom of Greece.

The Kingdom of Sweden.

### **SECOND SCHEDULE**

[Omitted.]

### **THIRD SCHEDULE**

**ENACTMENTS DISAPPLIED**

(Section 165)

**PART I**

<i>Year</i>	<i>No.</i>	<i>Title</i>	<i>Extent of repeal of application</i>
1865	X	The Indian Succession Act	Parts XXIX to XL (inclusive) and section 333.
1881	V	The Indian Probate and Administration Act	The Whole Act.

**PART II**

[Omitted.]

**FOURTH SCHEDULE**

**FORM**

**APPOINTMENT OF AN ADMINISTRATOR OF A SMALL ESTATE**

THE PROBATE AND ADMINISTRATION ESTATES ACT (CAP. 352)

(Section 6)

In the Court of  
Administration of the estate of .....

On this ..... day of ..... 20..... ,  
was appointed administrator of the estate (or of the assets specified below) of the late  
who died on the ..... day of ..... 20.....,  
having undertaken well and faithfully to administer the estate as hereunder mentioned.  
(A copy of the Will of the deceased is annexed and the estate is to be administered  
accordingly.)

.....  
*(Signature and designation of  
officer holding the Court)*

I (or we) hereby solemnly and sincerely declare that I (or we) will well and faithfully administer the estate of the above-named deceased person, paying his just debts and distributing the residue of his estate according to law, and will keep true and fully detailed accounts of all and singular the estate and effects of the deceased and of my (or our) dealing with the property and will produce them to the said court whenever required.

Dated this ..... day of ....., 20.....

.....  
(Signature of administrator)

### **FIFTH SCHEDULE RATES OF ESTATE DUTY**

(Section 145)

Value of Property	Rate of Duty
(a) Not exceeding Shs. 2,000,000/=	-
(b) Exceeding Shs. 2,000,000/= but not exceeding Shs. 2,100,000/=	Shs. 11,970/= plus 9% of the amount in excess of 2,000,000
(c) Exceeding Shs. 2,100,000/= but not exceeding Shs. 2,300,000/=	Shs. 11,970/= plus 18% of the amount in excess of Shs. 2,100,000/=
(d) Exceeding Shs. 2,300,000/= but not exceeding Shs. 2,700,000/=	Shs. 47,975/= plus 27% of the amount in excess of Shs. 2,300,000/=
(e) Exceeding Shs. 2,700,000/= but not exceeding Shs. 3,100,000/=	Shs. 155,970/= plus 36% of the amount in excess of Shs. 2,700,000/=
(f) Exceeding Shs. 3,100,000/= but not exceeding Shs. 3,500,000/=	Shs. 299,970/= plus 54% of the amount in excess of Shs. 3,100,000/=

### **CHAPTER 352 THE PROBATE AND ADMINISTRATION OF ESTATES ACT**

[SUBSIDIARY LEGISLATION]

### **INDEX TO SUBSIDIARY LEGISLATION**

#### **ORDERS**

The Estate Duty (Exchange of Information) (Kenya) Declaration Order

## **RULES**

The Probate Rules

## **ORDERS**

### **THE ESTATE DUTY (EXCHANGE OF INFORMATION) (KENYA) DECLARATION ORDER**

G.N. No. 4 of 1965

1. This Order may be cited as the Estate Duty (Exchange of Information) (Kenya) Declaration Order.

2. Arrangements have been made whereby the Estate Duty Commissioner shall, if so required, give such information as may be available to him and relevant to the assessment of the duty payable in respect of the estate of a deceased person to the Estate Duty Commissioner of Kenya provided that no information shall be given which would disclose any trade secret or trade process.

## **RULES**

### **THE PROBATE RULES**

(Section 9)

G.Ns. Nos.  
10 of 1963  
107 of 1963  
369 of 1963

## **PART I**

### **PRELIMINARY PROVISIONS (rules 1-3)**

#### **1. Citation**

These Rules may be cited as the Probate Rules.

#### **2. Interpretation**

In these Rules, unless the context otherwise requires—

**"Act"** means the Probate and Administration of Estates Act \*(26);

**"certified copy"** means a copy examined against the original, marked as certified by the Registrar, Deputy Registrar, District Registrar or District Delegate and sealed with the seal of

the Court;

**"Minister"** means the Minister responsible for legal matters;

**"petitioner"** means the person applying for grant of probate or letters of administration;

**"prescribed fees"** means the fees prescribed in the Second Schedule to these Rules;

**"Registrar"** means the Registrar of the High Court and includes a Deputy Registrar and a District Registrar;

**"sealed"** means sealed with the seal of the Court.

### **3. Jurisdiction of District Delegates and Magistrates**

Where a District Delegate or a magistrate exercises jurisdiction under the Act then, subject to the limitations imposed by the Act and these Rules, all acts and things directed or allowed to be produced to, lodged or filed with, and all communications directed or allowed to be addressed to or signed and sealed by the court or a Judge or the Registrar under these Rules shall be done by, produced to, lodged or filed with, signed or sealed by and addressed to such District Delegate or magistrate.

## **PART II GENERAL PROVISIONS (rules 4-23)**

### **4. Use of forms in First Schedule**

The forms in the First Schedule to these Rules, where applicable, and where they are not applicable, forms of a like character, with such variations as circumstances may require, shall be used. When such forms are applicable any costs occasioned by the use of more prolix forms shall be borne by or disallowed to the party using the same, unless the court shall otherwise direct.

### ***Proceedings (rules 5-8)***

### **5. How entitled**

(1) Every proceeding in court under the Act shall be dated and be entitled "Probate and Administration" with the name of the court and the matter to which it relates. Numbers and dates may be denoted by figures as prescribed in Form 1 set out in the First Schedule.

(2) The first proceeding in every matter shall have a distinctive number assigned to it by the Registrar, and all subsequent proceedings in the same matter shall bear the same number.

### **6. Written proceedings**

All proceedings in court shall be written or printed, or partly written and partly printed, on paper of foolscap size; but no objection shall be allowed to any document on account of its

being written or printed on paper of other size.

## **7. Copies**

(1) Where the Registrar is satisfied that in any particular case the original will or other document lodged with a petition for grant is not, by reason of its physical condition, satisfactory for purposes of record, he may require a photographic copy or an engrossment to be produced in addition to the original document.

(2) A copy produced under paragraph (1) of this rule shall reproduce the punctuation, spacing and division into paragraphs of the original document.

## **8. Translation in English**

Where any document required under these Rules to be filed with an application or otherwise produced to the court is in any language other than English there shall be attached to such document a translation thereof in English made by a person competent to translate the same and verified by such person by affidavit in the form prescribed in Form 2 the First Schedule.

### ***Notices, Process and Orders (rules 9-12)***

## **9. Notices to be in writing**

All notices required by the Act or these Rules shall be in writing unless the Act or these Rules otherwise provide or the court shall in any particular case otherwise order.

## **10. Process to be sealed**

All summons, notices, citations, orders, warrants and other process issued by the court shall be sealed.

## **11. Copy of order to be served on petitioner**

Where under the Act or these Rules the court makes an order requiring a petitioner to file in or produce to the court any affidavit or other document then, unless such order was made by the court in the presence of the petitioner, a certified copy of the order shall be served upon him.

## **12. Advertisement in Gazette**

(1) Whenever the *Gazette* contains any advertisement relating to any matter under the Act the Registrar shall file with the proceedings in the matter a memorandum in the Form 3 set out in the First Schedule referring to and giving the date of such advertisement.

(2) The memorandum by the Registrar shall be *prima facie* evidence that the advertisement was duly inserted in the issue of the *Gazette* mentioned in it.

## **Service (rule 13)**

### **13. Method**

Service of any petition, notice of application, affidavit, caveat, citation, appearance or order of the court required by these Rules or by the court to be served on any party shall be by personal service:

Provided that the court may in any case grant leave for substituted service in such manner as it may direct.

## **Chamber Applications (rules 14-19)**

### **14. Applications to be *ex parte***

(1) Every application required to be made under these Rules by chamber summons shall, unless otherwise provided, be made *ex parte*:

Provided that, where any party other than the applicant is affected by the application, the court may adjourn the hearing of the application and order that a notice of the application and a copy of the affidavit filed in support thereof be served upon such party.

(2) A chamber summons shall be in the form prescribed in Form 4 set out in the First Schedule.

(3) The notice referred to in the proviso to paragraph (1) shall be in the form prescribed in Form 5 set out in the First Schedule.

### **15. Length of notice**

Where under these Rules or by an order of the court a notice of an application or a copy of an application and copies of any affidavits supporting it are to be served on any party, then, unless the court otherwise directs, such notice and such copies shall be served on such party not less than eight days before the date fixed for the hearing of the application and such party shall have the right to file a counter-affidavit and to appear and be heard at the hearing of the application.

### **16. Counter-affidavit**

Where a respondent intends to use affidavits in opposition to an application, he shall deliver copies of such affidavits to the applicant not less than two days before the day appointed for the hearing.

### **17. Hearing**

Every chamber summons shall, unless the court otherwise directs, be heard by a Judge in chambers.

## **18. Filing affidavits**

Every affidavit to be used in supporting or opposing any application shall, unless the Judge otherwise directs, be filed with the Registrar not later than the day before the day appointed for hearing.

## **19. Costs**

On any application filed under these Rules the court may make such order or orders as to costs as it deems fit.

### ***Records and Registers (rules 20-21)***

## **20. Record of the court register of wills**

(1) All proceedings of the court shall remain on record in the court, and so as to form a complete record of each matter, and they shall not be removed for any purpose except for use by an officer of the court, or by special direction of a Judge:

Provided that the original will shall be removed from the record by the Registrar immediately after the grant and shall be preserved in a safe provided for the purpose.

(2) Where the original will is removed from the record under paragraph (1) of this rule, a certified copy of the will shall be placed on the record.

(3) Wills deposited in a safe shall be numbered consecutively in each court in which they are so deposited and a register of such wills shall be maintained.

## **21. Register of grants**

Every court having power under the Act to issue grant of probate or letters of administration either general, special or limited, or to appoint an administrator, shall keep a register in which shall be entered—

- (a) the serial number of the proceedings;
- (b) the name of the deceased;
- (c) the date of the deceased's death;
- (d) the gross value of the estate;
- (e) the date of the grant or appointment of the administrator;
- (f) the name of the executor or administrator to whom the grant has been made;
- (g) whether inventory filed;

- (h) whether account filed;
- (i) the date when administration completed;
- (j) whether any unclaimed assets and how dealt with;
- (k) whether caveat filed and by whom; and
- (l) if the proceedings became contentious, the number of the suit and the result of the same.

### **Copies and Search (rules 22-23)**

#### **22. Office copies**

(1) Office copies of petitions, wills, codicils, grants, affidavits, citations, orders or other proceedings shall be supplied by the Registrar to any person applying for the same and paying the prescribed fees.

(2) The office copies shall, except as to figures, be fairly written at length and be sealed and delivered without any unnecessary delay.

#### **23. Search**

(1) Search of the proceedings under the Act or any register maintained under these Rules shall be granted to any person applying for the same and paying the prescribed fee.

(2) Search shall be granted only between the hours 8.30 a.m. to 11.30 a.m. on weekdays.

### **PART III PROTECTION OF ESTATES PENDING GRANT (rules 24-25)**

#### **24. Appointment of receiver**

(1) An application for appointment of a receiver under section 10 of the Act shall be made by chamber summons supported by an affidavit or affidavits showing—

- (a) the date of the death of the deceased;
- (b) the domicile of the deceased;
- (c) whether the deceased died testate or intestate;
- (d) whether an application for grant of probate or letters of administration has been made to any court and if so by whom;
- (e) the names and addresses of person entitled to inherit the estate;

- (f) the estimated gross value of the estate;
- (g) the description and value of the property in respect of which the application is made;
- (h) the reasons for making the application; and
- (i) except where the proposed receiver is the Public Trustee or the Administrator-General, that the person proposed to be appointed as receiver is a fit and proper person to be so appointed.

(2) An affidavit made under this rule shall be in the form prescribed in Form 6 set out in the First Schedule.

(3) An order appointing a receiver shall be in the form prescribed in Form 7 set out in the First Schedule.

#### **25. Sale by receiver**

(1) An application by a receiver under section 11 of the Act for an order of sale of any property shall be by chamber summons supported by an affidavit setting out the reasons for making such application.

(2) An order of sale shall be in the form prescribed in Form 8 set out in the First Schedule.

### **PART IV RENUNCIATION BY EXECUTORS (rules 26-27)**

#### **26. Renunciation**

Where an executor renounces his right to probate in writing such renunciation shall be in the form prescribed in Form 9 of the First Schedule.

#### **27. Citation to accept or renounce executorship**

(1) An application for a citation directed to the executor or executors renounce appointed by a will calling upon him or them to accept or his or their executorship shall be made by chamber summons supported by an affidavit in the form prescribed in Form 10 set out in the First Schedule, setting out the grounds for such application.

(2) A citation under paragraph 1 shall be in the form prescribed in Form 11 set out in the First Schedule and shall be served upon the persons named in the citation.

(3) The court issuing the citation shall fix the period within which the persons cited may enter an appearance.

(4) An appearance shall be in the form prescribed in Form 12 set out in the First Schedule and a copy thereof shall be served on the persons who applied for the citation.

(5) Where a person cited makes default in appearance within the time limited for such appearance the Registrar shall endorse on the court record a certificate to that effect.

(6) Where a person cited has entered an appearance but has failed to apply for probate within the period of thirty days from the date of his appearance, the citor may apply to the court by chamber summons supported by an affidavit for an order fixing the time within which the person cited shall apply for grant of probate and Such order shall be in the form prescribed in Form 13 set out in the First Schedule.

(7) A copy of the chamber summons under paragraph (6) and of the affidavit in support thereof shall be served upon the person cited.

(8) Where the court makes an order limiting the time within which a person cited shall apply for grant of probate, and such person has failed to apply for grant of probate within such time, the citor may apply in writing for an order that the person cited shall be deemed to have renounced his right to probate.

## **PART V**

### **REVOCATION AND ALTERATION OF GRANTS (rules 28-29)**

#### **28. Rectification of grant**

(1) An application for rectification of a grant under section 48 of the Act may be made by chamber summons supported by an affidavit setting out the grounds for such application.

(2) An order for rectification shall be in the form prescribed in Form 14 set out in the First Schedule.

#### **29. Revocation of grant**

(1) An application for revocation or annulment of a grant under section 49 of the Act shall be made by chamber summons supported by an affidavit setting out the grounds for such application.

(2) Notice of an application made under paragraph (1) and a copy of the affidavit filed in support thereof shall be served on the person or persons to whom the grant was made.

(3) An order revoking or annulling a grant shall be in the form prescribed in Form 15 set out in the First Schedule.

(4) When the court has made an order revoking or annulling a grant the Registrar shall cause a notice in the form prescribed in Form 16 set out in the First Schedule to be served, in such manner as he may think fit, upon the person or persons to whom the grant was made requiring him or them forthwith to deliver up the probate or letters of administration to him.

## **PART VI**

### **PRACTICE AND PROCEDURE IN GRANTING PROBATE AND LETTERS OF**

## **ADMINISTRATION (OTHER THAN SMALL ESTATES) (rules 30-84)**

### **A. Application for Grant (rules 30-53)**

#### *General*

#### **30. Grant in additional name**

Where it is necessary in a grant to describe the deceased by some name in addition to his true name, the petitioner shall together with his petition file an affidavit giving the true name of the deceased and the reason for the inclusion of the other name in the grant.

#### **31. Delay in application**

(1) In any case where probate or administration is for the first time applied for after expiration of three years from the death of the deceased, the petition shall contain a statement explaining the delay.

(2) Should the explanation in the petition be unsatisfactory the Court may require such further proof of the alleged cause of delay as it may think fit.

#### **32. Grant to sole administrator**

Where an application for letters of administration with or without the will annexed is made by an individual alone such individual shall file together with his petition, in addition to the other documents required to be filed under these Rules, an affidavit in the form prescribed in Form 17 set out in the First Schedule showing that there is no minority or life interest arising under the will or on the intestacy. Such affidavit shall be deposed to by a person able to depose to the facts stated therein.

#### *Probate*

#### **33. Petition for probate**

(1) A petition for grant of probate shall be in the appropriate form prescribed in Forms 18, 20, 21 and 22 set out in the First Schedule and shall be accompanied by the following documents—

- (a) the last will of the deceased and all codicils thereto and, when necessary, a translation thereof;
- (b) subject to the provisions of rule 63, a certificate of death of the deceased signed by a competent authority;
- (c) an affidavit as to the deceased's domicile at the time of his death; and
- (d) the executor's oath.

### **34. Verification**

(1) Verification of a petition by an attesting witness shall be in the form prescribed in Form 19 set out in the First Schedule.

(2) An application for an order to dispense with verification of a petition for grant of probate by one of the witnesses to the will shall be made by chamber summons supported by affidavit.

(3) The affidavit filed in support of an application under paragraph (2) of this rule shall state the grounds upon which the order is applied for and shall also state what other evidence, if any, of due execution of the will the petitioner can produce.

(4) Where the court makes an order dispensing with verification of a petition for a grant of probate by one of the attesting witnesses it may require the petitioner to produce such other evidence on affidavit as it may consider necessary for the purpose of being satisfied that the will was duly executed by the testator.

(5) An application under this rule shall be filed together with the petition and all other documents required to be lodged therewith:

Provided that, where the court refuses to make an order dispensing with verification of the petition by an attesting witness, the petition and the will shall be returned to the petitioner for verification by such witness to be endorsed therein.

### **35. Oral wills**

(1) Where a petitioner applies under section 25(3) of the Act for grant of probate of an oral will he shall file with his petition the following documents in addition to the documents required to be filed under these Rules—

- (a) an affidavit by a person having personal knowledge of the terms of the will setting out such terms and the circumstances under which he became aware of the same; and
- (b) subject to the provisions of rule 71, consents in writing to the application for grant from the persons who, if the testator had died intestate, would have been entitled to a share in the estate.

(2) The petition for grant shall give all the facts and describe all the circumstances which may raise a presumption that the testator was a person entitled in law to make an oral will.

(3) The court may require the petitioner to produce further evidence by affidavit or otherwise for the purpose of satisfying itself of the existence of the will, its terms or the circumstances under which it was made.

### **36. Wills lost or destroyed**

(1) Where a petitioner applies under section 25 of the Act for grant of probate of a will which

has been lost, misplaced or destroyed and of which no copy or draft is available he shall file with his petition the following documents in addition to the documents required to be filed under these Rules—

- (a) an affidavit as to the due execution of the original will by one of the witnesses who attested the original will or, if no such witness is conveniently available, from any other person who was present when the will was made or who can testify as to the facts which may raise a presumption in favour of due execution;
- (b) an affidavit of the contents of the will from any person having personal knowledge of such contents;
- (c) an affidavit proving the existence of the will after the death of the testator or, where the will has been destroyed, the circumstances of such destruction; and
- (d) subject to the provisions of rule 71, consents in writing to the application for grant from the persons who, if the testator had died intestate, would have been entitled to a share in the estate.

(2) The court may require the petitioner to produce further evidence by affidavit or otherwise for the purposes of satisfying itself as to the existence of the will, its contents or the circumstances in which it was lost, misplaced or destroyed.

### **37. Probate of copy or draft of will**

(1) Where a petitioner applies under section 25 for grant of probate of a copy or draft of a will he shall file with his petition in addition to the documents required to be filed under these Rules an affidavit or affidavits—

- (a) showing that the copy produced is an accurate copy of the original will; and
- (b) proving the existence of the will after the death of the testator or, where the will has been destroyed, the circumstances of such destruction or where the original is in possession of a person outside Tanzania, that such person has refused or neglected to deliver it up.

(2) The court may require the petitioner to produce further evidence on affidavit or otherwise for the purpose of satisfying itself as to the existence of the original will, the accuracy of the copy or the draft or the circumstances of loss or destruction.

### **38. Codicil propounded after probate**

(1) Where a codicil is propounded after grant of probate and such codicil does not revoke or alter the appointment of the executors who proved the will, such executors may obtain probate of the codicil upon filing a petition for grant supported by the codicil and such petition shall be in the form prescribed in Form 23 set out in the First Schedule.

(2) Where a codicil is propounded after grant of probate and such codicil revokes or alters the appointment of the executors who proved the will, any person named as an executor in the codicil, or, if there be no such person and the codicil has revoked the appointment of the executors under the original will, any person entitled to letters of administration with the will annexed, may apply for grant of probate of the original will and the codicil or letters of administration with the will and the codicil annexed, as the case may be.

(3) An application for grant of probate or letters of administration under paragraph (2) of this rule shall be by way of petition in the form prescribed in Form 24 or 25 set out in the First Schedule, whichever is appropriate, setting out the date of the grant of the probate of the original will or of letters of administration with the will annexed and the circumstances under which discovery of the codicil was made and such application shall be supported by the consents of the executors who proved the will and by the documents required by those Rules to be filed with an application for grant of probate or letters of administration with a will annexed with the exception, of the testator's death certificate and the affidavit as to his domicile.

#### *Letters of Administration*

### **39. Petition for letters of administration**

A petition for letters of administration shall be in the form prescribed in Forms 26 or 27 set out in the First Schedule, whichever is appropriate, and shall be accompanied by the following documents—

- (a) subject to the provisions of rule 63 a certificate of death of the deceased signed by a competent authority;
- (b) an affidavit as to the deceased's domicile;
- (c) an administrator's oath;
- (d) subject to the provisions of rule 66, an administration bond;
- (e) a certificate as to the financial position of the sureties;
- (f) subject to the provisions of rules 71 and 72, consent of the heirs; and
- (g) in the case of an application for a grant to a sole administrator, an affidavit as required by rule 32.

### **40. Petition for letters of administration with the will annexed**

A petition for letters of administration with the will annexed shall be accompanied by the will and the documents referred in rule 39.

### **41. Codicil propounded after grant of letters of administration with will annexed**

Where a codicil is propounded after grant of letters of administration with the will annexed

and an application is made for grant of probate of the codicil or grant of letters of administration with the codicil annexed the provisions of rule 38 shall apply *mutatis mutandis*.

#### **42. Grants to trust corporations**

(1) Where a trust corporation, other than the Public Trustee, applies for a grant, all petitions, applications, oaths, affidavits and other documents whatsoever required to be executed or sworn under these Rules by a proposed executor or administrator may be executed or sworn by any officer of the corporation authorised for the purpose by the corporation and such person shall lodge into the court, a copy of the resolution of the corporation so authorising him.

(2) A petition for a grant by a trust corporation shall be in the form prescribed in Form 28 set out in the First Schedule and shall contain an averment that the corporation is a trust corporation within the meaning of the Act.

(3) Where the Public Trustee applies for a grant he shall state in the body of the petition that the application is made by him as the Public Trustee.

#### **43. Grants to attorneys**

An application for grant of letters of administration by a lawfully constituted attorney of a person residing outside Tanzania shall be in the form prescribed in Form 29, 30 or Form 30A set out in the First Schedule and such attorney shall file with his petition for grant the power of attorney constituting him as such attorney and unless such power of attorney can, under section 94 of the Evidence Act, be presumed to have been executed and authenticated as provided by the said section, the court may require further proof of its due execution.

#### **44. Grant during minority**

A petition for grant of letters of administration with or without the will annexed by a guardian of a minor or some other person on behalf of a minor under section 36 of the Act shall be in the form prescribed in Form 31 set out in the First Schedule and shall state in what manner, if any, the petitioner is related to such minor and shall be accompanied by a certificate as to the date of the birth of the minor issued by a competent authority, or, where such certificate is not available, by an affidavit from a person able to depose to the date of the birth of the minor.

#### **45. Grant during unsoundness of mind**

A petition for grant of letters of administration with or without the will annexed for the use and benefit of a person of unsound mind under section 37 of the Act shall be in the form prescribed in Form 32 set out in the First Schedule and shall state in what manner, if any, the petitioner is related to such person and shall be accompanied by the following document—

- (a) where the person of unsound mind has been committed to a mental hospital under the provision of the Mental Diseases Act \*(27), a certificate as to his mental condition by the medical officer in charge of such hospital, or, in any other case, an affidavit as to

the mental condition of such person from a medical practitioner under whose care and treatment such person is; and

- (b) where the care of the estate of the person of unsound mind has been committed to the petitioner by a competent authority, a certified copy of the order of such authority.

#### **46. Grant in respect of unadministered assets**

A petition under section 46 of the Act for grant of letters of administration in respect of unadministered estate upon the death of a sole or sole surviving executor or a sole or sole surviving administrator shall be in the form prescribed in Form 33 set out in the First Schedule and shall describe and state the value of the estate remaining unadministered and shall be supported by a certificate of the death or an affidavit as to the death of the executor or the administrator and by an affidavit stating that such executor or administrator was the sole or sole surviving executor or administrator, as the case may be.

#### **47. Cessate grant**

A petition for the grant of letters of administration upon the expiry of a limited grant shall be in the form prescribed in Form 34 set out in the First Schedule and shall contain a statement showing that the grant originally made has expired and shall describe and state the value of the portion of the estate remaining unadministered.

#### **48. Grant to a creditor**

Where a creditor of the deceased applies for a grant of letters of administration under section 33(3) of the Act the petition shall state the amount of the debt and how the same arose.

#### **49. Procedure**

A petition for grant under any of the rules 42 to 48 (inclusive) shall, subject to the provisions of any such rule and any exception made by these Rules, be in the same form and be accompanied by the same documents as are required in the case of a petition for a general grant:

Provided that no affidavit as to domicile of the deceased or certificate as to his death shall be required in the case of a petition for grant under rule 46 or 47.

#### **50. Grant *pendente lite***

An application for appointment of an administrator under section 38 pending the determination of any proceedings shall be by chamber summons supported by an affidavit in the form prescribed in Form 35 set out in the First Schedule, setting out the particulars of the proceedings, the gross value and nature of the estate of the deceased, the date of the death of the deceased and a statement as to the fitness of the proposed administrator and shall, subject to the provisions of these Rules, be accompanied by the proposed administrator's oath in the form prescribed in Form 36 set out in the First Schedule and administration bond in the form

prescribed in Form 37 set out in the First Schedule.

#### **51. Grant for collection preservation of property**

(1) Where an application for letters of administration under section 39 and of the Act is made by a person who has already lodged in the Court a petition for a grant in respect of the same estate, such application shall be made by chamber summons supported by an affidavit in the form prescribed in Form 38 set out in the First Schedule setting out grounds for such application.

(2) In any other case an application for letters of administration under section 39 of the Act shall be by way of a petition setting out, in addition to the particulars required to be given in a petition for a grant of letters of administration under section 33 of the Act the grounds for such application.

(3) A petition under paragraph (2) shall be in the form prescribed in Form 39 set out in the First Schedule and shall, subject to the provisions of these Rules, be accompanied by the following documents—

- (a) subject to the provisions of rule 63, a certificate of the death of the deceased;
- (b) an affidavit as to the deceased's domicile;
- (c) the proposed administrator's oath in the form prescribed in Form 40 set out in the First Schedule; and
- (d) an administration bond in the form prescribed in Form 41 set out in the First Schedule.

#### **52. Letters of Administration for a suit**

An application for letters of administration for the purpose of becoming or being made a party to a suit under section 40 of the Act shall be by way of chamber summons supported by an affidavit setting out full particulars of the probate or letters of administration, if any, originally granted in respect of the same estate and the grounds upon which such application is made.

#### **53. Letters of administration of trust property**

(1) An application for letters of administration limited to trust property under section 41 of the Act shall be made by petition in the form prescribed in Form 42 set out in the First Schedule, stating—

- (a) the date and place of the deceased's death;
- (b) whether the deceased died testate or intestate and, if testate, the names and addresses of the executors named in the will or, if intestate, the name and addresses of the relatives;
- (c) whether a grant of probate of the will or letters of administration of the estate of the

deceased has been made to or applied for by any person and if so, the particulars of the grant or application and the name and address of the grantee or applicant;

- (d) description and value of the trust property;
- (e) description of the trusts to which the property is subject; and
- (f) reasons why a grant of letters of administration limited only to the trust property is required.

(2) A petition under paragraph (1) of this rule shall be accompanied by the following documents—

- (a) subject to the provisions of rule 63, a certificate as to the death of the deceased, except where such certificate is already in possession of the court;
- (b) the last will and testament of the deceased except where such will and testament is already in possession of the court;
- (c) an administration oath in the form prescribed in Form 43 set out in the First Schedule;
- (d) an administration bond in the form prescribed in Form 44 set out in the First Schedule;
- (e) a certificate as to the financial position of the sureties, if any; and
- (f) subject to the provisions of rules 71 and 72, the consent of all the beneficiaries under the trust (except where the petitioner is the sole or the sole surviving beneficiary).

(3) The provisions of these Rules relating to the consent of heirs shall apply to the consent of the beneficiaries required under this rule.

### ***B. Documents Accompanying Application (rules 54-72)***

#### *Wills*

#### **54. Marking of wills**

Every will in respect of which an application for a grant is made shall be marked by the signatures of the petitioner and the witness to the will verifying the petition, or, where verification by such witness has been dispensed with, the deponent of any affidavit filed under paragraph (4) of rule 34:

Provided that where there is no space on the original will for signatures required by this rule or where the original will is in such a condition that compliance with this rule might result in the loss of the will, a photographic copy of the will may be marked in lieu of the original document.

#### **55. Attempted revocation**

Any appearance of attempted revocation of a will by burning, tearing or otherwise, and every other circumstance leading to a presumption of revocation by the testator, shall be accounted for to the court's satisfaction by affidavit or such other evidence as the court may direct.

#### **56. Evidence as to due execution**

Where a will contains no attestation clause or the attestation clause is insufficient or where it appears to the court that there is some doubt as to the due execution of the will, then, unless the will is such as is not required to be signed by the testator or attested by witnesses to constitute a valid disposition of the testator's property, the court may, before admitting it to proof, require an affidavit as to due execution of the will from one or more of the attesting witnesses or, if no attesting witness is conveniently available, from any other person who was present at the time the will was executed.

#### **57. Where no witness available**

Where an affidavit required under the preceding rule cannot be obtained or cannot be obtained without undue delay or expense, the court may, upon an application by the petitioner made by chamber summons supported by an affidavit, admit evidence, on affidavit or otherwise, to show that the signature on the will is in the handwriting of the deceased, or of any other matter which may raise a presumption in favour of the due execution of the will.

#### **58. Blind or illiterate testator**

Before admitting to proof a will which appears to have been signed by a blind or illiterate testator or which, for any other reason, gives rise to doubt as to the testator having had knowledge of the contents of the will at the time of its execution, the court may require the petitioner to produce an affidavit from any person it may think fit for the purpose of satisfying itself that the testator had such knowledge.

#### **59. Interlineation**

(1) Where there appears in a will any obliteration, interlineation, or other alteration which is not authenticated in the manner prescribed by the Indian Succession Act, 1865 as applied in Tanzania, or by the re-execution of the will or by execution of a codicil, the court shall require the petitioner to produce an affidavit from any person it may think fit to show whether such obliteration, interlineation or alteration was present at the time the will was executed.

(2) After considering the evidence produced under paragraph (1) of this rule the court shall give directions as to the form in which the will is to be proved:

Provided that this rule shall not apply to alterations which appear to the court to be of no practical importance.

#### **60. Where date of the will doubtful**

Where there is doubt as to the date of a will the court may require the petitioner to produce

an affidavit from such person as it may think fit, for the purpose of establishing the date of the will.

#### **61. Production of deed paper, referred to in will**

If from any mark on a will it appears to the court that some other document has been attached to the will, or if a will contains any reference to another document in such terms as to suggest that it ought to be incorporated in the will, the court may require the document to be produced and may require the petitioner to file an affidavit from any person it may think fit for the purpose of satisfying itself whether such document is entitled to probate.

#### **62. Unsigned or unattested will**

In any case in which it is not necessary that a will should be signed by the testator or attested by witnesses to constitute a valid testamentary disposition of the testator's property, the testamentary disposition must be clearly proved by affidavit.

#### *Other Document*

#### **63. Death certificate**

(1) The death certificate shall specify the date, the place and the cause of the death of the deceased and shall be signed by a person having authority to sign the same.

(2) Where the deceased died outside Tanzania a death certificate from a competent authority at the place where he died shall be filed.

(3) Where, for any reason beyond the control of the petitioner, a death certificate is not available, the petitioner shall file in lieu thereof an affidavit from a person who saw the remains of the deceased being interred or cremated or an affidavit from a medical practitioner, duly registered as such in the country where the deceased died, who pronounced the death of the deceased.

#### **64. Affidavit as to the deceased's domicile**

The affidavit as to the deceased's domicile shall be in the form prescribed in Form 45 set out in the First Schedule and shall be sworn or affirmed by a person who knew the deceased personally and shall state the facts upon which the court may infer the deceased's place of domicile.

#### **65. Oath**

The oath of the executor or the administrator shall be in the form prescribed in Form 47 set out in the First Schedule and shall be sworn or affirmed before a person before whom an affidavit may be sworn or affirmed.

## **66. Administration Bond**

(1) Every administration bond shall, except when the court otherwise orders, be given in double the amount of the gross value of the property for which the grant is to be made and shall be in the appropriate form prescribed in Forms 48 or 49 set out in the First Schedule. The bond shall be signed by the administrator and the sureties, who, except where the court otherwise order, shall be two in number. The signatures of the administrator and the sureties shall be attested by a person before whom an affidavit may be sworn.

(2) No administration bond shall be required to be filed on a petition for a grant of letters of administration by the Public Trustee or the Administrator-General.

(3) No surety shall be required on a petition for a grant of letters of administration by a trust corporation (other than the Public Trustee) except where the court otherwise directs.

(4) Unless otherwise directed by order of the court, no person shall be accepted as a surety unless he is resident in Tanzania.

(5) Where a corporation (other than a trust corporation) has executed a bond as a surety, there shall be filed an affidavit in the form prescribed in Form 50 set out in the First Schedule made by a proper officer of the corporation to the effect that it has power to act as surety and has executed the bond in the manner prescribed by its constitution and shall contain sufficient information as to the financial position of the corporation to satisfy the court that its assets are sufficient to satisfy all claims which may be made against it under the bond.

## **67. Order dispensing with bond or sureties**

(1) An application for an order dispensing with a bond or sureties or both or for an order accepting one surety instead of two shall be made by chamber summons supported by an affidavit giving reasons why the order applied for should be made.

(2) An application under paragraph (1) of this rule shall be lodged together with the petition and all other documents required to be lodged therewith except the administration bond.

## **68. Assignment of administration bond**

(1) An application under section 68 of the Act for an order to assign an administration bond shall be by way of petition in the form prescribed in Form 51 set out in the First Schedule, signed by the applicant and his advocate, if any, and verified by the applicant.

(2) A copy of the petition shall be served upon the administrator and each of the sureties.

(3) The petition shall be heard and determined in chambers on a date and at a time appointed by the Registrar.

(4) A notice of the hearing date in the form prescribed in Form 52 set out in the First Schedule shall be served on the petitioner and each of the persons upon whom a copy of the

petition is required to be served.

(5) An order assigning a bond shall be in Form 53 set out in the form prescribed in the First Schedule.

#### **69. Certificate of surety's financial position**

(1) A certificate as to a surety's financial position shall be in the form prescribed in Form 54 set out in the First Schedule and shall be attested by a person before whom an affidavit may be sworn.

(2) No certificate as to a surety's financial position shall be required where the surety is a corporation.

#### **70. Sureties to justify in certain cases**

In the following cases the surety or sureties shall file a justification of their security in the form prescribed in Form 55 set out in the First Schedule—

- (a) where any person takes out letters of administration in default of the appearance of a person cited to accept or refuse a grant who has not been personally served with the citation; or
- (b) where application is made for grant of probate or administration for the use and benefit of an infant or a person of unsound mind:

Provided that this rule shall not apply in any case in which no sureties are required under the Act or these Rules or by order of the court, or where the court on an application by a petitioner dispenses with justification from any surety.

#### **71. Consent**

(1) Where an application for the grant of letters of administration is made on an intestacy the petition shall, except where the court otherwise orders, be supported by written consent of all those persons who, according to the rules for the distribution of the estate of an intestate applicable in the case of the deceased, would be entitled to the whole or part of his estate.

(2) Where the deceased died testate and an application is made for the grant of letters of administration with the will annexed, written consent shall, unless the court otherwise orders, be required of the following persons—

- (a) the universal or residuary legatee; and
- (b) such person or persons, being beneficiaries under the will, as would have been entitled to the whole or part of the testator's estate had the testator died intestate.

(3) Where a person whose consent is required is an infant or a person of unsound mind

consent may be given on his behalf by his guardian.

(4) Consent shall be in the form prescribed in Form 56 set out in the First Schedule and shall be signed by the person or persons giving the same and attested by any person before whom an affidavit may be sworn.

## **72. Where consent not available**

(1) Where a person whose consent is required under these Rules refuses to give such consent, or if such consent cannot be obtained without undue delay or expense, the petitioner shall, together with his petition for grant, file an affidavit giving the full name and address of the person whose consent is not available (where such name and address are known) and giving the reasons why such consent has not been produced.

(2) Where an affidavit under paragraph (1) is filed, the court may make an order either dispensing with such consent or requiring a citation in the form prescribed in Form 57 set out in the First Schedule to be served upon the person whose consent is not available.

(3) Where the court makes an order under paragraph (2) of this rule requiring service of a citation the Registrar shall call upon the petitioner to pay the prescribed fees for such citation and service and upon receipt of such fees shall cause the citation to be served.

(4) The Court may at any time and for sufficient reason shown vary, alter or rescind any order made under this rule or make such order in lieu of an order requiring personal service of citation as it may deem fit.

## **C. Citations (rules 73-76)**

### **73. Order for citation to issue**

Where an application for grant of probate or letters of administration with or without the will annexed is required to be made by way of petition, on receipt of such petition and such other documents as are required to be filed therewith the Registrar shall submit the same to a Judge in chambers, who, if he is satisfied that the application and the supporting documents are in order and no further evidence or proof is required, shall endorse on the record an order directing the Registrar to publish a general citation:

Provided that where the application is made under section 38 or section 39 of the Act, the Judge may dispense with General citation and may order the letters of administration applied for be granted forthwith.

### **74. Where an application by chambers is required**

Where an application for grant of letters of administration is required to be made by chamber summons then at the hearing of such application the court may, if it thinks necessary in the interest of the estate, make an order for publication of a general citation prior to the grant being

made.

#### **75. General citation**

A general citation shall be in the form prescribed in Form 58 set out in the First Schedule and shall be exhibited in some conspicuous part of the court house and published in the *Gazette* and such other newspaper or periodical (if any) as the Judge may direct.

#### **76. Grant where citation published**

Where a general citation is required to be published by these Rules or by the court no probate of a will or letters of administration shall be granted until after the expiration of fourteen clear days from the date of the last publication of such citation and unless no caveat or objection has been lodged during that period.

### ***D. Production of Documents and Examination by Court (rules 77-81)***

#### **77. Application for order to produce testamentary paper**

(1) An application under section 60(1) of the Act for an order directing any person to produce any testamentary writing or paper shall be by chamber summons supported by an affidavit setting out the reasons for such application.

(2) Where the court is satisfied that reasons exist for belief that the alleged paper or writing is in the possession of or under the control of the person named in the application it shall direct the Registrar to issue a summons in the form prescribed in Form 59 set out in the First Schedule requiring such person to produce and bring into the court such paper or writing within the period specified in the order.

(3) Where any paper or writing purporting to be testamentary is produced before the court under this rule or rule 78 the court may make such order with regard to its custody as it may deem fit.

#### **78. Application for examination**

(1) An application under section 60(2) of the Act for examination of any person alleged to have any knowledge of any testamentary paper or writing or of an oral will shall be by chamber summons supported by an affidavit setting out the reasons for such application.

(2) Where the court is satisfied that reasons exist for the belief that the person named in the application has knowledge of the alleged testamentary paper or writing or oral will it shall direct the Registrar to issue a summons in the form prescribed in Form 60 set out in the First Schedule requiring such person to appear before it on the day named in the summons to answer such questions as may be put to him by the court.

(3) Examination of any person appearing in court pursuant to an order made under this rule

shall be on oath unless the court otherwise directs.

#### **79. Penalty for default**

A person summoned under rule 77 or 78 shall be liable for the same penalties for default as are prescribed in the Civil Procedure Code \*(28) in relation to witnesses summoned to give evidence or produce documents.

#### **80. Examination of the petitioner**

Where under section 61 of the Act the court requires to examine the petitioner in person on oath the Registrar shall appoint a date and time for such examination and shall serve a notice of the same in the form prescribed in Form 61 set out in the First Schedule on the Petitioner.

#### **81. Further evidence**

Where under section 61 of the Act the Court requires further evidence of any of the matters stated therein it shall direct whether such evidence is to be furnished by affidavit or otherwise.

### ***E. Contentious Proceedings (rules 82-83)***

#### **82. Caveat and procedure subsequent thereto**

(1) A caveat shall be in the form prescribed in Form 62 set out in the First Schedule and shall be attested by a person before whom an affidavit may be sworn.

(2) An application under section 59(2) of the Act for a citation to a caveator shall be in writing in the form prescribed in Form 63 set out in the First Schedule.

(2A) Where a petitioner fails to make an application under section 59(2) of the Act within thirty days after the petition or the caveat has been lodged, whatever is the later, the Registrar shall cause a notice in the form prescribed in Form 63A set out in the First Schedule to be served upon the petitioner requiring him to lodge such application within a further period of twenty-one days from the date of the service of the notice.

(2B) Where a notice under paragraph (2A) of this rule has been served upon a petitioner and he fails to lodge an application under section 59(2) of the Act within twenty-one days from the date of the service thereof, his petition shall be deemed to have been withdrawn.

(2C) Service of a notice under paragraph (2A) of this rule shall be by personal service either on the petitioner or his advocate through whom the petition was lodged or by registered post.

(2D) Where a petition is deemed to have been withdrawn under the provisions of paragraph (2B) of this rule it shall be open to the petitioner to apply to the court for the restoration of the petition and where it appears to the court that it is just and equitable to restore the petition it shall make an order restoring the petition upon such terms as to costs or otherwise as it deems fit:

Provided that no petition shall be restored under this paragraph so long as any grant by any court in Tanzania of probate or letters of administration of the estate concerned in favour of any other person is subsisting.

(2E) An application for the restoration of a petition shall be by chamber summons supported by an affidavit giving reasons why the order applied for should be made and shall be accompanied by an application under section 59(2) of the Act.

(2F) A copy of an application for the restoration of a petition and a copy of the affidavit lodged in support thereof shall be served upon the caveator.

(3) Upon receipt of an application under paragraph (2) the Registrar shall issue a citation in the form prescribed in Form 64 set out in the First Schedule to the caveator calling upon him to state, within a period of thirty days from the date of the service of the citation upon him, whether he supports the grant of probate or letters of administration to the petitioner, and, if he does not, requiring him to enter an appearance.

(4) Appearance by a caveator shall be in the form prescribed in Form 65 set out in the First Schedule and shall be accompanied by an affidavit stating the right and interest of the caveator and the grounds of the objection to the petitioner's application for grant.

(5) A copy of the appearance and the affidavit filed under the preceding rule shall be served upon the petitioner.

(6) Where a caveator enters an appearance the proceedings shall be numbered as a suit and the Registrar shall appoint a date upon which the suit shall be listed before a Judge in Court for such orders as to pleadings and date of the hearing as the Judge may make.

### **83. Contentious proceedings before a District Delegate**

Where an application for grant of probate or letters of administration has been made to a District Delegate in respect of an estate the gross value of which exceeds fifteen thousand shillings and a person who has filed a caveat against such application has entered an appearance, the District Delegate shall upon receipt of the appearance and the affidavit in support thereof forward the record of the proceedings to the Registrar who shall proceed as required by paragraph (6) of rule 82.

### ***F. Grants (rule 84)***

### **84. Form and signature of grants**

Every grant of probate or letters of administration with the will annexed shall be in the appropriate form prescribed in Form 66, 67, 68, 69, 70, 71, 72, 73, 74 or 75 set out in the First Schedule and shall be signed by the Registrar and sealed.

## **PART VII**

## **ADMINISTRATION OF SMALL ESTATES (rules 85-95)**

### **85. Application**

An application for appointment of an administrator under Part VII of the Act shall be by petition in Form 76 set out in the First Schedule.

### **86. Written wills**

Where the deceased has left a written will, a petition under rule 85 shall be accompanied by the original will and, unless oral evidence in support of the petition is to be given, by an affidavit as to its due execution from one of the attesting witnesses or by an affidavit testifying as to such matters which may raise a presumption in favour of the due execution of the will.

### **87. Oral wills**

Where the deceased made an oral will or where the written will has been lost or destroyed and no draft or copy thereof is available then, unless oral evidence in support of the petition is to be given, the petition shall be accompanied by an affidavit of a person having personal knowledge of the terms of the will setting out such terms, the circumstances under which he became aware of the same and such other facts which may raise a presumption in favour of the validity of the alleged will.

### **88. Copy of will**

Where only a copy of a will is available the petition shall be accompanied by an affidavit showing the correctness of the copy, validity of the original will and reasons why the original will has not been produced.

### **89. Where application by person other than executor named in will**

(1) Where an application for appointment of an administrator is made someone other than the person or persons named in the will of the deceased as executor or executors thereof the application shall be supported by written consent of such executor or executors.

(2) The provisions of the rules relating to consent of the heirs shall apply to consent of executors under this rule.

### **90. Further proof**

In all cases in which the court is in doubt as to any matter relating to any will it shall call for such further evidence, on affidavit or otherwise, as it shall consider necessary.

### **91. Death certificate, evidence as to domicile and undertaking**

Every petition under this part shall be accompanied by a certificate as to the death of the deceased, an affidavit as to the domicile of the deceased and an undertaking to administer the

estate faithfully in the form prescribed in Form 77 set out in the First Schedule.

#### **92. Security**

Where the court makes an order requiring an administrator of a small estate to furnish security it shall specify what form such security shall take.

#### **93. Appointment**

An appointment of an administrator of a small estate shall be in Form 78 set out in the form prescribed in the First Schedule.

#### **94. Rules not to apply**

The provisions of Parts IV, V and VI of these Rules (other than the provisions of rules 30, 31, 32, 63, 77, 78, 79 and 80) shall not apply to proceedings under Part VIII of the Act.

#### **95. Appeals**

Appeals under section 83 of the Act shall be in accordance as nearly as may be with the provisions of the Civil Procedure Code \*(29) and rules of court governing appeals and subject to the same fees, so far as the same shall be applicable.

### **PART VIII**

#### **ESTATE ADMINISTERED IN ACCORDANCE WITH CUSTOMARY LAW AND CUSTOM (rule 96)**

#### **96. Application**

An application under section 88 of the Act shall be by chamber summons supported by an affidavit setting out grounds for such application and showing whether any proceedings in respect of the estate have been filed or are pending in any court.

### **PART IX**

#### **RESEALING (rules 97-104)**

#### **97. Jurisdiction**

All proceedings under Part X of the Act shall be commenced in the High Court at Dar-es-Salaam and all necessary papers shall be lodged with the Registrar.

#### **98. Application**

An application for sealing of a probate or letters of administration shall be by chamber summons supported by an affidavit and accompanied by the probate or letters of administration and a copy thereof.

**99. Publication of notice**

Notice of an application under rule 97 shall be in the form prescribed in Form 79 set out in the First Schedule and shall be published in the *Gazette* and no order shall be made thereon until the expiration of fourteen days after such publication.

**100. Objections**

Any person wishing to object to an application for sealing of a probate shall have the right to appear and be heard at the hearing of the application.

**101. Inventory and valuation**

An inventory and valuation of property in respect of which the application is made must be lodged with the Registrar not less than seven days before the date fixed for the hearing of the application.

**102. Certification of copy**

The Registrar on receiving probate or letters of administration under rule 97 shall cause the copy lodged therewith to be compared with that to be produced to the court and on its conforming therewith shall endorse a certificate to that effect upon the copy which shall be retained by the court.

**103. Order**

Upon the court making an order for sealing a probate or letters of administration the Registrar shall endorse thereon under the seal of the court a certificate in the following terms—

"Sealed in the High Court of Tanzania by order of the Court dated .....

Registrar".

**104. Original to be returned to applicant**

The probate or letters of administration, when sealed by the High Court, shall be returned to the person who produced the same:

Provided that all court fees, costs and charges incidental thereto have first been paid.

**PART X  
EXECUTORS AND ADMINISTRATORS (rules 105-113A)**

**105. Direction to executors or administrators**

An application to the court for directions to an executor or administrator in regard to the estate or in regard to the administration thereof shall be by chamber summons supported by an

affidavit giving full particulars of the directions sought and reasons for the same.

#### **106. Inventory**

An inventory required to be exhibited by an executor or an administrator under section 107 of the Act shall be in Form 80 set out in the First Schedule.

#### **107. Accounts**

An account of the estate required to be exhibited by an executor or an administrator under section 107 of the Act shall be in Form 81 set out in the First Schedule and shall contain a statement showing in what proportion and to whom the residue is proposed to be paid.

#### **108. Notice annexed to grant**

There shall be annexed to every probate and letters of administration a notice in the form prescribed in Form 82 set out in the First Schedule drawing the attention of the executor or the administrator to the provisions of section 107 of the Act and rule 109 of these Rules.

#### **109. Application for extension of time to file inventory or account**

(1) An application for extension of time to exhibit an inventory or account shall be made by chamber summons supported by an affidavit stating the reasons for such application.

(2) An application under this rule shall be made before the expiry of the period within which the executor or the administrator is required by the court to file the inventory or account.

#### **110. Final requisition**

(1) Where an executor or administrator fails to exhibit an inventory or account within the period specified in section 107 or within the time last appointed by the court, the court shall make an order requiring him to exhibit such inventory or account within such further period as it may think fit and the Registrar shall cause a notice in the form prescribed in Form 83 set out in the First Schedule to be served upon the executor or administrator notifying him of the order of the court and the consequences of non-compliance therewith.

(2) Service of the notice under this rule shall be by personal service or, where in the opinion of the Registrar personal service cannot be effected or cannot be effected without undue delay or expense, by registered post or by affixing a copy of the notice in some conspicuous place in the court house and also some conspicuous part of the house in which the executor or the administrator is known to have last resided or carried on business or personally worked for gain.

#### **111. Notice to creditors**

Every executor and administrator empowered to distribute the assets of the deceased shall, within sixty days of his appointment, cause a notice in the form prescribed in Form 84 set out in

the First Schedule to be published in the *Gazette* requiring any person having any claim against such assets to inform such executor or administrator within such time, not being less than two months from the date of the notice, as may be fixed in the notice.

#### **112. Payment into court on account of minor**

(1) Where under section 124(1) of the Act any other law for the time being in force an executor or administrator pays any money or security or delivers any thing into the court to the account of a person entitled to such money, security or thing under the will or on intestacy, he shall at the time of making such payment or delivery, file an affidavit stating—

- (a) the court which granted the probate or letters of administration;
- (b) the number of the proceedings in which and the date on which the grant was made;
- (c) the name, age and address of the last known address of the person to whose account the payment or delivery is being made;
- (d) the reasons why payment or delivery into court is being made;
- (e) where the payment or delivery is being made to the account of a minor entitled under a will, whether there is any direction in the will to pay or deliver the legacy to any person on behalf of the minor, and if so, why such payment or delivery cannot be made; and
- (f) the amount of the money or particulars of the security being paid or the description and value of the thing being delivered into the court.

(2) Where any money or security is paid or thing is delivered into the court under this rule, the Registrar shall, on the receipt of the money, security or thing and of the prescribed fee, cause a receipt to be issued for the money, security or thing so received to the executor or the administrator paying or delivering the same.

#### **113. Investments of legacies**

(1) Where under section 121 of the Act an executor or an administrator is required to invest any sum of money, he shall invest such sum as follows—

- (a) in any manner authorised by law for the investment of trust funds; or
- (b) by way of fixed deposit with a bank approved by the Minister; or
- (c) in the savings bank which is deemed to be duly constituted; or
- (d) in such other security as the court may approve on application of the executor or administrator.

(2) An application for approval under paragraph (1)(d) of this rule shall be by chamber

summons supported by affidavit.

(3) Where under section 124 of the Act any sum of money is paid into the court to the account of a minor legatee, such sum of money shall, unless the court otherwise directs, be invested in purchasing securities authorised by law for investment of trust funds.

#### **113A. Applications for payment**

An application for payment or transfer to any person of any money or security or thing paid or delivered into court in accordance with the provisions of rule 112 shall be by way of chamber summons and all persons who appear to be interested in the money or security or thing shall be served with notice of the application unless the court shall otherwise direct.

### **PART XI MISCELLANEOUS PROVISIONS (rules 114-118A)**

#### **114. Will of living persons deposited with High Court**

(1) Wills of living persons may be deposited in the Registry of the High Court at Dar-es-Salaam.

(2) Wills to be deposited under this rule shall be delivered either personally to the Registrar by the testator or his agent or sent to him by registered post.

(3) Every will delivered or sent to the Registrar under this rule shall be in a sealed envelope.

(4) Where the testator himself deposits his will, he shall be required to sign his name, or acknowledge his signature in the presence of the Registrar, to an endorsement on the envelope in which the will is enclosed in the Form 85 set out in the First Schedule.

(5) Where the testator sends his will to the Registrar by registered post or by the hand of an agent the envelope shall be endorsed as required by the preceding paragraph and the endorsement shall be signed by the testator and attested by a person before whom an affidavit may be sworn.

(6) Where the Registrar receives a will under this rule he shall deliver to the testator or his agent or send to the testator by registered post a certificate of the deposit in the Form 86 set out in the First Schedule.

(7) Sealed packets containing wills received under this rule shall be numbered consecutively and a register of such packets shall be maintained.

(8) All sealed packets containing wills received under this rule shall be preserved in a safe to which only the Registrar shall have access.

(9) On the death of a testator who has deposited a will under this rule an executor named as such on the endorsement on the envelope, or where no such executor is living or all such

executors have renounced, then any person entitled to letters of administration with the will annexed under section 29 of the Act may apply in writing to the Registrar for a copy of the will.

(10) An application under the preceding paragraph shall be accompanied by the following—

- (a) a certificate as to the date of the death of the testator or, where such certificate is not available, such evidence as to his death as is admissible under rule 63;
- (b) the certificate of deposit in respect of the will issued under paragraph (6) of this rule or, where such certificate has been lost or destroyed, an affidavit as to the circumstances of such loss or destruction;
- (c) an affidavit from the applicant stating—
  - (i) that he is the executor named in the will; or
  - (ii) that all the executors named in the will have renounced or are dead and that he is a person entitled to letters of administration with the will annexed.

(11) The Registrar may, if he thinks it necessary, require an applicant under paragraph 9 to attend and acknowledge before him or a District Registrar or the Deputy Registrar that he is an executor named in the will or a person who may reasonable be considered as entitled to letters of administration with the will annexed.

(12) On receipt of an application under paragraph 9 and upon being satisfied as to the identity of the applicant the Registrar shall open the envelope containing the will and cause it to be copied.

(13) The copy of the will shall be certified by the Registrar as being a true copy of the original document deposited in the Registry and shall be delivered to the person applying for the same upon payment by him of the prescribed fee.

(14) Where under this rule a will has been deposited in the Registry at Dar-es-Salaam, application for grant of probate of the will or for letters of administration with the will annexed or for appointment of an administrator shall be accompanied by a copy of such will certified by the Registrar as provided in paragraph (13) of this rule, and the petition for grant or application for appointment shall state that the original will is in the custody of the Registrar of the High Court at Dar-es-Salaam.

(15) On receipt of an application for grant or appointment of an administrator under the preceding rule the court to which such application has been made shall certify to the Registrar that such application has been received, and upon receipt of such certificate the Registrar shall send the original will to the court to which the application has been made, and such court shall deal with the original will in the same manner as though it had been lodged by the applicant together with the application.

(16) Where under paragraph (14) of this rule a certified copy of the will is lodged with an

application for grant of probate or letters of administration, such certified copy shall be marked as required by rule 54 in lieu of the original document.

(17) Where under paragraph (15) of this rule the Registrar parts with the possession of a will which has been deposited with him he shall place in the safe in lieu of the original document a certified copy of the same.

### **115. Returns by District Delegates and Magistrates**

(1) At the end of every month every District Registry, District Delegate and District Court, exercising jurisdiction under this Act and these Rules, shall submit to the Registrar of the High Court at Dar-es-Salaam returns of grants and appointments made in such District Registry or by such District Delegate or District Court during the month.

(2) The returns under paragraph (1) of this Rule shall show—

- (a) the date and number of the application;
- (b) the name and address of the applicant;
- (c) the name and address of the deceased and the place and date of his death;
- (d) the gross value of the estate;
- (e) the nature of the grant or appointment made;
- (f) the name and address of the person to whom the grant has been made or who has been appointed administrator;
- (g) the name of the Judge, District Delegate or Magistrate issuing the grant or making the appointment.

### **115A. Defective application**

(1) Where it appears to the court that any petition or application or any document filed therewith is defective in substance or form it may make an order—

- (a) requiring the petitioner or applicant or his advocate to file a fresh petition, application or document amended in such respects as may be specified in the order or to show cause why no such amended petition, application or document should be required; or
- (b) requiring the petitioner or applicant or his advocate to show cause why the petition or application should not be rejected.

(2) Where the court makes an order under paragraph (1) of this rule the Registrar shall cause a notice to be served on the petitioner or applicant or his advocate directing him—

- (a) to file an amended petition, application or document or to apply for a date to be fixed

for him to show cause why such amended petition, application or document should not be required, within the time specified in the notice; or

- (b) to appear on the date specified in the notice to show cause why the petition or application should not be rejected, as the case may be:

Provided that the time for filing an amended petition, application or document shall not be less than fifteen days from the date of the service of the notice upon the petitioner or applicant or his advocate.

(3) Service of a notice under the preceding paragraph shall be by personal service or by registered post.

(4) If a petitioner fails to comply with an order of the court made under this rule his petition or application in respect of which the order is made or to which the document in respect of which the order is made relates, may be rejected by the court but such rejection shall not be a bar to the petitioner or applicant filing a fresh petition or application in respect of the same matter.

#### **116. Effect of non-compliance with rules**

Non-compliance with any of these Rules, or any rules amending or replacing the same, shall not render any proceeding void unless the court shall so direct, but such proceeding may be set aside either wholly or in part, as irregular, or amended or otherwise dealt with in such manner and upon such terms as the court may think fit.

#### **116A. Return of documents and refund of fees in case of withdrawal or rejection**

(1) Where any petition or application is withdrawn by petitioner or applicant or is deemed to have been withdrawn under the provisions of rule 82 or is rejected under the provisions of rule 115A the Registrar shall return to the petitioner or applicant upon his request in writing any of the documents required by these Rules to be filed with such petition or application.

(2) The petitioner or applicant, whose petition or application has been withdrawn, or is deemed to have been withdrawn or is rejected, shall not be entitled to a refund of any court fees paid by him in respect of such petition or application except where the court for special reasons otherwise orders.

#### **117. Court fees and revocation**

(1) The fees specified in the Second Schedule hereto shall be leviable in respect of the several matters and proceedings mentioned therein.

(2) [Omitted: The subrule revokes Head V of the Schedule to the Court Fees Rules \*(30). ]

#### **118. Remission of fees**

(1) The Court may for reasons of poverty or other good cause remit in whole or in part the

fees or any of the fees payable under these Rules.

(2) An application for remission of fees under this rule shall be by way of chamber summons supported by an affidavit giving grounds for such application.

(3) Where the Court makes an order remitting any fee wholly or in part it shall record its reasons for doing so.

(4) No fee shall be payable on an application under this rule.

**118A. Revocation**

[Revokes the Probate (Resealing) Rules.]

**FIRST SCHEDULE  
FORMS**

**FORM 1**

**HEADING OF DOCUMENTS FILED UNDER THE RULES**

(Rule 5)

IN THE HIGH COURT OF TANZANIA

(or IN THE COURT OF DISTRICT DELEGATE OF .....  
DISTRICT) AT .....

**PROBATE AND ADMINISTRATION**

CAUSE NO. .... OF 20.....

In the Matter of the Estate of the Late .....

and

In the Matter of Application for .....

By .....

.....

**FORM 2**

**AFFIDAVIT VERIFYING TRANSLATION OF A DOCUMENT**

(Rule 8)

*(Title)*

I, C.D. of ..... make oath  
and say as follows—

1. That I am well acquainted with (Kiswahili) and English languages and have had  
experience in translation of documents from (Kiswahili) into English (*state qualifications, if  
any*).

.....  
.....

2. That the paper writing marked "A" is a true and faithful translation of .....  
.....  
(*descriptions of the document translated*) marked B which is in (Kiswahili) language.

Sworn, etc.

**FORM 3  
MEMORANDUM OF ADVERTISEMENT  
IN GAZETTE**

(Rule 12)

(*Title*)

I, ..... the Registrar  
of the High Court, hereby certify that the following advertisement appeared in the *Gazette* of  
..... (*date of publication*) as G.N. .... (*here state the  
number of the notice*) a copy whereof is annexed hereto.

Date: .....

.....

*Registrar*

**FORM 4  
CHAMBER SUMMONS**

(Rule 14)

(*Title*)

Made under section ..... of the Probate and Administration of Estates Act  
(or Rule ..... of the Probate Rules)

LET ALL PARTIES (or where application is ex parte, LET THE PARTY) concerned appear before His Honour the Sitting Judge in Chambers on the ..... day of ..... 20..... at ..... o'clock in the forenoon or so soon thereafter as Counsel (or the Applicant) can be heard on an application for: .....  
..... (Set out the orders applied for)

The affidavit of ..... hereunto annexed will be read in support of the application.

Dated this ..... day of ..... 20.....

.....  
*Registrar*

This summons has been taken out by .....

**FORM 5  
NOTICE OF APPLICATION**

(Rule 14(2))

(Title)

To: .....

WHEREAS C.D., of ..... has filed an application applying for (state the orders applied for) .....  
.....  
.....

AND WHEREAS the Court has made an order that notice of the application be served upon you.

TAKE NOTICE that the aforesaid application will be heard by a Judge in chambers at ..... in the ..... noon on ..... day of ..... 20..... A copy of the affidavit filed in support of the application is annexed hereto.

Your attention is invited to rules 16 and 18 of the Probate Rules.

Dated this ..... day of ..... 20.....

.....  
*Registrar*

**FORM 6  
AFFIDAVIT IN SUPPORT OF APPLICATION FOR APPOINTMENT  
OF RECEIVER PENDING GRANT**

(Rule 24)

(Title)

I, .....  
of ..... make  
oath and say as follows—

(1) That A.B. .... (full designation)  
late of (full address) .....  
deceased, died on ..... at .....

(2) That the said deceased was at the time of his death domicile in .....  
.....  
(A clause should be added showing the grounds upon which the assert is made).

(3) That the said deceased died testate having made and duly executed a Will dated  
..... (and Codicils dated ..... respectively (or  
that the said deceased died intestate).

(4) (Here state if any application for grant of probate or letters of administration made and,  
if made, state to which Court, date of the application, the name of the applicants and the  
cause number.)

.....  
.....  
.....  
.....

(5) The following persons are entitled to inherit the deceased's estate:  
.....  
.....  
.....  
.....  
.....

(Give full names and addresses)

(6) That the total value of the estate is likely to be in the region of Shs. ....

(7) That an order for appointment of a receiver is sought in respect of the following property:

.....  
.....  
.....

*(Description of the property)*

(8) That there is danger that the said property may be wasted because *(give reasons)*.

.....  
.....

(9) That I have known C.D., the proposed receiver, for the last ..... years.

(10) That the said C.D. is a person of respectability and integrity and of good credit and I verily believe that he is a fit and proper person to be appointed receiver.

Sworn, etc.

**FORM 7  
ORDER APPOINTING RECEIVER  
PENDING GRANT**

(Section 10, rule 24)

*(Title)*

Upon application of C.D. and upon reading the affidavit of C.D. in support thereof and upon hearing X.Y., advocate for the said C.D., the Court DO HEREBY APPOINT R.S.

..... *(full designation and address)*

to receive ..... *(description of the property)* until such time as a grant of probate of the Will (or letters of administration of the estate) of A.B., deceased, shall have been made to some person AND IT IS ORDERED that the said R.S. do on or before

..... give security as such receiver by ..... *(form of security)* 1(31) and do submit his account of the said property on ..... and pay into the Court the amount due from him upon such account.

Dated at ..... this ..... day of ..... 20.....

By Court,



Now I, the said C.D., do hereby renounce all my right and title to the probate and execution of the said Will.

Signed by the said C.D. this ..... day of ..... 20..... in my presence ..... (witness) ..... (Address) .....

**FORM 10  
AFFIDAVIT IN SUPPORT OF APPLICATION FOR CITATION  
TO ACCEPT OR RENOUNCE EXECUTORSHIP**

(Rule 27(1))

(Title)

I, C.D., of ..... make oath and say as follows—

1. That A.B., of ..... deceased, died on the ..... day of ..... 20..... having made and duly executed his last Will and testament bearing date the ..... day of ..... 20..... and thereof appointed X.Y. sole executor.

2. That the said X.Y. has not as yet applied for grant of probate of the said Will nor has any other person applied for letters of administration with or without the Will annexed of the estate of the said deceased.

3. That I am ..... (*relationship with the deceased*).

4. That I am desirous of obtaining letters of administration of the estate of the said deceased.

5. That the estimated gross value of the estate of the said deceased is likely to be in the region of Shs. ....

Sworn, etc.

**FORM 11  
CITATION TO ACCEPT OR RENOUNCE EXECUTORSHIP**

(Rule 27(2))

(Title)

To: .....

WHEREAS it appears by the affidavit of C.D. sworn/affirmed the ..... day of ..... 20..... that A.B., of ..... died on the ..... day of ..... 20....., at ..... having made and duly executed his last Will and testament dated the ..... day of ..... 20....., and thereof appointed you, the said X.Y., executor.

Now this is to command you, the said X.Y., that within ..... days after service hereof on you, inclusive of the day of such service, you do cause an appearance to be entered by you in the High Court Registry at ..... and accept or refuse probate of the said Will. And take notice that, in default of you so appearing you shall be deemed to have renounced your right and title to the execution of the said Will.

Dated at ..... this ..... day of ..... 20.....

.....  
*Registrar*

**FORM 12  
APPEARANCE TO CITATION**

(Rule 27(4))

(Title)

CITATION DATED THE ..... day of ..... 20.....

Name of the deceased: .....

Name and address of the citor: .....

Interest of the citor as shown in the citation: .....

Name and address for service of the person cited: .....  
.....

Interest of the person cited: .....

ENTER AN APPEARANCE for the above-named person cited: .....

Dated at ..... this ..... day of ..... 20.....

.....  
(Signature of person cited or his  
advocate)

**FORM 13**  
**ORDER TO APPLY FOR PROBATE WITHIN LIMITED TIME**

(Section 19, Rule 27(6))

(Title)

Upon application of C.D., of .....  
and upon reading the affidavit of C.D., in support thereof and upon hearing, etc., IT IS  
HEREBY ORDERED that X.Y., of .....  
being the person (one of the persons) named as executor in the Will of .....  
..... bearing date the ..... day of ..... 20.....  
do apply to this Court for grant of probate of the said Will and that if he shall fail so to do  
within ..... days from the date of this order he shall be deemed to have renounced his  
right thereto.

Dated at ..... this ..... day of ..... 20.....

By Court

.....  
Registrar

**FORM 14**  
**ORDER FOR RECTIFICATION OF GRANT**

(Rule 28)

(Title)

Upon reading the application of C.D., .....  
of ..... and upon  
reading the Affidavit of the said C.D. in support thereof and upon hearing, etc. etc., IT IS  
ORDERED that the grant of probate (or letters of administration) of the Will (or of the estate)  
of A.B., deceased, made by this Court on the ..... day of ..... 20.....  
unto (the name of the grantee) be and is hereby rectified in the manner following—

Dated at ..... this ..... day of ..... 20.....

By Court

.....  
*Registrar*

**FORM 15  
ORDER REVOKING GRANT**

(Rule 29)

*(Title)*

Upon reading the application of C.D., of .....  
and upon reading the affidavit of the said C.D. in support thereof and upon hearing, etc., IT IS  
ORDERED that the grant of probate of the Will (or letters of administration of the estate) of  
A.B., deceased, made by this Court on the ..... day of ..... 20.....  
unto (*the name of the grantee*) BE AND IS HEREBY REVOKED (or DECLARED TO BE  
NULL AND VOID) to all intents and purposes in the law whatsoever.

Dated this ..... day of ....., 20.....

By Court

.....  
*Registrar*

**FORM 16  
NOTICE TO SURRENDER PROBATE  
OR LETTERS OF ADMINISTRATION**

(Rule 29)

*(Title)*

WHEREAS by an order dated the ..... day of ..... 20..... the  
court has revoked the grant of Probate of the Will (or letters of administration of the estate) of  
A.B., deceased, granted unto you on the ..... day of ..... 20.....

You are hereby required to deliver up the said Probate (or letters of administration) forthwith to me failing which proceedings may be instituted against you under section 51(2) of the Probate and Administration of Estates Act..

Dated at Dar-es-Salaam this ..... day of ..... 20.....

.....  
*Registrar*

**FORM 17**  
**AFFIDAVIT TO ACCOMPANY PETITION FOR GRANT BY SOLE ADMINISTRATOR**

(Rule 32)

*(Title)*

I, .....  
of .....  
hereby make oath and say as follows–

1. That C.D. has petitioned to this Honourable Court for grant of letters of administration of the estate of A.B., deceased, who died intestate on the ..... day of ..... 20..... at Dar-es-Salaam.

2. That no minority or life interest arises under the said intestacy.

3. That *(here state the grounds upon which the assertion in paragraph 2 is made)*.

.....  
.....  
.....

Sworn, etc.

**FORM 18**  
**PETITION FOR PROBATE**

(Section 55)

*(Title)*

1. I, C.D., of .....  
hereby petition this Honourable Court for probate of the Will of A.B., deceased, who died at  
..... on the ..... day of ..... 20.....

2. The writing hereunto annexed and marked "A" is the last Will and testament of the said  
A.B. and was duly executed by him.

3. This petition is made by me as the person named in the said Will as the executor  
thereof and I believe that the gross assets which are likely to come to my hands will be (*state  
amount and nature of the assets*).  
.....  
.....

4. The said deceased at the time of his death had a fixed place of abode at .....  
..... and/or property  
within the jurisdiction of this Honourable Court.

5. The said deceased was a ..... (*state nationality*) and professed  
the ..... religion.

6. No proceedings for the grant of probate or letters of administration, or otherwise for the  
administration of the estate of the said deceased have been commenced before any Court or  
authority, whether inside Tanzania or outside it. (*Where such proceedings have been  
commenced specify the nature of the proceedings and the country and the Court where  
commenced.*)  
.....  
.....  
.....

7. AND I, the said C.D., the petitioner above-named, declare that what is stated above is  
true to the best of my knowledge, information and belief.

Dated at ..... this ..... day of ..... 20.....

.....  
*Signature of Advocate  
(if any)*

.....  
*Signature of Petitioner*

**FORM 19**  
**VERIFICATION OF PETITION FOR PROBATE**

(Section 57(2) and Rule 34)

(Title)

I, .....  
one of the witnesses to the last Will and testament of the testator mentioned in the petition for  
probate made by ..... and dated the .....  
day of ..... 20..... hereby declare that

I was present and saw the testator affix his signature/mark thereto (or that the said testator  
acknowledged the writing annexed to the above petition to be his last Will and testament in  
my presence).

Dated at ..... this ..... day of ..... 20.....

.....  
*Signature of the  
Witness to the  
declaration*

.....  
*Signature of person  
verifying*

**FORM 20**  
**PETITION FOR PROBATE OF ORAL WILL**

(Section 25 and Rule 35)

*(Title)*

I, C.D., of .....  
hereby petition this Honourable Court for probate of the Will of A.B., deceased, who died at  
..... on the ..... day of ..... 20.....

2. The said deceased made an oral Will, the terms whereof and the circumstances in  
which it was made are stated in the affidavit of .....  
dated the ..... 20..... annexed hereto and marked "A".

3. The said deceased was (*here set out the facts and describe all the circumstances which  
may raise a presumption that the testator was a person entitled in law to make an oral Will*).

.....  
.....  
.....

4. This petition is made by me as (*here state the interest of the petitioner*).

.....  
.....

5. The said deceased left surviving him the following relatives who, had the deceased died intestate, would have been entitled to share in the estate (*give names and addresses of all such persons*).

.....  
.....  
.....  
.....  
.....

6. I believe that the gross assets which are likely to come to my hands will be (*state the amount and the nature of the assets*).

.....  
.....  
.....

7. The said deceased at the time of his death had a fixed place of abode at ..... and/or property within the jurisdiction of this Honourable Court.

The said deceased was a ..... (*state nationality*) and professed the ..... religion.

8. No proceedings for the grant, etc., (*as in Form 18*).

9. AND I, the said C.D., the petitioner above-named, declare that what is stated above is true to the best of my knowledge, information and belief.

Dated at ..... this ..... day of ..... 20.....

.....  
(*Signature of Advocate (if any)*)

.....  
(*Signature of Petitioner*)

**FORM 21**  
**PETITION FOR PROBATE OF LOST WILL**

(Section 25, Rule 36)

(*Title*)

*Petition will be in the same form as petition for probate of an oral Will save that paragraph (2) will be as follows:*

The said deceased made and duly executed his last Will and testament bearing date the ..... day of ..... 20..... At the time of the death of the said deceased the said Will was whole and unrevoked, but since the death of the said deceased the said Will has been lost and cannot be found (*or where will destroyed state circumstances in which destroyed*).

.....  
.....  
.....  
.....

Annexed hereto and marked "A" is an affidavit of ..... stating contents of the said Will of the deceased.

**FORM 22**  
**PETITION FOR PROBATE OF COPY OR DRAFT WILL**

(Section 25, Rule 37)

(Title)

*Petition will be in the same form as petition for probate of an oral Will save that paragraph (2) will be as follows:*

The said deceased made and duly executed his last Will and testament, bearing date the ..... day of ..... 20.....

At the time of the death of the said deceased the said Will was whole and unrevoked, but that since the death of the said deceased the said Will has been lost and cannot be found (*or where the Will was destroyed state circumstances in which destroyed*).

.....  
.....  
.....

The paper writing annexed hereunto and marked "A" is the draft (*or copy*) of the said last will and testament of the deceased. The said draft (*or copy*) was found (*state where and the circumstances in which it was found*).

.....  
.....  
.....

**FORM 23**  
**PETITION FOR PROBATE OF CODICIL WHERE PETITION MADE**

**BY SAME EXECUTOR**

(Section 26, Rule 38)

(Title)

WHEREAS (1) On the ..... day of ..... 20..... this Honourable Court granted unto me, C.D., the petitioner, probate of the Will bearing date the ..... day of ..... 20..... made and executed by A.B. deceased, who died at ..... on the ..... day of ..... 20.....

(2) On the ..... day of ..... 20..... the writing hereunto annexed and marked "A" was discovered (*state circumstances of discovery*).

.....  
.....  
.....

(3) The said writing bearing date the ..... day of ..... 20..... is a codicil of the said Will of the deceased and was made and duly executed by him.

(4) The said writing does not purport to revoke my appointment made by the said Will as executor thereof.

NOW I, C.D. the petitioner, hereby petition this Honourable Court for grant of probate of the said codicil.

AND I, the said C.D., declare that what is stated herein above is true to the best of my knowledge, information and belief.

Dated at ..... this ..... day of ..... 20.....

.....  
(Signature of Advocate (if any))

.....  
Signature of Petitioner

**FORM 24  
PETITION FOR PROBATE OF CODICIL  
APPOINTING NEW EXECUTOR**

(Section 26, Rule 38)

(Title)

WHEREAS (I) on the ..... day of ..... 20..... this Honourable Court made a grant of probate of the Will of A.B., deceased, unto .....

(2) On the ..... day of ..... 20..... the writing hereunto annexed and marked "A" was discovered (*state circumstances of discovery*).

(3) The said writing bearing date the ..... day of ..... 20..... is a codicil of the said Will of the said deceased and was made and duly executed by him.

(4) The said writing revokes the appointment of the said ..... as executor and appoints me, C.D., the petitioner, as executor of the Will of the said deceased.

NOW I, the said C.D., the petitioner, hereby petition this Honourable Court that the said grant of probate of the said Will of the deceased made to ..... be revoked and that the probate of the said Will and of the codicil be granted to me.

(1) The gross assets which are likely to come to my hands will be (*state amount and nature of the assets*).

(2) The said deceased at the time of his death had a fixed place of abode at ..... within the jurisdiction of this Honourable Court.

(3) No proceedings, etc. (*same as paragraph 6 in Form 18*).

(4) AND I, the said C.D., the petitioner above-named declare that what is stated above is true to the best of my knowledge, information and belief.

Dated at ..... this ..... day of ..... 20.....

.....  
(Signature of Advocate (if any))

.....  
Signature of Petitioner

**FORM 25**  
**PETITION FOR LETTERS OF ADMINISTRATION WITH THE WILL**  
**AND CODICIL ANNEXED WHERE CODICIL REVOKES APPOINTMENT**

**OF EXECUTOR UNDER THE WILL WITHOUT APPOINTING NEW EXECUTOR**

(Title)

WHEREAS (1) On the ..... day of ..... 20..... this Honourable Court made a grant of probate of the Will of A.B., deceased, unto .....

(2) On the ..... day of ..... 20..... the writing hereunto annexed and marked "A" was discovered (*state circumstances of discovery*).  
.....  
.....  
.....

(3) The said writing bearing date the ..... day of ..... 20..... is a codicil of the said Will of the said deceased and was made and duly executed by him.

(4) The said writing revokes the appointment of the said ..... as executor of the said Will and appoints no other person as such executor.

NOW I, C.D., of ..... hereby petition to this Honourable Court that the said grant of probate of the said Will of the deceased made to the said ..... be revoked and that letters of administration of the estate of the said deceased be granted to me.

(1) I, the said petitioner, am .....  
.....  
(*here set out the interest of the petitioner*) and there is no person who had right to the grant of letters of administration of the estate of the said deceased with the Will and codicil attached prior to my right to such grant.

(2) )

(3) )

(4) ) as 6, 7, 8, 9, and 10 in Form 26.

(5) )

(6) )

**WITH THE WILL ANNEXED**

(Section 55(1))

(Title)

1. I, C.D., of .....  
hereby petition this Honourable Court for a grant of letters of administration of the estate of  
the late A.B. who died at ..... on the ..... day  
of ..... 20.....

2. The writing hereunto annexed and marked "A" is the last Will and testament of the said  
A.B. and was duly executed by him.

3. The following persons are named in the Will as the executors thereof: *(give full names,  
designations and addresses of such persons)*

.....  
.....  
.....  
.....  
.....

4. *(Here set out reasons why probate cannot or should not or has not been granted to the  
persons named in the Will as executors. See section 29)*

.....  
.....  
.....

5. I, the said petitioner, am *(here set out the interest of the petitioner)* and there is no  
person who has right to the grant of letters of administration of the estate of the said  
deceased with the Will annexed prior to my right to such grant.

.....  
.....  
.....

6. I believe that the gross assets which are likely to come to my hands will be *(state  
amount and nature of the assets)*.

.....  
.....  
.....

7. The said deceased at the time of his death had a fixed place of abode at .....  
.....  
and/or property within the jurisdiction of this Honourable Court.

8. The said deceased was a ..... *(state nationality)* and professed the  
..... religion.

9. No proceedings for the grant of probate or letters of administration or otherwise for the administration of the estate of the said deceased have been commenced before any Court or authority, whether inside Tanzania or outside it. (*Where such proceedings have been commenced specify the nature of the proceedings and the country and the Court where commenced.*)

.....  
.....  
.....

10. AND I, the said C.D., the petitioner above-named, declare that what is stated above is true to the best of my knowledge, information and belief.

Dated at ..... this ..... day of ..... 20.....

.....  
(Signature of Advocate (if any))

.....  
Signature of Petitioner

**FORM 27**  
**PETITION FOR LETTERS OF ADMINISTRATION**  
**WHEN THE DECEASED DIED INTESTATE**

(Section 56)

(Title)

1. I, C.D., of .....  
hereby petition this Honourable Court for a grant of letters of administration of the estate of the late A.B. who died at ..... on the ..... day of ..... 20.....

2. The said deceased left surviving him the following relatives: (*Give their full names, designation and their residences*).

.....  
.....  
.....  
.....

3. This petition is made by me as (*state the right in which the petitioner claims*).

.....  
.....

4. I believe that the assets which are likely to come to my hands will (*state amount and nature of the assets*).

.....  
.....

5. The said deceased died intestate and due and diligent search has been made for a Will but none has been found.

6. The said deceased at the time of his death had a fixed place of abode at ..... and/or property within the jurisdiction of this Honourable Court).

7. The said deceased was a ..... (*state nationality*) and professed the ..... religion.

8. No proceedings for the grant of probate or letters of administration or otherwise for the administration of the estate of the said deceased have been commenced before any Court or authority, whether inside Tanzania or outside it. (*Where such proceedings have been commenced specify the nature of the proceedings and the country and the Court where commenced*).

.....  
.....  
.....

9. AND I, the said C.D., the petitioner above-named, declare that what is stated above is true to the best of my knowledge, information and belief.

Dated at ..... this ..... day of ..... 20.....

.....  
*Signature of Advocate (if any)*

.....  
*Signature of Petitioner*

**FORM 28**  
**PETITION FOR GRANT BY TRUST CORPORATION**

(Rule 42)

(Title)

*A Petition for a grant of probate or letters of administration by a trust corporation should follow, with necessary variations, the forms of petition for grant given above. The first paragraph should, however, be as follows—*

..... being a trust corporation within the meaning of the term defined in the Probate and Administration of Estates Act hereby petition this Honourable Court for ..... (state whether probate or letters of administration) of the ..... (Will or estate as the case may be) of the late A.B., who died at ..... on the ..... day of ..... 20.....

And the last paragraph should be as follows—

AND I ..... being ..... (state office held in the corporation) and having been duly authorised by the aforesaid corporation to sign this petition on its behalf hereby declare that what is stated in this petition is true to the best of my knowledge, information and belief.

**FORM 29**  
**PETITION FOR GRANT OF LETTERS OF ADMINISTRATION**  
**WITH THE WILL ANNEXED TO AN ATTORNEY OR EXECUTOR**

(Section 30, Rule 43)

(Title)

1. I, C.D., of ..... hereby petition this Honourable Court for a grant of letters of administration of the estate of the late A.B., who died at ..... on the ..... day of ..... 20.....

2. )

) as in Form 26.

3. )

4. The said ..... (name of the executor giving power) as such executor aforesaid has, by the power of attorney hereunto annexed and marked "B" bearing date the day of ..... 20..... appointed me to be his attorney for him and in his behalf to apply for and obtain a grant of letters of administration to the estate of the said deceased with a copy of the said Will annexed.

5. (If there are two or more executors named in the Will and only one of them has appointed the petitioner his attorney state why grant has not, cannot or should not be made to the remaining executors.)

- 6. )
- 7. )
- 8. ) as in Form 26.
- 9. )
- 10. )

I, the said petitioner, therefore, pray that letters of administration with the said Will of the said deceased may be granted to me for the use and benefit of the said .....  
 ..... as such executor as aforesaid limited until he shall obtain a grant to himself from this or any Court in Tanzania having jurisdiction in that behalf.

Declaration and attestation as above.

**FORM 30**  
**PETITION FOR GRANT OF LETTERS OF ADMINISTRATION WITH THE WILL**  
**ANNEXED BY AN ATTORNEY OF PERSON ENTITLED TO SUCH GRANT**

(Section 31, Rule 43)

(Title)

- 1. )
- 2. ) as in Form 26.
- 3. )
- 4. )

5. ....  
 .....  
 ..... (name, designation and address of person giving power of attorney)  
 is ..... (state the interest of the person)  
 and there is no person who has a right to the grant of letters of administration of the estate of the said deceased with the will annexed prior to the right of the said .....  
 ..... to such grant.

6. The said ..... as such person entitled to letters of administration of the estate of the said deceased as aforesaid has by the power of attorney, etc. etc. (as paragraph 4 of Form 29).

- 7. )
- 8. )
- 9. ) as paragraphs 6, 7, 8, 9 and 10 in Form 26.
- 10. )

I, the said petitioner, therefore, pray that letters of administration with the said Will of the said deceased may be granted to me for the use and benefit of the said ..... limited until he shall himself obtain such letters of administration granted to him by this or any Court in Tanzania having jurisdiction in that behalf.

Dated, etc. ....

**FORM 30A**  
**PETITION FOR GRANT OF LETTERS OF ADMINISTRATION ON INTESTACY**  
**BY ATTORNEY OF PERSON ENTITLED TO SUCH GRANT**

(Section 34, Rule 43)

(Title)

- 1. )
- 2. ) as in Form 27.
- 3. ....  
.....  
..... (name, designation and address of person giving power of attorney)  
who as ..... (state  
interest of such person in the estate) is entitled to a grant of letters of administration of the estate of the said deceased is residing at .....  
..... and there is no person equally entitled or having prior right to such grant residing within Tanzania.

4. The said ..... (name of the person giving power of attorney) as such person entitled to letters of administration of the estate of the said deceased as aforesaid, has by the power of attorney hereunto annexed and marked "B" bearing date the ..... day of ..... 20....., appointed me to be his attorney for him and on his behalf to apply for and obtain a grant of letters of administration of the estate of the said deceased.

5. )

6. )

7. ) as paragraphs 4, 5, 6, 7, 8, and 9 in Form 27.

8. )

9. )

I, the said petitioner, therefore, pray that letters of administration of the estate of the said deceased may be granted to me for the use and benefit of the said ..... limited until he shall himself obtain such letters of administration granted to him by this or any court in Tanzania having jurisdiction in that behalf.

Dated, etc. ....

**FORM 31  
PETITION FOR GRANT DURING MINORITY**

(Section 36, Rule 44)

*(Title)*

1. I, C.D., of ..... hereby petition this Honourable Court for a grant of letters of administration of the estate of the late A.B., who died at ..... on the ..... day of ..... 20.....

2. )

) as in Form 26.

3. )

*(If no Will substitute the following for 2 and 3:*

2. The said deceased at the time of his death left surviving him the following relatives: .....

3. The said ..... (*name of the minor*) as ..... (*relation with the deceased*) of the said deceased is entitled to a grant of letters of administration of the said deceased).

4. The said ..... (*name of the minor*) is ..... years old and as such is a minor in law. Annexed hereunto and marked ..... is a certificate (*affidavit*) as to the date of the birth of the said ..... (*name of the minor*).

5. This petition is made by me as ..... (*relationship with the minor*) of the said ..... (*name of the minor*) for him and on his behalf.

6. )

7. )

8. ) as in Form 26.

9. )

10. )

I, the said petitioner, therefore pray that letters of administration with the said Will (or of the said estate) of the said deceased may be granted to me for the use and benefit of the said (name of minor) limited until he shall attain the age of majority and shall obtain a grant to himself from this or any other court in Tanzania having jurisdiction in that behalf.

Dated, etc. ....

**FORM 32**  
**PETITION FOR GRANT DURING UNSOUNDNESS OF MIND**

(Section 37, Rule 45)

(*Title*)

1. )

2. ) as 1, 2, and 3 in Form 31.

3. )

4. The said ..... (*name of the person of unsound mind*) is a person of unsound mind and annexed hereto and marked ..... is a certificate as to the mental condition of the said ..... issued by ..... (or is an affidavit as to the mental condition of the said ..... sworn by ..... (*name and qualifications of the Medical Practitioner*).

5. (*State whether care and management of estate has been committed to any person and if so attach a copy of the Order.*)  
.....  
.....

6. This petition is made by me as (*state whether person to whom management has been committed or relationship with the person of unsound mind*).  
.....  
.....

7. )

8. )

9. ) as 6, 7, 8, 9, and 10 in Form 26.

10. )

I, the said petitioner, therefore, pray that letters of administration with the said Will (or of the said estate) of the said deceased may be granted to me for the use and benefit of the said (*name of the person of unsound mind*) limited until he shall become of sound mind and shall obtain a grant to himself from this or other Court in Tanzania having jurisdiction in that behalf.

Dated, etc. ....

**FORM 33**  
**PETITION FOR GRANT IN RESPECT OF UNADMINISTERED ASSETS**

(Section 46, Rule 46)

(*Title*)

I, C.D., of ..... hereby petition this Honourable Court for grant of letters of administration of the estate of A.B., deceased, who died at ..... on the ..... day of ..... 20.....

2. The said A.B., by his Will bearing date the ..... appointed X.Y. of ..... to be executor thereof.

3. On the ..... day of ..... 20..... this Honourable Court granted unto X.Y., probate of the said Will of the said deceased.

*(Where the deceased died intestate substitute the following for 2 and 3:*

On the ..... day of ..... 20..... this Honourable Court granted unto X.Y., of ..... letters of administration of the estate of the said A.B.)

4. Annexed hereto and marked ..... is a certified copy of the said grant of probate (*or letters of administration*) made to the said X.Y.

5. The said X.Y., died at....., ..... on the ..... day of ..... 20..... leaving part of the estate of the said A.B. unadministered.

6. The said A.B., deceased, left surviving him the following relatives .....  
.....  
.....  
.....  
..... (*state full names and residence*).

7. This petition is made by me as ..... (*state the interest of the petitioner*).

8. I believe that the gross assets of the unadministered estate of the said A.B., deceased, which are likely to come to my hands are (*state the value and the nature of such assets*).  
.....  
.....  
.....

9. The said A.B., deceased, at the time of his death had a fixed place of abode at ..... and/or property within the jurisdiction of this Honourable Court.

10. The said A.B., deceased, was ..... (*state nationality*) and professed ..... religion.

11. No proceedings, save as stated in this petition, for the grant of probate or letters of administration or otherwise for the administration of the estate of the said A.B., deceased, have been commenced before any Court or authority whether inside Tanzania or outside it.

12. AND I, the said C.D., the petitioner above-named, declare that what is stated above is true to the best of my knowledge, information and belief.

I, the said petitioner, therefore pray that letters of administration of so much of the estate of the said A.B., deceased, as remains unadministered, be granted to me.

Dated, etc. ....

**FORM 34**  
**PETITION FOR CESSATE GRANT, THE EXECUTOR HAVING ATTAINED MAJORITY**

(Section 47, Rule 47)

(Title)

I, C.D., of ..... hereby petition this Honourable Court for grant of letters of administration of the estate of A.B., deceased, who died at ..... on the ..... day of ..... 20.....

1. The said A.B., by his will bearing date the ..... appointed me, the said petitioner, to be the executor thereof.

*(If the deceased died intestate paragraph 2 should be in the following form:*

2. The said A.B. died intestate and I as ..... *(interest of the petitioner)* was entitled to letters of administration of the estate of the said A.B.)

3. At the time of the death of the said A.B. I was a minor being then. .... years old.

4. On the ..... day of ..... 20..... this Honourable Court granted unto X.Y., letters of administration of the estate of the said A.B., for my use and benefit and until I should attain the age of ..... years.

5. On the ..... day of ..... 20..... I attained the age of ..... years and the said letters of administration granted to the said X.Y. have consequently ceased and expired leaving part of the estate of the said A.B. unadministered.

6. I believe that the gross assets of the unadministered estate of the said A.B., deceased, which are likely to come to my hands are *(state the value and nature of such assets)*.

.....  
.....  
.....  
.....

(complete as in Form 33)

**FORM 35**  
**AFFIDAVIT TO LEAD TO GRANT *PENDENTE LITE***

(Section 38, Rule 50)

*(Title)*

I, X.Y., of ..... hereby  
make oath and say as follows:

(1) That A.B., deceased, died at ..... on the .....  
day of ..... 20.....

(2) That the said A.B. made and duly executed his last Will and testament bearing date the  
..... day of ..... 20.....

(or That the said A.B. died intestate leaving surviving him the following relatives *(state names and residents of the relatives)*):

.....  
.....  
.....  
.....

(3) That there is now pending in this Honourable Court proceedings *(state the reference and nature of the proceedings)*.

.....  
.....  
.....  
.....

(4) That the estate of the said deceased is comprised of: *(State nature and value of the estate.)*

.....  
.....

(5) (State reasons why it is necessary to appoint an administrator pending determination of the proceedings.)

.....  
.....  
.....  
.....

(6) That I have known the said C.D. the proposed administrator, for ..... years last and that he is a person of respectability and a proper person to be appointed administrator.

Sworn, etc.

**FORM 36  
OATH OF ADMINISTRATOR PENDENTE LITE**

(Rule 50)

(Title)

I, C.D., of .....  
hereby make oath and say that I will well and faithfully administer the estate of the  
above-named deceased, pending the determination of Civil Suit No. .... of  
..... between .....  
..... (parties) now pending in this  
Honourable Court, save distributing the said estate, under the directions and control of this  
Honourable Court, and that I will exhibit a full and true inventory of the said estate in this  
Court whenever directed by the Court so to do or failing such direction within six months from  
the date of the grant to be made to me and will also render a true account of my  
administration to this Court whenever directed by the Court so to do or failing such direction  
within one year from the date of the grant.

Dated at ..... this ..... day of ..... 20.....

Sworn, etc.

**FORM 37  
BOND OF ADMINISTRATOR PENDENTE LITE**

(Rule 50)

(Title)

KNOW ALL MEN BY THESE PRESENTS that we, C.D. (the intended administrator) of ..... E.F. (1st surety) of ..... and G.H. (2nd surety) of ..... are jointly and severally bound unto ..... in the sum of shillings ..... to be paid to the said ..... or to any Judge of the above Court for the time being for the payment of which we bind ourselves and each of us and our heirs, executors, administrators and assigns.

Dated at ..... this ..... day of ..... 20.....

Now the condition of this obligation is such that if the above-named C.D., the person proposed to be appointed administrator of the estate of A.B., deceased, pending determination of Civil Suit No. .... of ..... now pending in this Honourable Court, do make a full and true inventory and exhibit the same in this Court whenever directed by this Court so to do or failing such direction within six months from the date of the grant to him and further do render a true account of his administration to this Court whenever directed by this Court so to do or failing which within one year from the date of the said grant and do obey all orders and directions made or given by this Court respecting administration of the said estate by him, then this obligation shall be void and of no effect or else shall remain in full force and virtue.

Signed, etc.

**FORM 38**  
**AFFIDAVIT TO LEAD TO GRANT**  
**LIMITED TO COLLECTION AND PRESERVATION**

(Section 39, Rule 51(1))

*(Title)*

I, C.D., of ..... hereby make oath and say as follows—

(1) That A.B., deceased died, at ..... on the ..... day of ..... 20.....

(2) That the said A.B. duly made and executed Will bearing date the ..... day of ..... 20..... and appointed me, the said deponent executor thereof (or The said A.B. died intestate leaving surviving him the following relatives (*state names and residence of the relatives*)).

.....  
.....  
.....  
.....  
.....

(3) That I have applied to this Honourable Court for probate of the Will of the said deceased (*or letters of administration of the estate of the said deceased*).

(4) That the estate of the said deceased is comprised of (*state nature and value of the properties*).

.....  
.....  
.....

(5) That it is necessary for the purpose of preserving the said properties of the said deceased that, pending grant of probate (or letters of administration) to me, I be granted letters of administration limited for the purpose of collecting the properties of the said deceased and doing such acts as may be necessary for their preservation and also the following acts: (*state for what particular acts authority is sought*).

.....  
.....  
.....  
.....

Sworn, etc.

**FORM 39**  
**PETITION FOR GRANT LIMITED TO**  
**COLLECTION AND PRESERVATION**

(Section 39, Rule 51(2))

(Title)

I, C.D., of ..... petition  
this Honourable Court for letters of administration limited to collection and preservation of the  
estate of A.B., deceased, who died at ..... on the .....  
day of ..... 20.....

2. )

3. ) as in Form 38.

4. The estate of the said deceased is comprised of (*state nature of the properties and their value*).

.....  
.....  
.....  
.....  
.....

5. For the purpose of preservation of the said properties it is necessary that the estate of the said deceased be administered pending grant of probate (*or letters of administration*).

6. This petition is made by me as (*state interest of the petitioner*).

.....  
.....

7. (*State reasons why no application for grant of probate of the Will or letters of administration of the estate of the deceased has been made and what steps, if any, are being taken to obtain such grant.*)

.....  
.....  
.....  
.....  
.....

8. )

9. ) as paras 7, 8, and 9 in Form 26

10. )

11. Declaration as in Form 26.

I, the said C.D., therefore pray that letters of administration of the estate of the said deceased limited for the purpose only of collecting property of the said deceased and doing such acts as may be necessary for the preservation of the same and also the following acts: ..... (*state for what particular acts authority is sought*) and until further representation be granted but no further or otherwise be granted to me.

Dated, etc.

**FORM 40  
OATH BY ADMINISTRATOR APPOINTED  
TO COLLECT AND PRESERVE**

(Rule 51(3))

*(Title)*

I, C.D., of ..... hereby make oath and say that I will well and faithfully administer the estate of the said deceased, for the purpose only of collecting the property of the said deceased and doing such acts as may be necessary for the preservation of the same and also the following acts: .....  
..... *(state for what particular acts authority is sought)* and until further representation shall be granted but no further or otherwise, and that I will exhibit *(complete as in Form 36)*.

**FORM 41  
BOND BY ADMINISTRATOR APPOINTED  
TO COLLECT AND PRESERVE**

(Rule 51(3))

*(Title)*

*(The first paragraph as in Form 37)*

Now the condition of this obligation is such that if the above-named C.D., the person proposed to be appointed administrator of the estate of A.B., deceased, for the purpose only of collecting the property of the said deceased and doing such acts as may be necessary for the preservation of the same and also the following acts: .....  
..... *(state for what particular acts authority is sought)* and until further representation be granted, but no further or otherwise, do make a full and true inventory *(complete as in Form 37)*.

**FORM 42  
PETITION FOR LETTERS OF ADMINISTRATION OF TRUST PROPERTY**

(Section 41, Rule 53)

*(Title)*

1. I, C.D., of ....., petition this Honourable Court for letters of administration limited to the property described hereinafter of which property A.B., deceased, who died at ..... on the ..... day of ..... 20....., was the sole (surviving) trustee.

2. The said A.B. duly made and executed his last Will and testament bearing date the ..... day of ..... 20..... and appointed X.Y., of ..... executor thereof (or The said A.B. died intestate leaving surviving him the following relatives (*state names and residences*)).

.....  
.....  
.....  
.....

3. By a grant made on the ..... day of ..... 20..... this Honourable Court granted probate of the said Will (or letters of administration of the estate) of the said deceased to the said X.Y. (*Where no such grant has been made state whether proceedings for obtaining such grant is pending in any court in the country.*)

.....  
.....  
.....

4. The following property was vested in the deceased at the time of his death, as trustee (*give description and value of the property*).

.....  
.....  
.....

5. (*Give description of the trust and names and addresses of the beneficiaries. A copy of the instrument creating the trust should also, where possible, be annexed to the Petition.*)

.....  
.....  
.....  
.....

6. (*Give reasons why the executor of the Will or the general administrator will not or cannot administer the trust property.*)

.....  
.....  
.....

7. The said deceased at the time of his death had a fixed place of abode at ..... and the said property is situated within the jurisdiction of this Honourable Court.

8. The said deceased was a ..... (state nationality) and professed the ..... religion.

9. No proceedings for the administration of the said trust property have been commenced before any Court or authority, whether inside Tanzania or outside it.

10. Declaration:

**FORM 43**  
**OATH BY ADMINISTRATOR OF TRUST PROPERTY**

(Section 41, Rule 53)

(Title)

I, C.D., of ..... hereby make oath and say that I will well and faithfully administer according to law .....  
..... (describe the property) which property was held by A.B., deceased, as trustee and that I will exhibit (complete as in Form 36 substituting the words "the said property" for the words "the said estate").

**FORM 44**  
**BOND BY ADMINISTRATOR OF TRUST PROPERTY**

(Section 41, Rule 53)

(Title)

(The first paragraph as in Form 37)

Now the condition of this obligation is such that if the above-named C.D., the person proposed to be appointed administrator of .....  
..... (describe the property), which property was held by A.B., deceased, as trustee, do make a full and true inventory (complete as in Form 37).

**FORM 45**  
**AFFIDAVIT AS TO DOMICILE**

(Rule 64)

(Title)

I, C.D., of ..... make oath  
and say that I knew and was well acquainted with A.B., of .....  
..... deceased, who died on the ..... day of .....  
20..... at .....

I further say that the said deceased was at the time of his death domiciled in .....  
..... (A clause should  
be added showing the grounds on which the assertion is made.)

Sworn, etc.

**FORM 46**  
**ADMINISTRATOR'S OATH**

(Section 66, Rule 65)

(Title)

I, C.D., of ..... hereby  
make oath and say that I will well and faithfully administer the estate of the above-named  
deceased person, by paying first his just debts and then distributing the residue of his estate  
according to the law, so far as the said assets will extend, and that I will make and exhibit a  
full and true inventory of the said property and credits in this Court within six months from the  
date of the grant to be made to me or within such further time as the Court may from time to  
time appoint, and will also render a true account of my administration to this Court within one  
year from the same date or within such further time as the Court may from time to time  
appoint.

Dated at ..... this ..... day of ..... 20.....

Sworn, etc.

**FORM 47**  
**EXECUTOR'S OATH**

(Section 66, Rule 65)

(Title)

I, C.D., of ..... hereby make oath and say that I will faithfully administer the property and credits of the above-named deceased, and in any way concerning his Will, by paying first his debts and then the legacies therein bequeathed so far as the said assets will extend, and then distributing the residue (if any) of his estate according to law, and that I will make and exhibit a full and true inventory of the said property and credits in this Court within six months from the date of the grant to be made to me or within such further time as the Court may from time to time appoint, and also render a true account of my administration to this Court within one year from the same date or within such further time as the Court may from time to time appoint.

Dated at ..... this ..... day of ..... 20.....

Sworn, etc.

**FORM 48**  
**ADMINISTRATION BOND WITH SURETIES**

(Section 67, Rule 66)

(Title)

KNOW ALL MEN BY THESE PRESENTS that we, C.D. ....  
..... (*the administrator*) of ..... E.F.  
..... (*1st surety*) of .....  
and G.H. (*2nd surety*) of ..... are jointly  
and severally bound unto ..... in the sum of shillings ..... to  
be paid to the said ..... or to any Judge of the  
above Court for the time being for the payment of which we bind ourselves and each of us  
and our heirs, executors, administrators and assigns.

Dated at ..... this ..... day of ..... 20.....

The condition of this obligation is such that if the above-named C.D., the intended administrator of all and singular the property and credits of A.B., deceased, do make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of the grant to him, or within such further time as the Court may from time to time appoint, and do well and truly administer the said property and credit according to law; and further do render to this Court a true account of the said property and credits within one year from the date of the said grant or within such further time as the Court may from time to time appoint, and all the rest and residue of the said property and credits which shall be found remaining upon the said administrator's account shall deliver and pay unto such person or persons, respectively, as shall be lawfully entitled to such residue, then this obligation shall be void and of no effect or else shall remain in full force and virtue.

Signed and delivered by the within named)  
.....)

in the presence of )  
.....)

.....  
*Signature of  
persons giving bond*

.....  
*Signature of witness*

**FORM 49**  
**ADMINISTRATION BOND WITHOUT SURETY**

(Section 67, Rule 66)

*(Title)*

KNOW ALL MEN BY THESE PRESENTS that I, C.D., of .....  
..... am bound to ..... in the sum of  
shillings ..... to be paid to the said .....  
or to any Judge of the above Court for the time being for the payment of which I bind myself  
and my heirs, executors, administrators and assigns.

Dated at ..... this ..... day of ..... 20.....

Now the condition of this bond is such that if I, the said C.D., do faithfully  
administer the property and credits of the said deceased and do make a full and  
true inventory of the said property and credits and exhibit the same in this Court  
within six months from the date of the grant to be made to me, or within such  
further time as the Court may from time to time appoint, and also do render to  
this Court a true account of the said property and credits within one year from  
the same date, or within such further time as the Court may from time to time  
appoint, and all the rest and residue of the said properties and credits which  
shall be found remaining upon my accounts shall deliver and pay unto such  
person or persons, respectively, as shall be lawfully entitled to such residue,  
then this obligation shall be void and of no effect or else shall remain in full force  
and virtue.

Signed, etc.

**FORM 50**  
**AFFIDAVIT WHERE CORPORATION IS SURETY**

(Rule 66(5))

(Title)

I, X.Y., of ....., make oath and state as follows—

1. That I am now, and have been since the ..... day of ..... 20..... (office held in the corporation) of ..... (name of corporation).

2. That the said Company is registered in Tanzania under the Companies Act and its registered office is at .....

3. That the objects for which the said company is established include guaranteeing the performance and discharge by administrators of their duties and obligations.

4. That the said Company has executed a bond in the sum of shillings ..... guaranteeing the performance and discharge by C.D., the intended administrator of the estate of A.B., of his duties and obligations as such administrator. The said bond is annexed hereto and marked "B".

5. (State information regarding the Company's financial position to satisfy the Court that its assets are sufficient for the settlement of claims and demands in respect of its guarantees.)

.....  
.....  
.....  
.....

6. That the said bond has been executed in the manner prescribed by the articles of the association of the said Company and complies with all the requirements prescribed by the said articles for execution of such bonds.

7. That no petition or other proceeding is pending in any Court for the purpose of winding up the said Company.

Sworn, etc.

**FORM 51**  
**PETITION FOR ASSIGNMENT OF ADMINISTRATION BOND**

(Section 88, Rule 68)

(Title)

To: ..... (the Court to which petition addressed).

THE HUMBLE PETITION OF F.G., of .....  
SHEWETH that-

(1) On the ..... day of ..... 20..... this Honourable Court granted unto C.D., of ..... letters of administration of the estate of A.B., deceased, who died at ..... on the ..... day of ..... 20.....

(2) The said C.D. and (give names and address of the sureties) by a bond dated the ..... day of ..... 20..... duly executed by them and filed in the above matter bound themselves jointly and severally and their heirs, executors, administrators and assigns unto ..... in the sum of shillings .....

(3) The condition of the said bond was such that if the said C.D. did faithfully administer the property and credits of the said deceased and did make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of the grant to be made to him, or within such further time as the Court might from time to time appoint, and also did render to this Court a true account of the said property and credits within one year from the same date, or within such further time as the Court might from time to time appoint, and all the rest and residue of the said property and credits which were found remaining upon his accounts would deliver and pay unto such person or persons, respectively, as were lawfully entitled to such residue, then the said obligation would be void and of no effect or else would remain in full force and virtue.

(4) (here state particulars of the breach) .....

.....  
The Petitioner, therefore, prays that this Honourable Court make an order assigning the said bond to M.N., of ..... and declare the said M.N. entitled to sue and recover thereon as trustee of all persons interested in the estate of the said deceased, the full amount recoverable in respect of the aforesaid breach of its condition.

AND the Petitioner further prays for such other orders as this Honourable Court may think just.

Dated at ..... this ..... day of ..... 20.....

.....  
(Signature of Advocate (if any))

.....  
Signature of Petitioner

To be served on: (Here give names and addresses of the administrator and the sureties upon whom copies of the petition are to be served.)

.....  
.....  
.....  
.....

**FORM 52  
NOTICE OF HEARING OF PETITION**

(Rule 68(4))

(Title)

TAKE NOTICE that the above petition will be heard in this Court in chambers on the ..... day of ..... 20..... at ..... o'clock in the ..... noon.

Dated at ..... this ..... day of ..... 20.....

.....  
*Registrar*

**FORM 53  
ORDER ASSIGNING BOND**

(Section 68, Rule 68)

(Title)

Upon reading the petition of F.G., of ..... and upon hearing, etc., and upon being satisfied that the engagement of the bond dated the ..... day of ..... 20..... and executed by .....  
..... give names of persons who executed the bond) has not been kept, in that ..... (set out the breach) IT IS HEREBY ORDERED that the said bond be and is hereby assigned to .....  
of ..... who shall be entitled to sue and recover thereon, as trustee for all persons interested in the estate of A.B., deceased, the full amount recoverable in respect of the aforesaid breach of its condition.

IT IS FURTHER ORDERED (*here state orders for security and costs if any*).

.....  
.....  
.....

Dated at ..... this ..... day of ..... 20.....

By Court.

.....  
*Registrar*

**FORM 54  
CERTIFICATE AS TO SURETY'S FINANCIAL POSITION**

(Rule 69)

(*Title*)

I, .....  
of .....  
..... (*state address and occupation*)  
hereby certify that I have known (*name of the surety*) .....  
for ..... years past and I believe that he is well and truly in a position to meet his  
obligation under the bond of shillings ..... executed by him in the above cause.

Dated at ..... this ..... day of ..... 20.....

.....  
*Witness*

.....  
*Signature*

**FORM 55  
JUSTIFICATION OF SURETIES**

(Rule 70)

(*Title*)

We, E.F., of ..... and  
G.H., of .....  
jointly and severally make oath and say that we are the proposed sureties on behalf of C.D.,  
the intended administrator of the estate of the said A.B., deceased, in the sum of shillings  
..... for his faithful administration of the said estate, and I, the said E.F., for myself further  
make oath that I am, after payment of all my debts well and truly worth in real or personal  
estate the sum of shillings ..... and I, the said F.G., for myself further make oath that I am,  
after payment of all my debts, well and truly worth in real or personal estate the sum of  
shillings. ....

Sworn, etc.

**FORM 56  
CONSENT**

(Rule 71)

(Title)

I, .....  
of ..... being  
..... (*state relation with the deceased or  
the right under the Will*) and as such entitled to a share in the estate of the said deceased,  
hereby of my own free will give my consent to (*name of the intended administrator*) applying  
for and obtaining grant of letters of administration of the estate of the said deceased.

Dated at ..... this ..... day of ..... 20.....

Signed by the said ..... this  
..... day of ..... 20.....

**FORM 57  
CITATION WHERE CONSENT NOT AVAILABLE**

(Rule 72(2))

(Title)

WHEREAS C.D., of .....  
has petitioned to this Court for letters of administration of the estate of A.B., deceased.

AND WHEREAS it has been disclosed to this Court that you have an interest in the estate of the said deceased.

YOU ARE HEREBY CITED to come and see the proceedings if you think fit before the grant is made.

Objections to the grant should be filed on or before the ..... day of ..... 20.....

Dated at ..... this ..... day of ..... 20.....

.....  
*Registrar*

**FORM 58  
GENERAL CITATION**

(Rule 75)

*(Title)*

All persons claiming to have any interest in the estate of the above-named deceased are hereby cited to come and see the proceedings if they think fit before the grant of probate (*or letters of administration*) is made to the above-named petitioner.

Objections to the grant should be filed on or before the ..... day of ..... 20.....

The Will of the said deceased is deposited and open for inspection at the Court.

Dated at ..... this ..... day of ..... 20.....

.....  
*Registrar*

**FORM 59  
SUMMONS TO PRODUCE TESTAMENTARY PAPER**

(Section 60, Rule 77)

*(Title)*

To: .....

WHEREAS it appears to this Court that a certain paper or writing being or purporting to be testamentary, to wit ..... (describe the paper), bearing date the ..... day of ..... 20..... of A.B., deceased, late of ..... who died at ..... on the ..... day of ..... 20..... is now in your possession or under your control.

YOU ARE HEREBY COMMANDED to produce, bring into and leave at this Court the said paper or writing within ..... days after service hereof on you, inclusive of the day of such service.

This summons has been issued on the application of: (state name and address of the applicant).

.....  
.....  
.....  
.....  
.....

Given under my hand and the seal of the Court, this ..... day of ..... 20.....

.....  
*Registrar*

**FORM 60**  
**SUMMONS TO PERSON HAVING KNOWLEDGE OF WILL**

(Section 60, Rule 78)

(Title)

To: .....

WHEREAS it appears to this Court that you have knowledge of a certain paper or writing being or purporting to be testamentary, to wit (describe the paper) (or of an oral Will) of A.B., deceased, late of ....., who died at ..... on the ..... day of ..... 20.....

YOU ARE HEREBY COMMANDED to appear before this Court on the ..... day of ..... 20..... at ..... o'clock in the ..... noon for the purpose of being examined respecting the said paper or writing (or the said oral Will).

If you fail to comply with this order without lawful excuse, you will be subject to the consequences of non-attendance laid down in the Probate Rules.

This summons has been issued on the application of .....  
.....  
..... (state name and address of the applicant).

Given under my hand and the seal of the Court this ..... day of .....  
20.....

.....  
*Registrar*

**FORM 61**  
**NOTICE REQUIRING ATTENDANCE OF PETITIONER**

(Section 61, Rule 80)

(Title)

To: .....

Take notice that you are required to attend before this Court on the ..... day of  
..... 20..... at ..... o'clock in the ..... noon for the purpose of  
being examined upon oath respecting your application for probate of the Will (or letters of  
administration of the estate) of A.B., deceased, late of ..... who  
died at ..... on the ..... day of ..... 20.....

Dated at ..... this ..... day of ..... 20.....

.....  
*Registrar*

**FORM 62**  
**CAVEAT**

(Section 58, Rule 82)

(Title)

Let nothing be done in the matter of the estate of A.B., deceased, who died at .....  
..... on the ..... day of ..... 20..... without  
due notice to ..... (*name of the caveator*) whose address of  
service is .....  
..... (*state address of service*).

Dated at .....this ..... day of ..... 20.....

(To be signed by the caveator or his advocate)

**FORM 63**  
**APPLICATION FOR CITATION TO CAVEATOR**

(Section 59(2), Rule 82(2))

(*Title*)

To: The Registrar,  
.....  
.....

C.D., being the person who has petitioned to this Honourable Court for grant of probate of the Will (*or letters of administration of the estate*) of A.B., late of .....  
deceased, who died at .....on the ..... day of  
..... 20..... hereby applies that a citation under section 59(2) of the Probate and  
Administration of Estates Act may be issued to .....  
of ..... who has entered a caveat in the  
estate of the said deceased.

Dated at .....this ..... day of ..... 20.....

.....  
(*To be signed by the Petitioner or his  
advocate*)

**FORM 63A**  
**NOTICE OF PETITIONER**

(Rule 82(2A))

(*Title*)

To:

.....  
.....  
.....

WHEREAS you have petitioned this court for a grant of probate of the will (or letters of administration of the estate) of ....., deceased.

AND WHEREAS there is lodged in this court a caveat by ..... against a grant of probate of the will (or letters of administration of the estate) of the said deceased.

AND WHEREAS you have so far failed to apply for the issue of a citation to the said caveator under section 59(2) of the Probate and Administration of Estates Act.

TAKE NOTICE that unless you apply for a citation as aforesaid within twenty-one days after service hereof, inclusive of the day of such service, your petition will be deemed to have been withdrawn.

Dated at ..... this ..... day of ..... 20.....

.....  
*Registrar*

**FORM 64**  
**CITATION TO CAVEATOR**

(Section 59, Rule 82(3))

*(Title)*

To: .....

WHEREAS on the ..... day of ..... 20..... you lodged into this Court a caveat in the estate of A.B., late of ..... deceased, who died at ..... on the ..... day of ..... 20.....

YOU ARE HEREBY CITED within thirty days after service hereof, inclusive of the day of such service—

- (1) to file into this Court a statement as to whether you support the grant of probate of the Will (or letters of administration of the estate) of the said deceased to C.D., of ..... who has petitioned this Court for such grant; or
- (2) if you do not support such grant to the said C.D., to enter an appearance to the said petition of the C.D., supported by an affidavit setting forth what right or interest you have in the estate of the said deceased and the grounds of your objections to the application of the said C.D., for the grant.

AND TAKE NOTICE that in default of your so doing your said caveat shall be deemed to have been withdrawn and no further caveat may be entered by you or on your behalf.

Dated at .....this ..... day of ..... 20.....

.....  
Registrar

**FORM 65  
APPEARANCE BY CAVEATOR**

(Section 59, Rule 82(4))

(Title)

CAVEAT dated the ..... day of ..... 20.....

Name of the deceased: .....

Name and address of the petitioner: .....

Name and address of the caveator: .....

ENTER AN APPEARANCE for the above-named caveator .....

Dated at ..... this ..... day of ..... 20.....

.....  
(Signature of the caveator  
or his advocate)

(A copy of this appearance and of the accompanying affidavit of the said caveator to be served upon the petitioner above-named.)

**FORM 66  
GRANT OF PROBATE**

(Section 24, Rule 84)

(Title)

BE IT KNOWN that on the ..... day of ..... in the year ..... the last Will of ..... late of ..... deceased, who died at ..... on the ..... day of ..... 20....., a copy whereof is hereunto annexed, was proved before this Court, and that administration of the property and credits of the said deceased and in any way concerning ..... Will, is

HEREBY GRANTED to ..... the ..... in the said Will named, he having undertaken to administer the said property and credits and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint.

Dated at .....this ..... day of ..... 20.....

By the Court,

.....  
*Registrar*

**FORM 67  
GRANT OF LETTERS OF ADMINISTRATION WITH WILL ANNEXED**

(Section 29, Rule 84)

(Title)

BE IT KNOWN that letters of administration, with Will annexed, of the property and credits of ..... late of ..... deceased, who died at ..... on the ..... day of ..... 20..... are HEREBY GRANTED to ..... the ..... of the deceased he having undertaken to administer (*complete as in Form 66*).

**FORM 68**  
**GRANT OF LETTERS OF ADMINISTRATION**  
**WITHOUT WILL**

(Section 33, Rule 84)

*(Title)*

BE IT KNOWN that letters of administration of the property and credits of late of .....  
..... who died at .....  
on the ..... day of ..... 20..... are HEREBY GRANTED to  
..... the .....  
of the deceased, he having undertaken to administer (*complete as in Form 66*).

**FORM 69**  
**GRANT OF LETTERS OF ADMINISTRATION TO ATTORNEY**

(Section 30 or 31, Rule 84)

*(Title)*

BE IT KNOWN that letters of administration, with Will annexed, of the property and credits  
of ..... late of .....,  
deceased, who died at ..... of the ..... day  
of ..... 20..... are HEREBY GRANTED to .....  
the attorney of ..... being the executor named in the said  
Will, (*or being a person entitled to a grant under section 29 of the Probate and Administration  
of Estates Act*) for the use and benefit of the said .....  
limited until he shall obtain a grant in respect of the estate of the said deceased to himself  
from this or any Court in Tanzania having jurisdiction on that behalf, the said .....  
..... (*name of the attorney*) having undertaken to  
administer (*complete as in Form 66*).

**FORM 70**  
**GRANT OF LETTERS OF ADMINISTRATION DURING MINORITY**

(Section 36, Rule 84)

*(Title)*

BE IT KNOWN that letters of administration (*with Will annexed*) of the property and credits of ..... late of ....., deceased, who died at ..... on the ..... day of ..... 20..... are HEREBY GRANTED to ..... for the use and benefit of ..... who is a person entitled to such grant (*or the executor named in the Will*) but who is precluded from obtaining such grant (*or probate of the said Will*) by reason of his minority, limited until the said ..... shall attain the age of majority and shall obtain a grant in respect of the said estate to himself from this or any Court in Tanzania having jurisdiction in that behalf, the said ..... having undertaken to administer (*complete as in Form 66*).

**FORM 71**  
**GRANT OF LETTERS OF ADMINISTRATION DURING UNSOUNDNESS OF MIND**

(Section 37, Rule 84)

(Title)

BE IT KNOWN that letters of administration (*with Will annexed*) of the property and credits of ..... late of ....., deceased, who died at ..... on the ..... day of ..... 20..... are HEREBY GRANTED to ..... for the use and benefit of ....., who is a person entitled to such grant (*or the executor named in the said Will*) but who is precluded from obtaining such grant (*or probate of the said Will*) by reason of the unsoundness of his mind, limited until he shall become of sound mind and shall obtain a grant in respect of the said estate to himself from this or any Court in Tanzania having jurisdiction in that behalf, the said ..... having undertaken to administer (*complete as in Form 66*).

**FORM 72**  
**GRANT IN RESPECT OF UNADMINISTERED ASSETS**

(Section 46, Rule 84)

(Title)

WHEREAS on the ..... day of ..... 20..... the Court granted ..... probate of the Will (*or letters of administration of the estate*) of ..... late of ..... deceased, who died at ..... on the ..... day of ..... 20.....

AND WHEREAS the said (*name of the original executor or administrator*) died at ..... on the ..... day of ..... 20..... leaving part of the estate of the said deceased unadministered.

BE IT KNOWN that letters of administration of so much of the estate of the said ....., deceased, as remains unadministered are HEREBY GRANTED to ..... he having undertaken to administer (*complete as in Form 66*).

**FORM 73**  
**GRANT PENDENTE LITE**

(Section 38, Rule 84)

(*Title*)

WHEREAS ..... late of ..... deceased, died at ..... on the ..... day of ..... 20.....

AND WHEREAS there is now pending in this Court ..... (*state the title of the proceedings, concerning* ..... (*state the nature of the dispute*).

BE IT KNOWN that letters of administration of the property and credits of the said deceased pending the determination of the said proceedings and subject to the provisions of section 38 of the Probate and Administration of Estates Act are HEREBY GRANTED to ..... he having undertaken to administer the said property and credits, save distributing the same, under the directions and control of this Court, and to exhibit a full and true inventory of the said estate in this Court whenever directed by the Court so to do or failing such direction within six months from the date of this grant and also to render to this court a true account of his administration of the said property and credits whenever directed by this court so to do or failing such direction within one year from the date of this grant.

Dated at ..... this ..... day of ..... 20.....

By the Court,

.....  
*Registrar*

**FORM 74**

**GRANT LIMITED TO COLLECTION AND PRESERVATION**

(Section 39, Rule 84)

(Title)

BE IT KNOWN that letters of administration of the estate of .....  
..... late of ....., deceased,  
who died at ..... on the ..... day of .....  
20..... limited for the purpose only of collecting the property of the said deceased and doing  
all such acts as may be necessary for the preservation of the same and also the following  
acts: (*state the particular acts for which authority has been granted*) and until further  
representation in respect of the said estate be granted but no further or otherwise are  
HEREBY GRANTED to ..... (*where  
application for grant has been made by a petition under Rule 51(2) add: the said*  
.....  
.....

..... having  
undertaken to exhibit a full and true inventory of the said estate in this Court whenever  
directed by the Court so to do or failing such direction within six months from the date of this  
grant and also to render a true account of his administration of the said estate to this Court  
whenever directed by the Court so to do or failing such direction within one year from the date  
of this grant).

Dated at ..... the ..... day of ..... 20.....

By the Court,

.....  
*Registrar*

**FORM 75  
GRANT LIMITED TO TRUST PROPERTY**

(Section 41, Rule 84)

(Title)

BE IT KNOWN that letters of administration limited to the property described in the schedule hereto which property was held by ..... late of ..... deceased, who died at ..... on the ..... day of ..... 20..... as trustee are HEREBY GRANTED to ..... he/she having undertaken (complete as in Form 66 substituting the words "the said property" for the words "the said estate").

**SCHEDULE**

*(describe the trust property)*

Dated at ..... this ..... day of ..... 20.....

By the Court,

.....  
*Registrar*

**FORM 76  
APPLICATION FOR APPOINTMENT OF ADMINISTRATOR OF SMALL ESTATE**

(Rule 85)

*(Title)*

I, C.D., of ..... hereby apply to be appointed administrator of the estate of A.B., late of ..... deceased, who died at ..... on the ..... day of ..... 20.....

2. The writing hereunto annexed and marked "A" is the last Will and testament of the said A.B. (or, if the deceased made an oral Will: The said deceased made an oral Will the terms whereof and the circumstances in which it was made are stated in the affidavit, of ..... dated the ..... day of ..... 20..... annexed hereto and marked "A" or, if the deceased died intestate: The said deceased died intestate and due and diligent search has been made for a Will but none has been found).

3. The said deceased left surviving him the following relatives (*give names and addresses of the relatives*).

.....  
.....  
.....  
.....  
.....  
.....

4. This application is made by me as (*state the right or interest of the applicant in the estate. If the application is made by someone other than the person named in the Will, if any, as executor, and no consent of such person is available, a paragraph should be added here giving name an address of such executor and reasons why consent has not been obtained*).

.....  
.....  
.....  
.....

5. I believe that the gross assets which are likely to come to my hands will be (*state amount and nature of the assets*).

.....  
.....  
.....  
.....

6. The said deceased at the time of his death had a fixed place of abode at .....  
and/or property within the jurisdiction of this court.

7. The said deceased was ..... (*state nationality*)  
and professed the ..... religion.

8. No proceedings for the grant of probate or letters of administration or appointment of an administrator or otherwise for the administration of the estate of the said deceased have been commenced before any Court or authority whether inside Tanzania or outside it.

Dated at ..... this ..... day of ..... 20.....

.....  
*Signature of the Advocate (if any)*

.....  
*(Signature of the Applicant)*

**FORM 77**  
**UNDERTAKING BY ADMINISTRATOR OF SMALL ESTATE**

(Section 76, Rule 91)

(Title)

I, ..... hereby solemnly and sincerely declare that I will well and faithfully administer the estate of the above-named deceased person, by paying his just debts and distributing the residue according to law.

Dated the ..... day of ..... 20.....

.....  
(Witness)

.....  
(Signed)

**FORM 78  
APPOINTMENT OF ADMINISTRATOR OF SMALL ESTATE**

(Section 76, Rule 93)

(Title)

BE IT KNOWN that C.D., of ..... is hereby appointed administrator of the estate of A.B., late of ..... deceased, who died at ..... on the ..... day of ..... 20..... the said C.D., having undertaken well and faithfully to administer the said estate.

A copy of the Will (or a statement of the contents of the oral Will) executed (made) by the said deceased is annexed hereto.

Given under my hand and the seal of the Court this ..... day of ..... 20.....

.....  
Resident Magistrate

**FORM 79  
NOTICE OF APPLICATION FOR RESEALING**

(Rule 99)

(Title)

Notice is hereby given that an application has been made to this Court for sealing of the Probate (or Letters of Administration) of the estate of A.B., late of ..... deceased, who died at ..... on the ..... day of ..... 20....., granted to C.D., of ..... by ..... (the Court and country which made the grant) and that the said application will be heard at this Court by a Judge in chambers on the ..... day of ..... 20..... at ..... o'clock in the forenoon.

Dated at ..... this ..... day of ..... 20.....

.....  
Registrar

**FORM 80  
INVENTORY OF ESTATE**

(Section 107, Rule 106)

(Title)

Date of Grant: .....

ASSETS

<i>Item No.</i>	<i>Description of Property</i>	<i>Value</i>
	Immovable properties	
	Cash in hand	
	stocks and Shares	
	Insurance Policies	
	Interest in Business	
	Book debts	
	Furniture	
	Personal effects	
	Other Properties	
	Total	

LIABILITIES

<i>Item No.</i>	<i>Description</i>	<i>Value</i>
	Names of Creditors	
	Mortgages	
	Other Debts	
	Death bed Expenses	
	Funeral Expenses	
	Total	<hr/>

I, ..... the administrator  
*(executor)* of the estate of the said ..... hereby  
certify that the foregoing inventory of the said estate is true to the best of my knowledge,  
information and belief.

Dated at ..... the ..... day of ..... 20.....

.....  
*Signature of Executor or Administrator*

Filed in Court this ..... day of ..... 20.....

.....  
*Registrar*

**FORM 81**  
**ACCOUNTS OF ESTATE**

(Section 107, Rule 107)

(Title)

<i>Date of Grant:</i>	<i>Receipts</i>	<i>Value</i>
	1. Estate as per inventory	
	2. Estate realised Shs....	
	3. Gain (or loss) on realisation	
	Gross Estate:	<hr/>

<i>Payment</i>	<i>Value</i>
----------------	--------------

1. Funeral Expenses
2. Debts
3. Administration expenses
4. Net estate available for distribution

Total

The aforesaid residue of ..... has been *(or will be)*  
 divided amongst the following person entitled to the same:

<i>Name of person entitled</i>	<i>How entitled</i>	<i>Amount</i>
--------------------------------	---------------------	---------------

I ..... the administrator  
*(or executor)* of the estate of the said .....  
 hereby certify that the foregoing accounts are true to the best of my knowledge and belief.

Dated the ..... day of ..... 20.....

.....  
*Signature of Executor or Administrator*

Filed in court this ..... day of ..... 20.....

**FORM 82**  
**NOTICE TO BE ANNEXED TO PROBATE AND**  
**LETTERS OF ADMINISTRATION**

(Rule 108)

NOTICE

The attention of the persons(s) to whom this grant has been made is invited to the following section of the Probate and Administration of Estates Act and the following rules of the Probate Rules.

*Rule 107:*

(1) An executor or administrator shall, within six months from the grant of probate or letters of administration, or within such further time as the court which granted the probate or letters may from time to time appoint or require, exhibit in that court an inventory containing a full and true estimate of all the property in possession, and all the credits, and also all the debts owing by any person to which the executor or administrator is entitled in that character, and shall in like manner, within one year from the grant or within such further time as the court may from time to time appoint, exhibit an account of the estate, showing the assets which have come to his hands and in the manner in which they have been applied or disposed of.

(2) If the administration is not completed within one year from the grant of probate or letters of administration, the executor or administrator shall at intervals of not more than six months, or within such further time as the court which granted the probate or letters may from time to time appoint or require, and on the completion of the administration, exhibit in the like manner an account showing the assets which have come into his hands and the manner in which they have been applied or disposed of since the last account was exhibited.

(3) If an executor or administrator, on being required by the court to exhibit an inventory or account under this section, omits to comply with the requisition within the time limited in the requisition for compliance therewith, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding six months.

(4) If an executor or administrator exhibits an intentionally false inventory or account under this section he shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding seven years.

(5) Any beneficiary under a Will, person entitled to a share under an intestacy or unsatisfied creditor shall be entitled to inspect the inventory and accounts of an executor or administrator.

*Rule 109:*

(1) An application for extension of time to exhibit an inventory or an account shall be made by a chamber summons supported by an affidavit stating reasons for such application.

(2) An application under this rule shall be made before the expiry of the period within which the executor or the administrator is required by the Court to file the inventory or account.

*Rule 111:*

Every executor and administrator empowered to distribute the assets of the deceased shall within sixty days of his appointment cause a notice to be published in the *Gazette* requiring any person having any claim against such assets to inform such executor or administrator within such time, not being less than two months, from the date of the notice, as may be fixed in the notice.

**FORM 83**  
**REQUISITION TO FILE INVENTORY OR ACCOUNT**

(Rule 110)

(Title)

To: .....

WHEREAS under s. 130 of the Probate and Administration of Estates Act you as executor (or administrator) of the estate of the above-named deceased were required to exhibit in this Court an inventory (or an account) of the said estate by the ..... day of ..... 20..... which you have failed to do.

AND WHEREAS on the ..... day of ..... 20..... the Court made an order requiring you to exhibit such inventory (or account) within ..... days after service hereof upon you inclusive of the day of such service.

NOW TAKE NOTICE that unless you exhibit an inventory (or an account) as required by the said last mentioned order of the court, you will be liable to be prosecuted for the offence under Section 107(3) of the Act.

Dated at ..... this ..... day of ..... 20.....

.....  
Registrar

**FORM 84**  
**NOTICE TO CREDITORS**

(Rule 111)

NOTICE is hereby given that all persons claiming debts or liabilities affecting the estate of the above-named ..... deceased, who died at ..... on the ..... day of ..... 20..... and probate of whose Will (or letters of administration of whose estate) was (were) granted to us (me) by the (Court) on the ..... day of ..... 20....., are hereby required to send in their claims to us (me) at the following address within ..... from the date of the publication of this notice at the expiration of which time we (I) shall proceed to hand over the assets to the persons entitled thereto having regard only to the claims of which we (I) shall then have had notice.

.....  
*(Names and Address of the  
Executors or Administrators)*

**FORM 85**  
**ENDORSEMENT ON ENVELOPE CONTAINING WILL OF LIVING PERSON**

(Rule 114)

This sealed packet contains the last Will and testament (*or codicil to the last Will and testament, or last Will and testament and codicil thereto*), bearing dates respectively ..... (*here state the dates of all the papers enclosed*) of A.B., of ..... where C.D., of ..... is appointed executor and the same are brought into the registry of the High Court of Tanzania for safe custody, there to remain deposited until after my decease. I undertake to notify the said executor of his appointment as such and of the deposit of the aforesaid document.

Dated this ..... day of ..... 20.....

*(Attestation)*

.....  
*(Signature of the person depositing Will)*

**FORM 86**  
**CERTIFICATE OF DEPOSIT OF WILL**

(Rule 114)

This is to certify that on the ..... day of ..... 20..... A.B., of ..... deposited in this registry a sealed packet and that the endorsement on the said packet states that it contains the last Will and testament (*or codicil to the last Will and testament, or last Will and testament and codicil thereto*) bearing dates respectively ..... (*state the dates of the documents shown on the endorsement*).

Given under my hand and the seal of the Court this ..... day of ..... 20.....

.....  
*Registrar*

**SECOND SCHEDULE**  
**COURT FEES PRESCRIBED UNDER RULE 117 OF THE PROBATE RULES**

A: PROCEEDINGS BEFORE THE HIGH COURT OR DISTRICT DELEGATE

	<i>Shs. Cts.</i>
1. On filing application for Probate or letters of administration where such application is required to be made by petition	45.00
2. On filing application for Probate or letters of administration where such application is required to be made by chamber summons	15.00
3. On filing application for resealing of a grant	45.00
4. On filing every administration oath or executors oath	25.00
5. On filing every security	45.00
6. For every grant issued where application for such grant was made by petition	30.00
7. For every grant issued where application for such grant made by chamber summons	15.00
8. On filing inventory or account	30.00
9. For every citation or summons issued	3.00
10. On filing a caveat	15.00
11. On filing every summons, motion or application not otherwise provided for	15.00
12. On filing every affidavit or other documents not otherwise provided for	6.00
12A. On filing an amended petition, application or other document	6.00
13. For every order or decree	6.00
14. For insertion in the <i>Official Gazette</i> or other newspaper or periodical of any citation or other notice, in addition to the cost of publication	6.00
15. For inspection of any record or document lodged in the court or for reference to the archives	6.00

- |      |   |   |
|------|---|---|
| 15A. | On making payment of a sum of money or security or delivering a thing into the court to the account of a person entitled to the same under a will or on intestacy | 5 percent of the amount so paid or on the declared value of the thing so delivered. |
| 16.  | On depositing a sealed packet containing a Will or codicil of a living person under s. 161 of the Act   | 100.00  |
| 17.  | For certificate of a deposit of a Will or codicil under s. 161 of the Act   | 5.00  |

For all other acts, matters and proceedings not specifically provided for above, such fees as are payable in respect of similar acts, matters or proceedings in civil suits shall be payable.

**B: PROCEEDINGS BEFORE DISTRICT COURTS**

- |    |   |   |
|----|---|---|
| 1. | On filing application )<br>for appointment of an )<br>administrator and other )<br>documents required to be )<br>filed therewith including )<br>the fee for the issue of )<br>an appointment. ) | 5 percent on the gross value of the estate, not exceeding Shs. 150/=.                     |
| 2. | For all other acts, matters and proceedings.  | Same fees as are payable for similar acts, matters and proceedings before the High Court. |

## Endnotes

**1 (Popup - Popup)**

Cap. 11

**2 (Popup - Popup)**

Cap. 358

**3 (Popup - Popup)**

Cap. 33

**4 (Popup - Popup)**

Cap. 33

**5 (Popup - Popup)**

Cap. 27

**6 (Popup - Popup)**

Cap. 33

**7 (Popup - Popup)**

Cap. 33

**8 (Popup - Popup)**

Cap. 33

**9 (Popup - Popup)**

Cap. 27

**10 (Popup - Popup)**

Cap. 27

**11 (Popup - Popup)**

R.L. Cap. 30

**12 (Popup - Popup)**

Ords. Nos. 33 of 1947 s. 5; 35 of 1961 Second Sch.

**13 (Popup - Popup)**

Cap. 11

**14 (Popup - Popup)**

Cap. 31

**15 (Popup - Popup)**

R.L. Cap. 114

**16 (Popup - Popup)**

Cap. 334

**17 (Popup - Popup)**

Cap. 334

**18 (Popup - Popup)**

Cap. 339

**19 (Popup - Popup)**

R.L. Cap. 28

**20 (Popup - Popup)**

R.L. Cap. 30

**21 (Popup - Popup)**

Supp. 58 R.L. Cap 28 p. 6

**22 (Popup - Popup)**

Supp. 57 R.L. Cap 30 p. 10

**23 (Popup - Popup)**

R.L. Cap. 315

**24 (Popup - Popup)**

Cap. 27

**25 (Popup - Popup)**

Cap. 31

**26 (Popup - Popup)**

Cap. 352

**27 (Popup - Popup)**

Cap. 98

**28 (Popup - Popup)**

Cap. 33

**29 (Popup - Popup)**

Cap. 33

**30 (Popup - Popup)**

A.L. [13] p. 2

**31 (Popup - Popup)**

No security shall be required where the receiver is the Administrator-General or the Public Trustee.