




# **GADME ATTORNEYS**

**THE PROBATE (AMENDMENT) RULES**

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**A SIGNIFICANT UPDATE TO  
PROBATE PRACTICE IN  
TANZANIA**

**2025**

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## INTRODUCTION

The practice and procedure relating to probate and the administration of estates in Tanzania has undergone a significant transformation following the enactment of the Probate (Amendment) Rules, 2025. These Rules amend the existing framework under the Probate and Administration of Estates (Forms and Rules), G.N. No. 369 of 1963, made under the Probate and Administration of Estates Act [Cap. 352 R.E. 2023]. The amendments aim to modernize the probate process, promote efficiency, and address long-standing procedural gaps in the administration of estates.

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## LEGAL BASIS FOR THE AMENDMENT

The Probate (Amendment) Rules, 2025 were enacted by the Chief Justice of Tanzania pursuant to the powers vested under section 9 of the Probate and Administration of Estates Act, [Cap. 352 R.E. 2023], which authorizes the Chief Justice to make rules governing the practice and procedure in all probate and administration proceedings. The 2025 amendments were published in the Government Gazette No. 429 of 2025, and they now constitute binding procedural law in all courts exercising probate jurisdiction in Tanzania, excluding Primary Courts, which are governed by their own specific rules.



## KEY HIGHLIGHTS OF THE AMENDMENTS

### **Distinction between applications for Annulment and Revocation.**

One of the significant changes introduced by the Probate (Amendment) Rules, 2025 is the clear distinction between applications for annulment of a grant and revocation of an executor or administrator. Previously treated as a single process, the amendment now separates these two legal remedies into distinct procedures. This change is embodied in Rule 16 of the Amendment, which amends Rule 29 of the principal Rules, thereby streamlining the procedural clarity in handling such applications.

### **Delay in Filing the Application for Probate or Letters of Administration.**

The Probate (Amendment) Rules, 2025 have revised Rule 31, which governs the timelines for filing petitions for probate or letters of administration. Under the amended rule, any petition filed **after the lapse of one year** from the date of the deceased's death must now be accompanied by a **written explanation** justifying the delay. This amendment seeks to encourage the **prompt commencement of probate proceedings** and to ensure that **unreasonable delays are properly accounted for**. Notably, this marks a **significant departure** from the previous position, which allowed such petitions to be filed within **three years**.

### **Deletion of some documents.**

The Probate (Amendment) Rules, 2025 have simplified the probate process by removing certain previously mandatory documents. Under the amended Rule 33, petitioners are no longer required to submit an affidavit concerning the deceased's domicile when applying for probate. Likewise, Rule 39 has been amended to eliminate the need to attach a certificate verifying the financial position of sureties in petitions for letters of administration. These changes are designed to ease procedural compliance and reduce the administrative burden on those seeking to administer estates.

### **Alternative to the Death Certificate.**

The Probate (Amendment) Rules, 2025 have repealed **Rule 63** and introduced a new provision offering an alternative to the submission of a death certificate. Under the amended rule, where a petitioner is unable to obtain a death certificate **due to reasons beyond their control**, they may file an **affidavit** from: (a) a person who witnessed the interment or cremation of the deceased; (b) a **medical practitioner** who officially pronounced the death; or (c) **any other person** whose affidavit sufficiently proves the death of the deceased. This amendment provides a flexible evidentiary framework to accommodate situations where formal documentation may not be readily available.

## KEY HIGHLIGHTS OF THE AMENDMENTS

### Enhanced Management of Contentious Proceedings.

The Probate (Amendment) Rules, 2025 have strengthened the handling of contentious probate matters by **repealing Rule 82** and replacing it with a new provision that introduces a more structured procedure for dealing with **caveats and objections**. The amended rule sets a **seven-day time limit** for effecting service of a caveat from the date of its filing, and such service must comply with the provisions of the Civil Procedure Code.

Additionally, a **time-bound obligation** is placed on petitioners to apply for **citation within 14 days** from the date of service of the notice of caveat, or within such other period as the Court may direct. Failure to comply results in the petition being **deemed withdrawn**, and the petitioner is **barred from filing a fresh petition** on the same matter. This amendment promotes efficiency and prevents abuse or delay in contested probate proceedings.

### Restoration of Withdrawn Petitions.

The Probate (Amendment) Rules, 2025 introduce a procedure for the restoration of petitions deemed withdrawn due to the petitioner's failure to apply for citation within the prescribed time. Rule 82(6) now permits such restoration by way of a Chamber Application, in which the petitioner must state the grounds for the application.

Additionally, the application must be accompanied by the citation as required under Rule 82(3). This provision offers a remedial avenue for petitioners who may have defaulted for valid reasons, while maintaining procedural integrity and accountability.

### Objection, Confirmation, and Closure.

Rule 107 of the principal Rules has been deleted and replaced under the Probate (Amendment) Rules, 2025 to provide a clearer framework for handling objections to inventories and the closure of probate proceedings. Under the new rule, any person dissatisfied with the inventory filed by an executor or administrator may raise an objection either orally or in writing, provided it is done before the confirmation of the inventory by the court.

Furthermore, the rule imposes a mandatory duty on the Court to withhold closure of the probate or letters of administration until it is satisfied that all assets of the estate have been properly transferred to the rightful heirs or beneficiaries. This ensures both transparency and finality in the administration of estates.

## KEY HIGHLIGHTS OF THE AMENDMENTS

### **Collection of Deceased's Money and Payment Procedures.**

A new provision, Rule 105A, has been introduced under the Probate (Amendment) Rules, 2025, requiring every executor or administrator to open a special administration account, to be known as a Mirathi Account, and to submit the account details to the Court. This account is intended to serve as the designated repository for all monies forming part of the deceased's estate, which must be deposited therein prior to any distribution to beneficiaries. Notably, this requirement does not apply to estates administered by the Administrator General or the Public Trustee. The rule enhances accountability and transparency in the handling of estate funds by private administrators and executors.

### **Dealing with Defective Applications.**

Rule 115A has been amended to empower the Court to entertain applications containing minor defects, thereby promoting substantive justice over strict procedural technicalities. This amendment aligns with Article 107A(2)(e) of the Constitution of the United Republic of Tanzania, 1977, ensuring that parties are not unduly prejudiced by minor errors that do not affect the merits of their applications.

### **New Court Probate Court Fees.**

The Rules have repealed and replaced the Second Schedule, introducing a revised fee structure for probate-related filings. Notably, the filing fee for an application for probate or letters of administration is now set at Tanzania Shillings 10,000/=, reflecting a standardized and updated cost framework for accessing probate services.

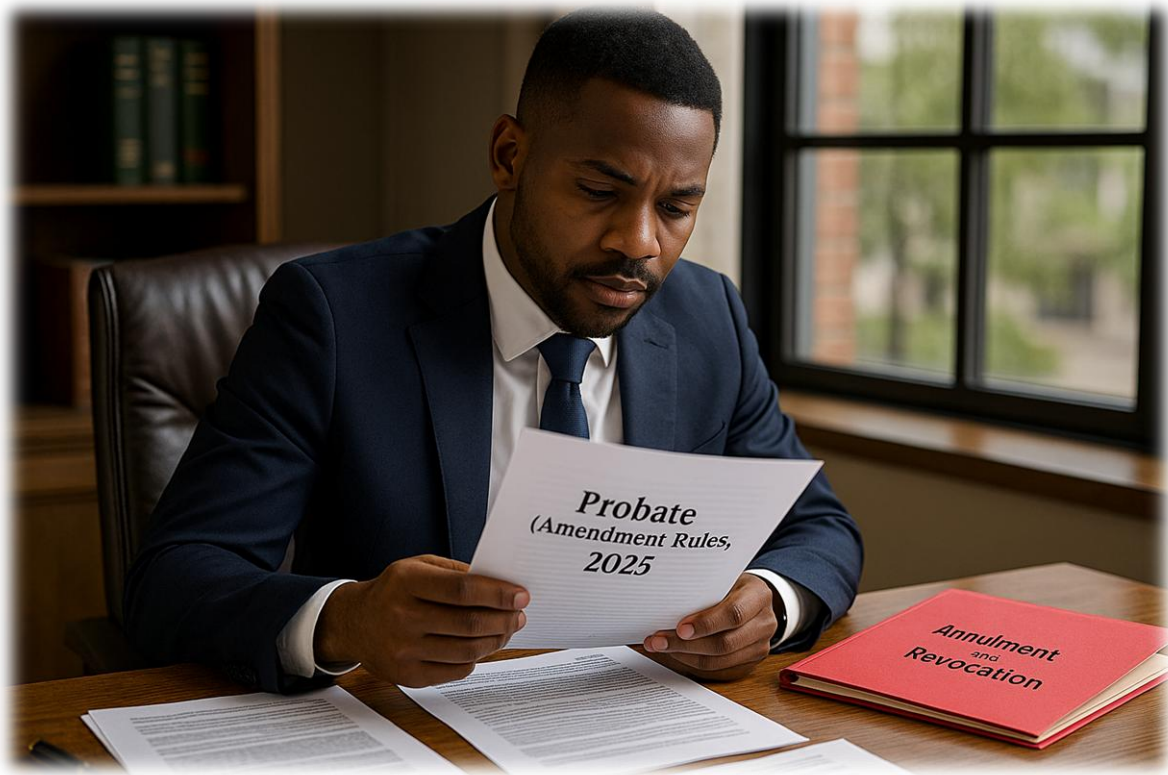
### **Introduction of New Forms.**

The Probate (Amendment) Rules, 2025 introduce and revise several prescribed forms such as Forms 02, 06, 18, 26, 63, 64, 65, 67, 77, 80, and 81 to be used in petitions, applications, citations, caveats, and grants. These updates aim to promote uniformity, consistency, and clarity in probate practice.

## CONCLUSION

The Probate (Amendment) Rules, 2025 represent a significant and progressive reform in probate procedure in Tanzania. By introducing time-bound obligations, enhancing procedures for small estates, and providing a framework for resealing foreign grants, the new rules strive to balance procedural rigor with access to justice.

It is imperative for legal practitioners, judicial officers, and litigants to familiarize themselves with these amendments to ensure proper compliance and effective handling of probate matters.



## REFERENCES

- The Constitution of the United Republic of Tanzania, 1977
- The Probate and Administration of Estates Act [Cap. 352 R.E. 2023]
- The Probate Rules, G.N. No. 369 of 1963.
- The Probate (Amendment) Rules, G.N. No. 429 of 2025.



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