

Quick guideline on the steps for petition for the grant of probate or letters of administration of the deceased's estate in Tanzania;

A vital tool for Judges, Magistrates, Advocates and Stakeholders

Summary

Petitions for the grant of probate or letters of administration are conducted through prescribed Forms listed in the laws governing administration of deceased's estates. There are eight Forms applicable in the primary court and 86 Forms in the High Court and district court. Applications and most orders of the court are designed to be effected through these Forms. The matrix below summarises necessary steps, relevant forms, supporting documents, enabling provisions of the law and their relevance in a petition for grant of probate or letters of administration. Compliance with the law will facilitate parties and the court to reach the end of justice timely and reasonably. The matrix focuses on the Probate and Administration of Estates Act, Cap. 352 and the Probate Rules GNs. 10, 107 and 369 of 1963.

SN	STEP	RELEVANT FORM	SUPPORTING DOCUMENT	MOVING PROVISIONS		RELEVANCE
				SECTION	RULE	
Pre-Filing Stage						
1	Death.	N/A	Burial Permit & Death Certificate		63	It is the only evidence before the court that there is a death of someone.
		N/A	Family/ clan meeting minutes.	It is not a legal requirement it's a matter of practice. Not fatal when missing.		Informs the court the atmosphere of the family.
Application Generally						
2	Application Generally.	No. 4	Affidavit		14 15 16 17 18 and 19	Moving the court for the prayers sought in application.
		No. 5	Notice of Application		14(3)	Notice to interested parties regarding hearing of an application.
		No. 6	Affidavit for appointment of receiver pending grant	10	24 (1) & (2)	Whenever there is a need to protect the estate before grant of probate or letters of administration.

3	Court to Appoint a Receiver Pending Grant.	No. 7	N/A	11	24(3)	Upon satisfaction of the court that it is necessary to appoint a receiver.
4	Application to sale by Receiver.	No. 8	• Affidavit	11	25	Upon satisfaction of the court that sale of whole or part of such property is for benefit of the estate.
5	Application to dispense with bond or sureties	N/A	• Chamber summons • Affidavit • Petition and all other relevant documents.		67	• Applies where the petitioner praying the court to dispense with requirements of Rule 66.
6	Application for an order to assign administration bond.	No. 51 No. 52 and No. 53	• Petition	68	68	• Applies when engagement of bond has not been kept. Etc.
7	Application for examination of person alleged to have knowledge of testamentary paper.	No. 59 No. 60	• Chamber summons • Affidavit	60(1) & (2)	77 78 and 79	• Applies where there is an application for order to produce testamentary papers.
8	Application for extension of time to file inventory/account.		• Chamber summons • Affidavit		109	• Stating reason for application. • It must be made before expiration of the period required by the court.
9	Application for payment.	N/A	• Chamber summons • Affidavit		112 and 113A	• Applies to payment or transfer of money or security. Etc.

Application of Small Estates

10	Application for appointment.	No. 76 No. 63 No. 45 No. 46/47 and	• Petition; • Certificate of death; • Affidavit as to the domicile of the deceased;	73 74	63 85 86 87 and	• Applies to an application for the grant of probate or letters of administration
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		No. 77	<ul style="list-style-type: none"> • Original will; • Affidavit; • Undertaking 		88 89 90 91 92	in a small estate.
			<ul style="list-style-type: none"> • Written consent 			
11	Appointment of administrator of small estate.	No. 78	N/A	76 77	93	Appointment of the administrator.

Petition for Probate with the Will Annexed

12	Petition for probate	No. 18 No. 19 No. 45 and No. 47	<ul style="list-style-type: none"> • Petition, • Last will, • Certificate of death of the deceased, • Affidavit as to the deceased's domicile, and • Executor's oath. 	55 66	33 63 64 and 65	Will must be annexed to the petition.
		No. 19	<ul style="list-style-type: none"> • Petition must be verified by at least one of the witnesses. 	57(2)	34	Add weight to the validity of will.

Petition for Probate of Oral Will

13	Petition for probate of oral will.	No. 18 No. 20 No. 45 and No. 47	<ul style="list-style-type: none"> • Petition, • An affidavit by a person having personal knowledge of the terms of the will, • 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. 	25	35 read together with 71 63 64 and 65	Evidence to the court by affidavit or otherwise for the purpose of satisfying itself of the existence of the oral will, its terms or the circumstances under which it was made.
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Petition for Probate of Lost or Destroyed Will

14	Petition for probate of lost will.	No. 18 No. 21 No. 45 and	<ul style="list-style-type: none"> • Petition, • An affidavit as to the due execution of the original will by 	25	36 read together with 71	At the first place it Intends to prove to the satisfaction of the court that
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		No. 47	<p>one of the witnesses who attested the original will, or any other person who was present when the will was made,</p> <ul style="list-style-type: none"> • An affidavit of the contents of the will from any person having personal knowledge, • An affidavit proving the existence of the will after the death of the testator or its destruction and circumstances of such destruction. 		63 64 and 65	there original will and dully executed.
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Petition for Probate of Copy or Draft Will

15	Petition for probate of copy or draft will.	No. 18 No. 22 No. 45 and No. 47	<ul style="list-style-type: none"> • Petition, • Affidavit showing that the copy produced is an accurate copy of the original will, and 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. 	25	37 63 64 65 and 66	Satisfying the court that the copy produced is an accurate copy of the original will.
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Codicil Propounded After Grant of Probate						
16	Petition for probate of codicil or letters of administration	No. 18 & No. 23 Where codicil does not revoke the executor	• Petition, and • Codicil.	26	38 (1) 41 63 64 65	
		No. 18 No. 24 No. 45 No. 47 Where codicil revokes and name another executor.			38 (1) & (3) 41 64 65 and 66	Petitioner must establish authenticity of the codicil
		No. 18 No. 25 No. 45 No. 46 No. 48/49 Where codicil revokes executor without mentioning new executor.	• Petition, • Consents of the executors who proved the will	26		
Petition for Letters of Administration with the Will Annexed						
17	Petition for letters of administration.	No. 26 No. 45 No. 46 No. 48/49 No. 54 and No. 56/57	• Petition; • Certificate of death; • Affidavit as to the deceased's domicile; • Administrator's oath; • Administration bond; • Certificate to the financial position of the sureties; and • Consent of heirs.	55 (1) 67	39 40 63 64 66 69 71 and 72 [72(2) where consent not available]	• The petition is filed when the deceased left a will without mentioning the executor or he mentioned the executor but he is dead or nowhere to be found. • A person to be surety must be residence of Tanzania.
Petition for Letters of Administration When the Deceased Died Intestate						
18	Petition for letters of administration.	No. 27; No. 45; No. 46; No. 48/ 49; No. 54; and	• Petition; • Certificate of death; • Affidavit as to the deceased's domicile; • Administrator's oath;	56	39 40 63 64 66	The petition is filed when the deceased died without living a will.

		No. 56/57	<ul style="list-style-type: none"> • Administration bond; • Certificate to the financial position of the sureties; and • Consent of heirs. 		69 71 and 72 [72(2) where consent not available]	
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Petition for Grant by Sole Administrator

19	Petition for grant by sole administrator.	No. 17 No. 26/27 No. 45; No. 46; No. 48/ 49; No. 54; and No. 56/57	<ul style="list-style-type: none"> • Petition; • Certificate of death; • Affidavit as to the deceased's domicile; • Administrator's oath; • Administration bond; • Certificate to the financial position of the sureties; and • Consent of heirs. 		32 63 64 65 66 69 71 and 72 [72(2) where consent not available]	Petitioner is required to show that there is no minority or life interest arising under the will or on the intestacy.
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Trust Corporations

20	Petition for grant by trust corporation.	No. 28 No. 45; No. 46; No. 48/ 49; No. 54; and No. 56/57	<ul style="list-style-type: none"> • Petitions/ Applications; • Certificate of death; • Affidavit as to the deceased's domicile; • Administrator's oath; • Administration bond; • Certificate to the financial position of the sureties; and • A resolution of the corporation so authorising him. 		42 63 64 65 66 69 71 and 72 [72(2) where consent not available]	Execution of relevant documents must be by an authorised person.
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Grant to Attorneys

21	Petition for grant of letters	No. 29 No. 30/ 30A	<ul style="list-style-type: none"> • Petition; • Certificate of death; 	30, 31 or 34	43 63	Applies to lawfully
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	of administration with the will annexed to an attorney or executor.	No. 45; No. 46/ 47; No. 48/ 49; No. 54; and No. 56/57	<ul style="list-style-type: none"> • Affidavit as to the deceased's domicile; • Administrator's oath; • Administration bond; • Certificate to the financial position of the sureties; • Consent of heirs; and • The power of attorney constituting him as such attorney 	94 TEA	64 65 66 and 69 71 [72(2) where consent not available]	constituted attorney of a person residing outside Tanzania.
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Grant to a Creditor

22	Petition for grant of letters of administration by the creditor.	No. 27; No. 45; No. 46; No. 48/ 49; No. 54; and No. 56/57	<ul style="list-style-type: none"> • Petition; • Certificate of death; • Affidavit as to the deceased's domicile; • Administrator's oath; • Administration bond; and • Certificate to the financial position of the sureties. 	33 (3)	48 49 63 64 65 66 and 69	Where no person applies, creditor may apply and shall state the amount of the debt and how the same arose.
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Petition for Grant During Minority

23	Petition for grant during minority.	No. 31 No. 45; No. 46/ 47; No. 48/ 49; No. 54; and No. 56/57	<ul style="list-style-type: none"> • Petition; • Certificate of death; • Affidavit as to the deceased's domicile; • Administrator's oath; • Administration bond; • Certificate to the financial position of the sureties; • Consent of heirs. • Birth certificate of the minor; or 	36	44 63 64 65 66 69 and 71 [72(2) where consent not available]	The petitioner must establish his relation with a minor and shall be accompanied by a certificate as to the date of the birth of the minor.
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			• Affidavit by a person capable of depose			

Petition for Grant During Unsoundness of Mind

24	Petition for grant during unsoundness of mind	No. 32 No. 45; No. 46/ 47; No. 48/ 49; No. 54; and No. 56/57	• Petition; • Certificate of death; • Affidavit as to the deceased's domicile; • Administrator's oath; • Administration bond; • Certificate to the financial position of the sureties; • Consent of heirs. • Certificate as to his mental condition by medical officer in charge of such mental hospital or • An affidavit as to the mental condition of such person from a medical practitioner under whose care and treatment such person is.	37	45 64 65 66 69 and 71 [72(2) where consent not available]	The petitioner shall state in what manner he is related to such person.
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Petition for Grant in Certain Cases

25	Petition for grant in respect of unadministered assets	No. 33	• Petition together with necessary documents. • 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	46	46	The petition is filed when administrator or executor dies before completion his duties. He must describe and state the value of the estate remaining unadministered.
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			executor or administrator was the sole or sole surviving executor or administrator, as the case may be.			
Petition for Cesate, the Executor Having Attained Majority						
26	Petition for cessate, executor having attained majority.	No. 34 No. 45; No. 46; No. 48/ 49; No. 54; and No. 56/57	<ul style="list-style-type: none"> • Petition; • Certificate of death; • Administrator's oath; • Administration bond; • Certificate to the financial position of the sureties; and • Consent of heirs. 	47	47 64 65 66 71 [72(2) where consent not available]	Applies when grant has expired and there is still some unadministered estate.
Administration Bond by Corporation						
27	Corporation execute bond.	No. 50	<ul style="list-style-type: none"> • Affidavit 		66 (5)	Where a corporation executes a bond as surety.
Application for Grant Pending Determination of Proceedings						
28	Application for grant <i>pendente lite</i> .	No. 35 No. 36 and No. 37	<ul style="list-style-type: none"> • Chamber summons • Affidavit • administrator's oath • administration bond 	38	50	<ul style="list-style-type: none"> • Application is filed pending determination of any proceedings touching validity of will, or revocation of probate or letters of administration. • The administrator remains under the immediate control of the court and act under its direction.
Application for Collection and Preservation of Property						
29	Application for grant limited to collection and preservation.	No. 38 By a same person lodged a petition for a	<ul style="list-style-type: none"> • Chamber summons & • Affidavit 	39	51 (1)	This application is made by the petitioner in

		grant in respect of the same estate.				respect of the same estate.
	No. 39 No. 40 No. 41 No. 45 46 and 48/49 By another person	<ul style="list-style-type: none"> • Certificate of death of the deceased. • An affidavit to the deceased's domicile • Proposed administrator's oath. • The administration bond. 	39	51 (2) & (3) 63		Application is done by petition with required supporting documents and grounds upon which application is made must be stated.

Petition for Letters of Administration of Trust Property

30	Petition on trust property.	No. 42 No. 43 No. 44 and No. 54	<ul style="list-style-type: none"> • Petition; • Certificate of deceased's death; • Last will; • Administration oath; • Administration bond; • Certificate as to the financial position of sureties, if any; and • Consent of all beneficiaries. 	41	53 63 69 71 and 72	Petition shall state date and place of the deceased's death. Description and value of the estate and reasons as for petition.
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REVOCATION AND ALTERATION OF GRANTS

Renunciation by Executors

31	Renunciation of probate.	No. 9 No. 10 No. 11 No. 12 and No. 13	<ul style="list-style-type: none"> • Chamber summons • Affidavit 	19	26 and 27	Executor appointed under the will discharges his right and title to the probate and execution of the said will.
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Rectification of Grant

32	Rectification of grant.	No. 14	<ul style="list-style-type: none"> • Chamber summons • Affidavit 	48	28	Errors in names and descriptions or place of deceased's death etc.
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Revocation of Grant

33	Application for revocation or annulment of a grant.	No. 15 No. 16	<ul style="list-style-type: none"> • Chamber summons • Affidavit 	49	29	Moving the court to compel the executor(s) to either accept
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						or renounce executorship.
PRACTICE AND PROCEDURE IN GRANTING PROBATE AND LETTERS OF ADMINISTRATION (OTHER THAN SMALL ESTATES) (Rules 30 – 84)						
Grant in Additional Name						
34	Description of deceased by other name	N/A	• Affidavit		30	When it is necessary to describe the deceased by his true name and inclusion of the other name in the grant.
Grant for a Suit						
35	Application for letters of administration for a purpose of a suit.	N/A	• Chamber summons • Affidavit	40	52	Applies where the administrator /executor is unable or unwilling to act or is outside Tanzania. Etc.
Marking of Wills						
36	Petitioner and the witness to the will must mark their signature to the will	N/A	N/A		34 (4) and 54	Every will in respect of petition must be signed by the petitioner and the witness to the will save where verification has been dispensed with.
Justification of Sureties in Certain Cases						
37	Justification of security by sureties	No. 55	N/A		70	<ul style="list-style-type: none"> • Where any person takes out letters of administration in default of person cited. • Upon application for grant for the use and benefit of an infant.
Citations (rules 73 – 76)						
38	General citation.	No. 58	N/A		75 76	Publication of citation intends to inform any interested party about the petition.
Examination of the Petitioner						

39	An order to examine petitioner under oath.	No. 61	N/A	61	80 81	Where a court requires to examine the petitioner.
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Contentious Proceedings (rules 82 – 83)

40	Caveat and procedure thereto.	No. 62 No. 63 No. 63A	• Chamber summons • Affidavit	59 (2)	82	Procedure where there is objection/ caveat to the petition.
41	Contentious proceedings before a District Delegate.	No. 64 No. 65	N/A		83	gross value of the estate should not exceed 100 million.

Grants

42	Form and signature of grants.	No. 66 - Grant of Probate	24	84	Follows hearing and satisfaction of the court.
		No. 67 - Grant of Letters of Administration with Will Annexed	29	84	
		No. 68 - Grant of Letters of Administration without Will.	33	84	
		No. 69 - Grant of Letters of Administration to Attorney	30	84	
		No. 70 - Grant of Letters of Administration During Minority.	36	84	
		No. 71 – Grant of Letters of Administration During Unsoundness of Mind.	37	84	
		No. 72 – Grant in respect of Unadministered Asset.	46	84	
		No. 73 – Grant Pendente Lite	38	84	
		No. 74 – Grant Limited to Collection and Preservation.	39	84	
		No. 75 – Grant Limited to Trust Property.	41	84	

Resealing (rules 97 – 104)

43	Application for resealing.	N/A	• Chamber summons • Affidavit	94 95	97 98	Applies to a petition of sealing probates and letters of administration granted outside Tanzania.
44	Publication of notice.	No. 79	N/A	96 97 and 98	99 100	

Inventory

45	Exhibition of inventory.	No. 80	N/A	107	106	Administrator/ executor to account on how he intends to distribute the estate.
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Accounts

46	Final accounts of the estate.	No. 81	N/A	107	107	Proportion and to whom the
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						residue is to be paid.
Notice Annexed to Grant						
47	Every grant shall be annexed with a notice.	No. 82	N/A	107	108	Drawing attention of the executor/administrator to the provisions of section 107 and Rule 109.
Final Requisition						
48	An order of the court compelling the executor/administrator to exhibit inventory of account.	No. 83	N/A	107	110	Court must issue the order when the time to exhibit lapses.
Notice to Creditors						
49	Executor/administrator to publish notice to creditors.	No. 84	N/A		111	Publication within 60 days of appointment.
Wosia wa Mtu Anayeishi						
50	Wosia ulioandikwa upelekwe kwa Msajili wa Mahakama Kuu.				114 (1)	
	Wosia unaweza kupelekwa na aliyeandika wosia mwenyewe au wakala wake au kwa njia ya posta iliyosajiliwa.				114 (2)	
	Wosia lazima uwekwe ndani ya bahasha iliyofungwa vizuri.				114 (3)	
	Ikiwa aliyeandika wosia ndiye aliyepeleka wosia kwa Msajili atapaswa kuweka Saini yake mbele ya msajili juu ya bahasha itakayofungamanishwa paoja na Fomu Na. 85				114 (4)	
	Endapo aliyeandika wosia atafikisha wosia wake kwa Msajili kwa njia ya posta au kwa mkono wa wakala, atapashwa pia kushuhudia juu ya bahasha na kuweka saini yake pomoja na saini ya shahidi aliyeshudhida hilo. Shahidi atawenza kutoa kiapo.				114 (5)	
	Msajili akipokea wosia chini ya kanuni ya 114 (5) atatoa kwa wakala au atatumia kwa mtoa wosia kwa njia ya posta cheti (Fomu Na. 86) cha kupokea wosia.				114 (6)	
	Wosia utakaopokelewa na Msajili chini ya kanuni hii utasajiliwa na kupewa namba na kuhifadhiwa sehemu salama ambapo ni Msajili pekee anaweza kufika.				114 (7) & (8)	
	Ikiwa mwenye kutoa wosia amefariki mtu aliyeandikwa juu ya wosia, au kama hayupo au amekataa kufanya kazi hiyo, mtu yejote mwenye maslahi anaweza kuomba nakala ya wosia kwa njia ya maandishi.				114 (9)	
	Maombi chini ya kanuni 114 (9) yataambatana na nyaraka hizi:	<ul style="list-style-type: none"> • Cheti cha kifo cha aliyetoa wosia; • Kama cheti hakipatikani ushahidi wa kifo; • Cheti/ Fomu Na. 86; • Ikiwa Fomu Na. 86 imepotea au kuharibiwa, kiapo cha kuthibitisha hayo; • Kiapo kutoka kwa mwombaji akieleza kuwa yeye ndio ametajwa kutekeleza wosia; 			114 (10)	

	• Kuwa aliyetajwa kutekeleza wosia amekataa wajibu huo au amefariki na hivyo anastahili kupata barua ya kusimamia mirathi hiyo.	
	Baada ya kupokea maombi na kuridhika na utambulisho wa mwombaji, Msajili atafungua bahasha yenywosia na kutoa nakala.	114 (11) & (12)
	Msajili atathibitisha nakala kuwa ni halisi na atampatia mwombaji baada ya kulipa ada husika.	114 (13)
	• Maombi ya kuomba kuteuliwa mtekeleza wosia au kuwa msimamizi wa mirathi yenywosia yataambatana na nakala ya wosia iliyothibitisha na Msajili. Maombi yaeleze kuwa nakala halisi ya wosia ipo kwa Msajili wa Mahakama Kuu.	114 (14)
	• Baada ya kupokea maombi chini ya kanuni 114 (4) mahakama ambapo maombi yamepelekwa atathibitisha kwa Msajili kuwa maombi hayo yapo mahakamani. Msajili atatumwa wosia halisi mbele ya mahakama iliyopokea maombi na mahakama itaendelea na maombi kwa kuzingatia wosia halisi.	114 (15) & (16) pamoja na 54

Prepared by

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