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LETTERS OF ADMINISTRATION IN TANZANIA: THE SPECIAL MIRATHI ACCOUNT AND EMERGING LEGAL CHALLENGES

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ABSTRACT

The administration of a deceased person's estate is a fundamental aspect of succession law, ensuring that estate property is lawfully collected, preserved, managed and distributed to the rightful beneficiaries. In Tanzania, the administration of intestate estates is principally governed by the Probate and Administration of Estates Act,[1] the Probate Rules[2] and the Probate (Amendment) Rules, 2025.[3] One of the significant reforms introduced by the 2025 amendments was the replacement of the Judicial Mirathi Account with the Special Mirathi Account, a mechanism intended to enhance transparency, accountability and judicial oversight in the management of estate funds. This article critically examines the legal framework governing Letters of Administration in Tanzania and analyses the legal and practical challenges arising from the implementation of the Special Mirathi Account, particularly in circumstances involving foreign administrators.

Keywords: *Letters of Administration; Intestate Succession; Probate; Special Mirathi Account; Estate Administration; Foreign Administrators; Tanzania.*

[1] Cap 352 R.E. 2023

[2] Government Notice 10 of 1963

[3] Government Notice 429 of 2025

INTRODUCTION

The administration of deceased estates is a fundamental component of succession law, providing the legal mechanism through which the property of a deceased person is collected, preserved, managed and ultimately distributed to those lawfully entitled to inherit.[4] The legal framework governing estate administration seeks to protect the interests of beneficiaries, creditors and other interested parties by ensuring that estate assets are administered in an orderly, transparent and accountable manner.[5] Accordingly, where a person dies intestate, the administration of the deceased's estate is ordinarily undertaken pursuant to a grant of Letters of Administration issued by a Court having jurisdiction.[6]

In Tanzania, the administration of intestate estates is principally governed by the Probate and Administration of Estates Act,[7] together with the Probate Rules[8] and the Probate (Amendment) Rules, 2025.[9] These legal instruments prescribe the procedure for applying for Letters of Administration, regulate the appointment and duties of administrators, and define the supervisory role of the Courts in safeguarding estate property pending its distribution to the beneficiaries. One of the defining features of the previous probate system was the requirement that monies belonging to a deceased estate be deposited into the Judicial Mirathi Account, a court-controlled account established to safeguard estate funds during the administration process.[10] The Judicial Mirathi Account enabled Courts to exercise oversight over estate funds and provided a mechanism intended to minimize the risk of misappropriation by administrators before the completion of estate administration.

The legal framework governing the management of estate funds was substantially reformed in 2025 through the Probate (Amendment) Rules, 2025.[11] Among the most significant reforms introduced by these amendments was the abolition of the Judicial Mirathi Account and its replacement with the Special Mirathi Account. Under the amended Rules,[12] estate funds are no longer deposited into the court-controlled Judicial Mirathi Account. Instead, administrators are required to establish and operate a Special Mirathi Account in accordance with the prescribed procedures while remaining subject to judicial supervision and accountability.[13] The introduction of the Special Mirathi Account represents a significant shift in the administration of deceased estates in Tanzania. The reform seeks to enhance transparency, accountability and financial

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[4] https://dictionary.thelaw.com/administration-of-estates/ accessed on 31st July, 2026 at 6:50PM

[5] https://www.culverlaw.co.uk/insights/what-is-estate-administration accessed on 2nd August, 2026 at 2:09AM

[6] Section 33 and 63 of the Probate and Administration of Estates Act, Cap 352 R.E. 2023

[7] Cap 352 R.E. 2023

[8] Government Notice 10 of 1963

[9] Government Notice 429 of 2025

[10] www.tanzaniajudiciary.blogspot.com/2025/08/kituo-jumuishi-temeke-taasisi-za-fedha.html accessed on 28th July, 2026 at 12:24AM

[11] Government Notice 429 of 2025

[12] Ibid

[13] www.tanzaniajudiciary.blogspot.com/2025/08/kituo-jumuishi-temeke-taasisi-za-fedha.html accessed on 28th July, 2026 at 12:26AM

oversight while safeguarding estate assets against misuse during the administration process. By requiring estate funds to be managed through a dedicated account operating under judicial supervision, the amended Rules[14] seek to promote greater efficiency and strengthen public confidence in probate proceedings.

Notwithstanding these objectives, the implementation of the Special Mirathi Account has given rise to several practical and legal challenges that were not expressly addressed by the 2025 amendments.[15] One of the most significant concerns arises where a foreign national is appointed as the administrator of a deceased estate. The Probate and Administration of Estates Act[16] does not expressly prohibit foreigners from being appointed as administrators, however, these provisions do not expressly explain how the resulting arrangement interacts with Rule 105A.[17] This legislative[18] gap creates uncertainty concerning the practical implementation of Rule 105A[19] in estates administered by foreign administrators. In particular, the Rules[20] do not establish how the mandatory requirement to open a Special Mirathi Account is to be reconciled with the banking and customer due diligence requirements applicable to financial institutions.

Against this background, this article examines whether the existing legal framework adequately facilitates the establishment and operation of Special Mirathi Accounts where a foreign administrator has been appointed. It specifically considers the interaction between Rule 105A[21], the supervisory powers of probate Courts and the banking and customer due diligence requirements applicable to financial institutions, and proposes legal and administrative measures for addressing the identified gap.

Legal Nature and Importance of Letters of Administration

Letters of Administration constitute the legal authority granted by a Court of competent jurisdiction to a person appointed to administer the estate of a deceased person who dies intestate.[22] The administration of a deceased person's estate is a fundamental aspect of succession law, as it ensures that the estate is lawfully collected, preserved, managed and distributed to the persons entitled to inherit in accordance with the applicable law.[23] Under Section 2(1) of the Probate and Administration of Estates Act,[24] an administrator (or administratrix, in the case of a female) means a person appointed by the Court to administer the estate of a deceased person where there is no

[14] Rule 105A of the Probate (Amendment) Rules, 2025, Government Notice 429 of 2025

[15] Government Notice 429 of 2025

[16] Cap 352 R.E. 2023

[17] Probate (Amendment) Rules 2025, Government Notice No. 429 of 2025

[18] Ibid

[19] Ibid

[20] Ibid

[21] Probate (Amendment) Rules 2025, Government Notice No. 429 of 2025

[22] https://www.justvanilla.com/blog/letters-of-administration accessed on 2nd August, 2026 at 2:25AM

[23] https://www.rive.co.tz/succession-and-inheritance-in-tanzania-legal-framework/ accessed on 2nd August, 2026 at 2:32AM

[24] Cap 352 R.E. 2023

executor or where the executor is unable or unwilling to act. The Act,[25] under Section 2(1), further defines an executor as a person to whom the execution of the last will of a deceased person is entrusted by the appointment of the testator. Accordingly, where a deceased person dies intestate, the Court appoints an administrator to administer the estate. Conversely, where the deceased dies testate and has appointed an executor under a valid will, the executor ordinarily applies for a grant of probate unless circumstances exist that prevent him or her from acting, such as the renunciation of the executorship or where the executor has predeceased the testator.[26]

Although the Probate and Administration of Estates Act[27] does not expressly define the term "Letters of Administration", Black's Law Dictionary[28] defines "Letters of Administration" as a formal document issued by a Probate Court to appoint the administrator of an estate. In Tanzania, where a person dies intestate, the family of the deceased ordinarily convenes a family or clan meeting to appoint a suitable person to act as the administrator of the estate.[29] The appointed person thereafter applies to the Court for a Grant of Letters of Administration, supported by the prescribed documents, including the minutes of the family meeting, after the expiry of fourteen days from the date of the deceased's death, as required under section 62 of the Probate and Administration of Estates Act.[30] Therefore, no person is lawfully entitled to deal with or dispose of the property of an intestate deceased person unless he or she has first obtained a grant of Letters of Administration from a Court of competent jurisdiction.[31] The Letters of Administration in Probate ensures that these actions are taken within legal boundaries and with Court oversight. For example, if a person passes away leaving behind a house, bank accounts, and unpaid bills, the letter of administration gives someone the legal power to handle these tasks. Without it, banks and institutions may refuse to release funds or transfer titles, leaving the estate stuck in limbo. The document also informs creditors and beneficiaries that a formal process is underway, helping to organize claims and expectations.[32]

The Legal Framework Governing the Special Mirathi Account

The legal framework governing the administration of estate funds in Tanzania is primarily established under the Probate and Administration of Estates Act,[33] together with the Probate

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[25] Ibid

[26] www.lysonlaw.co.tz accessed on 22nd July, 2026 at 4.36PM

[27] Cap 352 R.E. 2023

[28] Bryan A Garner, Black's Law Dictionary (7th Edition), 1999 at pg. 917

[29] https://www.darstateattorneys.co.tz/publications/GRANT%20OF%20PROBATE%20AND%20LETTERS%20OF%20ADMINISTRATION%20IN%20TANZANIA.html accessed on 2nd August, 2026 at 2:35AM

[30] Cap 352 R.E. 2023

[31] www.lysonlaw.co.tz accessed on 22nd July, 2026 at 4.36PM

[32] https://eyourself.fluencyacademy.io/flash/understanding-the-importance-of-letters-of-administration-in-probate accessed on 22nd July, 2026 at 5.02PM

[33] Cap. 352 R.E. 2023

Rules[34] as amended by the Probate (Amendment) Rules, 2025[35] which prescribes the powers and duties of administrators. In the year 2025, the Probate Rules[36] were amended to introduce a significant procedural reform by establishing the Special Mirathi Account, which replaced the former Judicial Mirathi Account as the statutory mechanism for safeguarding monies belonging to deceased estates during the administration process.[37] The reform was intended to enhance transparency, accountability and judicial supervision in the management of estate funds.[38]

Prior to the enactment of the Probate (Amendment) Rules, 2025,[39] monies belonging to deceased estates were generally transferred into the Judicial Mirathi Account, which was maintained under the supervision of the Judiciary. This arrangement enabled Courts to safeguard estate funds while succession proceedings were pending. However, practical challenges emerged under the previous system, including difficulties in identifying individual estate funds deposited into a single court-controlled account and delays in administering estates.[40] These operational challenges prompted the introduction of the Special Mirathi Account through Government Notice No. 429 of 2025. The Probate (Amendment) Rules, 2025[41] fundamentally altered this framework by abolishing the Judicial Mirathi Account and requiring every administrator, upon appointment, to open a dedicated Special Mirathi Account into which all monies forming part of the deceased's estate must be deposited.[42] Unlike the previous arrangement, the account is maintained in the name of the estate while remaining subject to continuous judicial supervision. The reform therefore seeks to improve financial accountability while ensuring that estate monies remain protected throughout the administration process.

The legal foundation of the Special Mirathi Account is found in Rule 105A of the Probate Rules,[43] as introduced by the Probate (Amendment) Rules, 2025.[44] Rule 105A(1)[45] requires every administrator to open a Special Mirathi Account immediately upon appointment and submit the account particulars to the Court. Further, the same Rule[46] provides that subject to any other written law, all monies belonging to the deceased's estate must thereafter be deposited into that account.

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[34] Government Notice 10 of 1963

[35] The Probate (Amendment) Rules, 2025, Government Notice 429 of 2025

[36] Ibid

[37] Ibid

[38] https://emandcoadvocates.co/analysis-of-the-key-amendments-to-the-probate-rules-in-tanzania/ accessed on 28th July, 2026 at 03:23AM

[39] Government Notice 429 of 2025

[40] https://tanzaniajudiciary.blogspot.com/2025/08/kituo-jumuishi-temeke-taasisi-za-fedha.html accessed on 28th July 2026 at 03:24AM

[41] Government Notice 429 of 2025

[42] The Probate (Amendment) Rules, 2025, GN No. 429 of 2025, r 105A.

[43] Government Notice 10 of 1963

[44] The Probate (Amendment) Rules, 2025, Government Notice 429 of 2025

[45] Ibid

[46] Ibid, Rule 105A(2)

Additionally, the Rule[47] requires confirmation of every transfer of estate funds to be filed before the Court together with the relevant bank statement.[48] Moreover, Rule 105A (5)[49] provides that no monies may be withdrawn from the account except pursuant to an order of the Court. These requirements demonstrate the Legislature's intention to establish a comprehensive statutory mechanism for judicial supervision over estate funds and to minimize opportunities for misappropriation by administrators.

Role of the Court in Supervising the Special Mirathi Account

The introduction of the Special Mirathi Account significantly reinforces the supervisory role of the Probate Court in the administration of deceased persons' estates. Under the Probate and Administration of Estates Act,[50] the Court has always exercised supervisory jurisdiction over administrators through Letters of Administration,[51] the determination of disputes arising during succession proceedings,[52] and the enforcement of the statutory duties imposed upon administrators.[53] The Probate (Amendment) Rules, 2025[54] strengthen this supervisory framework by introducing specific requirements for the management of estate monies through the Special Mirathi Account. Thereafter, the Court oversees the transfer of estate monies into the account by requiring proof of every transfer, accompanied by the relevant bank statement, to be filed before it as per Rule 105A(4).[55] This process enables the Court to verify that all estate funds have been properly identified, transferred and preserved pending the completion of the administration process. The Court's supervisory role extends beyond monitoring the receipt of estate funds. Consequently, the Court exercises continuing control over the utilization of estate funds by ensuring that withdrawals are authorized only for lawful purposes as per Rule 105A(5).[56] Such purposes may include the payment of funeral expenses,[57] and settlement of debts and liabilities.[58]

Nevertheless, although Rule 105A[59] considerably expands judicial supervision over estate funds, it does not prescribe how Courts should exercise these supervisory powers where a foreign national has been appointed as the administrator of a deceased person's estate. The absence of such

[47] Ibid

[48] Ibid, Rule 105A(4)

[49] Ibid

[50] Cap 352 R.E. 2023

[51] Ibid, Section 33 and Section 53(1)

[52] Ibid, Section 59(1)

[53] Ibid, Sections 65, 103 and 107-110

[54] The Probate (Amendment) Rules, 2025, Government Notice 429 of 2025

[55] Ibid

[56] Probate (Amendment) Rules, 2025, GN No. 429 of 2025

[57] Section 109(1)(a) of the Probate and Administration of Estates Act, Cap 352 R.E. 2023

[58] Sections 108 and 110 of the Probate and Administration of Estates Act, Cap 352 R.E. 2023

[59] Government Notice 429 of 2025

guidance creates uncertainty in the practical implementation of the Rules,[60] particularly in succession matters involving foreign nationals.

Role of Financial Institutions in the Operation of the Special Mirathi Account

Financial institutions play an important role in the implementation of the Special Mirathi Account established under Rule 105A of the Probate (Amendment) Rules, 2025.[61] Although the legal obligation to establish and operate the account rests upon the administrator,[62] the practical implementation of the statutory framework necessarily involves licensed commercial banks and other financial institutions authorized to receive deposits under Tanzanian law.[63] Consequently, the operation of the Special Mirathi Account requires compliance not only with the Probate Rules[64] but also with the legal and regulatory framework governing banking operations in Tanzania.[65] The establishment of the account necessarily requires the administrator to satisfy the applicable requirements of the financial institution.[66] Once established, the account serves as the designated repository for estate funds pending their lawful application or distribution in accordance with the directions of the Court.[67]

In facilitating the establishment and operation of the Special Mirathi Account, financial institutions remain subject to the Banking and Financial Institutions Act,[68] and the Anti-Money Laundering Regulations,[69] of Tanzania. These legal instruments require banks to undertake customer due diligence, verify the identity of customers, maintain adequate records and implement measures intended to prevent money laundering and other forms of financial crime.[70] Accordingly, financial institutions are required to comply with both probate requirements and banking regulatory obligations before establishing and operating the account. The involvement of financial institutions complements the objectives of the Special Mirathi Account by ensuring that estate monies are managed within the regulated banking system while remaining subject to judicial supervision under Rule 105A.[71] The integration of judicial oversight with banking regulation enhances

[60] Government Notice 10 of 1963

[61] The Probate (Amendment) Rules, 2025, Government Notice 429 of 2025

[62] Ibid, Rule 105A(1)

[63] Section 3 and 8 of the Banking and Financial Institutions Act, Cap. 342 R.E. 2023

[64] Government Notice 10 of 1963

[65] Section 6-7 of the Banking and Financial Institutions Act, Cap. 342 R.E. 2023

[66] Regulation 8 of the Anti-Money Laundering Regulations, 2022 (Government Notice No. 397 of 2022) as amended in Government Notice No. 853 of 2023

[67] The Probate (Amendment) Rules, 2025, Government Notice No. 429 of 2025

[68] Anti-Money Laundering Regulations, 2022 (Government Notice No. 397 of 2022) as amended in Government Notice No. 853 of 2023

[69] Government Notice No. 397 of 2022

[70] Anti-Money Laundering Act, Cap. 423 R.E. 2023, ss 15–18; Bank of Tanzania, Guidelines on Customer Due Diligence for Banks and Financial Institutions

[71] The Probate (Amendment) Rules, 2025, Government Notice 429 of 2025

accountability, facilitates the maintenance of accurate financial records and provides an auditable trail of transactions undertaken during the administration of the estate.

Nevertheless, Rule 105A[72] does not prescribe the procedure to be followed where the appointed administrator is a foreign national, nor does it provide guidance on how financial institutions should apply their banking and customer due diligence obligations consistently with the mandatory requirements of succession law where a foreign administrator encounters difficulties in satisfying account-opening requirements. This legislative omission creates uncertainty for both administrators and financial institutions and may impede the effective implementation and administration of the Special Mirathi Account. In particular, the absence of a specific mechanism for addressing such circumstances may result in delays in opening and operating the account, thereby affecting the timely collection, preservation and distribution of estate assets.

Legal and Practical Implications of the Legislative Gap

The absence of a statutory and procedural framework governing the establishment and operation of the Special Mirathi Account by foreign administrators who do not ordinarily reside in Tanzania creates significant legal and practical challenges in the administration of deceased estates. Although the Probate and Administration of Estates Act[73] does not prohibit the appointment of foreign nationals as administrators, Rule 105A(1) of the Probate (Amendment) Rules, 2025[74] requires every administrator, upon appointment, to establish a Special Mirathi Account into which all monies forming part of the deceased's estate must be deposited. However, neither the Act[75] nor the Rules[76] prescribes the procedure to be followed where the appointed administrator is a foreign national who may be unable to satisfy domestic banking requirements for opening and operating such an account as different banks have different procedure requirements. Consequently, the legislation[77] imposes a mandatory obligation without providing a corresponding procedural framework for compliance by foreign administrators. This legislative omission creates uncertainty regarding the practical implementation of the mandatory account requirement and may delay the administration of estates while impeding the effective discharge of the statutory duties of foreign administrators.

The issue is particularly evident where a foreign administrator is present in Tanzania only temporarily, for example, to attend the funeral or participate in succession proceedings before returning to his or her country of residence. In such circumstances, compliance with domestic banking requirements may become difficult because financial institutions are required to obtain satisfactory evidence of a customer's identity and verify the customer's identity before establishing a business relationship.[78] Financial institutions are also required to verify the customer's permanent

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[72] Ibid

[73] Cap 352 R.E. 2023

[74] Government Notice 429 of 2025

[75] Cap 352 R.E. 2023

[76] The Probate (Amendment) Rules, 2025 Government Notice 429 of 2025

[77] The Probate and Administration of Estates Act Cap. 352 R.E. 2023 and the Probate (Amendment) Rules, 2025 Government Notice 429 of 2025

[78] Regulation 8 of the Anti-Money Laundering Regulations, 2022 Government Notice 397 of 2022 as amended in the Government Notice No. 853 of 2023

address using prescribed documentary evidence.[79] A foreign administrator who is only temporarily present in Tanzania may therefore encounter difficulties in complying with the banking and customer due diligence requirements applicable to the establishment and continued operation of the Special Mirathi Account.

From a legal perspective, the omission does not leave Probate Courts entirely without power to address difficulties involving foreign administrators, but does leave an absence of specific procedural guidance on how their existing powers should be exercised in relation to the Special Mirathi Account. The legislation[80] neither provides an alternative mechanism through which compliance may be achieved nor expressly empowers the Court to determine how such practical difficulties should be resolved. Consequently, Probate Courts may be required to adopt different procedural approaches in similar cases or rely upon their inherent jurisdiction to facilitate estate administration. Such an approach is capable of producing inconsistency in judicial practice, reducing predictability in succession proceedings and undermining the uniform application of the law.

The legislative gap also affects financial institutions responsible for facilitating the operation of the Special Mirathi Account. Although banks are required to open and maintain the account in accordance with Rule 105A,[81] they remain subject to independent statutory obligations under the Banking and Financial Institutions Act,[82] the Anti-Money Laundering Regulations[83] and the applicable customer due diligence and Know Your Customer (KYC) requirements.[84] Compliance with these regulatory obligations cannot ordinarily be waived solely because an administrator has been appointed by a Probate Court. Nevertheless, neither the Probate (Amendment) Rules, 2025[85] nor the relevant banking legislation[86] provides guidance on how these statutory obligations are to be reconciled where a foreign administrator does not ordinarily reside in Tanzania or is only temporarily present in the country. This absence of legislative coordination creates uncertainty for financial institutions and may result in inconsistent banking practices concerning the implementation of the Special Mirathi Account.

The legislative omission also has practical implications for beneficiaries and creditors of the estate. Where uncertainty arises regarding the establishment or operation of the Special Mirathi Account, the collection, preservation and management of estate assets may be delayed pending compliance with procedural and regulatory requirements. Such delays may also affect the settlement of estate liabilities and postpone the distribution of the estate to beneficiaries. Consequently, the costs of

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[79] Paragraphs 2.1 and 2.4 of The United Republic of Tanzania, Financial Intelligence Unit, Guidelines for the Verification of Customers' Identities, Guidelines No. 1 (Date of effective 1st April, 2009)

[80] Probate (Amendment) Rules, 2025 Government Notice 429 of 2025

[81] Ibid

[82] Cap 342 R.E. 2023

[83] Government Notice No. 397 of 2022

[84] Paragraph 6.1 of the United Republic of Tanzania, Financial Intelligence Unit, Anti-Money Laundering Guidelines for Bank of Tanzania, Guidelines No. 3 (Date of effective 1st April, 2009)

[85] Government Notice 429 of 2025

[86] Banking and Financial Institutions Act Cap. 342 R.E. 2023 and the Anti-Money Laundering Regulations Government Notice 397 of 2022 as amended in Government Notice No. 853 of 2023

administration may increase, succession proceedings may be unnecessarily prolonged, and the timely enjoyment of inheritance by beneficiaries may be adversely affected.

These legal and practical challenges are likely to become increasingly significant as Tanzanian Courts encounter estates involving foreign administrators. In the absence of a comprehensive statutory framework governing the establishment and operation of the Special Mirathi Account by foreign administrators, uncertainty is likely to persist regarding the implementation of Rule 105A[87] in succession proceedings involving foreign administrators. The resulting uncertainty affects not only the administration of deceased estates but also the consistent application of succession law and the operation of the Special Mirathi Account within the existing legal framework.

Proposed Legislative Reforms

The introduction of the Special Mirathi Account through the Probate (Amendment) Rules, 2025[88] represents a significant advancement in strengthening accountability and judicial supervision in the administration of deceased estates. Nevertheless, the analysis undertaken in this article demonstrates that the current legislative framework[89] does not adequately address circumstances in which a foreign national is appointed as an administrator. To ensure the effective implementation of the reforms, several legislative and administrative measures should be considered.

First, the Probate (Amendment) Rules, 2025[90] should be further amended to prescribe a clear procedure governing the establishment and operation of the Special Mirathi Account where a foreign administrator has been appointed by a Court of competent jurisdiction. Such provisions should specify the documentation required, the procedure for opening the account, including the identification and address documents and the responsibilities of both the administrator and the financial institution in complying with Rule 105A. [91]

Secondly, the Judiciary should issue Practice Directions to provide procedural guidance to probate Courts on the implementation of Rule 105A[92] in matters involving foreign administrators. Practice Directions would promote consistency in judicial practice, reduce uncertainty and ensure that similar succession matters are determined using uniform procedural standards pending legislative amendment.[93]

Thirdly, the Bank of Tanzania, in collaboration with relevant financial institutions and the Judiciary, should develop uniform operational guidelines for the establishment and management of Special Mirathi Accounts. Such guidelines should clarify the documentary requirements

[87] Government Notice No. 429 of 2025

[88] Ibid

[89] The Probate and Administration of Estates Act, Cap 352 R.E. 2023, The Probate Rules, Government Notice 10 of 1963, the Probate (Amendment) Rules, 2025 Government Notice 429 of 2025

[90] The Probate (Amendment) Rules, 2025, Government Notice 429 of 2025

[91] Ibid

[92] Ibid

[93] Probate and Administration of Estates Act, Cap. 352 R.E. 2023.

applicable to foreign administrators while ensuring compliance with customer due diligence and anti-money laundering obligations imposed under Tanzanian banking legislation.[94]

CONCLUSION

The administration of deceased persons' estates is a legal process intended to ensure that estate assets are identified, collected, preserved, managed and ultimately distributed to persons lawfully entitled to them. The introduction of the Special Mirathi Account through the Probate (Amendment) Rules, 2025 represents a significant development in Tanzanian succession law. By replacing the Judicial Mirathi Account with an account dedicated to the estate and subject to continuing judicial supervision, the reform strengthens financial accountability, transparency and judicial oversight in the administration of estate funds. However, this article has demonstrated that the effectiveness of the reform is constrained by an important legislative and procedural gap. Rule 105A(1) imposes a mandatory obligation upon every administrator to establish a Special Mirathi Account and to deposit estate monies into that account, but it does not prescribe a specific procedure for circumstances in which the appointed administrator is a foreign national. The absence of such a procedure becomes particularly significant where the foreign administrator is required to satisfy banking, customer identification and due diligence requirements before a financial institution can establish the account.

The analysis further demonstrates that the difficulty cannot simply be resolved by requiring financial institutions to disregard their regulatory obligations. Banks and other financial institutions remain subject to the applicable banking, anti-money laundering and customer due diligence requirements. Accordingly, there is a need for legal and procedural coordination between the succession framework governing the Special Mirathi Account and the regulatory framework governing financial institutions. The present framework does not sufficiently explain how these obligations should operate where a foreign administrator is unable to satisfy ordinary account opening requirements despite possessing a valid Court issued grant. This gap has consequences beyond the administrator and the financial institution. Where an estate account cannot be established promptly, the collection and preservation of estate assets may be delayed, liabilities may remain unsettled, and beneficiaries may be prevented from receiving their lawful entitlements within a reasonable period. The absence of a uniform procedure may also lead to inconsistent approaches among Courts and financial institutions, thereby reducing predictability and legal certainty in the administration of estates involving foreign administrators. The article therefore concludes that the 2025 reform, although a positive step towards strengthening accountability in estate administration, requires further legislative and administrative development. The Probate Rules should expressly provide for the establishment and operation of Special Mirathi Accounts where a foreign administrator has been appointed. The framework should identify acceptable documentation and procedures for account opening, clarify the respective responsibilities of the Court, foreign administrators and financial institution, and establish an appropriate mechanism for addressing cases in which ordinary banking requirements cannot readily be satisfied.

Pending legislative amendment, the Judiciary may strengthen consistency through appropriate Practice Directions, while the Bank of Tanzania, in consultation with the Judiciary and relevant financial institutions, may develop uniform operational guidance for Special Mirathi Accounts

[94] Banking and Financial Institutions Act, Cap. 342 R.E. 2023; Anti-Money Laundering Act, Cap. 423 R.E. 2023; Bank of Tanzania, Anti-Money Laundering Guidelines for Banks (2009).

involving foreign administrators. Such measures should not undermine customer due diligence or anti-money laundering safeguards; rather, they should provide a legally certain means through which those safeguards can be applied consistently within the context of succession proceedings. Ultimately, the objective should not be to create an exemption from banking and financial regulatory requirements for foreign administrators, but to establish a clear legal mechanism through which those requirements can be reconciled with the obligations imposed by succession law. Addressing this legislative lacuna would enhance legal certainty, reduce administrative delays, promote consistency in probate practice, protect estate assets and beneficiaries, and ensure that the Special Mirathi Account fulfils its intended purpose of strengthening transparency, accountability and judicial supervision in the administration of deceased estates in Tanzania.

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