



Revocation and Annulment of Grants

While the legal framework under the Law of Succession Act is designed to provide a clear pathway, successfully navigating the process of Application to confirmation of grant, it is not always a walk in the park.

The journey from obtaining a grant of representation to the final distribution of assets can be unexpectedly derailed.

Just when one believes they are at the final stage, perhaps having secured confirmation of grant or commenced distribution, they may suddenly find themselves pulled back to square one, owing to challenges questioning the very foundation upon which the grant was issued.

The law, under Section 76 of the Law of Succession Act (Cap 160, Laws of Kenya), anticipates such eventualities by empowering the court to revoke or annul a grant of representation at any time whether or not it has been confirmed.

This provision serves as a safeguard to ensure that the administration of estates remains just, transparent, and lawful, protecting the rights of all interested parties and preserving the integrity of the succession process. The grounds for such revocation are specific and varied, each addressing particular forms of procedural or substantive injustice that may have tainted the issuance or implementation of the grant.

- **Defective Proceedings to Obtain the Grant**

This ground refers to situations where the process used to obtain the grant had substantive procedural flaws. These defects go beyond minor irregularities and strike at the heart of the fairness, legality, or completeness of the process.

Examples of Defects include failure to notify all beneficiaries or dependants, use of the wrong form or procedure, failure to follow rules of priority in applying for the grant and lack of jurisdiction of the Court that issued the grant

- **Fraud: False Statements or Concealment of Material Facts**

This limb addresses situations where the person who obtained the grant lied or concealed crucial facts to deceive the court into issuing the grant.

Common Fraudulent Conduct includes falsely stating that the deceased died intestate when there was a will, excluding or omitting certain beneficiaries (e.g., wives, children) from the petition and lying about the estate's value or property.

- **Untrue Allegation of Essential Fact (Even if Innocently Made)**

This provision captures situations where the grant was obtained based on an

incorrect assertion of a critical legal fact, even if made without fraudulent intent (e.g., through ignorance or inadvertence).

Examples may include claiming to be the only surviving spouse when there are others, alleging the deceased left no children when children do exist, and declaring the deceased died intestate while a valid will exists.

Unlike in fraud, there is no requirement to prove intent to deceive—what matters is that the untrue assertion affected the legal basis of the grant.

- **Failure to Fulfil Duties After the Grant**

This ground targets the lax or negligent administration of the estate by the person granted representation. It covers:

- Failure to apply for confirmation within one year of receiving the grant. Unless the court extends time, a grant must be confirmed within a year. Failure to do so without cause can lead to revocation.
- Failure to diligently administer the estate. Delays, inaction, or misconduct in collecting assets, paying debts, or distributing to

beneficiaries is a ground for revocation.

- Failure to file inventory/accounts or filing false inventory. Executors or administrators are under a legal duty to provide full, accurate, and timely inventories and accounts of estate administration.

- **Grant has Become Useless or Inoperative Due to Subsequent Circumstances**

This is a “catch-all” provision that allows the court to revoke a grant that has become practically unworkable due to events occurring after the grant was issued.

Examples may include the fact that all the estate assets have already been distributed or disposed or any material change in circumstances making the grant unnecessary.