



CLIENT ALERT

January, 2026

EXECUTIVE SUMMARY

On December 20, 2025, the **Repealing and Amending Act, 2025**¹ received presidential assent, ushering in a transformative shift in India's succession Landscape. The Act effectively abolishes the mandatory requirement of probate for all Wills, including those executed in the former presidency towns of Mumbai, Kolkata, and Chennai. Effective from its notification in December 2025, this reform aims to remove colonial-era geographical and religious disparities, simplifying asset transmission for millions.

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¹ More information available at:
[https://sansad.in/getFile/BillsTexts/LSBillTexts/Asintroduced/AS%20intro%20\(4\)1215202530613PM.pdf?source=legislation](https://sansad.in/getFile/BillsTexts/LSBillTexts/Asintroduced/AS%20intro%20(4)1215202530613PM.pdf?source=legislation)

KEY AMENDMENTS:

Under the Repealing and Amending Act, 2025, the statutory framework governing compulsory probate has been repealed. The Act effects the following changes:

- a. **Section 213 is omitted in its entirety.** The Act omitted Section 213, which was observed to be discriminatory as it selectively mandated that **Hindus, Buddhists, Sikhs, Jains, and Parsis** obtain probate or letters of administration to establish their legal rights. This omission eliminates the requirement to obtain probate for wills.
- b. **Revision of Section 3(1):** Textual references to Section 213 have been deleted, removing the framework for notifying exemptions from a requirement that no longer exists.
- c. **Standardisation of Procedures:** Previously, if a will was executed within the local limits of **Kolkata, Chennai, or Mumbai**, or if it related to immovable property located within those limits, an executor or legatee was procedurally barred from establishing their rights in court unless a probate had first been obtained. The omission of Section 213 effectively deletes this 'local-limits' mandate, effectively **transitioning probate from a compulsory legal requirement to a voluntary procedural choice** for all property owners in these regions.
- d. **Access to Succession Certificates:** The amendment to **Section 370** removes a significant procedural hurdle for beneficiaries by identifying and omitting **Clause (b) of sub-section (2)** as an obsolete "relic of colonial rule". Previously, the law often prevented individuals from obtaining a Succession Certificate to access a deceased person's financial assets unless probate had been granted first. This amendment now enables beneficiaries to obtain succession certificates independently, ensuring they can claim assets without first obtaining probate.

The legislative intent behind these amendments is to dismantle a procedural regime that led to the unequal treatment of similarly situated testators.

COMPARATIVE ASSESSMENT

Feature	Pre-Amendment Regime	Revised Framework
Probate Mandate	Compulsory for select communities (Hindus, Buddhists, Sikhs, Jains, and Parsis) in the former Presidency Towns of Mumbai, Chennai, and Kolkata.	The legal obligation for these communities to obtain probate has been removed, transforming it into an optional procedural choice across all jurisdictions.
Asset Transfer	Banks and financial institutions often require probate as a condition precedent to the transfer of assets.	Probate now acts as an optional, facilitative remedy . While still available to provide conclusive evidence of a Will, it is no longer a

		mandatory gateway for asset transmission.
Procedural Efficiency	Linked to high court fees and significant litigation timelines to establish legal rights.	Streamlined access to assets via direct execution of the Will or simplified succession certificates, significantly reducing costs and time.

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