

Course Code: L305 (M) 2005

**UNIVERSITY OF SWAZILAND**  
**FACULTY OF SOCIAL SCIENCE**  
**DEPARTMENT OF LAW**  
**FINAL EXAMINATION PAPER, MAY 2005**

**TITLE OF PAPER** : **LAW OF SUCCESSION AND ADMINISTRATION  
OF ESTATES**

**COURSE CODE** : **L305**

**TIME ALLOWED** : **THREE (3) HOURS**

**INSTRUCTIONS** : **1. ANSWER A TOTAL OF FOUR (4)  
QUESTIONS INCLUDING QUESTION ONE.**

**2. NOTE QUESTION ONE IS COMPULSORY.**

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INVIGILATOR**

**QUESTION 1 (Compulsory)**

X is a Swazi, married to two wives; each wife has two children. He is the Chief of the Gege area, and a Lecturer at the Swaziland College of Technology. His only substantial property is E10,000.00 (ten thousand emalangeni) in the bank, 30 head of cattle kept at his Chiefdom, and a block of flats in Nhlangano town. On X's death, a dispute arises as to which law should govern the distribution of his estate. Discuss the considerations you would take into account in determining on the appropriate law to govern the distribution of his estate.

[25 MARKS]

**QUESTION 2**

Write on the following: -

- (i) The Soldier's Will (12 ½ marks)  
 (ii) The Alteration of Wills (12 ½ marks)

[25 MARKS]

**QUESTION 3**

- (i) What are the Master's powers in the event that there is competition for the office of executor. [10 marks]  
 (ii) What are the Master's requisites for issuing a re-marriage certificate. [5 marks]  
 (iii) Distinguish between a tutor and a curator. [10 marks]

[25 MARKS]

**QUESTION 4**

In general letters of Administration may be issued to any person. However, certain people do not qualify for appointment as executors. Explain fully who these people are.

[25 MARKS]

**QUESTION 5**

Joe Gama was a prominent lawyer, with a thriving legal practice in Manzini. He also owned 50 head of cattle in the Mdzimba area. In July 2003, he executed a will in which he appointed Khanyi, his 18 year old daughter as his sole heir. Bonga and Vika (Gama's sons and Khanyi's brothers) got to know about the contents of the will and protested strongly. They sought the intervention of Chief Mveli - a staunch traditionalist, and the senior brother to Joe Gama. On one occasion, Chief Mveli had a lengthy conversation with Joe Gama in a bid to dissuade him from his intentions.

Joe Gama does not seem to have been convinced, but he had indicated his willingness to think about the matter. Before Chief Mveli had another opportunity to discuss the matter with Joe Gama, a boating accident occurred and Joe Gama was instantly killed.

Advise Khanyi on her prospects of inheriting her father's estate in light of her brother's objections and Chief Mveli's intervention. **[25 MARKS]**

### **QUESTION 6**

Critically discuss the purpose and provisions of the Intestate Succession Act No.3 (1953). In your opinion in this piece of legislation in need of reform and, if so, in which areas and in what way should these reforms be effected.

**[25 MARKS]**

### **QUESTION 7**

Mpho and Khabo are very close friends and confidantes. One day, whilst they were discussing their respective business pursuits, they decided to enter into an agreement in terms of which the first to die between them will leave his property to the survivor.

On Mpho's death, Khabo produces the contract and seeks to inherit Mpho's property as per the agreement. Critically discussing the rules governing contractual succession in our law, consider the prospects of Khabo getting Mpho's property in terms of the agreement. **[25 MARKS]**