

QUESTION 1 (Compulsory)

- (a) Discuss, with reference to case law, the difference in consequence between the postponement of dies cedit, and the postponement of dies venit by the testator.
- (b) Mboni Malaza is child of the deceased, one Mlumbi. It was his belief that he would have been the sole heir of the deceased's estate. Mboni, however, is of the mind that he might not inherit the said estate in view of the following clause in his father's will:

"I bequeath my estate to my Child Mboni Malazi, but if he stops participating in the Incwala ceremony, or ceases to be a member of "Sibahle Sinje" he should forfeit the estate".

Advise Mboni on the legal aspects of the clause.

[13 MARKS]

QUESTION 2

Discuss the rules of Succession under the Swazi Law and Custom, focusing on the problematic areas, and suggest reforms for implementation by our legislature.

[25 MARKS]

QUESTION 3

- (a) Compare and Contrast Usufructs from Fidei Commissums.

[15 MARKS]

- (b) What is an executor and what are his functions.

[10 MARKS]

QUESTION 4

- (a) Discuss three ways in which a testator may validly revoke his will.

[10 MARKS]

- (b) Why do you think death and survivorship are so important in the Law of Succession.

[15 MARKS]

QUESTION 5

- (a) A legacy may fail for a number of reasons. Discuss any five of these. [15 MARKS]
- (b) What is the order of succession where the deceased has left descendants and a surviving spouse. [10 MARKS]

QUESTION 6

Peter Mabuza is fifteen years old, and he comes to you for advice on the following:

- (a) That his father passed away in a motor vehicle accident;
- (b) That his cruel stepmother has informed him that he does not have a share in his father's estate which includes a farm in Malkerns, and a Supermarket at Engculwini;
- (c) That a friend told him (Peter) to see a lawyer who would advise him on what to do with his father's property before an executor is appointed;
- (c) That he now seeks advice on the procedure to be followed before an executor is appointed to administer his deceased father's estate.

Advise Peter on the procedures to be followed from the time of his father's death, to the time when an executor is appointed to administer his late father's estate.

[25 MARKS]

QUESTION 7

"The functions of the Master are the protection of the interests of creditors, heirs, legatees and all other persons having any claim upon an estate". Elaborate.

[25 MARKS]