

Course Code: L604 (M) 2006

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW
FINAL EXAMINATION PAPER, MAY 2006

TITLE OF PAPER : **LAW OF ADMINISTRATION OF DECEASED ESTATES**

COURSE CODE : **L604**

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

INSTRUCTIONS : **1. ANSWER ANY FOUR (4) QUESTIONS.**
2. ALL QUESTIONS CARRY EQUAL MARKS.

[STUDENTS ARE REQUESTED IN THEIR OWN INTEREST TO WRITE LEGIBLY]

DO NOT OPEN THIS PAPER UNTIL PERMISSION HAS BEEN GRANTED BY THE INVIGILATOR

QUESTION 1

Discuss and distinguish the functions of curators and tutors.

[25 MARKS]

QUESTION 2

“I am not persuaded that a valid marriage under Swazi Law and Custom could be regarded as not being a lawful marriage within the meaning of Section 68 of the administration of Estates Act, 1902. Whatever the position may have been in 1902 in regard to customary marriages, it does not prevail today”.

Elaborate.

[25 MARKS]

QUESTION 3

Your client was appointed executor testametary in the estate of the late Sipho Buthelezi by the Master of Pietermaritzburg, South Africa. The late Sipho Buthelezi also had assets in Swaziland. Your client wishes to wind-up the Swaziland portion as well and comes to you for assistance.

Advise your client.

[25 MARKS]

QUESTION 4

Musa Simelane who had been married in community of property to Nomsa Simelane (born Sibandze) died on the 30th January, 2006. He is survived by his widow, a legitimate son, Mthunzi aged nine years and an illegitimate son, Banele, aged eleven years. A claim for the maintenance of Banele amounting to E55,000.00 has been accepted by the executor.

The assets consisted of the following:

1.	Lot 108 ext. 14 Mbabane valued at	E 450,000.00
2.	Terminal benefits from employment	200,000.00
3.	A 2003 Toyota Hilux motor vehicle valued at	130,000.00
4.	Cash with Standard Bank	75,000.00

Claims against the estate were as follows:

5.	Crucifix Funeral Undertakers	15,000.00
6.	Commissioner of Taxes	35,000.00
7.	Leites Motors	2,500.00
8.	Pick and Pay Supermarket	1,500.00
9.	Maintenance for Banele	55,000.00

The deceased died intestate.

Making up any further details and supplying the necessary administration expenses omitted from the list above draw a full liquidation and distribution account.

[25 MARKS]

QUESTION 5

“Our system of administration of estates contemplates the identification of rights, the identification of persons entitled to those rights, the protection of the rights of the absent and mentally handicapped under the shielding canopy provided by the independent authority of the Master of the High court who has many discretionary and judicial powers assigned to him.”

Discuss briefly.

[25 MARKS]

QUESTION 6

Mavela Dlamini appointed Standard Bank [Swaziland] Limited as executor under his will. Mavela has since died. Will the Master appoint Standard Bank [Swaziland] Limited as executor in the deceased estate? Explain fully referring to other persons who are in a similar position who are in Standard Bank [Swaziland] Limited.

[25 MARKS]

QUESTION 7

“In the course of liquidating an estate the executor has to carry out numerous duties.”

Explain.

[25 MARKS]