

UNIVERSITY OF SWAZILAND

FACULTY OF SOCIAL SCIENCE

DEPARTMENT OF LAW

SUPPLEMENTARY EXAMINATION PAPER, JULY 2010

**COURSE NAME : LAW OF SUCCESSION AND ADMINISTRATION
OF ESTATES**

COURSE CODE : L305

TIME ALLOWED : THREE (3) HOURS

INSTRUCTIONS :

- 1. ANSWER A TOTAL OF FOUR QUESTIONS INCLUDING QUESTION ONE.**
- 2. QUESTION ONE IS COMPULSORY**

**THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSION HAS BEEN GRANTED
BY THE INVIGILATOR**

QUESTION 1 (COMPULSORY)

Max is a Swazi, married to two wives; each wife has two children. He is a Chief of the Mkhweni area, in Lubombo and a Lecturer in the Department of Statistics at the Kwaluseni Campus of the University of Swaziland.

His estate consists of a block of flats in Mbabane, a house at the Mukela Township in Ezulwini, E5000,000.00 in the bank, and 600 head of cattle at his Chiefdom.

On Max'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

Discuss the following:

- a) The Cypres doctrine emanating from the law of Trusts (10 marks)
 - b) The soldier's will (15 marks)
- Total: 25 marks

QUESTION 3

In general, letters of Administration may be issued to any person. There are, however, certain people who do not qualify to hold the office of executor. Explain fully who these people are and explain why they do not qualify. (25 marks)

QUESTION 4

Vela and Siwelile are 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.

Upon Vela's death, Siwelile produces the agreement, and seeks to inherit Vela's property as per the agreement. Critically discussing the rules governing contractual succession in our law and consider the prospects of Siwelile getting Vela's property in terms of the agreement. (25 marks)

QUESTION 5

- a) In what circumstances may the Master of the High Court make the following appointments:
 - i. Tutor Dative (5 marks)
 - ii. Curator Dative (5 marks)
 - iii. Curator and Litem (5 marks)

- b) Discuss the purpose of our system of Administration of Estate? (10 marks)
Total: 25 marks

QUESTION 6

- a) Discuss the Nasciturus Rule (5 marks)
- b) Distinguish between dies cedit and dies venit. Include examples in your response (5 marks)
- c) Discuss, with examples :- succession per capita and succession per stripes. (15 marks)
Total: 25 marks