

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW
FINAL EXAMINATION, MAY 2013

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

COURSE CODE : **L 305**

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

INSTRUCTIONS : **ANSWER FOUR (4) QUESTIONS.**

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

QUESTION 1

Vela and Philile are close friends and confidantes. One day, whilst they were discussing their respective business pursuits, they decide 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 demise, Philile produces the contract, and seeks to inherit Vela's property as per the agreement. Critically discuss the rules governing contractual succession in our law and consider the prospects of Philile getting Vela's property in terms of the agreement.

QUESTION 2

Section 69 and 95 of the Administration of Estates Act, 1902 lay down the law pertaining to the administration of the estates of minors and absent persons. Give a full statement of what the law is in this regard. [25 MARKS]

QUESTION 3

Themba Dlamini appointed his son Siphon to be his Executor under his Will. Themba met an untimely death whilst Siphon was still twelve years old. Will the Master of the High Court appoint Siphon to be the Executor of his Father's estate?

State the authority upon which you base your response, explaining the reasons behind your assertions. Refer also to other people (natural or juristic) who fall under the same category as Siphon when it comes to their eligibility regarding appointment to the office of executor. [25 MARKS]

QUESTION 4

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

QUESTION 5

Discuss the following:

- a) The Cypres doctrine (10)
 - b) The Soldier's Will (15)
- [25 MARKS]

QUESTION 6

- a) In view of the provision of the Constitution of Swaziland 2005, what are the effects of the Law of Intestate Succession on the rights of illegitimate, adulterine, and incestuous children. (15)
 - b) Explain the concept of Beneficium Abstinenti (5)
 - c) Explain the problem of commorientes (5)
- [25 MARKS]