

**UNIVERSITY OF SWAZILAND**  
**FACULTY OF SOCIAL SCIENCE**  
**DEPARTMENT OF LAW**  
**SUPPLEMENTARY EXAMINATION, JULY 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**

Write short notes on the following:

- a) Curator Bonis (5)
  - b) Reporting of deaths (5)
  - c) Tutors Dative (5)
  - d) Curator ad Litem (5)
  - e) Custody of the estate pending issue of letters of administration. (5)
- [25 MARKS]

### **QUESTION 2**

Max is a Swazi, married to two wives; each wife has two children. He is a Chief of the Mkhuzweni area, in the Manzini Region. Max is a qualified meteorologist, and is employed by the Swaziland Aviation Authority, where he is currently responsible for setting up the weather tower at the Sikhuphe Airport which is under construction.

His estate consists of a block of flats in Mbabane, a house at the Mukela Township in Ezulwini, five (5) million Emalangeni in the bank, and 600 head of cattle at his Chiefdom. Max also owns a yacht, and a beach-front house in Capetown, South Africa.

On Max's death a dispute arises regarding which Law should govern the distribution of his estate. Discuss the considerations you would take into account in determining the appropriate law to govern the distributing of his estate.

[25 MARKS]

### **QUESTION 3**

Joe was a prominent auditor with a successful auditing company based in Manzini. He also had 40 head of cattle in the Mahebedla Chiefdom, and a handsome bank account with Nedbank in Manzini. In July 2010, he executed a Will in which he appointed his 27 year old daughter Lulu, who is also an auditor, and known to be the apple of her father's eye, as his heiress to most of his valuable property, including the auditing Company's assets.

Phil and Mandla, who are Joe's sons, were mentioned in the Will only as beneficiaries of personal items such as household items and clothing. After their father's death, they thought that Lulu had been unduly favoured, and also that their late father had acted unfairly towards them. They also believe that Lulu may have exerted some kind of pressure on their father in order to convince him to leave the bulk of his estate to her. The two brothers have sought legal advice on the matter.

Advise Lulu on the legal position, and her chances of inheriting her father's estate in light of her brothers' impending objectives.

[25 MARKS]

#### **QUESTION 4**

Write short notes on the following:

- i) Intestate Succession (5)
  - ii) The Office of Executor (5)
  - iii) The Certificate required of a re-marrying spouse(s) (5)
  - iv) The guardian's fund (5)
  - v) Soldier's Will (5)
- [25 MARKS]

#### **QUESTION 5**

- a) Discuss the purpose of our system of Administration of Estates. (10)
  - b) Write an explanatory note on the concept of Collatio Bonorum. (15)
- [25 MARKS]

#### **QUESTION 6**

- a) Discuss the Nasciturns Rule (5)
  - b) Distinguish between *dies venit and dies cedit*. Include examples in your response. (5)
  - c) Discuss the concept of freedom of Testation. (15)
- [25 MARKS]