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UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE

DEPARTMENT OF LAW

SUPPLEMENTARY EXAMINATION, JULY 2014

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

COURSE CODE : **L 305**

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

INSTRUCTIONS :

- 1. ANSWER FOUR (4) QUESTIONS INCLUDING QUESTION 1.**
- 2. QUESTION ONE (1) IS COMPULSORY.**

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GRANTED BY THE INVIGILATOR TO DO SO.**

QUESTION ONE (Compulsory)

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Menzi is a Swazi, who is married in community of property to his wife Zinhle. There are two children born of this union, (Sipho: 8 years old and Duma 16 year old).

Menzi is the Chief of kaMshengu area, in the Lubombo Region. Menzi is illiterate, and had spent most of his life in his home area, save for the time he attended his brother's graduation at the University of Johannesburg in the year 2011.

Menzi does however own extensive assets such as shares in a company that is listed in the Johannesburg Stock Exchange, a house at the Umndoni Township in the Ezulwini Valley as well as 1 000 head of cattle at his chiefdom.

On Menzi's death, a dispute arose between the Chief's wife and his family on which law should govern the devolution of his estate. Discuss the considerations you would take into account in making a determination on the appropriate law to use in the circumstances.

(25 MARKS)

QUESTION 2

In general, letters of Administration may be issued to any person. There are, however, certain people who do not qualify to hold the position in question. Explain fully who these people are, and elucidate on why they do not qualify.

(25 MARKS)

QUESTION 3

- a) Discuss the purpose of our system of Administration of Estates. (10 marks)
- b) What are the Master's powers where he discovers that property had devolved upon a minor who is without a legal guardian. (5 marks)
- c) State the reasons for the submission that the Master's role is a judicial one. (5 marks)
- d) Distinguish between the curator ad litem, and the curator bonis. (5 marks)

[25 MARKS]

QUESTION 4

- (a) Write on the Soldiers' Will. (15 marks)
- (b) Discuss with examples the following:
 - i) The *Nasciturus* rule (5 marks)
 - ii) *A Dies* (5 marks)

(25 MARKS)

QUESTION 5

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Mrs. Zolile Zwane has been appointed executrix testamentary of her late Father's estate (Mr. Benson Xaba). Mr. Xaba who was a resident of the Gauteng Province, in the Republic of South Africa had a substantial estate. His estate comprises of immovable as well as movable properties which are located in South Africa as well as in Swaziland.

Mrs. Zwane has been furnished with letters of Executorship by the High Court of Pretoria, and she wishes to wind up her father's estate which is situated in Swaziland as well. She has approached your office for legal advice.

Advise her on the legal requirements and stipulations contained in the Administration of Estates Act, 1902. (25 MARKS)

QUESTION 6

- a) "In Swaziland, inheritance is by choice, not compulsion." Discuss this assertion, with examples. (15 marks)
 - b) Discuss Collatio bonorum. (5 marks)
 - c) Distinguish between a tutor dative and a curator nominate. (5 marks)
- (25 MARKS)