

**UNIVERSITY OF ESWATINI**  
**FACULTY OF SOCIAL SCIENCES**  
**DEPARTMENT OF LAW**  
**FINAL EXAMINATION, MAY 2019**

**TITLE OF PAPER : ADMINISTRATION OF ESTATES**

**COURSE CODE : LAW 308**

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

**INSTRUCTIONS :**

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

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

### **QUESTION ONE (COMPULSORY)**

Your client is Sawela Dludlu. Sawela informed you that his father has passed away. He also informs you that his father was married to two wives in terms of the customary rites of the Kingdom of Eswatini. Sawela has six siblings, all of whom are below the age of twenty-one years of age. Sawela is turning twenty-two this year, and is a full-time student at the University of Eswatini.

Sawela is concerned about how the estate of his father will be wound up, and whether the members of his family will be entitled to benefit from it as one Mr. Zuko Fakude alleges that he is entitled to claim the entirety of Sawela's father's estate. According to Mr Fakude, he and Sawela's father concluded a binding agreement, in terms of which Mr. Fakude stood to inherit all of Mr. Dludlu Senior's assets upon his death.

Write a detailed legal opinion on which law is to govern the distribution of the estate of Sawela's father. Explain what legal considerations will be taken into account in determining the appropriate law. Cite relevant case law to support your assertions.

(25 marks)

### **QUESTION TWO**

- a) What are the Master's powers in the event that there is competition for the office of executor? (10 marks)
- b) What are the Master's requirements before he can legally issue a re-marriage certificate. (5 marks)
- c) Under what circumstances may the Master require that Security should be paid by a Curator Nominated, or a Tutor Testamentary (5 marks)
- d) Can the Master validly revoke letter of administration conferred upon a Testamentary Executor? (5 marks)

(25 marks)

### **QUESTION THREE**

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 the reasons for such disqualification. In your response highlight the instances which may necessitate that the Master and/or the High Court should revoke letters of administration. (25 marks)

#### **QUESTION 4**

- 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 ad Litem (5 marks)
- b) Discuss the purpose of our system of Administration of Estates. (10 marks)  
(25 marks)

#### **QUESTION 5**

- a) Explain in detail the importance of Section 33 of the Administration of Estates Act, 1902. State all of the circumstances the law insists should be in place before the master may reseal letters of administration issued in a foreign country. (15 marks)
- b) Explain the process of reporting an Estate , as well as the significance of the process. (10 marks)
- c) What kind of death should be reported to the office of the Master? (5 marks)  
(25 marks)