

UNIVERSITY OF ESWATINI
FACULTY OF SOCIAL SCIENCES
DEPARTMENT OF LAW
SUPPLEMENTARY EXAMINATION, JULY 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, Sergio has been appointed executor testamentary to the estate of his late father, Mr. Goncalves. Sergio is a resident of Rome, Italy. His father was also a resident of this city, but did spend some of his time in Eswatini in the late 1970s. The late Mr. Goncalves left a substantial Estate in Rome, as well as in Mbabane, Eswatini.

Your client has furnished you with his letters of Administration (issued to him by the Master of the High Court in Rome). He informs you that he wishes to commence the administration of the portion of his father's estate that is situated in Eswatini. He informs you also that he has learnt that he has half siblings in Eswatini who were sired by his father, with a certain Ms. Hlatshwayo. He tells you that he has no desire to afford these "people" any claim whatsoever in the estate of his late father.

Advise your client on the law regarding the entitlement of his half-siblings, as well as Ms. Hlatshwayo to his late father's estate. Inform him also of the legal requirements that he must comply with before he can be permitted to wind up the portion of his father's estate which is in Eswatini. (25 marks)

QUESTION TWO

- a) On what grounds would you submit that the Master of the High Court's role is a judicial one? (5 marks)
- b) Certain people are disqualified from holding the office of Executor. Explain who these people are, and give reasons for their exclusion. (20 marks)
(25 marks)

QUESTION THREE

Philisiwe Motsa is your client. Her husband Vusani Motsa has passed away. Mr. Motsa was a cattle farmer, and was virtually illiterate, save for his keen business sense, and ability to sign his name and to converse in Afrikaans. He has left a valid will. His estate is quite substantial, comprising of his 5000 head of cattle at his farm at Siteki, Lubombo region. He also owns a shopping complex at Eveni, Mbabane, Hhohho Region, Unit Trust at African Alliance. He is a shareholder of various local companies, and holds debentures in two South African companies.

Philisiwe wishes the estate of her late husband to be wound up under the supervision of the Master of the High Court. Her in-laws however, hold a different view. Her in-laws opine that the customary law of Eswatini should be applied since Mr. Motsa had married four women in accordance with the customary rites of Eswatini. Your client is the youngest of these wives.

Advise your client.

(25 marks)

QUESTION 4

- a) Clearly distinguish, with examples, between a Tutor and a Curator. (10 marks)
- b) Under what circumstances would a Tutor of a minor child be appointed as an Executor Testamentary in terms of the Administration of Estates Act.
(5 marks)
- c) Write notes on the Guardian's Fund. (5 marks)
- d) In what circumstances will a curator Bonis be appointed by the Master?
(5 marks)
(25 Marks)

QUESTION 5

- a) Explain in detail all of the clauses which make up a Final Liquidation and Distribution Account. How much time is an executor afforded to prepare this document in terms of the law? (15 marks)
- b) Discuss the purpose of our system of Administration of Estates. (10 marks)
(25 marks)