



# UNIVERSITY OF ESWATINI

FIRST SEMESTER SUPPLEMENTARY EXAMINATION PAPER,  
FEBRUARY 2020

FACULTY OF SOCIAL SCIENCES

DEPARTMENT OF LAW

COURSE CODE: LAW 307

TITLE OF PAPER: LAW OF SUCCESSION (FULL-TIME)

TIME ALLOWED: 3 HOURS

**Instructions**

- 1. Answer four (4) Questions including Question 1.
- 2. Question One (1) is compulsory.

*Candidates may complete the front cover of their answer book when instructed by the Chief Invigilator and sign their examination attendance cards but must NOT write anything else until the start of the examination period is announced.*

*No electronic devices capable of storing and retrieving text, including electronic dictionaries and any form of foreign material may be used while in the examination room.*

**DO NOT turn examination paper over until instructed to do so.**

**QUESTION ONE (COMPULSORY)**

Muzi Mamba, the testator of 80 years of age executed a will wherein he completely disinherited his two sons and bestowed his entire estate on Ms. Rose, his 25 year old girlfriend. At the material time Mr. Mamba was bedridden. He had been confined to his bed for the past 8 months after he had suffered a serious heart attack.

He was surviving on strong pain medication such as morphine, and also had to take anti-depressant medication as he was in constant and acute pain. Ms. Rose is the testator's sole caregiver as she is a qualified nurse.

Ms. Rose is not well liked by the testator's family. They think of her as a woman of loose morals who is just out to fleece the testator of his wealth. The testator's estate is estimated to be in the region of twenty million emalangenzi in value.

The will which benefitted Ms. Rose was executed on the 25<sup>th</sup> of June, 2019, and it sought to revoke an earlier one which named by Mamba's two sons as his heirs (executed on the 15<sup>th</sup> of May 1990). On the 2<sup>nd</sup> of August, 2019, Mr. Mamba committed suicide.

Mr. Mamba's sons wish to challenge the validity of the Will, and has engaged your legal services. As his legal Counsel, write a detailed legal opinion, supported by relevant Case law on the possible grounds upon which the will can be challenged. Give an exposition on which legal issues need to be alleged and proved, stating also what the chances of success are in your considered opinion. (25 marks)

**QUESTION TWO**

- a) Indicate the order of succession on intestacy where there are no descendants, and no surviving spouse. Pay particular attention to the following situations:
    - i) Where both parents are alive (5 marks)
    - ii) Where one parent predeceases the intestate (5 marks)
    - iii) Where both parents predecease the intestate (5 marks)
  - b) i) Distinguish with examples between dies cedit and dies venit. (5 marks)
  - ii) Write on the presumption of death, and explain how this is an issue in the Law of Succession. (5 marks)
- (Total: 25 marks)

**QUESTION THREE**

- (a) Write on a Soldiers Will. (5 marks)

- (b) Give a detailed account the Concept of Indignus, as well as the Bloody Hand Principle. What is the import of these two concepts in the law of succession.

(20 marks)

(Total: 25 marks)

#### **QUESTION 4**

Write on the following:

- i) Freedom of Testation
- ii) Contractual Succession

(10 marks)

(15 marks)

(Total: 25 marks)

#### **QUESTION 5**

- a) How can a testator validly revoke his Will. Cite Case Law where necessary.  
(15 marks)
- b) Write on the presumption of death and the effects that it has in the ability of would-be beneficiaries to inherit. Refer to the legal position not only in this kingdom, but also refer to the law in other jurisdictions.  
(10 marks)

(Total: 25 marks)