



UNIVERSITY OF ESWATINI

**FIRST SEMESTER MAIN EXAMINATION PAPER, NOVEMBER
2019**

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)

- (a) "in the Kingdom of Eswatini, inheritance is by choice, not compulsion". Discuss this assertion, with examples. Cite case law where necessary.

(10 marks)

- (b) Bob executed a Will bequeathing a legacy of E100,000.00 to his brother Sam, and the residue of his estate in equal shares to his children Pam, Rose and Cindy. His granddaughter (Rose's daughter) was also appointed as an heir to the residue in an equal proportion to his three children.

A few years after the execution of the will, Pam lost her home as part of a divorce settlement. Bob bought Pam a flat costing E300,000.00, so that she could have a roof over her head.

When Bob died, the value of his estate was E170,000.00. You are the Executor of Bob's deceased estate. How would you effect collation in such a scenario? Give a detailed account on the concept of collation generally and explain the manner in which you have decided that this estate should be distributed.

(15 marks)

(Total: 25 marks)

QUESTION TWO

- a) The following bequests appears in Vusi's Will:

- i) "I leave my farm to my wife Simangele. Her rights to the farm home however shall resolve, and terminate in their entirety if she should remarry".

(10 marks)

- ii) "I leave my house at Siteki to my son Michael on condition that he "comes out of the closet", and leads an openly homosexual lifestyle. I further direct that he should not only contract a gay marriage, but should also establish an association which promotes the interests of gays and lesbians in the kingdom of Eswatini. This association should be duly registered in terms of the laws of Eswatini.

(15 marks)

In view of the fact that Vusi and Simangele were married in Community of Property, how do you opine that the High Court of Eswatini is likely to deal with these bequests.

(25 marks)

QUESTION THREE

Zonke and Zama are firm friends. They have concluded an agreement, the terms of which stipulate that the first to die between them will leave the entirety of his estate to the

other. Zama passes on. Zonke in a bid to inherit, produces the agreement to the executor of Zama's estate,

Zama's wife to whom he is married in terms of the customary rites of Eswatini objects to this. She has approached your law firm for legal advice on how she can successfully challenge Zonke's right to inherit from the estate of her husband. Advise her on the court's attitude would be in this regard, and explain under what circumstances the law would uphold Zonke's claim based on the document produced. (25 marks)

QUESTION 4

Discuss the following with examples and cite case law.

- | | |
|---------------------------|-----------|
| a) Nasciturus Rule | (5 marks) |
| b) Commorientes Principle | (5 marks) |
| c) A "Dies" | (5 marks) |
| d) A Suspensive Condition | (5 marks) |
| e) A Modus | (5 marks) |
- (25 marks)

QUESTION 5

- a) Discuss, with examples: Succession per Capita and Succession per Stirpes (15 marks)
- b) Distinguish between Dies Cedit and Dies Venit include examples in your response. (10 marks)
- (25 marks)