



ZIMBABWE EZEKIEL GUTI UNIVERSITY

Law of Succession and administration of estates

2023 SUPPLIMENTARY EXAMINATION

3 HOURS

17 JAN 2023

INSTRUCTIONS

- a. Candidates must answer FOUR Questions. Question ONE is compulsory. Three questions must be chosen from section B.
- b. All Questions carry equal marks.

SECTION A

1. Moses Bango married Mamoyo in terms of Marriages Act (Chapter 5:07) on 25 December 1998. They have four sons all of whom are now adults. During the subsistence of their marriage, they acquired a commercial farm and a wide range of farming equipment for use thereat. Mamoyo lives at a house at Kushanda Growth point where she also owns a bottle store and a butchery. Towards the end of 2020, Moses thought that he was now too rich to be a husband of one wife so he acquired a new wife, Pretty. He rented a house for her in Borrowdale and acquired new furniture for the house. He promised her that he was going to start a business for her using the USD40 000 in his ZiBank account. Before this promise is fulfilled, Moses suffers a heart attack and died in Pretty's

arms. Pretty is five months pregnant. With the aid of case law and other sources of law, discuss how the estate of Moses Bango is likely to be distributed considering that he did not leave a will. **(25 Marks)**

SECTION B

2. The Wills Act (Chapter 6:06) specifies certain requirements which must be adhered to during writing of a will. With the aid of relevant case law and other sources of law analyse the merits and demerits of having these requirements. **(25 Marks)**
3. Section 5 of the Wills Act (Chapter 6:06) gives the impression that freedom of testation is absolute. With the aid of case law and other sources of law, discuss whether this is the correct position of the law. **(25 Marks)**
4. With the aid of examples, discuss the significance of 68 of the Administration of Estates Act (Chapter 6:01) in making situation and family specific inheritance plans that deal with the often very complex family situations that need to be addressed in the distribution of intestate estates of persons to whom customary law is applicable. **(25 Marks)**
5. Explain the following concepts as they are used in testate and intestate succession;
 - (i) Collation **(5 Marks)**
 - (ii) Fideicommissum **(5 Marks)**
 - (iii) Testamentary Trust **(5 Marks)**
 - (iv) Residuary Legatee **(5 Marks)**
 - (v) Joint and mutual wills **(5 Marks)**

(Total 25 Marks)
6. The use of choice of law formula in cases of succession is economic and social class sensitive. Discuss the validity of this statement. **(25 Marks)**

7. Discuss the legal status of a deceased estate before and after the appointment of an executor. In your discussion, show whether the various legal protections of the estate are adequate. **(25 Marks)**