



RIARA LAW SCHOOL
UNIVERSITY OF EXAMINATION FOR BACHELOR OF LAWS (LLB) DEGREE
AND
PRE-KENYA SCHOOL OF LAW CORE COURSES COMPLIANCE PROGRAM
DECEMBER 2019
RLLB 405: LAW OF SUCCESSION
INSTRUCTOR: W.A. MUTUBWA FCIArb

INSTRUCTIONS

1. This is the final examination in Law of Succession. You will earn 70% of your final grade from this final examination and 30% from Continuous Assessment Assignments.
2. This examination has **THREE** questions. Please answer **ALL THE THREE QUESTIONS.**
3. The examination has 3 pages, including this one.
4. Time allocated for this examination is **TWO** (2) hours. You must stop writing when time is called.
5. Please sign the roll sheet when you turn in your answer sheet. If you fail to sign the roll sheet, we shall have no way of establishing that you sat for this examination and your marks will not be reported.
6. This is a **CLOSED BOOK** examination. This means you are not permitted to bring ANY hard or soft materials to the examination room. You are also not allowed to access materials stored in computers, electronic gadgets or the internet. You should not bring to the examination room any of the following: cell phones, tablets, computers, statutes, notes, outlines, or books. Neither should you bring to the examination room books or materials unrelated to this course. If you need to have medicine or food items with you, please let the invigilator know before the examination begins.
7. This examination is governed by **Riara University Academic Honesty Regulations**. Students who violate those regulations will be penalized. Students have an obligation to report to the invigilator any incidences of academic dishonesty compromising the integrity of this examination.

Question One (30 marks)

- (i) The Law of Succession concerns the devolution of a deceased's property upon his demise. There are instances, however, when the deceased's property can pass without the necessity of either testacy or intestacy.

With reference to caselaw and statutory provisions, discuss three instances in which the property of a deceased can pass upon death without invoking either the process of testacy or intestacy succession (15 marks).

- (ii) The Law of Succession Act, 1981 was enacted with one of its primary objectives being to consolidate the fragmented religious and racial laws that hitherto attended matters succession in Kenya. Section 2 (1) of the Act provides for the universal application of the Act. However, African customary and religious inheritance laws and practices, still find application under the Act despite the provisions of Section 2(1) of the Act, albeit in a limited scope.

Highlight at least three ways in which African customary law and religious inheritance law can apply under the Law of Succession Act, 1981. (15 marks).

Question Two (20 marks)

Wills are by far the most common testamentary dispositions. Gifts under wills sometimes fail for various reasons.

- (i) **Describe how gifts may fail, under the Law of Succession Act, 1981 with respect to**
- (a) Doctrine Ademption.**
 - (b) Doctrine of forfeiture**
 - (c) Doctrine of Lapse (6 marks)**
- (ii) **Describe the four manners in which wills may be revoked under the Law of Succession Act, 1981 (8 marks)**
- (iii) **Describe the two principal ways in which wills may be revived and the consequence of such revival (6 marks)**

Question Three (20 Marks)

Saida and Rajab got married five years ago. They own a house in Loresho, a tea farm in Nyeri, two cars, a joint bank account with kshs. 10,000,000 and household items. They have two children, a girl and a boy, both under the age of 18. Saida's parents are deceased while Rajab's father and mother are still alive.

Saida and Rajab have approached your law firm to advise them on the priority of inheritance rights by members of their family in the event one of them died without leaving a valid will. Advise them in accordance with the Law of Succession Act, 1981.

(20 marks).