ATTORNEYS' EXAMINATION

PART 2
ESTATES

15 MARCH 2022

14:00-16:15 Total: [100]

Candidates are allowed 15 minutes to peruse the paper before starting to answer the questions. No candidate may start writing in the answerbook during this period. The examination of 2 hours then follows.

1. Candidates must answer all the questions.

2. Candidates must remember that marks are awarded for good draftsmanship.

3. Candidates must invent their own facts wherever necessary.

4. Please write only in pen on the right-hand pages.

5. Except if a special reason exists, a candidate will not be required to do an oral if 50% or more is attained. If a candidate achieves a score from 40% and below 50% he/she will be required to do an oral. If a candidate achieves less than 40% he/she will not qualify for an oral and will have failed this section.

QUESTION 1 **[60]**

John Koen and Mavis Koen were married in community of property to each other. John died on the 22nd of August 2020 without a Will. He is survived by his wife Mavis, one major daughter and one minor son.

His estate is as follows:

1. A house situated at No. 2 Mcubakazi Township, Butterworth, Eastern Cape valued at R179 000,00, paid up.

2. Motor Vehicle (Toyota Quantum), Registration Number FZK 564 EC paid up, valued at R52 000,00.

3. Venter Trailer, Registration Number FFL 590 EC valued at R10 000,00.

4. Flex Account with Nedbank with a balance of R4 097,37 as at 22 August 2020, thereafter Credit Interest in the sum of R200,00 had since accrued.

5. Firearm Pistol 9mm Calibre, valued at R4 000,00 with serial number TQ 097613.

6. Payment received from SA TAXI Insurance in respect of the TOYOTA HI ACE which was written off due to motor collision, amount paid being R159 572,62.

7. Plus Account with Nedbank with a balance of R4 534,47 as at 22 August 2020, thereafter Credit Interest in the sum of R50,00 had accrued in the account.

8. Total Liabilities inclusive of administrative expenses, Masters Fees, Executors Fees and VAT on Executors Fees, rates to Municipality and Water account as well as other relevant expenses to this estate amounted to R50 729,09.

Draft the entire Liquidation and Distribution Account in the estate of the late John Koen to be submitted to the Master of the High Court. Specify the necessary expenses. Use hypothetical information where necessary.

QUESTION 2 **[11]**

Barry executed a Will on 13 January 2020 in terms of which he left his estate to his wife, Maria. Barry and Maria who were married out of community of property, were divorced on 12 March 2021. Barry then married Emily on the 12th of April 2021 and died childless on 10 May 2021.

2.1 Emily approaches you with the question as to whether she or Maria will inherit Barry's estate. Advise your client fully with regard to the legal position on her question. (5)

2.2 Will your advice be different if Barry had died on 17 July 2021? (6)

QUESTION 3 [9]

Donald executed a Will in which he bequeathed a cash legacy of R300 000,00 to his girlfriend Sarah in paragraph 5 of his Will dated 13 August 2020. Five months later they had a serious disagreement and Donald now wishes to cancel this bequest and instead bequeath this cash legacy to his sister, Faith.

Draft the appropriate document to give effect to Donald's wishes.

QUESTION 4 [10]

Your client Joshua died intestate and is survived by the following people:

a) His ex-wife Leah;
b) His maternal grandmother Florah;
c) Susan, the second wife of his adoptive father Henry;
d) Merlin, the daughter of Susan and Henry;
e) Joseph and Sam, the children of his adoptive father Henry from his first marriage to Dorah;
f) His mother Mavis;
g) His sister Jane, who is the child of Henry and Mavis;
h) His uncle Peter, who raised him since the age of 10 years.

4.1 His net estate is worth R944 200,00 consisting of cash only. Who are Joshua's heirs and how will his estate be distributed? (7)

4.2 Who, if any, of the above mentioned persons will not inherit, and explain why not? (3)

QUESTION 5 [10]

You act for the Executor of a deceased estate. Your client receives a claim from a Creditor of the deceased after the period allowed for in the expiration notice to Creditors to lodge claims.

Explain how your client should deal with this claim and what advice, if any, would you give your client if he disputes the claim?

- THE END -