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UNISA university of south africa

PVL2602

MAY/JUNE 2018
MEI/JUN 2018

LAW OF SUCCESSION
ERFREG

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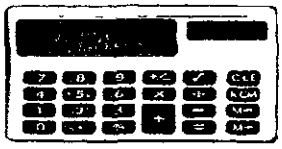
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UNIVERSITEITSEKSAMENS

UNISA university of south africa

PVL2602 (474435)

May/June 2018
Mei/Junie 2018

Law of Succession
Erfreg

Duration 2 Hours
Tydsduur 2 Uur

100 Marks
100 Punte

EXAMINERS / EKSAMINATORE

FIRST / EERSTE	PROF J JAMNECK	MR/MNR P MATSEMELA
SECOND / TWEEDE	DR M WIESE	

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This paper consists of 27 pages plus instructions for the completion of a mark-reading sheet
Hierdie vraestel bestaan uit 27 bladsye plus instruksies vir die voltooiing van 'n merkleesblad.

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INSTRUCTIONS

1 **This paper consists of Section A Multiple-choice questions (to be answered on the mark-reading sheet) and Section B Fill-in questions (to be answered on the fill-in question paper)** You will not receive an examination book
2 You must hand in the entire examination paper plus the mark-reading sheet
3 The unique number to be filled in on the mark-reading sheet is **474435 for PVL2602**
4 Answer all the questions in the designated spaces only Answers outside such spaces will not be read
5 **Do not write in the margins** - this space is reserved for the examiners
6 **Do your rough work on page 2** This page will not be read by the examiners
7 The English version of each question is directly followed by the Afrikaans version
8 Answer **ALL** the questions
9 This paper counts **100 marks** Divide your time accordingly
10 Plan each answer carefully before you write it down and refer to relevant authority whenever possible

INSTRUKSIES

1 **Hierdie vraestel bestaan uit Afdeling A Multikeusevrae (wat op die merkleesblad beantwoord word) en Afdeling B Invulvrae (wat op die invulvraestel beantwoord word)** U ontvang geen eksamenboek nie
2 U moet die hele vraestel ingee, asook die merkleesblad
3 Die unieke nommer wat op die merkleesblad ingevul moet word, is **474435 vir PVL2602**
4 Beantwoord al die vrae net in die ruimtes daarvoor aangedui Antwoorde buite sodanige ruimtes sal nie gelees word nie
5 **Moenie in die kantlyne skryf nie** - dié ruimte is vir gebruik deur die eksaminatore
6 **Doen u rofwerk op bladsy 2** Dié bladsy sal nie deur die eksaminatore gelees word nie
7 Die Afrikaanse weergawe van elke vraag volg direk na die Engelse weergawe
8 Beantwoord **AL** die vrae
9 Die vraestel tel uit **100 punte** Deel u tyd daarvolgens in
10 Beplan elke antwoord deeglik voordat u dit neerskryf en verwys waar moontlik na relevante gesag

ROUGH WORK / ROFWERK

Do all your rough work on this page This page will not be read by the examiners

Doen al u rofwerk op hierdie bladsy. Hierdie bladsy sal nie deur die eksaminatore gelees word nie.

SECTION A MULTIPLE-CHOICE QUESTIONS
AFDELING A: MULTIKEUSEVRAE

NB Answer all the questions in Section A on the mark-reading sheet The instructions for completing the mark-reading sheet are to be found at the end of the examination paper

LW: Beantwoord al die vrae in Afdeling A op die merkleesblad. Die instruksies vir die voltooiing van die merkleesblad verskyn aan die einde van die eksamenvraestel.

Unique paper number for PVL2602: **474435**
Unieke vraestelnommer vir PVL2602: 474435

QUESTIONS / **VRAE**

1 A person who has murdered the deceased, or who has murdered certain relatives of the deceased, may not inherit from the deceased Which relatives are referred to?

[1] Parent, child or spouse
[2] Parent, child, brother or sister
[3] Parent, child, spouse, brother or sister
[4] Parent, child, spouse, brother, sister or grandparent (2)

1 **'n Persoon wat die oorledene vermoor het, of sekere verwante van die oorledene vermoor het, mag nie van die oorledene erf nie. Na watter verwante word verwys?**

[1] Ouer, kind of gade
[2] Ouer, kind, broer of suster
[3] Ouer, kind, gade, broer of suster
[4] Ouer, kind, gade, broer, suster of grootouer **(2)**

2 Testator Tina asked her daughter-in-law, Lindiwe, to type a will for her Lindiwe was married to Tina's only son, Shorty Tina dictated the will and Lindiwe typed the will on a computer and then printed it out In the will, Tina bequeathed R10 000 to Lindiwe Furthermore, she bequeathed her house to her son, Shorty, and all her personal belongings to her daughter, Dina Fanie, a friend of the family, was nominated as the executor of Tina's estate Tina signed the will Dina's husband, Hector, and Fanie signed the will as witnesses

Which of the beneficiaries of the will are disqualified to take a benefit under the will in terms of section 4A(1) and 4A(3) of the Wills Act 7 of 1953?

[1] Dina, Fanie
[2] Fanie, Lindiwe
[3] Lindiwe, Shorty, Dina
[4] Lindiwe, Shorty, Dina, Fanie (2)

2 Testateur Tina het haar skoondogter, Lindiwe, gevra om 'n testament vir haar te tik. Lindiwe was getroud met Tina se enigste seun, Shorty. Tina het die testament gedikteer terwyl Lindiwe dit op 'n rekenaar getik het en dit daarna uitgedruk het. Tina het R10 000 in die testament aan Lindiwe bemaak. Voorts het sy haar huis aan haar seun, Shorty, bemaak en al haar persoonlike besittings aan haar dogter, Dina. Fanie, 'n vriend van die familie, is genomineer as die eksekuteur van Tina se boedel. Tina het die testament onderteken. Dina se eggenoot, Hector, en Fanie het as getuies geteken.

Watter van die begunstigdes is gediskwalifiseer om 'n voordeel kragtens die testament te ontvang ingevolge artikel 4A(1) en 4A(3) van die Wet op Testamente 7 van 1953?

[1] Dina, Fanie
[2] Fanie, Lindiwe
[3] Lindiwe, Shorty, Dina
[4] Lindiwe, Shorty, Dina, Fanie (2)

3 *Which one of the following statements regarding a trust is correct?*

[1] A trust is a juristic person
[2] A trust must have a lawful purpose
[3] A trust is a special form of *fideicommissum*
[4] A trust will come to an end when the only trustee resigns (2)

3 Welke een van die volgende stellings rakende 'n trust is korrek?

[1] 'n Trust is 'n regspersoon.
[2] 'n Trust moet 'n regmatige doel hê.
[3] 'n Trust is 'n spesiale tipe *fideicommissum*.
[4] 'n Trust kom tot 'n einde wanneer die enigste trustee bedank. (2)

4 In *Harris v Assumed Administrator Estate Macgregor* 1987 (3) SA 563 (A) it was held that where a testator died leaving a valid will which at a later date became inoperative, the intestate heirs have to be determined

[1] on the date of the testator's death
[2] on the date on which it becomes evident that the will has become inoperative
[3] on a date to be determined by the Master
[4] on a date to be determined by the Court (2)

4 **In *Harris v Assumed Administrator Estate Macgregor* 1987 (3) SA 563 (A) is beslis dat, indien 'n testateur sterf en 'n geldige testament nalaat wat later onuitvoerbaar word, moet die intestate erfgename bepaal word ...**

[1] op die datum van die testateur se dood.
[2] op die datum waarop dit duidelik word dat die testament onuitvoerbaar is.
[3] op 'n datum wat die Meester moet bepaal.
[4] op 'n datum wat die Hof moet bepaal. **(2)**

5 Tom provided as follows in his will

> "I leave my farm to my son, Ben and I bequeath the residue of my estate to my two sisters, Mary and Nina "

Tom leaves behind his mother, Gail, his son Ben, Ben's son, David and his sisters, Mary and Nina Ben refuses to inherit Who will inherit the farm and why?

[1] The mother, Gail, because of section 2C(1) of the Wills Act 7 of 1953
[2] The grandson, David, because of section 2C(2) of the Wills Act 7 of 1953
[3] The sisters, Mary and Nina, because they are the heirs of the residue
[4] The mother and the sisters in terms of intestate succession. (2)

5 Tom se testament bevat die volgende bepaling:

"Ek bemaak my plaas aan my seun, Ben en die restant van my boedel aan my twee susters Mary en Nina."

Tom laat sy moeder Gail, sy seun Ben, Ben se seun David, en sy susters Mary en Nina na. Ben weier om die plaas te erf. Wie sal die plaas erf en hoekom?

[1] Die moeder, Gail, ingevolge artikel 2C(1) van die Wet op Testamente 7 van 1953.
[2] Die kleinseun, David, ingevolge artikel 2C(2) van die Wet op Testamente 7 van 1953.
[3] Die susters, Mary en Nina, want hulle is die restant erfgename.
[4] Die moeder, Gail en die susters, Mary en Nina, ingevolge intestate erfreg. (2)

6 Which one of the following provisions in a will contains a *nudum praeceptum*?

[1] I leave my farm to my son, John John may not leave the farm permanently during his lifetime
[2] I leave my farm to my sons, Charl and Peter If one of them cannot inherit, my brother, Dirk, must inherit his share
[3] I leave my farm to my son, Thomas My wife, Mary, may live on the farm until her death
[4] I leave my farm to my son, Samuel, provided that he does not leave South Africa permanently If he leaves South Africa permanently, the farm must go to my brother Ben (2)

6 Welke een van die volgende bepalings in 'n testament bevat 'n *nudum praeceptum*?

[1] Ek bemaak my plaas aan my seun, John. John mag nie die plaas permanent verlaat gedurende sy leeftyd nie.
[2] Ek bemaak my plaas aan my seuns, Charl en Peter. Indien enige een van hulle nie kan erf nie, moet my broer, Dirk, sy deel erf.
[3] Ek bemaak my plaas aan my seun, Thomas. My vrou, Mary, mag op die plaas bly tot haar dood.
[4] Ek bemaak my plaas aan my seun, Samuel, op voorwaarde dat hy nooit Suid-Afrika permanent verlaat nie. Indien hy Suid-Afrika permanent verlaat, moet my broer, Ben, die plaas erf. (2)

7 The doctrine of election means that

[1] a beneficiary has to choose whether or not he or she wants to inherit a benefit or not
[2] a beneficiary who is left a benefit to which a burden has been attached, must choose whether to inherit the benefit with or without the burden
[3] a beneficiary who is left a benefit in a will and is burdened in the same will, must choose whether to accept the benefit and the burden or rather to repudiate the benefit and the burden
[4] a beneficiary who has been sequestrated, has a choice whether to accept or repudiate a benefit in terms of a will (2)

7 Die leerstuk van eleksie behels dat ...

[1] 'n begunstigde moet kies of hy of sy 'n voordeel wil erf of nie.
[2] 'n begunstigde aan wie 'n bemaking nagelaat word waaraan 'n las gekoppel word, moet kies of hy of sy die bemaking met of sonder die las wil erf of nie.
[3] 'n begunstigde wat 'n voordeel in 'n testament ontvang en in dieselfde testament 'n las opgelê word, moet kies of hy of sy die voordeel en die las wil aanvaar, en of hy of sy liewer die voordeel en die las wil verwerp.
[4] 'n begunstigde wat gesekwestreer is, 'n keuse het of hy of sy 'n voordeel uit 'n testament wil aanvaar of nie. (2)

8 What is a bewind trust?

[1] A trust created for an impersonal object
[2] A trust where no trustee is appointed
[3] A trust where the beneficiary is the owner of the trust property
[4] A trust that is not created in a will, but it is created in terms of a contract during the life of the trust founder (2)

8 Wat is 'n bewindtrust?

[1] 'n Trust wat vir 'n onpersoonlike doel opgerig word.
[2] 'n Trust waar daar nie 'n trustee aangestel word nie.
[3] 'n Trust waar die begunstigde die eienaar van die trust eiendom is.
[4] 'n Trust wat nie in 'n testament opgerig word nie, maar by wyse van 'n kontrak tydens die trustoprigter se lewe. (2)

9 Which kinds of rectification of a will are recognised in our law? Choose the most *correct answer*

[1] Only rectification of clerical mistakes
[2] Rectification of clerical mistakes and the insertion of words that were mistakenly omitted
[3] Rectification of clerical mistakes and the deletion of words that were mistakenly inserted
[4] Rectification of clerical mistakes, the deletion of words that were mistakenly inserted and the insertion of words that were mistakenly omitted (2)

9 Watter tipes rektifikasie van 'n testament word in ons reg erken? Kies die mees korrekte antwoord.

[1] Slegs rektifikasie van klerikale foute.
[2] Rektifikasie van klerikale foute en die invoeging van woorde wat foutiewelik weggelaat is.
[3] Rektifikasie van klerikale foute en die skrapping van woorde wat foutiewelik ingevoeg is.
[4] Rektifikasie van klerikale foute, die skrapping van woorde wat foutiewelik ingevoeg is en die invoeging van woorde wat foutiewelik weggelaat is. (2)

10 Testator Thiro made a valid will in 2015 In 2017 he decided that he wanted to change the name of one of the beneficiaries He used "tippex" to erase the name and wrote in the name of the new beneficiary Will this amendment be valid?

[1] Yes, provided he signed next to the amendment
[2] Yes, provided he and two witnesses signed next to the amendment
[3] Yes, provided a commissioner of oaths attached the certificate required by section 2(1)(a)(v) of the Wills Act 7 of 1953
[4] No, because one is not allowed to use "tippex" in a will The will should have been retyped and re-executed. (2)

10 Testateur Tiro het in 2015 'n geldige testament gemaak. In 2017 het hy besluit dat hy die naam van een van die begunstigdes wil wysig. Hy het "tippex" gebruik om die naam uit te vee en het daarna die nuwe naam ingeskryf. Sal hierdie wysiging geldig wees?

[1] Ja, mits hy langs die wysiging geteken het.
[2] Ja, mits hy en twee getuies langs die wysiging geteken het.
[3] Ja, mits 'n kommissaris van ede die sertifikaat wat deur artikel 2(1)(a)(v) van die Wet op Testamente 7 van 1953 vereis word, aangeheg het.
[4] Nee, want 'n mens mag nie "tippex" in 'n testament gebruik nie. Die testament moes oorgetik en herverly gewees het. (2)

11 Themba married Lebo in 2000 They made a mutual will in which they nominated their children and each other mutually as heirs of the estate They had two children, Jabulani and Matshilane In March 2016 Themba and Lebo were divorced In April 2016 Themba married Sara While they were on honeymoon, Themba was killed in a car crash In terms of section 2B of the Wills Act 7 of 1953, how will Themba's estate devolve?

[1] Lebo will inherit the estate
[2] Sara will inherit the estate
[3] Jabulani and Matshilane will inherit the estate
[4] Sara, Jabulani and Matshilane will inherit the estate (2)

11 Themba het in 2000 met Lebo getrou. Hulle het 'n wederkerige testament gemaak waarin hulle hulle kinders en mekaar oor en weer as erfgename van die boedel benoem het. Hulle het twee kinders gehad, Jabulani en Matshilane. In Maart 2016 het Themba en Lebo geskei. In April 2016 het Themba met Sara getrou. Terwyl hulle op hulle wittebrood was, is Themba in 'n motorongeluk dood. Ingevolge artikel 2B van die Wet op Testamente 7 van 1953, hoe sal Themba se boedel vererf?

[1] Lebo sal die boedel erf.
[2] Sara sal die boedel erf.
[3] Jabulani en Matshilane sal die boedel erf.
[4] Sara, Jabulani en Matshilane sal die boedel erf. **(2)**

12 In terms of section 18(3) of the Administration of Estates Act 66 of 1965, the Master may dispense with the appointment of an executor if

[1] all the beneficiaries and creditors have agreed thereto
[2] the beneficiaries concluded a redistribution agreement
[3] the value of the estate does not exceed R250 000
[4] the surviving spouse takes over the estate (2)

12 Ingevolge artikel 18(3) van die Boedelwet 66 van 1965, kan die Meester van die aanstelling van 'n eksekuteur afsien indien ....

[1] al die begunstigdes en die skuldeisers daartoe ingestem het.
[2] die begunstigdes 'n herverdelingsooreenkoms bereik het.
[3] die waarde van die boedel nie R250 000 oorskry nie.
[4] die langslewende gade die boedel oorneem. **(2)**

13 Testator Thabo's will contains the following provision

> "I bequeath my house to my sister, Susan Susan must pay R500 000 to my daughter, Dina "

The bequest to Susan is subject to a

[1] *condition*
[2] modus
[3] direct substitution
[4] time clause (2)

13 Testateur Thabo se testament bevat die volgende bepaling:

> **"Ek laat my huis na aan my suster, Susan. Susan moet R500 000 aan my dogter, Dina, betaal."**

Die bemaking aan Susan is onderhewig aan 'n ...

[1] voorwaarde.
[2] modus.
[3] direkte substitusie.
[4] tydsbepaling. (2)

14 *Minister of Education v Syfrets Trust Ltd* 2006 (4) SA 205 (C) provides authority for the following statement

[1] A provision in a will that constitutes unfair discrimination may be deleted by a court based on its common law power to delete provisions that are *contra bonos mores*
[2] The principle of freedom of testation is unfettered in our law
[3] Any clause in a will that differentiate between different race groups or gender groups is invalid
[4] The *boni mores* as it prevailed when the will was made should be considered when deciding whether a clause in a will is invalid or not (2)

14 *Minister of Education v Syfrets Trust Ltd* 2006 (4) SA 205 (K) dien as gesag vir die volgende stelling:

[1] 'n Bepaling in 'n testament wat onregverdige diskriminasie daarstel mag deur die hof geskrap word ingevolge die hof se gemeenregtelike bevoegdheid om bepalings wat *contra bonos mores* is te skrap.
[2] Die beginsel van testeervryheid is onbeperk in ons reg.
[3] Enige bepaling in 'n testament wat tussen verskillende rasse of geslagte onderskei is ongeldig.
[4] Die *boni mores* wat gegeld het toe die testament opgestel is moet in ag geneem word om te besluit of 'n bepaling in 'n testament geldig is of nie. **(2)**

15 In each of the following situations the testator, Thabo, confers a power of appointment on Xander In which one of the situations is this conferment NOT valid?

[1] Thabo leaves his estate to Xander and provides that he may divide the estate as he sees fit
[2] Thabo leaves his estate in trust to Xander and provides that Xander may appoint the beneficiaries of the trust from Thabo's children who are still alive at Thabo's death
[3] Thabo leaves his farm to Xander and provides that after Xander's death the farm must go to a person to be appointed in Xander's will
[4] Thabo leaves his estate to charity organisations which must be appointed by Xander, the executor of his estate (2)

15 In elk van die volgende gevalle verleen die testateur, Thabo, 'n benoemings-bevoegdheid aan Xander. In welke een van die gevalle sal die verlening NIE geldig wees nie?

[1] Thabo laat sy boedel aan Xander na en bepaal dat Xander die boedel na goeddunke moet verdeel.
[2] Thabo bepaal dat hy sy boedel in trust aan Xander nalaat en dat Xander die begunstigdes van die trust mag aanwys uit Thabo se kinders wat nog lewe by Thabo se dood.
[3] Thabo laat sy plaas aan Xander na en bepaal dat die plaas na Xander se dood na die persoon moet gaan wat Xander in sy testament aanwys.
[4] Thabo laat sy boedel aan liefdadigheidsorganisasies na wat deur Xander, sy eksekuteur, aangewys moet word. **(2)**

Total Section A / Totaal Afdeling A: [30]

SECTION B

AFDELING B

Answer Section B directly on the examination paper in the space provided after each question. Plan each answer carefully before you write it down Answer the questions in the designated spaces only Answers outside such spaces will not be read DO NOT WRITE IN THE MARGINS

Beantwoord Afdeling B op die eksamenvraestel in die spasie wat na elke vraag daarvoor gelaat word. Beplan elke antwoord noukeurig voordat u dit neerskryf Beantwoord die vrae net in die ruimtes wat daarvoor gelaat word Antwoorde buite sodanige ruimtes sal nie gelees word nie MOENIE IN DIE KANTLYNE SKRYF NIE

QUESTION 1 / **VRAAG 1**

In question 1 1 to 1 5 you are given short sets of facts on intestate succession In each case, X dies intestate and leaves behind certain relatives You must indicate who will inherit the intestate estate by writing down the correct name/s only Also indicate the share, percentage or amount of the estate each one will inherit You need not give reasons for the division

Example

Xander dies intestate and is survived by the following relatives His daughter, Daisy, his son, Sam and his mother, Mary

Who will inherit his estate? What share will each one inherit?

Answer Daisy ½ and Sam ½.

In vraag 1.1 tot 1.5 kry u kort feitestelle oor die intestate erfreg. In elke geval sterf X intestaat en laat sekere verwante na. U moet telkens aandui wie die boedel sal erf deur slegs die korrekte naam / name neer te skryf. Dui ook aan watter deel, persentasie of bedrag van die boedel elkeen sal erf. U hoef nie redes vir die verdeling te gee nie.

Voorbeeld:

Xander sterf intestaat en laat die volgende verwante na: Sy dogter Daisy, sy seun, Sam en sy ma, Mary.

Wie erf sy boedel? Watter deel sal elkeen erf?

Antwoord: Daisy ½ en Sam ½.

1 1 Xolani dies intestate and is survived by the following relatives His wife, Wendy, his son, Ben and his grandchildren, Pria and Sabine, the children of his predeceased daughter, Charlotte Xolani's estate is worth R300 000
Who will inherit Xolani's estate? What share, percentage or amount will the heir / heirs inherit?

(3)

1.1 Xolani sterf intestaat en laat die volgende verwante na: Sy vrou, Wendy, sy seun, Ben en sy kleinkinders, Pria en Sabine, die kinders van sy vooroorlede dogter, Charlotte. Xolani se boedel is R300 000 werd
Wie erf Xolani se boedel? Watter deel, persentasie of bedrag sal die erfgenaam / erfgename erf? (3)

_____

_____

1 2 Xanthe dies intestate and is survived by the following relatives His mother, Mary, his grandfather, Godfrey, on his father, Fred's, side and his half-sister, Zola Zola is his mother, Mary's, daughter from an extra marital affair with Peter
Who will inherit Xanthe's estate? What share, percentage or amount will the heir / heirs inherit? (1)

1.2 Xanthe sterf intestaat en laat die volgende verwante na: Sy ma, Mary, sy oupa, Godfrey, aan sy vader, Fred, se kant, en sy half-suster, Zola. Zola is sy ma, Mary, se dogter uit 'n buite-egtelike verhouding met Peter.
Wie erf Xanthe se boedel? Watter deel sal die erfgenaam / erfgename erf? (1)

_____

_____

1 3 Xaime dies intestate and is survived by the following relatives His ex-wife, Wendy, Barry and Christian, his children from the marriage to Wendy and his grandson, Harold, Barry's son He also adopted Sarah, Wendy's daughter from a previous marriage Sarah is predeceased but is survived by her daughters, Cara and Ilse
Who will inherit Xaime's estate? What share, percentage or amount will the heir / heirs inherit? (4)

1.3 Xaime sterf intestaat en laat die volgende verwante na: Sy eksvrou, Wendy, Barry en Christian, sy kinders uit die huwelik met Wendy, en sy kleinseun, Harold, Barry se seun. Hy het ook Sarah, Wendy se dogter uit 'n vorige huwelik, aangeneem. Sarah is vooroorlede maar word oorleef deur haar dogters, Cara en Ilse. Wie erf Xaime se boedel? Watter deel, persentasie of bedrag sal die erfgenaam / erfgename erf? (4)

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1 4 Xolisile dies intestate and leaves behind the following relatives
His grandfather, Fred, on his father's side and his great-granddaughter, Adel
Adel is the daughter of his predeceased granddaughter, Delphine, who was the daughter of his predeceased son, Ben
Who will inherit his estate? What share, percentage or amount will the heir / heirs inherit? (1)

1.4 Xolisile sterf intestaat en laat die volgende verwante na:Sy oupa, Fred, aan vaderskant en Wie erf sy boedel? Watter deel, persentasie of bedrag sal die erfgenaam / erfgename erf? (1)

_____

_____

1 5 Jacob dies intestate and leaves only a fourteen-year-old son, Ben, behind What will happen to his estate? (1)

1.5 Jacob sterf intestaat en laat slegs 'n veertienjarige seun, Ben, na. Wat sal *met sy boedel gebeur?* (1)

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_____

Total Question 1 / **Totaal Vraag 1: [10]**

Question 2 / **Vraag 2**

Nimoy and Grace were married in a Muslim marriage in 2010 Nimoy and Vicky were also married in a Muslim marriage in 2011 On 2 March 2018, Nimoy divorced Vicky and on 28 April 2018, he married Wendy, again in a Muslim marriage Nimoy was murdered on 16 May 2018 by his ex-wife, Vicky, and died intestate Nimoy is survived by

- his wife, Wendy,
- his wife, Grace,
- his brother, Barry,
- two granddaughters, Winnie and Lisa (the daughters of Nimoy's predeceased son, Celestine Celestine was born of the marriage between Nimoy and Grace),
- a son, Gary, who was born from the extra-marital affair between Nimoy and Wendy before they were married and before he divorced Vicky,
- Harry and Isaac, the sons of Gary (Harry and Isaac were born of the marriage between Gary and Zinzi)
- At his death, Wendy was also pregnant with twins, who were called John and Jasmine, once they were born

At his death, Nimoy's estate amounted to R1 800 000 (R1 8m) Distribute Nimoy's estate amongst his intestate heirs Give reasons for your division of the estate If any of the above mentioned persons cannot inherit, you must also explain the reasons for this (Note that Muslim marriages are automatically out of community of property) **(10)**

Nimoy en Grace is in 'n Moslem huwelik getroud in 2010. Nimoy en Vicky is ook in 'n Moslem huwelik getroud in 2011. Op 2 Maart 2018 is Nimoy van Vicky geskei en op 28 April 2018 is hy met Wendy getroud, ook in 'n Moslem huwelik. Op 16 Mei 2018 is Nimoy deur sy eks-vrou, Vicky, vermoor en is hy intestaat oorlede. Nimoy word oorleef deur:

- **sy vrou, Wendy;**
- **sy vrou, Grace;**
- **sy broer, Barry;**
- **twee kleindogters, Winnie en Lisa (die dogters van Nimoy se vooroorlede seun, Celestine. Celestine is gebore uit die huwelik tussen Nimoy en Grace);**
- **'n seun, Gary, wat gebore is uit die buite-egtelike verhouding tussen Nimoy en Wendy voordat hulle getroud is en voordat hy van Vicky geskei is;**
- **Harry en Isaac, die seuns van Gary (Harry en Isaac is gebore uit die huwelik tussen Gary en Zinzi);**
- **Ten tye van sy dood, was Wendy ook swanger met 'n tweeling wat na hulle geboorte, John en Jasmine genoem is.**

By sy dood, het Nimoy se boedel R1 800 000 (R1.8m) beloop. Verdeel Nimoy se boedel tussen sy intestate erfgename. Gee redes vir u verdeling. Indien enige van bogenoemde persone nie kan erf nie, moet u ook daarvoor redes gee. (Let wel dat Muslim huwelike outomaties buite gemeenskap van goed is.) **(10)**

Sketch (optional) / ***skets (opsioneel)***

Total **Question** 2 / **Totaal Vraag 2: [10]**

[TURN OVER]
[BLAAI OM]

Question 3 / **Vraag 3**

Vicky's husband, Martin, died two months ago leaving Vicky as his only living relative In a one page will, Martin left R10 000 to Vicky and the residue of his estate to his friend Barry's extramarital daughter, Sharon Martin, who was in hospital at the time of the execution of the will, signed the will with his initials after the last paragraph Sharon, who was visiting him in hospital at the time, and a nurse, Terry, signed as witnesses at the top of the page Answer the questions below in regard to this set of facts

Vicky se eggenoot, Martin, is twee maande gelede oorlede en het haar as sy enigste lewende verwant agtergelaat. Martin het in sy een bladsy testament, R10 000 aan Vicky en die restant van sy boedel in trust aan sy vriend, Barry, se buite-egtelike dogter, Sharon, bemaak. Martin, wat in die hospitaal was ten tye van die verlyding van die testament, het die testament met sy paraaf onderteken. Sharon, wat hom op daardie stadium in die hospitaal besoek het, en 'n verpleegster, Terry, het as getuies aan die bokant van die bladsy geteken. Beantwoord die vrae hieronder ten aansien van hierdie feitestel:

3 1 Advise Vicky on the validity of Martin's will and explain to her what she will inherit Briefly give reasons for your answer (4)

3.1 Adviseer Vicky ten opsigte van die geldigheid van Martin se testament en verduidelik aan haar wat sy sal erf. Gee bondige redes vir u antwoord. (4)

3 2 Sharon approaches you for advice The executor of Martin's estate has told her that she cannot inherit and she does not understand the reason for his refusal Explain the reason to her and advise her on a course of action that she will have to take if she wishes to inherit from Martin's estate (3)

3.2 Sharon nader u vir advies. Die eksekuteur van Martin se boedel het aan haar gesê dat sy nie kan erf nie en sy verstaan nie die rede vir sy weiering nie Verduidelik die rede vir haar en adviseer haar ten opsigte van 'n plan van aksie wat sy sal moet neem indien sy van Martin se boedel wil erf. (3)

3 3 Vicky complains that Sharon was far too friendly with her husband and visited him far too many times in hospital She alleges that Martin made the will as a result of these visits Advise Vicky as to a course of action that she may take if she wants to contest the validity of the will Refer to case law in your answer (3)

3.3 Vicky kla dat Sharon heeltemal te vriendelik met haar man was en hom heeltemal te veel in die hospitaal besoek het. Sy beweer dat Martin die testament gemaak het as gevolg van al hierdie besoeke. Adviseer Vicky ten opsigte van 'n plan van aksie wat sy kan neem indien sy die geldigheid van die testament wil aanveg. Verwys na regspraak in u antwoord. (3)

3.4 Explain the maintenance claim that Vicky may have if she is unsucsessful in contesting the validity of the will (5)

3.4 Verduidelik die onderhoudseis wat Vicky teen die boedel mag hê indien sy onsuksesvol is met die aanvegting van die geldigheid van die testament. (5)

Total Question 3 / **Totaal Vraag 3: [15]**

Question 4 / **Vraag 4**

4 1 Clause 2 of Ted's will provides

> "I leave my residential home in Pretoria, to my son, Bertus If he marries Patricia Stripper or any person who prescribes to the Scientology faith as she does, it must go to my niece Kathryn "

At the time of Ted's death, Bertus is divorced from his first wife and in a relationship with Patricia

Answer question (a) and (d) about this set of facts

4.1 Klousule 2 van Ted se testament bepaal:

> **"Ek bemaak my residensiële huis aan my seun, Bertus. Indien hy met Patricia Stripper trou of enige persoon wat die Scientology geloof aanhang soos wat sy doen, moet die huis na my niggie, Kathryn, gaan."**

Ten tye van Ted se dood is Bertus geskei van sy eerste vrou en in 'n verhouding met Patricia.

Antwoord vraag (a) en (b) oor die feitestel:

(a) Identify and explain all the legal concepts in this provision and indicate when *dies cedit* and *dies venit* will take place for all the parties (10)

(a) Identifiseer en verduidelik al die regsfigure in hierdie bepaling en dui aan wanneer *dies cedit* en *dies venit* vir al die partye sal aanbreek. (10)

(b) Discuss the validity of this provision with reference to case law (5)

(b) Bespreek die geldigheid van hierdie bepaling met verwysing na regspraak. (5)

Total Question 4 / **Totaal Vraag 4: [15]**

Question 5 / **Vraag 5**

5 1 Distinguish between capacity to act and testamentary capacity and give a definition of each (5)

5.1 Onderskei tussen regsbevoegdheid en testeerbevoegdheid en verskaf 'n definisie van elk. (5)

5 2 Provide the correct term for each of the following

5.2 Verskaf die korrekte term vir elk van die volgende:

(a) A bequest that does not contain any conditions It is the simplest way of making a bequest and the effect of such a bequest is that vesting of rights normally takes place on the testator's death (1)

(a) 'n Bemaking wat geen voorwaardes bevat nie. Dit is die eenvoudigste wyse om 'n bemaking te bewerkstellig en die gevolg van sodanige bemaking is dat vestiging van regte normaalweg by die testateur se dood plaasvind. (1)

(b) A form of tacit revocation of a legacy when a testator voluntarily alienates the object of the legacy during his or her lifetime causing the legacy to fail (1)

(b) 'n Verskyningsvorm van stilswyende herroeping van 'n legaat waar 'n testateur vrywillig die voorwerp van die legaat gedurende sy of haar lewe vervreem sodat die legaat van nul en gener waarde is. (1)

5 3 Define the term "testamentary writing" (3)

5.3 Definieer die term "testamentêre geskrif". (3)

Total Question 5 / **Totaal Vraag 5: [10]**

Question 6 / **Vraag 6**

6 1 Mention the requirements (*essentialia)* for the creation of a valid trust (5)

6.1 Noem die vereistes (*essentialia)* vir die oprigting van 'n geldige trust. (5)

6 2 Tsepo died in 2016 and left his entire estate in equal shares to his son, John, his daughter, Sally, and his sister, Paula During his lifetime, Tsepo gave R20 000 to John to start a computer business Tsepo's sister, Paula, feels that she is not receiving a fair share of the estate

Discuss the position of all the parties with regard to collation in these facts (5)

6.2 Tsepo het in 2016 gesterf en sy hele boedel in gelyke dele nagelaat aan sy seun, John, sy dogter, Sally, en sy suster, Paula. Tydens sy leeftyd het Tsepo R20 000 aan John gegee om 'n rekenaarbesigheid te begin. Tsepo se suster, Paula, voel dat sy nie 'n billike deel van die boedel kry nie.

Bespreek die posisie van al die partye ten aansien van inbring aan die hand van hierdie feite. (5)

Total Question 6 / **Totaal Vraag 6: [10]**

Total Section B / Totaal Afdeling B: [70]

Total for paper / Totaal vir vraestel: [100]

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PART 1 (GENERAL/ALGEMEEN) DEEL 1

STUDY UNIT e g PSY100-X
STUDIE-EENHEID bv PSY100-X

1

PAPER NUMBER
VRAESTELNOMMER

2

INITIALS AND SURNAME
VOORLETTERS EN VAN

3

DATE OF EXAMINATION
DATUM VAN EKSAMEN

4

EXAMINATION CENTRE (E G PRETORIA)
EKSAMENSENTRUM (BV PRETORIA)

5

STUDENT NUMBER
STUDENTENOMMER

6

7

UNIQUE PAPER NO
UNIEKE VRAESTEL NR

8

9

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2 MERK AS VOLG
3 KONTROLEER DAT U VOORLETTERS EN VAN REG INGEVUL IS
4 VUL U STUDENTENOMMER VAN LINKS NA REGS IN
5 KONTROLEER DAT U DIE KORREKTE STUDENTENOMMER VERSTREK HET
6 KONTROLEER DAT DIE UNIEKE NOMMER REG INGEVUL IS
7 MAAK SEKER DAT NET EEN ALTERNATIEF PER VRAAG GEMERK IS
8 MOENIE VOU NIE

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10

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