

**NATIONAL UNIVERSITY OF LESOTHO**

**FIRST YEAR EXAMINATIONS**

**ELG1312: ACADEMIC AND PROFESSIONAL COMMUNICATION FOR LAW**

**MAY 2023**

**MARKS: 100**

**TIME: 3 HOURS**

***INSTRUCTIONS:***

- Answer **ALL** sections.
- Note that your paper has three sections.
- Begin each section on a fresh page.
- Write your student number and group clearly.
- Write legibly.

## SECTION A

### Reading Comprehension

#### Dictionary, Encyclopedia and Thesaurus - The Free Dictionary

##### *Will*

A document in which a person specifies the method to be applied in the management and distribution of his estate after his death.

A will is the legal instrument that permits a person, the **testator**, to make decisions on how his estate will be managed and distributed after his death. At Common Law, an instrument disposing of Personal Property was called a "testament," whereas a will disposed of real property. Over time the distinction has disappeared so that a will, sometimes called a "last will and testament," disposes of both real and personal property.

If a person does not leave a will, or the will is declared invalid, the person will have died **intestate**, resulting in the distribution of the estate according to the laws of Descent and Distribution of the state in which the person resided. Because of the importance of a will, the law requires it to have certain elements to be valid. Apart from these elements, a will may be ruled invalid if the testator made the will as the result of undue influence, fraud, or mistake.

A will serves a variety of important purposes. It enables a person to select his heirs rather than allowing the state laws of descent and distribution to choose the heirs, who, although blood relatives, might be people the testator dislikes or with whom he is unacquainted. A will allows a person to decide which individual could best serve as the **executor** of his estate, distributing the property fairly to the beneficiaries while protecting their interests, rather than allowing a court to appoint a stranger to serve as administrator. A will **safeguards** a person's right to select an individual to serve as guardian to raise his young children in the event of his death.

The right to dispose of property by a will is controlled completely by statute. Since the 1970s, many states have adopted all or parts of the Uniform Probate Code, which attempts to simplify the laws concerning wills and estates. When a person dies, the law of his domicile (permanent residence) will control the method of distribution of his personal property, such as money, stock, or automobiles. The real property, such as farm or vacant land, will pass to the intended heirs according to the law of the state in which the property is located. Though a testator may exercise much control over the distribution of property, state laws protect spouses and children by providing ways of guaranteeing that a spouse will receive a minimum amount of property, regardless of the provisions of the will.

A valid will cannot exist unless three essential elements are present. First, there must be a competent testator. Second, the document purporting to be a will must meet the execution requirements of statutes, often called the Statute of Wills, designed to ensure that the document is not a fraud but is the honest

expression of the testator's intention. Third, it must be clear that the testator intended the document to have the legal effect of a will.

If a will does not satisfy these requirements, any person who would have a financial interest in the estate under the laws of descent and distribution can start an action in the probate court to challenge the validity of the will. The persons who inherit under the will are proponents of the will and defend it against such an attack. This proceeding is known as a will contest. If the people who oppose the admission of the will to probate are successful, the testator's estate will be distributed according to the laws of descent and distribution or the provisions of an earlier will, depending on the facts of the case.

**Competent Testator.** A competent testator is a person who is of sound mind and requisite age at the time that he makes the will, not at the date of his death when it takes effect. Anyone over a minimum age, usually 18, is legally capable of making a will as long as he is competent. A person under the minimum age dies intestate (regardless of efforts to make a will), and his property will be distributed according to the laws of descent and distribution.

An individual has testamentary capacity (sound mind) if he is able to understand the nature and extent of his property, the natural objects of his bounty (to whom he would like to leave the estate), and the nature of the testamentary act (the distribution of his property when he dies). He must also understand how these elements are related so that he can express the method of disposition of property.

A testator is considered mentally incompetent (incapable of making a will) if he has a recognized type of mental deficiency, such as a severe mental illness. Mere eccentricities, such as the refusal to bathe, are not considered insane delusions, nor are mistaken beliefs or prejudices about family members. A person who uses drugs or alcohol can validly execute a will as long as he is not under the influence of drugs or **intoxicated** at the time he makes the will. **Illiteracy**, old age, or severe physical illness do not automatically deprive a person of a testamentary capacity, but they are factors to be considered along with the particular facts of the case.

## QUESTION 1

Answer in complete sentences.

- a) Under which circumstances can a *will* be declared invalid? (3)
- b) What happens to a person's property if he or she dies without having written a *will*? (2)
- c) In your own words, state what conditions must be met for a *will* to be seen as valid? (3)
- d) Define each of the following words:
  - (i) testator
  - (ii) intestate
  - (iii) executor
  - (iv) safeguards

(v) intoxicated

(vi) illiteracy

(12)

[20]

## SECTION B

### Grammar

#### QUESTION 2

Analyse the following sentences, putting them into clauses and identifying the type of clause. Answer in a table form.

- a) My students remained committed throughout the semester, attending classes faithfully.
- b) A chemist labels all his bottles of medicine and arranges them in their categories.
- c) Indeed, some of the patients gained weight despite their illnesses, which will make for an interesting study.
- d) Tell everybody.
- e) I will do it when I want.

(10)

#### QUESTION 3

Identify each sentence type, **a – e**, in Question One.

(10)

#### QUESTION 4

Underline the correct form of the verb in **Brackets** in the following sentences:

- a) The salty taste of blood (*are/is*) due to the presence of sodium chloride.
- b) The lack of vitamins (*cause/causes*) a variety of diseases.
- c) In pre-colonial Lesotho, the number of cows paid for lobola (*were/was*) not fixed.
- d) Either Sarah or Thabo (*are/is*) joining me on the trip.
- e) The United States of America (*are/is*) involved in many peace-keeping operations in different areas of the globe.

(10)

[30]

## SECTION C

### Professional Writing

#### QUESTION 5

List ten characteristics of a set of discursive minutes. (20)

#### QUESTION 6

Identify, with examples, at least fifteen errors in the following letter of application for a job:

(30)

George Gilhooley  
LTC Company  
87 Delaware Road  
Hatfield, CA 08065

Monday 8<sup>th</sup> May 2023

Dear Sir/Madam,

I'm writing to apply for the programmer position, advertised in the Times Union. I enclose my certificates, CV and references.

The role is well-suited to my areas of expertise and I don't foresee anyone else getting the position over me. My key strengths are:

- successfully designing, developing and supporting live-use applications
- striving for excellence
- out-of-this-world customer service

I also have experience in learning 'n applying new technologies as appropriate.

I look forward to my interview and can be reached on Facebook under the name theuntouchableone.

Thanking you in advance,

John Donaldson

[50]