



THE UNIVERSITY OF THE WEST INDIES

EXAMINATIONS OF _____ DECEMBER _____ 1999

CODE AND NAME OF COURSE: LA28A - LAW OF TRUSTS

DATE AND TIME:

DURATION: 2 HOURS

INSTRUCTIONS TO CANDIDATES: This paper has 3 pages and 6 questions.

Answer **THREE** questions, at least **ONE** of which must be selected from **PART B**.
Answers may be confined to the law of any jurisdiction in the Commonwealth Caribbean unless the context indicates otherwise.

PART A

1. The Government of St. Monique has resolved to establish the Island as an offshore trust centre. Write a memorandum to the Attorney-General outlining the features which the proposed new offshore trust legislation should possess in order to be attractive to foreign settlers, whether individual or corporate.
2. Discuss the principle that 'Equity abhors a beneficial vacuum.' To what extent do special considerations apply to pension scheme surpluses?
3. Answer **BOTH** (a) **AND** (b)
 - (a) Distinguish the trust concept from those of (i) fiduciary powers and (ii) personal powers.
 - (b) To what extent is it true to assert that trusts and administration of estates are governed by the same principles?

PLEASE TURN OVER

PART B

4. Daniel became seriously ill and was admitted to hospital. He called his sons, Jacob and Aaron, and his daughter Ruth, to his bedside. When they were assembled, Daniel handed to Jacob the certificates representing 500 shares in Carmel Ltd. and a completed share transfer form, telling Jacob that the shares were his "when I'm gone." To Aaron, Daniel said: "If I die, you can have my Mitsubishi Lancer car. Here is the key. Your mother has a spare key. She'll need to use the car to visit me in hospital." To Ruth, he said: "I'd like you to have the balance in my Credit Union deposit account. Take this most recent statement of the account."

Two days later, Daniel made a will in which, after appointing his wife, Martha, as executrix and naming her as residuary legatee, he bequeathed \$100,000 to his friend, Benjamin. He immediately telephoned Benjamin from the hospital to inform him of the bequest and to say that he wished Benjamin to use the money for the education of Daniel's illegitimate son, Paul, and to keep any surplus for himself. That same night, Paul was killed in a road accident. On hearing the news, Daniel was overcome with grief and jumped from a 5th floor window in the hospital, plunging to his death.

Discuss.

5. The will of Alexander Maingot, an eccentric millionaire, who died earlier this year, contains *inter alia* the following clause:

'I leave my residuary estate to my executors and trustees for the following purposes:

One fifth to be applied for the education and welfare of primary school children in the Parish of St. Dominic;

One fifth to be applied for the purpose of saving the coral reefs of Barbago from destruction by pollution;

One fifth to be used for the establishment of a museum in which my collection of sporting guns, postage stamps and clay pipes is to be exhibited;

One fifth to be used for the provision of salaries for the priests of the New World Temple [an obscure religious sect];

One fifth to be used for the maintenance for life of my tomcat, Andrew.

Comment on the validity of these bequests.

6. Jasper, a 35 year old employee of the Antilles Cement Company ('the Company'), decides to make some financial provision for his family. Accordingly, he takes out two life insurance policies, on his own life, with Caribbean Mutual Insurance Ltd. In the first policy, Jasper designates his wife, Carol, and his two children, Alicia and Benedicta, as beneficiaries. In the second policy, he names his elderly mother, Doris, as beneficiary.

Jasper is also a member of the Company's group life insurance scheme, which entitles him to nominate a person to receive benefits due to him (amounting to \$200,000) in the event of his death in the service of the Company. Jasper nominates his brother, George, but later, following a dispute with George, he decides that his sister, Naomi, should have the \$200,000, and he writes a letter to Naomi stating his intention that, in the event of his premature death, Naomi was to be entitled to the money. Two months later, Jasper is involved in a freak accident at his place of work and he dies, intestate.

Shortly afterwards, Carol is admitted to a mental hospital, and Naomi obtains letters of administration to Jasper's estate.

Advise Naomi as to who is entitled to the proceeds of the insurance policies.

END OF PAPER

