

**SUCCESSION**  
**MARCH 2013**  
**EXAMINER'S COMMENTS**

Question 1 was generally answered well, especially the part dealing with intestacy. The poorer answers were the result of a poor knowledge of s 42 of the *Succession Act 2006* (NSW), which concerns the construction of residuary gifts in wills made on or after 1 March 2008.

The answers to questions 2 and 3 were generally poor. This is surprising as each question, comprising three parts, concerned basic aspects of the law of succession that are invariably examined. Question 2 comprised grants of representation, the protection of the legal personal representative from the debts of the deceased, and the right to commission for the representative's pains and trouble in administering an estate. Question 3 comprised revocation of wills, formal requirements for wills, and interested witnesses. It was apparent that candidates paid superficial attention to these matters in their preparation for the examination.

Question 4, which concerned the administration of estates, was reasonably well answered. The major problem encountered by candidates was to determine whether the statutory order of application of assets for the payment of debts and liabilities was varied by the terms of the will, and some candidates found difficulty also in dealing with the exoneration of the house of its mortgage.

In question 5, which concerned family provision, candidates, despite warnings in classes and in past Examiner's Comments, continue merely to restate the legislation with little or generally no elaboration at all of the case law explaining the legislation. Candidates generally showed little or a confused understanding of the notional estate provisions in their application to the transactions in question.