

UNIVERSITY OF SWAZILAND

FACULTY OF SOCIAL SCIENCE

DEPARTMENT OF LAW

SUPPLEMENTARY EXAMINATION PAPER JULY 2005

TITLE OF PAPER	:	ROMAN LAW
COURSE CODE	:	L102
TIME ALLOWED	:	3 HOURS
MARKS ALLOCATED	:	100 MARKS
INSTRUCTIONS	:	ANSWER <u>FIVE</u> QUESTIONS. ANSWER AT LEAST <u>ONE</u> QUESTION FROM EACH SECTION.

**THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSION HAS BEEN
GRANTED BY THE INVIGILATOR**

[TURN OVER]

SECTION A: HISTORY, LAW OF PERSONS AND LAW OF SUCCESSION
FROM THIS SECTION YOU MUST ANSWER AT LEAST ONE QUESTION

QUESTION 1

- (a) Distinguish the different types of procedure recognised in Roman law. (8)
- (b) Mention and briefly discuss the stages in the second life of Roman law. (12)
- [20]**

QUESTION 2

- (a) Name the characteristics of a will. (4)
- (b) Briefly describe the following:
- (i) legacy (2)
- (ii) codicil (2)
- (iii) *donatio mortis causa* (2)
- (c) Discuss the Roman law of marriage. (10)
- [20]**

SECTION B: LAW OF PROPERTY
FROM THIS SECTION YOU MUST ANSWER AT LEAST ONE QUESTION

QUESTION 3

- (a) Write short notes on the distinction between real actions and personal actions. (5)
- (b) Distinguish between the three forms of possession in Roman law. (6)
- (c) Briefly discuss accession as an original method of acquiring ownership. (9)
- [20]**

QUESTION 4

- (a) Write short notes on the distinction between:
- (i) corporeal and incorporeal things (5)
- (ii) contract and conveyance (5)
- (b) Define ownership with reference to its inherent nature. (5)

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- (c) There is a windmill on the farm of X and Y, which they no longer use. S purchases it from them. S's father takes S to the windmill and shows it to S. His father says: "Here is the windmill. You must come and dismantle it and take it away." S undertakes to do this as soon as he has the time. S becomes insolvent and the curator of the insolvent estate claims that the windmill is part of the insolvent estate. X and Y deny this and argue that the windmill is still part of their land. Will they be successful with their argument? Substantiate your answer fully. (5)

[20]

SECTION C: LAW OF OBLIGATIONS

FROM THIS SECTION YOU MUST ANSWER AT LEAST ONE QUESTION

QUESTION 5

- (a) Give Justinian's classification of obligations. (4)
 (b) Briefly discuss the different standards of care in the Roman law of obligations. (10)
 (c) Briefly define:
 (i) delict (2)
 (ii) *condictio indebiti* (2)
 (iii) vicarious liability (2)

[20]

QUESTION 6

- (a) Distinguish between unilateral and bilateral contracts. (5)
 (b) Briefly discuss the warranty against latent defects. (5)
 (c) Briefly discuss the essential elements of Aquilian liability in Roman law. (10)

[20]

QUESTION 7

Briefly discuss the following aspects of the Roman law of sale:

- (a) fixing of the price (5)
 (b) passing of title (5)
 (c) passing of risk (5)
 (d) warranty against eviction (5)

[20]

TOTAL: 100 MARKS