

Course Code: L201 (S) 2005

**UNIVERSITY OF SWAZILAND**  
**FACULTY OF SOCIAL SCIENCE**  
**DEPARTMENT OF LAW**

**SUPPLEMENTARY EXAMINATION PAPER, JULY 2005**

**TITLE OF PAPER** : **INTERPRETATION OF STATUTES AND LEGAL DRAFTING**

**COURSE CODE** : **L201**

**TIME ALLOWED** : **THREE (3) HOURS**

**INSTRUCTIONS** :

- (1) ANSWER FOUR (4) QUESTIONS - AT LEAST ONE QUESTION FROM EACH SECTION.**
- (2) ALL QUESTIONS CARRY EQUAL MARKS.**
- (3) REFER TO DECIDED CASES AND LITERATURE WHERE APPROPRIATE.**

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**SECTION A****QUESTION 1**

“The preparation of legislation involves three fundamental steps: first, the formulation or determination of the legislative policy; secondly, the creation of the legislative scheme, that is to say, the conception of the specific ideas or rules to be expressed; and thirdly, the composition of the sentences that will express those ideas or rules”. (Driedger).

Discuss fully.

[25 MARKS]

**QUESTION 2** [Answer (a) and (b)]

- (a) (i) What is a legislative sentence? [5]
- (ii) What are the ingredients of a legislative sentence? [6]
- (iii) What are the grammatical elements of a legislative sentence? [4]
- (iv) What is the structure of a legislative sentence? [4]
- (v) Name the three basic steps in the legislative process. [6]  
[25 MARKS]
- (b) (i) Give five uses of a definition section? [5]
- (ii) Why is paragraphing important in legislative drafting? [10]
- (iii) Distinguish between retroactive and retrospective legislation. (Give examples). [10]  
[25 MARKS]

**QUESTION 3**

- (a) Discuss fully the so-called ‘golden rule’ of statutory interpretation. [15]
- (b) Discuss any two of the following maxims to show that you understand what they mean -
- (i) Statutes ‘in pari materia’. [5]
- (ii) ‘Expressio unius, exclusio alterius’. [5]  
[25 MARKS]

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- (iii) 'Ejusdem generis' rule. [5]
- (iv) 'Cessante ratione legis cessat ipsa lex'. [5]

**QUESTION 4**

- (a) Discuss the presumption that the legislature did not intend to alter the existing law more than is necessary. [13]
- (b) What do you understand by the 'Plain Language Movement'? [12]  
[25 MARKS]

**SECTION B****QUESTION 5**

Redraft as may be necessary -

- (a) "Where service of a summons is proved and the accused does not appear or (where) it appears that a summons cannot be served because the accused is evading service, a justice may issue a warrant in Form 8". [7]
- (b) "Where a fine, penalty or forfeiture is imposed in respect of a violation of a revenue law of Swaziland or in respect of a breach of duty or corruption in office by an officer or employee of the Government of Swaziland or in respect of any proceedings instituted at the instance of the Government of Swaziland in which that government bears the costs of prosecution or a recognizance in connection with proceedings mention in paragraph (a) is forfeited, the proceeds of the fine, penalty, forfeiture or recognizance belong to His Majesty in right of Swaziland...".
- (c) "120 (1) No Parliament or any other person has power to pass any law to alter the decision or judgement or any court ... or which operates retroactively to impose any limitations on any person or to adversely affect the personal rights and liberties of any person or to impose a burden, obligation or liability on any person".

[25 MARKS]

**QUESTION 6**

- (a) "216(1) Every accused person ... shall be a competent witness for the defence at every stage of the proceedings whether such accused is charged solely or jointly with any other person:

Provided that an accused shall not be called as a witness except upon his own application, and the wife or husband of an accused shall not be called as witness for the defence except upon the application of such accused". [8]

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- (b) “84(2). A vehicle parked at a place where the stopping of a vehicle is prohibited in terms of S.67 or a vehicle is of a class to which such vehicle belongs may not be parked in terms of this Act or any regulation made under Section 103, or left for a continuous period of more than 24 hours in the same place on a public road outside an urban area, or seven days in the same place or a public road within an urban area, or seven days on the site of a testing station, if any, ... shall be deemed to have been abandoned by the owner and the vehicle may be removed by or on behalf of the authority having jurisdiction over the place or road concerned ...”. [9]
- (c) “84(4). If the owner of a vehicle referred to in sub-section (2) is traced by the authority ... and fails to recover the vehicle concerned and pay the expenses referred to in subsection (3) within 14 days of being requested to do so, or the owner cannot be traced after a lapse of one month from the date of removal referred to in subsection (2), such vehicle ... may be sold in the manner prescribed by any law governing the sale of movable property by such authority...”. [8]
- [25 MARKS]