

**UNIVERSITY OF SWAZILAND  
DEPARTMENT OF LAW**

**SUPPLEMENTARY EXAMINATION, JULY 2009**

**TITLE OF PAPER : LAW OF EVIDENCE**  
**COURSE CODE : DL031**  
**TIME ALLOWED : THREE (3) HOURS**  
**TOTAL MARKS : 100**  
**INSTRUCTIONS : ANSWER FOUR (4) QUESTIONS**

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

### **Question 1**

S is appearing before the High Court on a charge of murder. He pleads "not guilty" to the charge. The only evidence against him is a statement which he made to a magistrate in which he states how he committed the crime. The State wants to use this statement against S on the basis that it is a confession.

You are the Counsel for the State. Make submissions before the court stating why you say the statement is a confession and consequently admissible, and whether or not the court can convict on the basis of the confession alone. (25 marks)

### **Question 2**

- (a) What is estoppel by conduct? (15 marks)
- (b) If a competent and compellable witness refuses to testify in criminal proceedings how is he or she dealt with? (10 marks)
- (Total marks = 25)

### **Question 3**

- (a) Discuss the admissibility of documentary evidence. (15 marks)
- (b) Discuss the presumption applicable to a date on a document. (4 marks)
- (c) Under what circumstances may the rule against hearsay evidence be relaxed? (6 marks)
- (Total marks = 25)

**Question 4**

(a) What is a dying declaration?

(19 marks)

(b) Can a court convict a person on the basis of evidence of a single witness?

(6 marks)

(Total marks = 25)

**Question 5**

(a) What is evidence of character and what is it that an accused person may do in court during proceedings which allows the State to give evidence of his or her bad character?

(20 marks)

(b) Discuss evidence of bad character in civil proceedings.

(5 marks)

(Total marks = 20)