

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW
FINAL EXAMINATION PAPER, MAY 2010

- TITLE OF PAPER** : **INTERPRETATION OF STATUTES AND LEGAL DRAFTING**
- COURSE CODE** : **L201**
- TIME ALLOWED** : **THREE HOURS**
- INSTRUCTIONS** :
- 1. ANSWER TO (2) QUESTIONS FROM SECTION A AND TWO (2) QUESTIONS FROM SECTION B.**
 - 2. ANSWER A TOTAL OF FOUR (4) QUESTIONS.**
 - 3. EACH QUESTION CARRIES A MARK OF 25**
 - 4. IN ANSWERING ANY QUESTION, NOTE THAT THE QUALITY OF THE CONTENT, CLARITY OR EXPRESSION AND LEGIBILITY OF HANDWRITING ARE ABSOLUTELY ESSENTIAL.**

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SECTION A

[ANSWER ANY TWO (2) QUESTIONS FROM THIS SECTION]

QUESTION 1

Critically discuss, with reference to decided cases, the principles underlying the literalist approach to interpretation of statutes.

[25 MARKS]

QUESTION 2

Critically discuss, with reference to decided cases, the following statement:

“Strictly speaking, it is incorrect to refer to ‘peremptory’ and ‘directory’ provisions. In principle all legislative provisions are peremptory. If this were not the case, they would not be binding legal rules, but merely ‘non obligatory suggestions for desirable conduct’ ”.

[25 MARKS]

QUESTION 3

What do you understand the following maxims to mean:

(i) Generalia specialibus non derogant.

[10 marks]

(ii) Casus omissus and ipsissima verba

[15 marks]

[25 MARKS]

SECTION B

[Answer any TWO (2) Questions from this Section]

QUESTION 4

The choice of words is of fundamental importance in the drafting of legislation. Discuss, giving examples where possible, any five [5] principles that help to standardize and simplify the writing of legislation.

[25 MARKS]

QUESTION 5

- (i) “The comma (or lack of them) cause more mischief in the law than all other punctuation marks put together”.

Discuss four basic rules that apply to the use of the comma. [20 marks]

- (ii) “The only certainty with the use of hyphens, is the uncertainty in its application.”

Briefly state five rules to be observed when using hyphens and give examples. [5 marks]

QUESTION 6

“Although a preamble on its own can never provide the final meaning of the legislative text, preambles should provide the interpreter with a starting point”.

Comment on the above statement with reference to decided cases. [25 marks]