

**UNIVERSITY OF SWAZILAND
DEPARTMENT OF LAW**

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MAIN EXAMINATION PAPER, MAY 2012

TITLE OF PAPER : LAW OF EVIDENCE
COURSE CODE : DL040
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

(a) How is evidence presented before trial in criminal cases? (15 marks)

(b) Discuss the presumptions applicable to marriage. (10 marks)

(Total marks = 25)

Question 2

You appear for the prosecution before the High Court in a trial in which the accused person is charged with theft. The accused person indicates that he pleads 'guilty' to the charge.

(a) Advise the court on how it should proceed with the matter. (5 marks)

(b) If you were appearing before a magistrate's court, other than a Principal magistrate's court, would your advice be the same? (6 marks)

(c) If the accused person pleads 'not guilty' but you are in possession of a confession allegedly made by the accused person who indicates that he will challenge the confession what would your advice be? (14 marks)

(Total marks = 25)

Question 3

(a) In what instances may a court relax the rule against hearsay evidence?

(5 marks)

(b) Discuss the term 'estoppel by conduct'.

(10 marks)

(c) When and how is an identification parade conducted?

(10 marks)

(Total marks = 25)

Question 4

You appear for the plaintiff before the High Court in an action for damages arising from a car accident. The judge indicates to you that she is unclear on who has to begin presenting evidence. You are called upon to address the court on this issue.

(a) How would you address the court? (10 marks)

(b) Having been ordered to be the first to present evidence, you do so and then indicate to the court that you rest your case. The court then orders you to address it on the law relating to absolution from an instance. (10 marks)

(b) After all the evidence has been presented, the court orders you to address it on the law that applies to credibility of witnesses? (5 marks)

(Total marks = 25)

Question 5

Discuss requirements of the legal professional privilege. (25 marks)

Question 6

Discuss the following exceptions to the rule against hearsay evidence:

(a) Declaration against interest. (15 marks)

(a) Declaration in the course of duty. (10 marks)

(Total marks = 25)