

UNIVERSITY OF SWAZILAND

132

FACULTY OF SOCIAL SCIENCE

DEPARTMENT OF LAW

SUPPLEMENTARY EXAMINATION

YEAR : 2012

TITLE OF PAPER	:	INTERPRETATION OF STATUTES AND LEGAL DRAFTING
COURSE CODE	:	L201
TIME ALLOWED	:	THREE (3) HOURS

INSTRUCTIONS:

- i. ANSWER AT LEAST ONE QUESTION FROM SECTION A AND ONE QUESTION FROM SECTION B.
- ii. ANSWER A TOTAL OF FOUR (4) QUESTIONS.
- iii. EACH QUESTION CARRIES A MARK OF 25.
- iv. IN ANSWERING ANY QUESTION, NOTE THAT THE QUALITY OF THE CONTENT, CLARITY OF EXPRESSION AND LEGIBILITY OF HANDWRITING ARE ABSOLUTELY ESSENTIAL.

YOU MUST NOT OPEN THIS PAPER UNTIL YOU ARE GRANTED PERMISSION TO DO SO BY THE EXAMINATION INVIGILATOR(S).

SECTION A

[ANSWER AT LEAST ONE QUESTION FROM THIS SECTION.]

QUESTION 1:

By virtue of Section 15(1) of the University of Swaziland Act No. 2 of 1983 (as amended by Act No. 3 of 1997), the Council of the University is vested with the power to make statutes for "... the government, control and administration of the University". With this provision in mind, answer the following questions:

- (a) State, without discussing, the kind of legislative power being exercised by the University Council by virtue of this statutory provision. [3 MARKS]**
- (b) Discuss the advantages of this kind of legislative power. [10 MARKS]**
- (c) Critically discuss the requirements that form the bases of the exercise of this legislative power by the University Council. [12 MARKS]**

QUESTION 2:

- (a) Critically discuss the statement that the presumption that statutes are not intended to apply retrospectively applies with force in the Constitution of the Kingdom of Swaziland Act No. 001 of 2005 and, also, with exceptions. [13 MARKS]**
- (b) Briefly discuss any TWO of the following:**
 - i. The maxim *eiusdem generis*; [6 MARKS]**
 - ii. The principle of holistic interpretation of statutes; [6 MARKS] and**
 - iii. The Courts' function in the interpretation of statutes: *jus dicere*, not *jus facere*. [6 MARKS]**

QUESTION 3:

- (a) In the context of the principle of the nullity of transactions contravening statutory provisions, briefly distinguish peremptory or mandatory statutory requirements from directory or permissive statutory requirements. [12 MARKS]**

(b) Briefly discuss the statement that the maxim *quilibet potest renuntiare juri pro se introducto*, i.e., anyone may renounce a law made for his special benefit, is subject to exceptions. [13 MARKS]

SECTION B

[ANSWER AT LEAST ONE QUESTION FROM THIS SECTION.]

QUESTION 4:

(a) What are formulae and what is their essence in statutes? [13 MARKS]

(b) In what ways do the following plain language principles contribute to the improvement of legislative drafting?

i. Omission of needless language in the drafting of a statute; [6 MARKS] and

ii. Consistency in the use of language throughout a statute. [6MARKS]

QUESTION 5:

Rewrite the following sentences in a different form with the aim of eliminating the opacity they contain and, thereby, making them accord with proper legislative drafting. State, briefly, why the new sentences, as written by you, are preferable to the original sentences.

(a) Each student of the University of Swaziland shall furnish the Academic Office with a photocopy of his/her birth certificate before registration commences; [9 MARKS]

(b) Any other person being or having been a law student can apply for the scholarship; [8 MARKS] and

(c) There shall be paid into the Law Students' Society Fund by each law student an amount of E100.00. [8 MARKS]

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