

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

FINAL EXAMINATION PAPER MAY 2013

TITLE : LAW OF DELICT

COURSE CODE : IDE-DL 025

TIME ALLOWED : THREE (3) HOURS

INSTRUCTIONS : ANSWER ANY FOUR QUESTIONS

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

QUESTION 1

The legal principle of *volenti non fit injuria* says that where a person who is legally capable of expressing his will and he gives consent to injury or harm, the causing of such harm will be lawful. State the various requirements for a valid consent, supporting such answers with decided cases or examples. (25 marks).

QUESTION 2

A)

As a private defence to an attack certain elements have to be proven. State three of such requirements with reference to decided cases or examples. (15 marks)

B)

Distinguish between an *acquilian action* and *action injuriarum*, listing the requirements to be met to succeed in each action apart from wrongfulness. (10 marks)

(Total 25 marks)

QUESTION 3

Distinguish between a crime and a delict. (25 marks)

QUESTION 4

A)

Explain the following intentions:

- i) Direct intention (5 marks)
- ii) Indirect intention (5 marks)
- iii) Legal intention (5 marks)

B)

You are a Commissioner of Police in Zambesiland, a position you have been holding for the past ten years and a local newspaper publishes a story that your promotion to the position you hold is due ritual murders you commit in your area. This story leads to your being fired from your position. You have never committed such murders in your life and you were still eligible to hold this position for the next seven years, which leads to your destitution. What remedies do you have and what do you have to prove under our law of delict to succeed in such claim. (10 marks)

(Total 25 marks)

QUESTION 5

A)

An interdict comes in two forms, name them and list the requirements that have to be present for an interdict to be granted by the courts. (15 marks)

B)

Name the two compensatory remedies available under the law of delict. (10 marks)

(Total 25 marks)

QUESTION 6

A)

Who can sue for damages upon the negligent death of someone and under what circumstances can such damages be claimed? (15 marks)

B)

How can bodily harm be an actionable wrong? (10 marks)

(Total 25 marks)

QUESTION 7

Defamation is the wrongful and intentional publication of words or behavior concerning another person which has the effect of injuring his status, good name or reputation. Discuss the five essential elements of this delict. (25 marks)