

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW

FINAL YEAR EXAMINATION PAPER, DECEMBER 2012

TITLE OF PAPER : LAW OF PERSONS

COURSE CODE : L203

TIME ALLOWED : THREE (3) HOURS

INSTRUCTIONS : (1) ANSWER ANY FOUR (4) QUESTIONS
(2) ALL QUESTIONS CARRY EQUAL MARKS
(3) REFER TO DECIDED CASES WHERE NECESSARY
(4) EACH QUESTION MUST START ON A NEW PAGE

QUESTION 1

The law of persons is concerned with certain fundamental concepts such as “persons, things, rights and duties”. Critically discuss this statement and show that you fully understand these concepts and how they relate to each other.

[25 MARKS]

QUESTION 2

Define the legal capacity of the following persons in civil and criminal matters:

(a) An insolvent [5 MARKS]

(b) An infant below the age of 7 years [5 MARKS]

(c) A prodigal [5 MARKS]

(d) An intoxicated person [5 MARKS]

(e) A minor below 21 years [5 MARKS]

QUESTION 3

Distinguish and highlight the significance of legal capacity of a juristic person and a natural person.

[10 MARKS]

Discuss the similarities and or differences between a person who has been declared a prodigal and a person who has been declared an insolvent.

[15 MARKS]

QUESTION 4

Misrepresentation may lead to the engagement being rescinded at the instance of an aggrieved party to the agreement. Critically discuss four grounds upon which misrepresentation may lead to the engagement agreement being set aside.

[25 MARKS]

QUESTION 5

Mbali has been married in civil rites to Samkelo for the past 12 years and the couple live at Mobeni flats in Matsapa, Swaziland. Ever since the marriage, Mbali has been extremely unhappy due to her husband's unfaithful ways. Whenever Mbali would raise an issue in relation to her husband's adulterous affairs, her husband would respond by assaulting her to the extent that she has to be admitted at the Raleigh Fitkin Memorial hospital in Manzini. Mbali subsequently approaches you for legal advice.

- (a) Explain the differences and or similarities between a judicial separation and divorce.

[15 MARKS]

- (b) Discuss all the requirements for the granting of a judicial separation order.

[10 MARKS]

QUESTION 6

In modern law, the criterion of tacit emancipation "is not whether the minor has his own establishment, it is whether the minor has achieved economic independence and autonomy". Critically discuss this statement and make reference to decided cases in support of your discussion.

[25 MARKS]