

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW

SUPPLEMENTARY EXAMINATION PAPER, JULY 2016

TITLE OF PAPER: INTERPRETATION OF STATUTES AND LEGAL DRAFTING

COURSE CODE: L201

TIME ALLOWED: THREE (3) HOURS

INSTRUCTIONS:

ANSWER QUESTION 1, (WHICH IS COMPULSORY), AND ANY
THREE (3) OTHER QUESTIONS OF YOUR CHOICE.

TOTAL NUMBER OF QUESTIONS TO BE ANSWERED ARE FOUR
(4).

DO NOT BE OPEN THE QUESTION PAPER UNTIL PERMISSION HAS BEEN GIVEN BY
THE CHIEF INVIGILATOR.

QUESTION 1 [COMPULSORY]

What happened in *R v Daniels and Another 1936 CPD 131*, and how was the matter resolved by the court?

(25 marks)

QUESTION 2

As a primary source of law, a statute is touted as the most important modern source of law. Comparing it, for example, with the common law (Roman-Dutch Common Law) or customary law (Swazi law and custom), indicate whether you agree with the assertion that it is an important source of law in modern times: giving your reasons.

(25 marks)

QUESTION 3

Section 174 (4) of the Criminal Procedure and Evidence Act, No. 6 of 1938 (as amended) reads:

If at the close of the case for the prosecution the court considers that there is no evidence that the accused committed the offence charged or any other offence of which he might be convicted thereon, it may acquit and discharge him.

Using any of the decided case law you have read – and in point – give a construction/interpretation of this provision. In other words, how have courts interpreted this provision?

(25 marks)

QUESTION 4

Outline the stages of law-making in Swaziland up till the passage of an Act-of-Parliament.

(25 marks)

QUESTION 5

Write short explanatory notes on the following:

a) *Casus omissus*;

(5 marks)

b) *Expressio unius est exclusio alterius*;

(5 marks)

- c) *Ejusdem generis*; (5 marks)
- d) *Noscitur a sociis*; and (5 marks)
- e) *Judices est jus dicere non facere*. (5 marks)

(Total marks: 25)

QUESTION 6

With a local example in mind, critically discuss the Mischief Rule as an approach to statutory interpretation. As part of your discussion state the four considerations that underlie its application.

(25 marks)