

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

**SUPPLEMENTARY EXAMINATION PAPER, MAY 2018**

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TITLE OF PAPER: LEGAL DRAFTING

COURSE CODE: LAW 208

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 ONE [COMPULSORY]**

Your kinsman in your home area, Mduduzi Knowledge Mabizela, does not have a birth certificate. This is owing to the fact that he was born at home. He has not known, over the years that his birth had to be recorded at the Births, Marriage and Deaths offices. He now desperately needs to obtain a birth certificate which in turn will facilitate the issuance of a Personal Identity Number (PIN), required by his employer at his new-found employment.

To help him, you have to draft an affidavit confirming his birth. Her mother, who is still alive, and has knowledge of the birth of Mduduzi, is willing to provide clear evidence on this, in affidavit form.

Accordingly, draft the affidavit, by his mother, incorporating all the necessary information and essentials.

**[25 marks]**

### **QUESTION TWO**

Discuss what legal drafting is and the role it plays in both the private and public law spheres.

**[25 marks]**

### **QUESTION THREE**

Section 174(4) of the *Criminal Procedure and Evidence Act 67 of 1938* is said to be of English origin and plays an important role in criminal proceedings, at a particular stage of the trial.

Assume that you are to argue matter, before the High Court, on behalf of a client. The presiding judicial officer has requested that both the representative of the Crown/State and the defence prepare Heads of Argument on the matter. Your task is to draft the Heads of Argument, using a decided case, showing the way how the section is to be interpreted.

**[25 marks]**

### **QUESTION FOUR**

Write short explanatory notes on the following:

a) Primary audience.

**[5 marks]**

b) Secondary audience.

**[5 marks]**

c) Assent.

[5 marks]

d) Government gazette.

[5 marks]

e) Legal drafting precedent.

[5 marks]

[Total marks:25]

### **QUESTION FIVE**

In his article, titled *Techniques of Legal drafting: A Survival Manual*, Peter N. Swisher decries the accusation usually made that lawyers cannot write plain English. He adds that the charge is supported by the quality of lawyers' legal documents.

Discuss the suggestions he offer as solutions to the problem.

[25 marks]

END OF QUESTION PAPER.