

UNIVERSITY OF ESWATINI
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW
(IDE)
FINAL EXAMINATION PAPER
MAY, 2019

TITLE OF PAPER:	LEGAL DRAFTING OF STATUTES
COURSE CODE:	LAW208 <u>(IDE)</u>
TIME ALLOWED:	THREE (3) HOURS
INSTRUCTIONS:	ANSWER ANY FOUR QUESTION

NB: DO NOT OPEN THE QUESTION PAPER UNTIL PERMISSION HAS BEEN GIVEN BY THE INVIGILATOR

Question One

Write short notes on the following

- (a) Affidavit and list the various types; [5 marks]
- (b) Plea; [5 marks]
- (c) Power of Attorney; [5 marks]
- (d) Particulars of claim; [5 marks]
- (e) Public Prosecutor. [5 marks]

TOTAL [25 marks]

Question Two

- (a) State the essential element for the crime of murder, and using your own facts draft the charge for the crime of murder. [13 marks]

- (b) Explain the following terms;
 - (i) Accused; [3 marks]
 - (ii) Convict; [3 marks]
 - (iii) Indictment; [3 marks]
 - (iv) Charge sheet; [3 marks]

TOTAL [25 Marks]

Question Three

Explain the following terms illustrating with examples

- (a) Common law offence; [3 marks]
- (b) Statutory law offence; [4 marks]
- (c) Using your own facts draft the common law charge of Rape; [9 marks]
- (d) Using your own facts draft the charge of theft; [9 marks]

TOTAL [25 Marks]

Question Four

With regard to Civil Proceedings, write short notes on the following;

- | | |
|------------------------------------|-------------------|
| (a) Notice of Motion; | [5 marks] |
| (b) Notice of intention to Defend; | [5 marks] |
| (c) Demand; | [5 marks] |
| (d) Combined summons; | [5 marks] |
| (e) Action proceedings; | [5 marks] |
| TOTAL | [25 Marks] |

Question Five

Rule 6 (1) of the High Court Rules provides that *“Save where proceedings by way of petition are prescribed by law, every application shall be brought on notice of motion supported by an affidavit or affidavits as to the facts upon which the application relies for relief.”*

With reference to legal authorities explain what an affidavit is, its essentials and the various types of affidavits that may be filed in motion proceedings. [10 marks]

Using your own facts draft the affidavit that accompanies a Notice of Motion. [15 marks]

TOTAL [25 MARKS]

Question Six

Mrs Dumsile Hadebe consults you. She advises that it has come to her knowledge that her husband is having an affair with one, Miss Ida Hinds, an attorney working as legal adviser in the Department of Foreign Affairs. Mrs Hadebe has already made investigation that included identifying her husband's signature in the visitor's register book at two hotels, where he booked in with the said Ms Hinds. The Hadebe's were married according to civil rights at St Peters Cathedral on the 18th September 1988. There are three minor children of the said marriage, namely, Thobeka, born 14 October 1992; John, born 9 May 1994; Sisa, born 7

April 1996. When confronted about this affair Mr Hadebe became aggressive asserting that he is an African man and has the right to sleep out. He no longer contributes to the financial needs of the family and absents himself on many occasions from family home, sleeping out. Now Ms Hadebe wants to end the marriage, get custody of the minor children and payment of maintenance. But before that she would like her husband to be given the last chance.

Using such additional facts as may be necessary:

- (a) Draft a letter of demand to Mr Hadebe. [10 marks]
- (b) Draw up Particulars of Claim. [15 marks]

Total Marks [25 Marks]

Question Seven

Write short notes on the following;

- (a) Deed of Sale; [5 Marks]
- (b) Jurisdiction of a Court [5 Marks]
- (c)

Your client Lilahle Dlamini has concluded an oral agreement with Sibhamu Shongwe and adult male of Piggs Peak for the sale of a motor vehicle BMW 3 series. According to the agreement the purchase price is Eighty Thousand Emalangenani (E80,000-00) payable in instalments. Adding your own facts draft a Deed of Sale on behalf of your client for the purchase of the said Motor Vehicle.

[15 Marks]

TOTAL [25 Marks]