

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

RE-SIT EXAMINATION PAPER, JULY 2019

TITLE OF PAPER: LEGAL METHODS

COURSE CODE: LAW 102

TIME ALLOWED: THREE (3) HOURS

INSTRUCTIONS:

- 1) ANSWER QUESTION 1 (ONE), WHICH IS COMPULSORY, AND ANY THREE OTHER QUESTIONS OF YOUR CHOICE. THE TOTAL NUMBER OF QUESTIONS TO BE ANSWERED IS 4 (FOUR).
- 2) IN HOW YOUR ANSWER, THE CORRECT USAGE OF GRAMMAR, CONTENT, ORGANIZATION, COHERENCE, CLARITY OF EXPRESSION, ABILITY, SOUNDNESS OF ANALYSIS AND REASONING WILL BE FACTORED IN THE GRADING CRITERIA.
- 3) WRITE LEGIBLY, AND BEGIN A NEW QUESTION ON A NEW PAGE.
- 4) EACH QUESTION CARRIES A TOTAL MARK OF 25.

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

QUESTION ONE [COMPULSORY]

In *Edelstein v Edelstein, NO and another* 1952 (3) SA 1 (A); [1952] All SA 20 AD, the issue that the court had to make a determination upon, or to decide on, related to capacity.

(a) Using the FIRAC method, summarise the case.

[15 marks]

(b) Dealing particularly with the capacity aspect of the matter, discuss precisely what this capacity was about and what principle of law was applied in respect to it, around capacity.

[10 marks]

QUESTION TWO

There are a number of meanings the word “right” may be used in private law. We say, for instance, that someone has the right to appear in court. Obviously, this “right” is not a subjective right because it has no object, nor does it involve a relationship with other people. Rather, it is an ability which is derived from the law, to participate in all legal activities.

Identify and discuss the four private law types of capacities relating to subjective rights.

[25 marks]

QUESTION THREE

Legal personality has a beginning and an end. With the two types of personalities recognized by law in mind, fully discuss this statement, indicating when it is the legal personality begins and ends, in each instance.

[15 marks]

QUESTION FOUR

In the case of *Donoghue and Stevenson* [1932] A.C. 562, the court formulated a principle based on duty of care. On the facts of the case, there had been no prior contractual relationship between the plaintiff and the defendant.

Using the concept of subjective rights (also called subjectivity of rights) :-

- (a) Discuss what the legal object was in the matter, and what aspect of law it stemmed from. In the discussion, try to relate to the case mentioned above.

[12.5 marks]

- (b) Discuss what the subjective right was in the matter, and what aspect of law it stemmed from. In the discussion, try to relate to the case mentioned above.

[12.5 marks]

[Total marks: 25]

QUESTION FIVE

Briefly discuss what the role of the following legal actors play in the legal profession is and where the source of their mandate/authority is to be found:

- a) The Attorney-General. **[8 marks]**
b) The Director of Public Prosecutions. **[8 marks]**
c) A Judge. **[9 marks]**

[Total marks:25]

END OF QUESTION PAPER.