

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

**MAIN EXAMINATION PAPER, NOVEMBER 2018**

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TITLE OF PAPER: INTERPRETATION OF STATUTES

COURSE CODE: LAW 207

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]**

Three accused persons were convicted for the unlawful possession of a cache of arms found in a vehicle they were traveling in. This was in ontravention of the law relating to the Arms and Ammunition Act, 1964. Having convicted them, the judicial officer duly sentenced them and, additional to his sentence, ordered that the vehicle “in which they conducted the unlawful operations be forfeited to the State.” The forfeiture was ordered in terms of a section which read that “*the court may, at its discretion order the forfeiture of any vehicle or receptacle used in connection with the offense, and, in the case of a second or subsequent conviction, may order the forfeiture of any vehicle or receptacle used.*”

It turns out that in this case the vehicle belonged to a third party who had not been a party to the offence committed. The Crown had moved an application for the forfeiture of the vehicle and the accused had argued that the section invoked had not been intended by the legislature to apply to punish individuals not otherwise involved in the illegal act.

Locating the matter in the interpretation of statutes, and with reference to pertinent case law, discuss how the court ought to have approached it in determining the issue of the forfeiture and what the outcome of the decision should have been.

**[25 marks]**

## **QUESTION 2**

A repeal is a decisive legislative process through which legislation ceases to operate (so-called demise of legislation).

Discuss this process, with particular reference to a legal instrument, and the effect of a transitional clause on it.

**[25 marks]**

### **QUESTION 3**

It is said that the entry point to the interpretation of statutes is the literal (or plain meaning) rule. There is a point of departure, from that approach, leading to the golden rule.

With reference to relevant case law, discuss:

- a) what in the *literal rule*, are the circumstances that dictate its justified use by the interpreter, and,

[12.5 marks]

- b) the permitted circumstances permitting a departure or deviation from it, particularly the two approaches propounded upon in the *golden rule* case law.

[12.5 marks]

[Total marks: 25]

### **QUESTION 4**

That law-making through the legislative process has become the most important modern source of law is not in doubt. There are good reasons for that approach.

As against the other sources of law, excepting the Constitution, discuss, giving at least three of the good reasons why legislation is resorted to in the law-making scheme.

[25 marks]

### **QUESTION 5**

Write short explanatory notes on the following:

- a) King's-Order-in-Council. [5 marks]  
b) Ouster clause. [5 marks]  
c) Royal Assent. [5 marks]  
d) Original interpretation. [5 marks]  
e) By-laws. [5 marks]

[Total marks: 25]