

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

RE-SIT EXAMINATION PAPER, JANUARY 2019

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]

Quite apart from the orthodox text-based approach to the interpretation of statutes, there is the text-in-context approach. Dealing particularly with the *mischief rule*: regarded as the forerunner of the text-in-context approach, there is a marked departure from the orthodox text-based approach. *Jaga v Dönges 1950 (4) A 653 (A)* is hailed as one of the efforts, in South African law, to utilize the wider text-in-context approach, and move beyond the plain grammatical meaning, to ascertain the legislative purpose.

Discuss, how, in contrast to the orthodox text-based approach, the mischief rule operates, making sure to seek guidance on the four guideline identified by Schreiner JA in the *Jaga v Dönges* case.

[25 marks]

QUESTION 2

With sections 2 (1), 252 and 268 in mind, discuss how the advent of the 2005 Constitution, has had an influence on the interpretation of statutes.

[25 marks]

QUESTION 3

Fully discuss original/principal legislation and secondary/subsidiary/delegated legislation. In your discussion, identify the distinctions between the two, as well as the advantages of delegated kind of legislative power.

[25 marks]

QUESTION 4

What problem presented in *Smith and Another v Hughes and Others [1960] 2 All ER 859* and, in deciding the matter before it, what interpretive approach did the court use? Discuss.

[25 marks]

QUESTION 5

Write short explanatory notes on the following:

- a) Repealing statute. [5 marks]
- b) Consolidating statute. [5 marks]
- c) Amending statute. [5 marks]
- d) Regulation. [5 marks]
- e) Long title of a statute. [5 marks]

[Total marks: 25]