

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

RE-SIT EXAMINATION PAPER, JULY 2019

TITLE OF PAPER: LEGAL DRAFTING

COURSE CODE: LAW 208

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 YOU 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]

Bhacile Mndzebele and Nkhanyeti Mchobokazi underwent a traditional marriage, in terms of Swazi law and custom, some time in 2010. This was after Bhacile had been smeared with red ochre (libovu) at the cattle byre of the Mchobokazi's homestead, in remote rural Timphisini. There are four children born of the marriage, namely, Sivumelwane (born 6 July 2011); Khanyakwezwe (born 20 December 2013); Tsakasile (born 12 April 2015) and, Muzikanina (born 28 February 2018). The marriage was not registered with the Births, Marriages and Deaths Department. Additionally, none of the children have had their births registered. As a result, no marriage certificate, or birth certificates, have been issued.

The couple now desire to have their marriage, as well as the births of their four children, registered so as to be issued with the relevant certificates. The person who smeared the bride, Phangisile Mavimbela, is alive and available. All the children were born at the Mbabane Government Hospital.

You are to draft an affidavit to be used to persuade the Births, Marriages and Deaths Department register, and issue, the requisite marriage and birth certificates. You can be innovative with the factual story but ensure to comply with the essentials of an affidavit.

[25 marks]

QUESTION TWO

a) In relation to a specific drafted legal document of your choice, state what an audience is, as well as its significance. Do indicate what the document you have chosen is.

[Marks: 10]

b) Using your own assumed, or made up facts, draw a simple contract of sale of a motor vehicle, ensuring that you follow the structure: (i) heading to the contract, (ii) the parties to the contract, (iii) the *essentialia* and (iv) the date and place where the contract was concluded and signed.

[Marks:15]

[Total marks:25]

QUESTION THREE

Fully discuss what legal drafting is, giving the distinctions between litigious and non-litigious types of legal documents, with examples.

[25 marks]

QUESTION FOUR

a) What three questions must a commissioner of oaths ask a deponent when commissioning an affidavit?

[Marks:10]

b) What are the five things that a commissioner of oaths must do to an affidavit, below the deponent' signature?

[Marks:15]

[Total marks:25]

QUESTION FIVE

Your senior partner Mr. Double Wise is preparing for a trial in which his client is facing a murder charge.

Assume that the facts are similar to those in the case of *R v Betty Motsa* 1970-1976 SLR 200 (HC). Assume too that he (Mr. Wise) has requested you to conduct some research and present the results in a legal memorandum.

Draft the legal memorandum following the basic format.

[25 marks]

END OF QUESTION PAPER.