



**UNIVERSITY OF ESWATINI
INSTITUTE OF DISTANCE EDUCATION
BACHELOR OF LAWS/DIPLOMA IN LAW
RE-SIT EXAMINATION PAPER JANUARY 2020**

TITLE OF PAPER : LAW OF EVIDENCE
COURSE CODE : IDE - DL039
TIME ALLOWED : THREE (3) HOURS
TOTAL MARKS : 100
INSTRUCTIONS : ANSWER ANY FOUR (4) QUESTIONS

THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSION HAS BEEN GRANTED BY THE INVIGILATOR TO DO SO.

Question 1

During a criminal trial, a witness testifies that he committed the offence charged with the accused person. He informs the court that when he was arrested he agreed to cooperate with the police. The investigator also testifies and tells the court that the witness pointed out the accused to them. The defence objects to the evidence of the witness and that of the police officer as being inadmissible.

Is such evidence inadmissible or not? (25 marks)

Question 2

In a civil claim arising from alleged defamation, the defendant raises the argument that he published the material because he felt provoked by the actions of the plaintiff. The plaintiff, on the other hand, justifies the *quantum* on what she says is her good character and the formal admissions made by the defendant. It also turns out that one of the witnesses for the defendant has refused to testify in favour of the defendant and absented himself from court to ensure that he is not called to testify.

As the presiding judicial officer, how would you deal with such a situation? (25 marks)

Question 3

How was the similar-fact rule formulated in *Makin v Attorney General for New South Wales* [1894] AC 57 (PC).

(25 marks)

Question 4

You appear for the prosecution in a trial in which the accused has been charged with rape in violation of the Sexual Offences and Domestic Violence Act of 2018. The defence puts it to the complainant that she is lying that the offence was committed by the accused. The complainant tells the court that she told her older sister of the ordeal about two (2) hours after it had happened. You indicate to the court that you will be calling this witness. The defence indicates that they will object to the evidence of the older sister.

The presiding magistrate calls on you to address the court on the admissibility of the evidence of the complainant and that of the older sister which you intend to lead.

(25 marks)

Question 5

How qualified should a person be to be regarded as an expert by a court and what is the scope of the evidence of such a person?

(25 marks)