



**UNIVERSITY OF ESWATINI  
INSTITUTE OF DISTANCE EDUCATION  
DIPLOMA IN LAW  
FINAL EXAMINATION PAPER APRIL 2021**

**TITLE OF PAPER: INTERPRETATION OF STATUTES**

**COURSE CODE : IDE –LAW207**

**TIME ALLOCATION: THREE (3) HOURS**

**INSTRUCTIONS: 1. ANSWER ANY FOUR QUESTIONS.**

**2. ALL QUESTIONS CARRY EQUAL MARKS**

**TOTAL MARKS: 100**

**THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSION IS GIVEN BY THE  
INVIGILATOR.**

### Question One

There are various presumptions which are often used by the courts when interpreting statutes. Discuss the presumption that was emphasized by Rooney J ( as he then was) in the case of *Mary Dlamini v The King, High Court Review Case No. 126/91*. **[25 Marks]**

### Question Two

Write short notes on the following with regard to the process of making of a statute in Eswatini:

- (a) When laws of the Kingdom of Eswatini come into operation. **[4 Marks]**
- (b) Introduction of a bill in Parliament. **[5 Marks]**
- (c) The Role of Cabinet. **[4 Marks]**
- (d) Joint sitting of Parliament. **[4 Marks]**
- (e) The Role of a Parliamentary Counsel. **[4 Marks]**
- (f) The Role of the Attorney General. **[4 Marks]**

**[Total 25 Marks]**

### Question Three

- (a) Discuss the Maxims that used by **courts** in interpreting statutes. **[18 Marks]**
- (b) Discuss the method used by **Parliament** in interpreting its own Statutes. **[7 Marks]**

**Total** **[25 Marks]**

#### **Question Four**

Write concise explanatory notes on the following-

- (a) The *trias politica* doctrine with reference to the making of a statute in the Kingdom of Eswatini. **[5 Marks]**
- (b) The enforceability and operation of an Act of Parliament that has only been passed by Parliament and assented. **[5 Marks]**
- (c) The legal meaning of the words “**may**” and “**shall**” in a statute. **[5 Marks]**
- (d) The function of the Parliament and that of the Courts in relation to statutes. **[5 Marks]**
- (e) Retroactive Legislation as provided by section 119 of the Constitution. **[5 Marks]**
- Total [25 Marks]**

#### **Question Five**

*“In deciding to read words into a statute, a Court should also bear in mind that it will not be appropriate to read words in, unless in so doing a Court can define with sufficient precision how the statute ought to be extended in order to comply with the Constitution. Moreover, when reading in (as when severing) a Court should endeavour to be as faithful as possible to the legislative scheme within the constraints of the Constitution.”*

With reference to legislations and decided cases discuss the above statement with regard to interpretation of statutes by the Courts.

### **Question Six**

Section 106 of the Constitution of the Kingdom of Eswatini provides that-

*“Subject to the provisions of this Constitution –*

- (a) the supreme legislative authority of the Kingdom of Eswatini vests in the King-in-Parliament;*
- (b) the King and Parliament may make laws for the peace, order and good governance of Eswatini”*

Interrogate the provisions of this section with a view of responding to the question whether:

- (i) it permits the making of legislation by way of Decree, or any of the forms of legislation; and
- (ii) it permits the repealing or amendment of a Decrees or a King-Oder-In-Council which was enacted before July 2005.

### **Question Seven**

Write concise explanatory notes on the following-

- (a) the Golden Rule; **[5 Marks]**
- (b) the Mischief Rule; **[5 Marks]**
- (c) the Plain meaning Rule; **[5 Marks]**
- (d) intrinsic aids; and **[5 Marks]**
- (e) extrinsic aids; **[5 Marks]**

as used by the Courts of law when interpreting statutes.

**Total [25 Marks]**