



PROGRAM : LLB
MODULE : INTERPRETATION THEORY
CODE : ULL0024
DATE : SUMMER EXAMINATION
7 November 2018
DURATION : 2 hours
TOTAL MARKS : 60

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MODERATOR : MS R VENTER
NUMBER OF PAGES : 4 PAGES

INSTRUCTIONS:

1. Answer all questions.
2. Write legibly.
3. You must hand in only your answer paper.
4. All questions must be answered in your answer paper.
5. All rules and regulations of the University of Johannesburg regarding examinations must be complied with.

SECTION A – LEGISLATIVE DRAFTING**Question 1**

Review the following subarticle without changing the wording or meaning thereof. Use only paragraphing and indentation.

(4) The notification to a data subject referred to in subsection (1) must be in writing and communicated to the data subject in at least one of the following ways: mailed to the data subject's last known physical or postal address; sent by e-mail to the data subject's last known e-mail address; placed in a prominent position on the website of the responsible party; published in the news media; or as may be directed by the Regulator.

[5]**Question 2**

Re-draft concise and clear statutory provisions covering the essence of the following so as to be effective in practice:

- 2.1 No dumping of garbage, refuse or other waste material is allowed in the Umgeni River. (1)
- 2.2 In public parks no bicycles, no soccer, rugby or other similar games, and no damage to trees, shrubs or other plants, are allowed. (2)
- 2.3 The Minister may request a report from the Director General if he is unable to attend to the inquest. (1)
- 2.4 It shall be unlawful to smoke in public. (2)
- 2.5 All liquor containers must bear a warning that alcohol is addictive and may be detrimental to one's health. (3)
- 2.6 No cigarettes may be sold or provided to persons under 16 years of age. (1)

[10]**Subtotal: Section A [15]**

SECTION B – STATUTORY INTERPRETATION**Question 1**

Match the Presumption in Column A with the (Constitutional) Value in Column B. Write down the number in Column A followed by your choice of letter in Column B.

COLUMN A - PRESUMPTIONS		COLUMN B - VALUE	
1.	Delegated legislative powers are to be exercised by the <i>delegatus</i> itself	A.	Legal certainty
2.	Legislation applies to instances in general as opposed to specific instances	B.	Effective government
3.	Legislation does not alter the existing law more than is necessary	C.	Accountable government
4.	Legislation does not bind the state in the event that, if the state were bound, it would hamper the fulfilment of an essential function	D.	Legality
5.	Legislation does not contain a <i>casus omissus</i>	E.	Equality before the law
6.	Legislation does not have extraterritorial effect	F.	Respect for the territorial integrity of other states
7.	Legislation does not oust or interfere with the jurisdiction of the courts	G.	Separation of powers
8.	References in legislation to acts and conduct are references to legally valid acts and conduct	H.	Independence of the judiciary

[8]**Question 2**

The following statements are all false. Indicate why this is so:

- 2.1 Grammatical interpretation can be seen as a throwback to literalism.
- 2.2 When a statute was adopted in two languages, the signed version will always be decisive.
- 2.3 Today, the presumptions of statutory interpretation can only be invoked when the language of a statutory provision is unclear, ambiguous or vague.
- 2.4 In *Natal Joint Municipal Pension Fund v Endumeni Municipality* 2012 2 All SA 262 (SCA) the Supreme Court of Appeal continued their reliance on outdated and literalist modes of interpretation.
- 2.5 The Constitution is a catalogue of all possible values in our legal system.

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Question 3

Discuss *Department of Land Affairs & others v Goedgelegen Tropical Fruits (Pty) Ltd* 2007 6 SA 199 (CC) with specific emphasis on the Constitutional Court's interpretive approach.

[10]**Question 4**

- 4.1 According to Le Roux the theory of statutory interpretation favoured by the Constitutional Court in *African Christian Democratic Party v The Electoral Commission and Others* 2006 3 SA 305 (CC) includes 4 distinct steps. List these steps. (4)
- 4.2 There exists a difference of opinion between the writers Le Roux and Devenish as to the interpretive approach utilised by the minority of the court (dissenting judgment) in *African Christian Democratic Party v The Electoral Commission and Others* 2006 3 SA 305 (CC). Discuss. (6)
- 4.3 Differentiate between peremptory and directory provisions and comment (with reference to case law) if this distinction is still workable. (4)

[14]**Question 5**

- 5.1 Differentiate between *dis-integration* and *hyper-integration* of legislative provisions and give an example of each. You may make up your own example or use an existing example from case law, but if you give an example from case law you must explain why the case is such an example. (4)
- 5.2 Does the maxim *iudices est ius dicere sed non dare* still have a function in present day statutory interpretation? Discuss. (4)

[8]**Subtotal: Section B [45]****TOTAL: 60**