

Interpretation Theory/Interpretation of Statutes
ULL0024/ITH41BO
Interpretation examination 2017

Marking guideline

Section A

Question 1

(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:

- (a) mailed to the data subject's last known physical or postal address;
- (b) sent by e-mail to the data subject's last known e-mail address;
- (c) placed in a prominent position on the website of the responsible party;
- (d) published in the news media; or
- (e) as may be directed by the Regulator.

Question 2

2.1 A person must not dump garbage, refuse or other waste material in the Umgeni River.

2.2 A person must not cycle, play soccer, play rugby or any other similar game in the park. A person may not damage trees, shrubs and other plants in the park.

2.3 The Minister may request a report from the Director General if the Minister/the Director General is unable to attend to the inquest.

2.4 A person may not smoke in a public park

2.5 A liquor container must bear a warning that alcohol is addictive and may be detrimental to one's health.

2.6 A cigarette product must not be sold or provided to persons under 16 years of age.

Section B

Question 1

1 – C

2 – E

3 – A

4 – B

5 – G

6 – F

7 – H

8 – D

Question 2

- 2.1 Only cautions the interpreter to take the meaning generation function of language seriously.
- 2.2 The one that best advances purpose of provision.
- 2.3 From the outset as non-textual factors may be considered from the outset in teleological model.
- 2.4 Endorsed contextual approach.
- 2.5 Presumptions may also be regarded as public law values.

Question 3

Students were expected to discuss:

- Facts of the case.
- Recall statutory provision.
- How was the provision interpreted in the case?
- Emphasise the value of ubuntu.

Question 4

4.1

(i) establish the central purpose of the provision in question; (ii) establish whether that purpose would be obstructed by a literal interpretation of the provision; if so, (iii) adopt an alternative interpretation of the provision that 'understands' [read promotes] its central purpose; and (iv) ensure that the purposive reading of the legislative provision also promotes the object, purport and spirit of the Bill of Rights.

4.2

Devenish – Skweyiya is literalist/formalistic.

Le Roux – Skweyiya also adopts teleological reasoning but more bound to text – textual threshold.

4.3

Directory – precise compliance not required.
Peremptory - exact compliance otherwise null and void.
Relate to ACDP case. Du Plessis' opinion.

Question 5

Dis-integration – turns a blind eye to interrelated text components; Hyper-integration – links text components which are not related.
Own example. Or example from case law.

Question 6

Own opinion.
Relate to dominant post-constitutional theory.
Public law value?