



PROGRAM : LLB

MODULE : INTERPRETATION THEORY
INTERPRETATION OF STATUTES

CODE : ULL0024
ITH41B0

DATE : Special Examination

DURATION : 2 hours

TOTAL MARKS : 60

EXAMINER : Dr MJ van Staden

MODERATOR : Dr R Venter

NUMBER OF PAGES : 4 (including this one)

INSTRUCTIONS:

1. Answer all questions.
2. Write legibly.
3. You must hand in your answer paper as well as this question 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

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.

Question 1

Explain the difference between the following concepts:

- 1.1 Teleological interpretation and purposivism. (1)
 - 1.2 Intentionalism and purposivism. (1)
 - 1.3 Literalism and grammatical interpretation. (1)
 - 1.4 Intentionalism and literalism-cum-intentionalism. (1)
 - 1.5 Dis-integration and hyper-integration. (1)
- [5]**

Question 2

Explain the interrelationship between the following concepts:

- 2.1 Historical interpretation and contextual interpretation. (1)
 - 2.2 Historical interpretation and teleological interpretation. (1)
 - 2.3 Contextual interpretation and teleological interpretation. (1)
 - 2.4 Teleological interpretation and transformative constitutionalism. (1)
 - 2.5 Teleological interpretation and grammatical interpretation. (1)
- [5]**

[10]

Subtotal: Section A [10]

SECTION B

Question 1

In *S v Okah* 2018 4 BCLR 456 (CC) the Constitutional Court was called upon to determine if the Protection of Constitutional Democracy against Terrorist and Related Activities Act 33 of 2004 has extra-territorial effect. Critically discuss the judgement and consider if this decision is compatible with the previous jurisprudence of the Constitutional Court on the matter

[14]

Question 2

- 2.1 Critically describe the 5 common-law theories of statutory interpretation. (10)
- 2.2 Which of the theories referred to in 2.1 above was the dominant theory of statutory interpretation prior to the advent of constitutionalism in South Africa? (1)
- 2.2 Which of these theories have been adopted by the Constitutional Court following the advent of constitutionalism in South Africa. Refer to authority. (5)

[16]

Question 3

- 3.1 Describe five (5) instances where the courts will tend to allow the retrospectivity of legislation. (5)
- 3.2 Du Plessis has described the advent of constitutionalism as both a blessing and a curse for the common-law presumptions of statutory interpretation. Explain this statement. (5)

[10]

Question 4

Consider the following calendar and answer the following questions:

DECEMBER 2018						
Son	Mon	Tues	Wed	Thurs	Fri	Sat
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

JANUARY 2019						
Son	Mon	Tues	Wed	Thurs	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

Please note that the following days are public holidays:

- 16 December 2018 - Day of Reconciliation
- 25 December 2018 - Christmas Day
- 26 December 2018 - Day Of Goodwill
- 1 January 2019 - New Years Day

Further note that the courts will close at 16h00 on 15 December 2018 and that they will open on the morning of 8 January 2019.

- 4.1 Calculate 10 **days** from 18 December 2018 according to the normal statutory method. (2)
- 4.2 Calculate 14 **days** from 18 December 2018 according to the normal statutory method. (2)
- 4.3 Calculate 10 **court days** from 8 December 2018 according to the normal statutory method. (2)
- 4.4 Calculate 3 **open days** from 22 January 2019 according to the normal statutory method. (2)
- 4.5 At what time does a “day” start? (2)

[10]

Subtotal: Section B [50]
Total: [60]