



PROGRAM : LLB

MODULE : INTERPRETATION THEORY
INTERPRETATION OF STATUTES

CODE : ULL0024
ITH41B0

DATE : Supplementary Examination

DURATION : 3 hours

TOTAL MARKS : 60

EXAMINER : Dr MJ van Staden

MODERATOR : Dr R Venter

NUMBER OF PAGES : 2 (including this one)

INSTRUCTIONS:

1. If you experience any problems regarding the exam, you must inform the lecturer thereof as soon as possible (**mvanstaden@uj.ac.za**).
2. Your answers must be typed and saved in a Word document/PDF or handwritten, photographed and saved as PDF. Photographed papers must be clear and legible. All pages must be clearly numbered.
3. Save your document as your surname, followed by your initials. **Do not** save the exam as "Interpretation" or "Exam" or anything similar.
4. Email the exam to **mvanstaden@uj.ac.za** and make sure that you receive a response stating that the exam has been received. Double check to make sure that you have entered the email address correctly.
5. Students must answer all questions.
6. All questions must be clearly numbered, but may be done in any order.
7. Regarding longer questions, the use of footnotes is not required. However, wherever appropriate you must refer to authority.
8. Students may use all study materials in their possession when answering the exam paper, including consulting case law and legislation online.
9. By submitting their test script students agree to adhere to UJ's policy on plagiarism and rules related to the writing of tests and exams. Students may under no circumstances contact any other person for assistance in answering the test paper. Any academic transgressions will be followed by disciplinary action by the University.
10. Students who transgress any of these instructions will be penalised.

Question 1

Explain the difference between the following concepts:

- 1.1 Teleological interpretation and purposivism. (2)
 - 1.2 Subsecuta observatio and contemporanea expositio. (2)
 - 1.3 Literalism and grammatical interpretation. (2)
 - 1.4 Peremptory provisions and directory provisions. (2)
 - 1.5 Dis-integration and hyper-integration. (2)
- [10]**

Question 2

- 2.1 List 5 (five) presumptions of statutory interpretation and identify a constitutional value that each of the presumptions which you have identified gives effect to. (10)
 - 2.2 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. (6)
- [16]**

Question 3

List and describe five (5) instances where the courts will tend to allow the retrospectivity of legislation. **[10]**

Question 4

- 4.1 List and critically describe the 5 common-law theories of statutory interpretation. (10)
 - 4.2 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 (four) distinct steps. List these steps. (4)
 - 4.3 Explain, with reference to case law, how the value of ubuntu can be utilise within the theory of statutory interpretation favoured by the Constitutional Court. (10)
- [24]**

Total: [60]