



**National University of  
Science and Technology**  
*Think in Other Terms*



**FACULTY OF COMMERCE  
DEPARTMENT OF FINANCE  
BACHELOR OF COMMERCE HONOURS DEGREE IN FISCAL STUDIES  
PART IV – 2<sup>nd</sup> SEMESTER FINAL EXAMINATION APRIL/MAY 2014  
INTERPRETATION OF STATUTES AND LEGAL DRAFTING (CFS 4205)**

**TIME ALLOWED: 3 HOURS**

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**INSTRUCTIONS TO CANDIDATES**

1. Answer any FOUR questions.
2. This paper comprises of two sections, A and B.
3. Section A is compulsory and Answer any three questions in section B.
4. Use authority where necessary.
5. Each question carries 25 Marks.
6. The scenarios used in this question paper are hypothetical and only meant for academic purposes.

## **SECTION A-COMPULSORY**

### **QUESTION 1**

Fiscal Studies International has established a training college mainly to train Zimbabweans on fiscal matters but the college is not regulated by any legislation. Students are only supposed to attend classes after they have paid their tuition fees. Even people who are not registered as students sometimes attend lectures. Some lecturers are not qualified. The Minister of Education decided that legislation is necessary to regulate this matter. Some people say that they will still attend lectures even if there is legislation.

a) State the mischief that draft legislation needs to solve. **(4 marks)**

b) Draft the following in relation to the above case:

i) The preamble **(5 marks)**

ii) Long title **(4 marks)**

iii) Provisions (not more than five) **(12 marks)**

**TOTAL [25 MARKS]**

## **SECTION B-ANSWER ANY THREE QUESTIONS FROM THIS SECTION**

### **QUESTION 2**

a) What is the purpose of legislation? **(3 marks)**

b) Rewrite the following sentence and apply the rule that the negative belongs with the action not the subject:

**“No person shall exit the border-post without declaring his goods.” (5 marks)**

c) One of the sources of interpretation of Statutes is the constitution. Comment on the positive features or principles of the new constitution. **(10 marks)**

d) The following items appear in a Bill. Place them in the correct sequence. **(7 marks)**

**Definitions, short title, penalty clause, preamble, schedule, long title**

**TOTAL [25 MARKS]**

### **QUESTION 3**

a) Mr Pins was charged in the Regional Court with contravention of section 35(1) of the Finance Act. He admits having contravened the section but objects to the

charge arguing that section 35(1) does not provide for a penalty for the offence and therefore he should be acquitted. Is his argument correct? **(10 marks)**

- b) Using decided cases, discuss the advantages and disadvantages of the literal rule approach. **(15 marks)**

**TOTAL [25 MARKS]**

#### **QUESTION 4**

- a) Explain the Mischief rule as used in interpretation of statutes. **(15 marks)**
- b) Zimbabwe Electricity Supply Authority (ZESA) makes it law that a person who wishes to apply for an apprenticeship post must be in possession of a "University degree or other evidence of necessary qualifications". Mr. Mbanje has a diploma in Electronic Engineering and his application has been turned down by ZESA's Chief Training Officer for not having adequate qualifications. He is contemplating on taking ZESA to the Labour Court for unfair discrimination. Advise Mr. Mbanje whether he is likely to get a judgement in Court. **(10 marks)**

**TOTAL [25 MARKS]**

#### **QUESTION 5**

Explain the following presumptions:

- a) Presumption against retrospectivity. **(8 marks)**
- b) Presumption against ousting Court's jurisdiction. **(9 marks)**
- c) Presumptions that the legislation does not contain futile or meaningless provisions. **(8 marks)**

**TOTAL [25 MARKS]**

**END OF EXAMINATION PAPER**