



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



**FACULTY OF COMMERCE  
DEPARTMENT OF FINANCE  
BACHELOR OF COMMERCE HONOURS DEGREE IN FISCAL STUDIES AND  
FINANCE**

**PART IV – 2<sup>nd</sup> SEMESTER FINAL EXAMINATION – MAY 2011  
STATUTORY INTERPRETATION AND LEGAL DRAFTING [CFS 4205]  
TIME ALLOWED: 3 HOURS**

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**INSTRUCTIONS TO CANDIDATES**

1. Answer FOUR Questions.
2. The paper comprises of two sections, A and B
3. Answer Three questions from section A and one from section B
4. Start the answer to each full question on a fresh page of the answer sheet.
5. Questions may be written in any order, but must be legibly numbered.
6. Write legibly.
7. Show workings

**INFORMATION FOR CANDIDATES**

The paper contains four (7) questions.

All whole questions carry equal marks [25 marks] and part marks are indicated in brackets at the end of each part question.

## **SECTION A**

### **STATUTORY INTERPRETATION**

#### **QUESTION 1**

a] Discuss 4 main sources of statutory interpretation

[10]

b] In *Monnakale v Republic of Bophuthatswana* Friedman J said the following:

“The role of the judiciary is to interpret the enactments of parliament and where the language of the statute is plain and unambiguous, effect must be given thereto, however unpalatable the result might be. It is not for the court to indulge in an exercise of semantic elasticity in the face of clear language, nor can it disregard the well established and proven canons of construction and interpretation at the slightest seductive beckoning of what the law ought or should be. There is almost an inevitable temptation to stress the rights of the individual against the interests of the state, particularly where a bill of rights calls for interpretation. If the language is clear and plain and encroaches on a bill of rights, effect must be given thereto, irrespective of the personal views or the philosophical outlook of the judge concerned.”

Which approach to interpretation did Friedman J use in the *Monnakale Case*? Explain your answer with reference to decided cases. [15]

#### **QUESTION 2**

a] With reference to decided cases, critically discuss the Mischief Rule of interpretation of Statutes. [15]

b] Explain the significance of the following parts of the statutory interpretation.

- i) Preamble [3]
- ii) Long and short title [4]
- iii) Schedules [3]

#### **QUESTION 3**

Discuss the Golden rule of interpretation of statutes with reference to relevant case law.

[25]

#### **QUESTION 4**

Write brief notes on the following:

- a) Presumption against retrospectively
- b) Presumption against ousting court's jurisdiction
- c) Presumption against state being bound
- d) Presumption that legislation does not contain futile or meaningless provisions
- e) Presumption that the legislature does not intend to cause injustices

[25]

#### **QUESTION 5**

a] Tatenda is arrested for having contravened a municipal poultry regulation by keeping a peacock within the municipal boundaries without a licence. The regulation defined poultry as:

“Any fowl, duck, goose, turkey, guinea fowl, partridge, pigeon or chickens thereof, or any other bird”

Tatenda believes that he did not commit any offence in terms of the municipal regulations. Advise Tatenda

[20]

b] In terms of the interpretation Act chapter 1:01, explain what the Act stipulates about

i] Time and distance

ii] Gender

[5]

## **SECTION B**

### **LEGAL DRAFTING**

Answer EITHER QUESTION 6 OR 7.

#### **QUESTION 6**

MR Russ, ZIMRA's chief training officer while driving his company Nissan Hardbody registration ABU 4584 was involved in a car accident opposite Bulawayo Art Gallery on the 20<sup>th</sup> of March 2011. This happened when Mr. Russ was not on duty but his employment conditions allowed him to have private use of the vehicle. Mr. Russ informs you that he was driving behind a sports car registration number ABE 1945, Driven by Mr. Chaparadza and that shortly before the collision, Mr. Chaparadza had tried to overtake, a fast moving haulage truck in front of him using the lane of oncoming traffic. While overtaking, a fast moving vehicle was approaching from the opposite direction in the same lane he was using and to avoid head on collision, he swerved back to the left thereby colliding with Mr. Russ. It is evident that Mr. Chaparadza was negligent in that he failed to take a proper look out.

The damage to the vehicle amounted to \$10 000.

A] You are required by your legal department to write a letter of demand to Mr. Chaparadza demanding the payment of damages suffered.

[10]

B] Draft particulars of claim using addresses and other particulars supplied by yourself if not provided in the facts.

[15]

#### **QUESTION 7**

The embassy of Nigeria is situated close to a busy main Road going to Avondale and 500m away from National sports stadium. For the past five years, the embassy has been experiencing difficulties with gaining entrance to the embassy because soccer fans park their vehicles just outside the gate of the embassy thereby blocking the entrance to the embassy especially when there is a big football game at National sports stadium. The embassy last year wrote a letter of complaint to ZIFA and ZIFA has delegated you to draft legislation prohibiting this obstruction.

[25]

GOOD LUCK