

NATIONAL UNIVERSITY OF LESOTHO
FACULTY OF LAW
LL. B SUPPLEMENTARY EXAMINATIONS
L2311 – INTERPRETATION OF STATUTES

AUGUST 2023 MARKS: 100 TIME: 3 HOURS

INSTRUCTIONS

1. Answer **All** Questions.

QUESTION 1

Briefly explain the following:

- a) Presumption of constitutionality (3 marks)
- b) Hansard (3marks)
- c) The legislature does not intend absurd or anomalous results. (3marks)
- d) Statutes in *pari materia* (3marks)
- e) The statutes are not to be interpreted in such a way as to violate any rule of International Law. (3marks)
- f) Delegated Legislation. (2 marks)
- g) Presumption against Retrospectivity. (3marks)
- h) The legislature does not intend to alter the existing law more than is necessary. (3marks)
- i) Repeal (2 marks)

[25 MARKS]

QUESTION 2

Refuoe-hape has been charged with an offence contrary to the Flu Act of 2020. The offence in question is contrary to section 21 of the Act which provides that:

A person is guilty of a criminal offence, punishable by 6 months imprisonment, if he or she hosts a party in a 'private place' during the lockdown.

On 19 November 2020, during the lockdown, Refuoe-hape was celebrating his birthday at a park near his home. At his birthday celebration, he had invited 45 guests who were seen taking selfies without wearing masks thus violating the Flu Act. Residents next to the park reported these acts and Refuoe-hape was arrested.

In order to substantiate its case, the prosecution argues that Refuoe-hape falls within the definition of the offence. On the other hand, Refuoe-hape argues that the park is not a 'private place' within the meaning of the Act as it is public property in which movement is free, and that it is accessible to everyone who lives there.

Advise Refuoe-hape as to the likely interpretation of the Act. In advising him consider the rules of construction, the aids to interpretation and any relevant presumptions.

[25 MARKS]

QUESTION 3

Iudicis est ius dicere sed non dare forms the basis of the principle that no addition to or subtraction from the legislative text is possible. According to this maxim, it is the function of the court to interpret and not to make the law. The court should interpret legislation only within the framework of the words used by the legislature. Any modification, corrections or additions should be left to the relevant legislature.

(Harris v Law Society of the Cape of Good Hope 1917 CPD 449).

In the light of the above statement, do judges merely interpret law or make law? In your answer, refer to the literalist viewpoint, the contextualist viewpoint and decided cases.

[25 MARKS]

QUESTION 4

Explain the ever- increasing importance of statute law (legislation) in the legal system of Lesotho.

[25 MARKS]