

UNIVERSITY OF SWAZILAND
INSTITUTE OF DISTANCE EDUCATION
DEPARTMENT OF LAW
MAIN EXAMINATION PAPER, DECEMBER, 2012

TITLE OF PAPER : LEGAL SYSTEMS AND METHOD
COURSE CODE : IDE – DL011
TIME ALLOCATION : THREE (3) HOURS
INSTRUCTIONS : ANSWER ANY FOUR QUESTIONS
TOTAL MARKS : 100

THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSION HAS BEEN
GRANTED BY THE INVIGILATOR

QUESTION 1

- a) Is the Law necessary? Discuss. [15 marks]
- b) List and briefly discuss three differences between law and morality. [10 marks]

TOTAL MARKS 25

QUESTION 2

- a) According to Professor Joseph Raz in his book The Authority of Law, all legal systems necessarily perform, with varying degrees of effectiveness, certain social functions. The social functions of law can be divided into primary and secondary functions. List four primary functions of the law and two secondary functions of the law. [12 marks]
- b) What are the two main branches of the law? [3 marks]
- c) List the five disadvantages of litigation. [10 marks]

TOTAL MARKS 25

QUESTION 3

Identify factors that affect the independence of a judiciary and discuss if such factors affect the independence of the judiciary in Swaziland.

[TOTAL MARKS 25]

QUESTION 4

- a) Name three alternative dispute resolution methods and briefly discuss one of them. [10 marks]
- b) Distinguish between what is meant between onus of proof and standard of proof. [5 marks]
- c) What is a plea in civil proceedings? [5 marks]
- d) List the four primary sources of law in Swaziland. [5 marks]

TOTAL MARKS 25

QUESTION 5

- a) With reference to legal authorities discuss how a custom must be proved to exist in a court of law. [15 marks]
- b) List seven personal qualities that a lawyer must possess. [7 marks]
- c) Who is the attorney general in Swaziland and what is his function? [3 marks]

TOTAL MARKS 25

QUESTION 6

With reference to relevant legal authority discuss the making of a statute in Swaziland.

TOTAL MARKS 25