

THE OPEN UNIVERSITY OF SRI LANKA

FACULTY OF HUMANITIES AND SOCIAL SCIENCES

DEPARTMENT OF LEGAL STUDIES

LLB (HONOURS) DEGREE PROGRAM – LEVEL 3

INTERPRETATION OF STATUTES AND DOCUMENTS LLU 3406

FINAL EXAMINATION

DURATION – 03 HOURS



Date: 10-03-2024

Time: 9.30 AM-12.30 PM

Total number of questions – 08

Answer five (05) questions only.

Candidates will be penalized for Illegible handwriting.

1. *"Even in interpreting our own legislation, we should do well to throw aside our traditional approach and adopt a more liberal attitude. We should adopt such a construction as will 'promote the general legislative purpose' underlying the provision."*

(Lord Denning in *Seaford Court Estates Ltd. v. Asher*, (1949) 2 K.B. 481 (498))

Do you agree with the above statement?

Examine the effectiveness of different judicial approaches adopted by the courts in the search for 'general legislative purpose'. Support your arguments citing case law from Sri Lanka and two other jurisdictions. (20 marks)

2. Rahul, is a 16-year-old boy, residing in the state of "*Lakeland*" with his uncle, who is his legal guardian. Rahul studies at a local school in the village. After school hours, he helps his uncle at their family-owned grocery store, handling tasks such as organizing shelves and assisting customers. He receives a small daily allowance for his assistance.

In February 2022, *Lakeland* introduced the 'Youth Employment Protection Act'. The preamble of the Act states as follows: "An Act to safeguard the interests of young persons

in employment. The Act aims to ensure that young persons are not engaged in work that is detrimental to their well-being, education, or overall development."

Furthermore, the Act contains the following provision:

Section 4: 'No person shall employ a young person in any work that is detrimental to their health, safety, education, or general welfare.'

Explanation: "The Act does not prohibit young persons from engaging in light, non-hazardous work that contributes positively to their skills and personal development, provided it does not interfere with their education and well-being."

Schedule II of the Act provides a list of 'permitted work' suitable for young persons, including activities that enhance skills and responsibility without posing a threat to their safety or education.

Moreover, **Section 20** defines 'a young person' as 'an individual below 18 years of age'; and 'detrimental work' as "employment that, by its nature or circumstances, is likely to harm the health, safety, education, or general welfare of young persons."

One day, Rahul's class teacher notices bruises on his hands and observes that he struggles to focus in class. The teacher learns that Rahul works at the family-owned store and decides to file a complaint with the Police, alleging that Rahul is engaged in work detrimental to his well-being. In court, Rahul's uncle argues that the work Rahul performs is non-hazardous and contributes positively to his personal development. The state contends that the work may adversely affect Rahul's health, safety, and education.

As the judge in this case, what would be your decision? Explain, providing reasons, the rules of interpretation you would adopt and the internal and external aids you would use in interpreting relevant provisions of 'The Youth Employment Protection Act 2022.' Assume that the legal system of *Lakeland* is similar to that of Sri Lanka.

(20 marks)

3. *"As principles of common law, presumptions encapsulate sound values and inherent principles of justice. ...The principle underpinning the presumptions that harsh, unjust or unreasonable results are not intended, is fully in keeping with the spirit and scope of the fundamental rights enriched in the Bill of Rights."*

Annette Singh, *'The impact of the constitution on transforming the process of statutory interpretation in South Africa'* (2014)

In light of the above statement, evaluate the role of common law presumptions in protecting individual rights and ensuring justice through courts. Your evaluation should focus on, at least, three presumptions and be supported by case law. (20 marks)

4. Kate, a science student at the University of Astoria, is subjected to a random security check at the entrance to the university's laboratory. The security personnel find a small vial containing a chemical substance in her bag. The university has a strict policy outlined in the Chemical Safety and Laboratory Security Act, stating that unauthorized possession of any chemicals without prior approval is prohibited.

Kate insists that the chemical substance is harmless and part of a personal experiment for her research project. Assuming that you are the judge in this case, how would you interpret the Chemical Safety and Laboratory Security Act in relation to Kate's situation?

Discuss the application of legal maxims of interpretation supported by relevant case law.
(20 marks)

5. Praveen, an undergraduate student majoring in Environmental Law at University of Meta, was taking his final examination in Natural Resources Law. According to the examination procedure, answer booklets are distributed five minutes before the commencement of the examination. When Praveen received the answer booklet, he noted down several provisions and cases which are relevant to the subject. Later, an invigilator noticed the notes in the answer booklet cover, and reported it to the chief supervisor, claiming that Praveen had committed an examination offence. Examination regulations of the university states as follows:

6.1.1. Any candidate possessing unauthorized material during the course of the examination is deemed to have committed an examination offence. Unauthorized material consists of but not confined to material such as short notes, course material, electronic devices, and items with a similar character.

The chief examiner reported this incident to the University. An inquiry is scheduled on this matter. Praveen believes that he did not breach any rules, as the regulations only refer to 'unauthorized material', and his notes were confined to the cover page of the answer booklet given to him.

Applying the relevant rules of statutory interpretation, examine whether Praveen has committed an examination offence according to University of Meta's examination regulations.

Substantiate your analysis with relevant legal authorities.
(20 marks)

6. Wild Island is a state with a democratic political system, having the practice of conducting periodical elections without interruption. In 2022, the country faced an economic crisis. The newly elected President of Wild Island, Mr. J in a public statement urged the public to support him to overcome the economic crisis. The local government elections of Wild Island was due in September 2022. However, the government, under the orders of President

J decided not to convene nominations for the elections. The government claimed that in a moment of crisis, the nation should stick together, and elections would interrupt social harmony. Opposition parties claim that this was done to prevent the opposition from performing well at the local government elections. Opposition activists argue that by not convening the local government elections, the government has violated the constitution.

The constitutional provisions relevant to franchise mentioned in the constitution of Wild Island are as follows:

Article 3. In the Republic of Wild Island sovereignty is in the People and is inalienable. Sovereignty includes the powers of government, fundamental rights and the franchise.

Article 4. The Sovereignty of the People shall be exercised and enjoyed in the following manner:—

[...] (e) the franchise shall be exercisable at the election of the President of the Republic and of the Members of Parliament and at every Referendum by every citizen who has attained the age of eighteen years [...]

Further, the Fundamental Rights chapter of the constitution recognizes the freedom of expression in following terms:

Article 14. (1) Every citizen is entitled to —

(a) the freedom of speech and expression including publication.

Opposition activists argue that the government's decision is a violation of the freedom of expression of citizens. While focusing on different approaches to constitutional interpretation, discuss whether the opposition can make a legally successful claim of rights violation. Your answer should be supported by relevant authorities.

(20 marks)

7. 'International treaties are an important source of international law making. However, the way these treaties are interpreted is different to the interpretation of domestic legislations'

Do you agree with the above statement? Discuss referring to appropriate examples.

(20 marks)

8. Write short notes on the following,

- (a) Statutory language and gender bias
- (b) Indeterminacy of the legal language
- (c) Separation of powers and judicial interpretation
- (d) The *Ut res magis valeat quam pereat* maxim

(5×4 =20 marks)

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