Question 1

In Holomisa v Argus Newspapers Ltd 1996 (2) SA 588 (W) the court stated that:

“The Constitution has changed the ‘context’ of all legal thought and decision-making in SA.”

In Matiso v Commanding Officer, PE Prison 1994 (4) SA 592 (SE) at 597F the court held:

“… Despite the general apparent recognition that constitutional interpretation is different from ‘ordinary’ statutory interpretation, it is in my view important to understand why this should be the case, especially for us in South Africa – who were schooled in the tradition and concept of parliamentary sovereignty in the Westminster mould …”

“The interpretive notion of ascertaining the ‘intention of the Legislature’ does not apply in a system of judicial review based on the supremacy of the Constitution, for the simple reason that the Constitution is sovereign and not the Legislature. This means that statutory interpretation in our law should be different from what it was … the purpose now is to test legislation against the values and principles imposed by the Constitution.”
Discuss how the provisions of **section 39 specifically** and other provisions of the Constitution of the Republic of South Africa, 1996 have changed the approach to statutory interpretation. Include in your answer the reasons why constitutional interpretation is different to ordinary statutory interpretation. Refer to relevant case law.

[Total Q1: 20 marks]

**Question 2**

Section 29 of the Marriage Act 25 of 1961 reads as follows: “A marriage officer shall solemnize any marriage in a church or other building used for religious purposes, or in a public office or private dwelling-house, with open doors.”

Jasmine recently concluded a wedding ceremony with Joseph in the front garden of her mother’s riverside home. A friend later told Jasmine that she is, for this reason, not legally married. Jasmine wants to know from you whether her friend is correct.

In your answer you must explain the nature and effect of **peremptory and directory** provisions.

[Total Q2: 20 marks]

**Question 3**

Discuss and distinguish between the **eiusdem generis** and **expressio unius est exclusio alterius** maxims with reference to relevant case law.

[Total Q3: 20 marks]

**TOTAL FOR PAPER: 60 MARKS**