INSTRUCTIONS

1. Please make sure that you have 2 booklets.

2. Each section must be written in a separate booklet.

3. Please make sure that your writing is legible.

4. Students are to answer all questions in Section A and Section B.

5. This paper consists of FIVE (5) pages, please ensure that you have all the pages.
SECTION A
(ADV J. EASTHORPE)

Please answer all questions in this section in a separate booklet

QUESTION 1

Discuss fully the three phases of interpretation.

[Total Q 1: 3 marks]

QUESTION 2

Explain the general principles of hermeneutics.

[Total Q 2: 2 marks]
QUESTION 3

Discuss why the following judgments are important for the theory and practice of statutory interpretation:

(i) *Jaga v Dönges* 1950 (4) SA 653 (AD);
(ii) *Heydon’s case* (1584) 3 Co Rep 7a (76 ER 637)

[Total Q 3: 10 marks]

QUESTION 4

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 South Africa”

Discuss this statement in light of how s 39 and other relevant sections within the Constitution have influenced constitutional interpretation.

[Total Q 4: 15 marks]

[TOTAL SECTION A: 30 MARKS]
SECTION B

(MR K. ZONDI)

Please answer all questions in this section in a separate booklet

QUESTION 5

5.1 Robert is charged with dealing in opium. However, the Drugs Prevention Act of 2013 does not provide for a penalty for this crime. You are the prosecutor in this case and need to apply a presumption that will be of assistance to you in order to obtain a conviction. Discuss this presumption with reference to case law.

[Total Q 5.1: 5 marks]

5.2 If you were the defence attorney what criticism can you level against the use of this presumption to convict Robert of a crime without a penalty? Discuss this with reference to relevant case law.

[Total Q5.2: 5 marks]

5.3 If the Drugs Prevention Act of 2013 only prohibited dealing in the following items:

- ovium
- olium
- norium
- and other toxic materials

As the prosecutor, which maxim would substantiate your argument that opium is also within the list of prohibited items of this statute? In your answer refer to relevant case law.

[Total Q 5.3: 5 marks]

[Total Q 5: 15 marks]
QUESTION 6

Explain in detail the internal aids that are available to the interpreter when interpreting a particular statute.

[Total Q 6: 15 marks]

[TOTAL SECTION B: 30 MARKS]

TOTAL FOR PAPER: 60 MARKS