

**IOS2016**

May/June 2009

**INTERPRETATION OF STATUTES**

Duration : 2 Hours

100 Marks

EXAMINERS :  
FIRST  
SECOND .

PROF WB LE ROUX  
MS I SOUTHWOOD

MS I MOODLEY

**This paper consists of three (03) pages, including Annexure "A" (page 03)**

**SPECIAL INSTRUCTIONS:**

- **CAREFULLY READ THE EXTRACTS FROM THE PLANNING PROFESSIONS ACT 36 OF 2002 (HEREAFTER REFERRED TO AS "THE ACT") WHICH ARE INCLUDED IN ANNEXURE "A".**
- **ALL THE QUESTIONS ARE BASED ON THE PLANNING PROFESSIONS ACT.**

**QUESTION 1**

- (a) Identify the long title of the Act and explain the role played by the long title, headings of chapters, and schedules in the process of interpretation (8)
- (b) John lodges an appeal in terms of section 27(2) of the Act on 9 March 2009. The Council informed him of its decision on 5 February 2009. Explain in detail the statutory method of computation of **days** (Section 4 of the Interpretation Act) with reference to case law. Has John lodged the appeal in time? (7)
- (c) Explain the "comprehensive and inclusive methods of constitutional interpretation" as described by Du Plessis and Corder in *Botha Statutory Interpretation* (10)
- (d) When would a court be able to use a dictionary in interpreting the Act? (5)
- (e) The Act indicates 22 October 2003 as the date of commencement. What is meant by commencement in terms of section 13 of the Interpretation Act 33 of 1957? (5)

**[35]**

**QUESTION 2**

Section 12(2)(e) of the Interpretation Act 33 of 1957 provides that "where a law repeals any other law, then, the repeal shall not affect any investigation, legal proceedings or remedy in

**[TURN OVER]**

respect of any such right, privilege ", etcetera Explain with reference to *Nourse v Van Heerden* 1992 2 SACR 198 (W) (15)

[15]

### QUESTION 3

- (a) Discuss the presumption that legislation does not oust or restrict the jurisdiction of the courts. In your answer you must refer to case law and explain the effect of the Constitution on this presumption (10)
- (b) Briefly explain, with examples from case law, how contextualists interpret legislation (5)

[15]

### QUESTION 4

- (a) Write a short note on how section 39(2) of the Constitution, 1996 influences the interpretation of statutes. Illustrate with reference to the leading cases (15)
- (b) List the documents that, although published in the Government Gazette, do not constitute legislation (5)
- (c) In terms of section 4(5) of the Act every member of the Council must be appointed for a period of four years, but the Minister may in his or her discretion extend the term of such a member by a further period not exceeding three months until a new Council or member has been appointed. By discussing *Ex parte Dow* 1987 3 SA 829 (D) explain whether this is a peremptory or directory provision (10)
- (d) Briefly explain the meaning of the *iusdem generis* rule and name the leading case illustrating the rule (5)

[35]  
{100}

STATUTES OF THE REPUBLIC OF SOUTH AFRICA—LAND

**PLANNING PROFESSIONS ACT  
NO. 36 OF 2002**

[ASSENTED TO 31 OCTOBER, 2002]

[DATE OF COMMENCEMENT 15 OCTOBER, 2003]

*(English text signed by the President)*

**ACT**

To provide for the establishment of the South African Council for Planners as a juristic person; to provide for different categories of planners and the registration of planners; to authorise the identification of areas of work for planners; to recognise certain voluntary associations; to protect the public from unethical planning practices; to maintain a high standard of professional conduct and integrity; to establish disciplinary mechanisms and an Appeal Board; and to provide for incidental matters.

**4. Constitution of Council.**—(1) The Council consists of the following members appointed by the Minister after the nomination and selection processes referred to in subsection (3) have taken place:

- (a) Two planners in the full-time employ of the Department,
- (b) One planner in the employ of a Provincial Government;
- (c) Two planners in the employ of the municipal sphere of government, one of whom shall be from a municipality which is mainly rural in character and the other from a municipality which is mainly urban in character;
- (d) Three planners from the planning education and training sector;
- (e) No more than three but at least one person to represent the interests of communities who are or may be affected by planning decisions; and
- (f) Three planners in private practice.

(5) Every member of the Council must be appointed for a period of four years, but the Minister may in his or her discretion extend the term of such a member by a further period not exceeding three months until a new Council or member has been appointed.

**27. Appeal against decisions of Council and disciplinary tribunal.**—(1) An appeal may be lodged with the Appeal Board by—

- (a) a registered person found guilty of improper conduct who is aggrieved by a finding of the disciplinary tribunal or the sentence imposed, or both;
- (b) a person aggrieved by a decision of the Council in terms of sections 13 and 14; and
- (c) a person objecting to a rule in terms of section 30 (4)

(2) The appeal must be lodged, in the manner prescribed and upon payment of the fees prescribed by the Council, within 30 days after the Council or disciplinary tribunal has informed the appellant of its decision and the Appeal Board must consider and decide the appeal.

**39. Short title and commencement.**—This Act is called the Planning Profession Act, 2002, and comes into operation on a date fixed by the President by proclamation in the *Gazette*

COMMENCEMENT OF THIS ACT

<i>Date of commencement</i>	<i>The whole Act/ Sections</i>	<i>Proclamation No</i>	<i>Government Gazette</i>	<i>Date of Government Gazette</i>
15 October, 2003	The whole Act	R 69	25576	13 October, 2003