

NATIONAL UNIVERSITY OF LESOTHO

FACULTY OF LAW

LL.B FINAL EXAMINATIONS

L285 – ADMINISTRATION LAW

MAY 2017

MARKS: 100

TIME:3HRS

INSTRUCTION:

1. Answer FOUR questions in all, with at least ONE question from each section.
2. All question carry equal marks.
3. Begin each question on a fresh page.

SECTION A

QUESTION 1

Briefly discuss any FIVE of the following:

- | | |
|--------------------------------|---------|
| a) Delegated legislation; | 5 marks |
| b) Improper purpose; | 5 marks |
| c) Ministerial responsibility; | 5 marks |
| d) Ultra virus; | 5 marks |
| e) Irrelevant considerations; | 5 marks |
| f) Acting under dictation. | 5 marks |

[25marks]

QUESTION 2

It has been said that the doctrine of legitimate expectation is yet another string to the bow of natural justice and that it is more elastic and flexible than natural justice which is circumscribed by and encrusted with rules.

Comment on whether case law supports this view.

[25marks]

QUESTION 3

"An indispensable condition of any functional democracy and enduring rule of law is the separation of power between the judiciary, the executive and parliament. The doctrines of separation of powers and the rule of law share some of the most elementary meanings that some people have argued that they are in fact two sides of the same coin"

Discuss the above statement with reference to case law on the subject.

[25marks]

QUESTION 4

"I am firmly of the opinion that a court would be acting improperly if a perfectly clear ouster provision in the constitution of a country which is its supreme law is treated with little sympathy or scant respect or is ignored without strong and compelling reasons."

Per Hytali C.J. in *Harrikisoon v A.G. of Trinidad and Tobago* (1980) A.C. 265.

Comment on the above quotation and say whether it is in fact correct that the power of judicial review is unfettered.

[25marks]

SECTION B

QUESTION 5

Mashoto a street vendor, operated a food take-away kiosk from street in Hata-Butle he was not formally licensed to operate from the street. But by an informal arrangement between him and the licensing Authority in Hata-Butle, Mashoto paid the Authority a token fee for the right to operate the kiosk from the street corner.

After 10 years of such informal arrangement and without any notification the Licensing Authority has served notice on Mashoto to quit with effect from the end of the month. The view of the Licensing Authority is that Mashoto is a mere licensee.

Mashoto's livelihood and the schooling of his three (3) children depend on the business. He has come to consult you.

Advise him accordingly supporting your advice with relevant case law.

[25marks]

QUESTION 6

In May 2017, during the L285 final examination, Senokoane, a second year law student was found in possession of illicit material (koto). The material was found as he entered the examination hall. He was later that day instructed by the chief invigilator to write a formal report, which he did.

On the 22nd May, 2017 Senokoane received a charge sheet summoning him to appear before the Senate Committee on Discipline (SCD) the next day (23rd May) at 8.30am.

Boiphetetso an employee of the University of Letsatseng is the chairperson of the SCD. On the evening of the 22nd May, Boiphetetso was enjoying his drinks at Sleep Dizzy Bar in the company of two other colleagues. He was overheard telling his colleagues how Senokoane has finally fallen into his hands he amongst other things recalled how Senokoane influenced the Student Union (SU) to strike against the University administration.

When the case started, Senokoane was represented by Tsotsi, a fifth year law student. He had also brought two witnesses who were at the Sleep Dizzy Bar the previous night and had overheard the conversation of Boiphetetso and his colleagues.

At the hearing, Boiphetetso informed Senokoane that he was not going to allow any representation or evidence in defence. Notwithstanding the complaint by Senokoane and his representative, they were overruled and the matter accordingly proceeded.

At the end of the hearing which lasted hardly thirty minutes, Senokoane was found guilty and a recommendation made to Senate for his rustication for one academic year.

In June 2017, Senate received and considered the report of the SCD and without recourse to Senokoane, his punishment was enhanced to expulsion from the University.

Senokoane feels aggrieved by the decision of Senate and has come to you for legal advice.

Advise him accordingly.

[25marks]