

NATIONAL UNIVERSITY OF LESOTHO

FACULTY OF LAW

LL.B FINAL EXAMINATIONS

L285 – ADMINISTRATIVE LAW

MAY 2018

MARKS: 100

TIME: 3HOURS

INSTRUCTIONS:

1. Answer **FOUR (4)** questions in all.
2. Answer at least **ONE** question from each section.
3. All questions carry equal marks.
4. Begin each question on a fresh page.

SECTION A

QUESTION 1

Read the following statement and comment on whether it is in fact true that although the doctrine of legitimate expectation has introduced flexibility and elasticity, it has also unfortunately brought uncertainty to the decision making process.

[T]he courts now expect government departments to honour their statements on policy or intention or else to treat the citizen with fullest personal consideration...But those demands cannot be pressed to the point where they obstruct changes of policy which a government should be at liberty to make within its discretionary powers.

Wade H. W. R., and Forsyth C. F., *Administrative Law*, (7th ed.) London: Claredon Press. 1994. p 732.

[25 MARKS]

QUESTION 2

With reference to decided cases, comment on the view that no matter how sweeping or comprehensive an ouster provision may be, the courts have jealously guarded their inherent power of judicial review.

[25 MARKS]

QUESTION 3

It is a trite principle of our law that natural justice shall apply in all situations affecting rights, interests and duties and it shall apply even in the absence of a clear prescription for its application. Do you agree? Give reasons for your answer.

[25 MARKS]

QUESTION 4

Write short notes on any **FIVE (5)** of the following:

- | | |
|-------------------------------|----------------|
| a) Abuse of discretion | 5 Marks |
| b) Judicial independence | 5 Marks |
| c) <i>Ultra vires</i> | 5 Marks |
| d) Delegated legislation | 5 Marks |
| e) Ministerial responsibility | 5 Marks |
| f) Separation of powers | 5 Marks |

[25 MARKS]

SECTION B**QUESTION 5**

Tjeketjela is an illegal immigrant from the Republic of Selibeng. In May 2016, he sneaked into the Kingdom of Pompong to seek better job opportunities. On the 2nd July 2017, the Department of Immigration made a public announcement calling upon all illegal immigrants to report themselves to the department of immigration on or before the 30th July. The announcement was made with a promise that the illegal immigrants who complied would have their stay in the Kingdom of Pompong regularised. On the 1st August 2017, Tjeketjela presented himself to the department of immigration on the basis of the announcement. He was immediately arrested and has been in detentions for the last three (3) weeks. The officials have since been busy processing his deportation back to the Republic of Selibeng. Tjeketjela has instructed you to take legal action against the deportation.

Advise Tjeketjela on his prospects of success using case law to support your view.

[25 MARKS]

QUESTION 6

Section 6 (4) of the Deadly Weapons Act 2015 provides that, “the Commissioner of Police may after considering all material facts grant or revoke a license.”

Since December 2016 Rasethunya, a prominent businessman of Lejoe-lants’eha, has been a victim of a series of robberies. In January 2018, Rasethunya applied to the office of the Commissioner of Police for a firearm license. After waiting impatiently for six months, he received a letter from the Deputy Commissioner informing him that his application has been unsuccessful. Rasethunya is unhappy with the decision and has approached you for legal advice.

Advise Rasethunya using relevant case law to support your view.

[25 MARKS]