

NATIONAL UNIVERSITY OF LESOTHO
FACULTY OF LAW
LL.B SUPPLEMENTARY EXAMINATIONS
L2310- ADMINISTRATIVE LAW II

AUGUST 2023

MARKS: 100

TIME: 3 HOURS

INSTRUCTIONS:

1. There are six questions and two sections.
2. Answer **FOUR (4)** questions in all, with at least one question from each section.
3. All questions carry equal marks.
4. Answer each question on a separate page.

SECTION A

QUESTION ONE

Comment on the view that although the right to be heard is fundamental to fair decision making, it must however be accompanied by the rule against bias.

[25 MARKS]

QUESTION TWO

It is sometimes argued that the correct approach to Constitutional Ouster clauses is the one that assumes that the constitutional prescriptions must be given a face-value interpretation.

Does case law support this assertion?

[25 MARKS]

QUESTION THREE

Comment on the view that the doctrine of legitimate expectation has injected flexibility, fluidity and elasticity to application of the principle of fairness.

[25 MARKS]

QUESTION FOUR

Write short notes on any five of the following:

- | | |
|---|----------------|
| a. Procedural ultra vires | 5 Marks |
| b. <i>Delegatus non potest delegare</i> | 5 Marks |
| c. Duty to give reasons | 5 Marks |
| d. Irrelevant consideration | 5 Marks |
| e. Statutory ouster clause | 5 Marks |

f. Improper purpose

5 Marks

[25 MARKS]

SECTION B

QUESTION FIVE

Neo is an illegal immigrant from the Republic of Mhlonzeni. In May 2022, he sneaked into the Kingdom of Sehong-hong to seek better job opportunities. On the 2 July 2023, 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 30 July. The announcement was made with a promise that the illegal immigrants who complied would have their stay in the Kingdom of Sehong-hong regularised. On the 1 August 2023, Neo approached the department of immigration on the strength of the announcement. He was immediately arrested and has been in detention for the last one (1) month. The officials have since been busy processing his deportation back to the Republic of Mhlonzeni. Neo has instructed you to take legal action against the deportation.

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

[25 MARKS]

QUESTION SIX

Sotha is a national of the Island of Ho-Chang-Ho. She is notorious for staging public gatherings in which she displays her nudity. In September 2023, Sotha was invited to 21 and Up Jazz Bar in Khubestate as a motivational speaker. The Aliens Control Act No.15 of 2000 empowers the Chief Immigration Officer to regulate the flow of non-citizens into Khubestate.

The Chief Immigration Officer in Khubestate has issued a letter to the proprietor of 21 And Up Jazz Bar informing him that Sotha is an undesirable person and consequently cannot be allowed in Khubestate.

Rapeipi, the proprietor of 21 and Up Jazz Bar is unhappy with the decision of the Chief Immigration Officer and has come to you for legal advice.

Advise him accordingly using relevant case law.

[25 MARKS]