

NATIONAL UNIVERSITY OF LESOTHO

FACULTY OF LAW

LL.B FINAL EXAMINATIONS

L2310- ADMINISTRATIVE LAW 2

MAY 2023

MARKS: 100

TIME: 3 HOURS

INSTRUCTIONS:

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

SECTION A

QUESTION ONE

Comment on the view that irrespective of the approach to ouster clauses adopted by legal draftsmen, the courts have always reserved to themselves, a right to review in the exercise of their duty to uphold the rule of law.

[25 MARKS]

QUESTION TWO

Despite the seemingly all-embracing powers of judicial review, regrettably, some areas still remain a no-go area for the courts.

Do you agree with the above assertion? Your answer should be supported by relevant case law on the subject.

[25 MARKS]

QUESTION THREE

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

- | | |
|-----------------------------|---------|
| a) Improper delegation | 5 Marks |
| b) Duty to give reasons | 5 Marks |
| c) Improper purpose | 5 Marks |
| d) Irrelevant consideration | 5 Marks |
| e) <i>Ultra vires</i> or; | 5 Marks |
| f) Judicial restraint | 5 Marks |

[25 MARKS]

QUESTION FOUR

Although the doctrine of Legitimate Expectation has introduced flexibility and elasticity to the application of procedural fairness, it has equally introduced uncertainty and unpredictability in its application.

Discuss the above statement using relevant case law to substantiate your view.

[25 MARKS]

SECTION B

QUESTION FIVE

Hothead, a citizen of Hlokoa-le-Mafi, is granted a work permit by the Chief Immigration Officer of Sanqebethu on 10th May 2022, for a period of two years, for the purposes of his employment as a lecturer. On 26th September 2023, he is served with a notice of the immediate cancellation of his work permit by the Chief Immigration Officer. He is allowed seven (7) days within which to make arrangements to leave Sanqebethu. The notice cancelling the work permit recites that Hothead is guilty of contravening the Immigration Act of Sanqebethu, and that he has failed to comply with conditions imposed in respect of his work permit. The notice also says that Hothead's presence in Sanqebethu would be prejudicial to the security of the state.

Hothead wishes to challenge the order of deportation. Advise him accordingly.

[25 MARKS]

QUESTION SIX

During the May 2023 final examinations, Makopitsa was found in possession of prohibited material during L2310 examination. After all the administrative procedures were made, Makopitsa was charged for contravention of the Examination Regulations 2010. He was served with the charge sheet on the 20th May and was invited to make an appearance before the disciplinary committee on the 21st May at 8:30 a.m. The disciplinary committee consists of three (3) members, one of whom is the chairperson. Coincidentally, the chairperson of the committee is the father of Makopitsa.

At the hearing, the prosecution called three witnesses, one of whom was the invigilator during the commission of the alleged misconduct. Although the evidence was overwhelming against Makopitsa, the committee finally acquitted him on the grounds that the evidence was inconclusive.

The Vice Chancellor, on behalf of the University Senate, is rather unhappy with the decision and has consulted you for legal opinion.

Advise him using relevant case law to support your opinion.

[25 MARKS]