UNIVERSITY OF FORT HARE
NELSON MANDELA SCHOOL OF LAW
EAST LONDON CAMPUS

ADMINISTRATIVE LAW
LEA 223E

MAIN DEGREE EXAMINATIONS
OCTOBER/NOVEMBER 2019

Time : 3 hours
Subject : Administrative Law
Qualification: BACHELOR OF LAWS
Marks : 100

This paper consists of 3 pages including the cover page

Internal Examiners
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Instructions
Answer ALL Questions
Refer to Relevant Case Law and Legislation
QUESTION ONE

Read the following passage carefully and answer the question that follows:

The South African Social Security Agency (SASSA) is a national agency was created to administer the application, approval and payment of social grants in South Africa. It was also designed to reallocate the function of social security from South Africa’s provinces to the national sphere of government and reports to the Ministry of Social Development. Its creation was through the adoption of the South African Social Security Agency Act, 2004 and the amendment of the Social Assistance Act, 2004, by National Parliament.

Giving a detailed explanation with reference to the information above, the tests developed by the courts and s239 of the Constitution, would you say that SASSA is an “organ of state”? [15 MARKS]

QUESTION TWO

The Minister of Minerals and Energy makes regulations in terms of the Petroleum Pipelines Act 60 of 2003, dealing with procedures to be followed for expropriation proceedings (which he is authorised to do by the Act). Is this administrative action in terms of PAJA? Explain fully. [15 MARKS]

QUESTION THREE

Assume that the Physical planning Act of 2007 provides:
“The Municipal Council may grant permission for any significant change of use of premises in its jurisdiction, subject to such conditions as it deems fit.”

Your client has applied for permission to change his dwelling house to a general dealership (store). The Council has granted permission for the change of use subject to the following conditions:

(i) Your client must provide off-street parking for at least 50 cars.
(ii) The products to be sold should not include alcohol and cigarettes

Your client asks you whether he could challenge any of the conditions by judicial review since (i) the size of his property cannot accommodate parking for 50 cars and (i) he feels that he would make the most profit by selling alcohol and cigarettes. Advise him fully. [15 MARKS]

QUESTION FOUR

Discuss the various sources of administrative law and power in South Africa. [15 MARKS]

QUESTION FIVE

In the article “Administrative Action, the Principle of Legality and Deference – The Case of Minister of Defence and Military Veterans v Motau” Andrew Konstant points out that, “Substantial scholarship has been devoted to the need for a self-standing doctrine of deference, the content of such a doctrine or theory, and its uses in different forms of judicial review.”
With reference to the article write an essay in which you set out what is meant by deference in the judicial setting and the fundamental principles that guide or justify it [10 MARKS]

QUESTION SIX

Write a note in which you explain what internal control within the administrative relationship involves. In your response you must also explain the differences in the role of internal administrative control in relation to legislative administrative functions, judicial administrative functions and purely administrative functions. [10 MARKS]

QUESTION SEVEN

Nokuzola Mthombeni is a resident of rural Qumbu, is 65 years old, illiterate and very poor. She applied for a pension (for which she qualifies in terms of the relevant legislation) to the Eastern Cape Department of Social development in June 2015.

In June 2017, she approaches you asking whether there are any steps she can take to obtain a decision, because she has heard nothing from the Department.

Advise her fully, including whether she will be entitled to payment of all the benefits to which she would have been entitled had the decision been made timeously, together with interest. Refer to relevant legislative and other provisions and case law. [20 MARKS]

TOTAL: 100

END OF EXAMINATION