

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

ADMINISTRATIVE LAW  
LEA 223E

SUPPLEMENTARY EXAMINATIONS  
JANUARY/FEBRUARY 2020

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

This paper consists of 3 pages including the cover page

Internal Examiners

Mr. A. Katurura

Dr. A van Coller

Instructions

Answer ALL Questions

Refer to Relevant Case Law and Legislation

## QUESTION ONE

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 TWO

Within the context of judicial review and with reference to case law, explain the legal definition of public bodies/organs of state. [10 MARKS]

## QUESTION THREE

With reference to the Promotion of Administrative Justice Act 3 of 2000 and case law set out the content of and test for the rule against bias.[10 MARKS]

## QUESTION FOUR

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 FIVE

With reference to suitable examples set out in detail the various sources of administrative law and power in South Africa. [15 MARKS]

## QUESTION SIX

Masibambisane is an organisation that looks after people with various disabilities. Although the organisation receives donation from many different entities, it is mainly dependant on the subsidy which it receives from the Provincial Department of Social Development.

The organisation has been receiving the subsidy from the Department every year for 12 years and this has enable it to expand its premises and accommodate approximately 50 people. The Department has summarily decided to stop the subsidy. This has placed Masibambisane in an unfortunate situation where it may be forced to close down, thereby leaving many people stranded.

Masibambisane requires advice on whether it can approach the court for an order requiring the Department to continue paying the subsidy to them.

Advise him fully, making reference to any applicable cases [at least three (3) cases]. [15 MARKS]

### QUESTION SEVEN

Bruce Bigbucks is a property developer, who intends to establish a luxury resort on land which has hitherto been agricultural land. Assume that this development needs authorisation by the provincial Department of Environmental Affairs. Bigbucks has complied with all the necessary requirements and the application, together with all the relevant supporting documentation, was submitted to the Department for approval in September 2009. In October 2010 he had still not received a decision. He contacted the Department on two occasions, once in March 2010 and then again in August 2010, to be told that the Department is still 'dealing with the application'. He asks you for advice on whether he can approach a Court to order the Department to make a decision. Advise him accordingly. [15 marks]

### QUESTION EIGHT

Does an administrator have standing (*locus standi*) to apply to court for the review of its own decision? Explain fully with reference to decided cases. [10 marks]

TOTAL: 100

END OF EXAMINATION