

**UNIVERSITY OF SWAZILAND**  
**INSTITUTE OF DISTANCE EDUCATION**  
**DEPARTMENT OF LAW**  
**FINAL EXAMINATION, MAY 2006**

**TITLE OF PAPER : ADMINISTRATIVE LAW**

**COURSE CODE : DL 033**

**TIME ALLOWED : THREE (3) HOURS**

**INSTRUCTIONS :**

- 1. ANSWER ANY FOUR (4) QUESTIONS**
- 2. ALL QUESTIONS CARRY EQUAL MARKS**

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### **QUESTION 1**

The appellants, the association of Civil Service Unions, a union official and five civil servants employed at the Ministry of Justice, applied for judicial review of the Minister of Justice's instruction to be set aside in that the Minister had acted unfairly in removing their fundamental right to belong to a trade union without consulting them. Discuss the ground for review with reference to decided cases [25 MARKS]

### **QUESTION 2**

Discuss the doctrine of *stare decisis* with reference to case law. [25 MARKS]

### **QUESTION 3**

Discuss each of the following:

The rule of law (5 marks)

Separation of Powers (5 marks)

Interdict (5 marks)

Ouster clauses (5 marks)

Publication of law is a *conditio sine qua non* of the principle of legality (5 marks)

[TOTAL 25 MARKS]

### **QUESTION 4**

One of the rules of procedural fairness is *audi alteram partem*. Discuss. [25 marks]

### **QUESTION 5**

Applicant had applied for an order setting aside the first respondent(s) refusal of an application for a certificate for a general dealer's licence on the ground, *inter alia*, that one of the members of the board should have recused himself in that he was a member of a club which held an unrestricted licence in respect of premises five kilometers away, such member's interest in the trading activities of the club had not been shown to be very great.

Applicant had failed to show that there was any reasonable possibility of his proposed business constituting any real competition with the club's trading facilities

Discuss the above statement in the light of "The test for bias".

[25 MARKS]

### **QUESTION 6**

A policeman named Sergeant Bingo observes Manqoba a man aged 27 stealing a car radio from a parked car in Manzini on a busy Saturday morning. The policeman calls upon Manqoba to stop but Manqoba runs away. Sergeant Bingo shoots at Manqoba with a view to stop him but the bullet hits an innocent Thandeka standing by who is killed. Her action is brought against the Minister of Police by Thandeka's dependants. Will Thandeka succeed? The Minister claims that Sergeant Bingo acted in his personal capacity and that the state is therefore not liable.

Discuss with reference to the delictual liability of the state.

[25 MARKS]

### **QUESTION 7**

Discuss the common law requirements for *locus standi in judicio*.

[25 MARKS]