

**UNIVERSITY OF SWAZILAND**  
**FACULTY OF SOCIAL SCIENCE**  
**DEPARTMENT OF LAW**  
**SUPPLEMENTARY EXAMINATION**

**JULY 2009**

**TITLE OF PAPER: ADMINISTRATIVE LAW**

**COURSE CODE: L205**

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

- INSTRUCTIONS:**
- (a) ANSWER ANY FOUR (4) QUESTIONS.**
  - (b) EACH QUESTION CARRIES A TOTAL MARK OF 25.**
  - (c) THE CONTENT OF YOUR ANSWERS, CLARITY OF EXPRESSION AND LEGIBILITY OF YOUR HANDWRITING ARE ALL EXTREMELY ESSENTIAL.**

**DO NOT OPEN THIS PAPER UNTIL SO PERMITTED BY THE INVIGILATOR.**

**Question one:**

Public participation is a hallmark of good governance and administration of justice. In the politically charged uprisings of Khutsong (otherwise known as Merafong) in South Africa in recent years, the bone of contention was the alleged failure by the Gauteng provincial government to facilitate public involvement. Using the facts of this matter, advance your case on the importance of public involvement in administrative law.

**(25 Marks)**

**Question two:**

(a) Administrative law makes use of canons of interpretation. Outline these and their relevance to administrative law. (15)

(b) During a toyi-toyi and class boycott, the office of the Vice Chancellor in the University of Swaziland issues an eviction notice to students. When does it come into force and what are the prerequisites for ensuring that it is valid? Under what circumstances would such a notice cease to be effective? Apart from this form of administrative act, what other categories are there and how do they come about or terminate? (10)

**(25 Marks)**

**Question three:**

In *Various Occupants v Thubelisha Homes and Others* CCT 22/08; [2008] ZACC (as yet unreported), the applicants averred that the respondents reneged on their undertaking to provide at least 70% of the 'new' accommodation to the members of Joe Slovo Settlement. They asserted that the respondents now sought to make the bulk of said accommodation available to other persons. It was submitted on behalf of the applicants that they had a legitimate expectation, based on undertakings made to them, that they would benefit from at least 70% of the said units. Critically analyze this case in light of the doctrine of legitimate expectation.

**(25 Marks)**

**Question four:**

Maxwell Masinga is a blind worker at Park Industries, a company partially owned by the government of Swaziland and a foreign mogul. Although Max is a blind man, he is a hit with the ladies, both at his workplace and in the Ngwane Park area where he resides. The secretaries at Park Industries consort and flirt with blind Max as he has a sanguine personality. Max has exceptionally fast typing skills and is frequently asked by his secretary friends to assist them with typing to meet deadlines. Max has also

developed an acute sense of smell, and can distinctly tell the identity of the ladies from the reception by the smell of their perfumes. This has earned him a lot of points with the ladies.

As fate will have it, Sandrina, a personal assistant to the MD of the company begins to develop romantic feelings for Max. The MD, of Portuguese origin, catches wind of this office affair and his hatred for Max shoots through the roof.

One fateful Monday, Max comes to work drunk. Whilst Max is assisting Sandrina, he loses a crucial company document, with Park Industries' trade secrets. A disciplinary hearing is hastily convened, the charges are orally put to Max with great speed. During the hearing, the MD mixes both English and Portuguese, much to Max's protests. The MD chairs the hearing and Max is fired. He is told not to waste time noting an appeal, but to pack his stuff and leave the premises.

When Max requests a transcript of the proceedings and the tribunal's decision to facilitate his appeal, Park Industries refuses to cooperate. Instead, the MD quickly jots the words, '*You are fired*', with a few notes on the reasons for the tribunal's findings, on a piece of paper and hands it to Max, with the words, '*This is the decision of the company in writing*'. Max is told he can only receive the oral records, and will need to pay R1500 for the transcripts.

You have been retained by Max to render advice on the prospects of his appeal. Using your administrative law principles, what advice would you give to Max?

**(25 Marks)**

**Question five:**

Administrative law makes use of judicial controls for keeping administrative actions in check. Briefly discuss these.

**(25 Marks)**