

UNIVERSITY OF SWAZILAND

155

FACULTY OF SOCIAL SCIENCE

DEPARTMENT OF LAW

FINAL EXAMINATION

MAY 2012

TITLE OF PAPER: ADMINISTRATIVE LAW

COURSE CODE: L205

TIME ALLOWED: THREE (3) HOURS

INSTRUCTIONS: (a) ANSWER ANY FOUR QUESTIONS, INCLUDING QUESTION 1 WHICH IS COMPULSORY.

(b) EACH QUESTION CARRIES A TOTAL OF 25 MARKS.

(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 (Compulsory)

Administrative law is primarily about the regulation of public power. Despite this term's an elusive character, our courts have made attempts to come up with a working definition. With case illustrations, define this term.

(25 Marks)

Question Two

You are sitting in the cafeteria when a first year student strikes a conversation with you. According to her, administrative law can be sourced from custom and she argues that this custom is none other than Swazi Law and Custom. She further asserts that this is the best source, and all others must give way to custom. Advise this student through a critical analysis of her assertion.

(25 Marks)

Question Three

The requirement to exhaust local remedies where administrative actions stands to be impugned can be set aside by the courts in exceptional circumstances. Critically discuss this with reference to *Archibald Barry Nichol and Another v The Registrar of Pension Funds and Others* Case No467/04 (SCA).

(25 Marks)

Question Four

Write short notes on the following:

- (a) Differentiate between any three administrative acts. **(10)**
- (b) Definition of administrative law. **(10)**
- (c) *Nemo iudex in causa sua*. **(5)**

(25 Marks)

Question Five

Public participation in governance is a form of control of administrative action, and is paramount in any open and democratic society. In *Merafong Demarcation Forum* CCT 19/08 the court went into detail about the importance of allowing the public to participate in decision making. With reference to this case, discuss the administrative law control of administrative action.

(25 Marks)

Question Six

There are various obstacles to any action aimed at judicial review, amongst which are ouster clauses. With reference to case law, briefly discuss this aspect of obstacles to judicial review.

(25 Marks)