

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCES
DEPARTMENT OF LAW
SUPPLEMENTARY EXAMINATION PAPER
YEAR: 2015/2016

TITLE OF PAPER : **ADMINISTRATIVE LAW**

COURSE CODE : **L205**

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

INSTRUCTIONS:

- (i) **ANSWER ANY FOUR (4) QUESTIONS.**
- (ii) **EACH QUESTION CARRIES A TOTAL OF 25 MARKS.**
- (iii) **IN ANSWERING THE QUESTION, NOTE THAT THE QUALITY OF THE CONTENT, CLARITY OF EXPRESSION AND LEGIBILITY OF HANDWRITING ARE ABSOLUTELY ESSENTIAL.**

DO NOT OPEN THIS PAPER UNTIL TOLD TO DO SO BY THE INVIGILATOR.

QUESTION ONE

Discuss the advantages and disadvantages of referring a matter to an administrative tribunal as opposed to a court of law.

[25 Marks]

QUESTION TWO

Critically discuss the sources of administrative law in the context of Swaziland.

[25 Marks]

QUESTION THREE

Write notes on the following:

- (a) acting under dictation; [5 Marks]
- (b) ouster clauses; [5 Marks]
- (c) the rule of law; [5 Marks]
- (d) ulterior purpose; and [5 Marks]
- (e) the distinction between appeal and review [5 Marks]

[25 Marks]

QUESTION FOUR

Mr. Mosimane has been a dweller in Mr. Van Wyk's farm for the past 20 years. Mr. Van Wyk intends to sell a portion of his farm to a prospective buyer. The portion that is earmarked for the sale is occupied by Mr. Mosimane and his dependents and has large tracts of fertile land that is used by the Mosimane family for cultivating crops and rearing livestock. The prospective buyer intimated that he was prepared to pay double the seller's price on condition that, when the portion is transferred to his name, there should be no one occupying it. Mr. Van Wyk gave Mr. Mosimane and his dependents a period of 12 months to vacate the farm. He failed to find an alternative place within the 12-month period and Mr. Van Wyk ejected him and his dependents from the farm.

Mr. Mosimane approached the Manzini District Farm Dwellers Tribunal (Tribunal) for relief and the Tribunal issued a decision against him. Aggrieved by the decision of the Tribunal, he appealed to the Central Farm Dwellers Tribunal (Central Tribunal), which upheld the decision of the Tribunal. Mr. Mosimane then appealed to the Minister for Home Affairs (Minister) against the ruling of the Central Tribunal and the Minister affirmed the ruling of the Central Tribunal.

As Mr. Mosimane was about to ask the High Court of Swaziland to review the decision of the Minister and set aside or correct it, he met a friend of his, Bill, who studied law at Yale University in the USA. Bill

advised Mr. Mosimane not to pursue the matter and to accept that it had come to an end. Bill referred him to section 9(1) of The Farm Dwellers Control Act of 1982 which provides that:

"No court shall have jurisdiction to hear or determine any dispute between an owner and an umnumzane concerning any rights and liabilities under this Act or as to who are dependents of an umnumzane or to order the cancellation of an Agreement or removal of an umnumzane or his dependents from any farm."

Mr. Mosimane is now confused. You are an expert in administrative law. Advise Mr. Mosimane.

[25 Marks]

QUESTION FIVE

(a) Critically discuss any three sources of bias.

[15 Marks]

(b) Write notes on the following:

(a) failure to decide or to consider; and

[5 Marks]

(b) laying before Parliament.

[5 Marks]

[25 Marks]

END OF PAPER