

UNIVERSITY OF ESWATINI
FACULTY OF SOCIAL SCIENCES
DEPARTMENT OF LAW
SUPPLEMENTARY EXAMINATION PAPER (JULY)
YEAR: 2018/2019

TITLE OF PAPER : **ADMINISTRATIVE LAW II**

COURSE CODE : **LAW212**

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

INSTRUCTIONS:

- (i) **INDICATE ON THE COVER PAGE OF THE ANSWER SCRIPT YOUR PROGRAMME AND THE COURSE CODE IN THIS FORMAT:
▪ FULL TIME – LLB (LAW212).**
- (ii) **ANSWER ANY FOUR (4) QUESTIONS.**
- (iii) **EACH QUESTION CARRIES 25 MARKS.**
- (iv) **IN ANSWERING ANY QUESTION, NOTE THAT THE QUALITY OF THE CONTENT, CLARITY OF EXPRESSION AND LEGIBILITY OF HANDWRITING ARE ABSOLUTELY ESSENTIAL.**
- (v) **REFER TO LEGAL AUTHORITY TO SUPPORT YOUR ANSWERS.**

DO NOT OPEN THIS PAPER UNTIL TOLD TO DO SO BY THE INVIGILATOR(S)

QUESTION ONE

Critically discuss the advantages of having a matter heard and determined by an administrative tribunal as opposed to an ordinary court of law.

YOUR ESSAY SHOULD NOT EXCEED TWO AND A HALF PAGES.

[25 MARKS]

QUESTION TWO

Correcting or substituting is one of the primary remedies associated with review. With reference to case law, identify and discuss **four** instances in which the High Court of eSwatini will substitute its decision for that of the original decision-maker.

YOUR ESSAY SHOULD NOT EXCEED TWO AND A HALF PAGES.

[25 MARKS]

QUESTION THREE

(a) With reference to decided cases, discuss any **four** sources of bias.

YOUR ESSAY SHOULD NOT EXCEED THREE PAGES.

[25 MARKS]

QUESTION FOUR

(a) Roro is aggrieved by a decision that a statutory tribunal has issued against her. She is now frustrated because she thinks that she cannot approach the High Court of eSwatini for relief because the enabling legislation provides that a decision of the tribunal shall be final. Advise her on the constitutionality or otherwise of the provision that 'a decision of the tribunal shall be final.'

YOUR ESSAY SHOULD NOT EXCEED ONE PAGE.

[12.5 MARKS]

(b) In 2012, the Parliament of the Kingdom eSwatini passed the Expropriation Act which empowers the government of eSwatini to expropriate title deed land without compensation. Lando who owns a farm at Tubungu is afraid that in future she might lose her farm if the government decides to implement the Act. She asked the High Court of eSwatini to declare the Act invalid because it is inconsistent with the Constitution of the Kingdom of eSwatini Act 1 of 2005. The Court declined to grant a remedy on the basis of one of the judicially-imposed obstacles to judicial redress.

Identify and discuss the judicially-imposed obstacle on the basis of which the Court declined to grant a remedy. There is only one judicially-imposed obstacle that is relevant to this set of facts. Confine your discussion only to that obstacle. Do not name or even discuss the other two judicially-imposed obstacles which are not relevant to this set of facts.

YOUR ESSAY SHOULD NOT EXCEED ONE PAGE.

[12.5 MARKS]

[25 MARKS]

QUESTION FIVE

Critically examine the advantages and disadvantages of giving reasons for the decision of an administrative authority.

YOUR ESSAY SHOULD NOT EXCEED THREE PAGES.

[25 MARKS]

=====END OF EXAMINATION QUESTIONPAPER=====