



# UNIVERSITY OF ESWATINI

FIRST SEMESTER MAIN EXAMINATION PAPER, NOVEMBER 2019

FACULTY OF SOCIAL SCIENCES

DEPARTMENT OF LAW

COURSE CODE: LAW211

TITLE OF PAPER: ADMINISTRATIVE LAW I

TIME ALLOWED: 3 HOURS

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## Instructions

1. Answer any four (4) questions.
2. Each question carries a total of 25 marks.
3. In answering any question, note that the quality of the content, clarity of expression and legibility of handwriting are absolutely essential.
4. Refer to legal authority to support your answers.

*Candidates may complete the front cover of their answer book when instructed by the Chief Invigilator and sign their examination attendance cards but must **NOT** write anything else until the start of the examination period is announced.*

*No electronic devices capable of storing and retrieving text, including electronic dictionaries and any form of foreign material may be used while in the examination room.*

**DO NOT** turn examination paper over until instructed to do so.

### **QUESTION ONE**

Mr Mbalula is an academic researcher from an institution known as “Government under the Law”. He has an interest in the administrative law of Commonwealth countries. Currently, he is in eSwatini conducting research on the powers of administrative functionaries of eSwatini. He has been advised that, unlike in other jurisdictions, the administrative functionaries of eSwatini generate their own administrative power. In other words, the administrative power which the administrative organs of eSwatini exercise is self-generated.

**Critically examine the advice that has been given to Mr Mbalula. Refer to relevant legal authority and other examples to support your arguments.**

**YOUR ANSWER SHOULD NOT EXCEED TWO PAGES.**

[25MARKS]

### **QUESTION TWO**

The Supreme Court of eSwatini observed in *Prime Minister of Swaziland v MPD Supplies (Pty) Ltd* that the incorporation of the rule law through the enactment of the Constitution of the Kingdom of eSwatini Act No. 1 of 2005 also includes the principle of legality.

**Discuss the constraints which the Constitution places on the exercise of public power and also state the legal basis for protecting Swati constitutionality and legality.**

**YOUR ANSWER SHOULD NOT EXCEED TWO PAGES.**

[25 MARKS]

### **QUESTION THREE**

(a) Discuss how the enactment of the Constitution of the Kingdom of eSwatini Act No. 1 of 2005 affects ouster clauses.

**YOUR ANSWER SHOULD NOT EXCEED ONE AND A HALF PAGES.**

[15 MARKS]

(b) A researcher from the University of Copy and Paste conducted research on the methods of controlling the making of subordinate legislation in eSwatini. One of the major findings of the research is that the constitutional legal order of eSwatini leaves no room for Parliament to

exercise an oversight role in the making of subordinate legislation.

**Critically examine this finding. Refer to legal authority to support your answer**

**YOUR ANSWER SHOULD NOT EXCEED ONE AND A HALF PAGES.**

**[10MARKS]**

**[25 MARKS]**

#### **QUESTION FOUR**

With the aid of legal authority and other relevant examples, discuss four types of administrative appeal bodies in eSwatini.

**YOUR ANSWER SHOULD NOT EXCEED TWO AND A HALF PAGES.**

**[25 MARKS]**

#### **QUESTION FIVE**

With the aid of legal authority critically examine the statement that in eSwatini the private individual is totally deprived of all his or her rights, privileges and freedoms when entering into an administrative law relationship because of the existence of the administrative law relationship of inequality.

**[25 MARKS]**

**YOUR ANSWER SHOULD NOT EXCEED TWO PAGES.**

=====END OF EXAMINATION PAPER=====