



**NAMIBIA UNIVERSITY  
OF SCIENCE AND TECHNOLOGY**

**FACULTY OF COMMENCE, HUMAN SCIENCES AND EDUCATION**

**DEPARTMENT SOCIAL SCIENCES**

<b>QUALIFICATION: BACHELOR OF PUBLIC MANAGEMENT/CRIMINAL JUSTICE</b>	
<b>QUALIFICATION CODE: 07BPMN/07BCJC/07BACJ</b>	<b>LEVEL: 5</b>
<b>COURSE CODE: LPM 511S</b>	<b>COURSE NAME: LAW FOR PUBLIC MANAGERS 1A</b>
<b>SESSION: JUNE 2022</b>	<b>PAPER: THEORY</b>
<b>DURATION: 3 HOURS</b>	<b>MARKS: 100</b>
<b>JUNE 2022 EXAMINATION</b>	
<b>EXAMINER(S)</b>	Mrs. E. WABOMBA  Dr C. HARRIS
<b>MODERATOR:</b>	ADV. M. SAAYMAN
<b>INSTRUCTIONS</b>	
<ol style="list-style-type: none"><li>1. Answer ALL the questions.</li><li>2. Write clearly and neatly.</li><li>3. Number the answers clearly.</li></ol>	

**THIS QUESTION PAPER CONSISTS OF 6 PAGES (Including this front page)**



## QUESTION 1

Choose the correct answer from the given options in each of the following questions. There is only ONE correct answer for each question. Negative marking will not be applied, but answers to questions will not be marked where more than one answer has been given. USE CAPITAL LETTERS IN YOUR ANSWERS

1.1 A Constitution as a source of law falls under:

- A. The legislation
- B. Common law
- C. Customs
- D. Rules of Natural Justice
- E. Legislation and common law

1.2 Subordinate legislation is created by:

- A. Only an organ that has powers derived from common law
- B. Only a person who has powers derived from common law
- C. A person or organ who has powers derived from the legislation
- D. Only an organ who has powers derived from the legislation
- E. Only a person who has powers derived from the legislation.

1.3 The relationship within the same authoritative hierarchy is defined as:

- A. A relationship of authority
- B. A relationship with a permanent secretary
- C. A relationship of authority in which two or more government organs enter into vis-à-vis one another
- D. A relationship of authority in which two or more organs enter into vis-à-vis one another
- E. None of the above

1.4 An independent relationship is:

- A. Where organs function independently from each other to a greater extent and are located in the same hierarchy
- B. Where organs function independently from each other to a greater extent
- C. Where organs function independently of each other to a greater extent and are not located in the same hierarchy
- D. A and B above
- E. B and C above



1.5 The originating source of Namibian law is:

- A. Legislation.
- B. Common Law.
- C. Custom.
- D. Judgments of Court

1.6 Select the option where the relief is of a civil nature only.

- A. Madonna's boyfriend is extremely jealous and often abuses her physically.
- B. Robert needs to undergo a kidney transplant. The surgeon negligently removes his healthy kidney. Fortunately, Robert's body accepted the new kidney and he survived the operation.
- C. Harry caused a motor vehicle collision in which the driver and all the passengers were killed.
- D. Joan attempted to present a stolen debit card at Pick 'n Pay, but the cashier suspected that there was something wrong, called the manager and Joan was arrested.
- E. John was arrested in a club while have a social drink with friends because he disrupted the peace

1.7 *Ratio decidendi* is:

- A. A judge's opinion of the law in general.
- B. A remark made in passing by a magistrate in the Regional Courts
- C. The authority which a court has to decide a case before it and to take cognizance of matters presented for decision.
- D. The reasons for a decision, which has binding force and is the object of the doctrine of *stare decisis*
- E. None is applicable

1.8 The following court has the right of first instance to hear an appeal from the Regional Courts:

- A. Supreme Court of Namibia.
- B. Magistrate's Courts and the High Court of Namibia.
- C. Magistrate's Courts only.
- D. High Court of Namibia
- E. Valuation Court



1.9 Customary law principles are:

- A. Applied by the courts if the parties to a matter so choose, irrespective of whether the law concerned is contrary to the principles of public policy.
- B. Valid to the extent to which such customary law principles do not conflict with the Constitution or any other statutory law.
- C. Applied by the courts if the parties to a matter so choose, provided that the law concerned can be ascertained readily and with sufficient certainty and that it is not contrary to the principles of public policy.
- D. Only in the villages
- E. Applied only in the local authorities

1.10 A juristic act is:

- A. An act done by a juristic person
- B. An act considered to be done by someone with contractual capacity
- C. An act done with intentions to create legal obligations
- D. Is a legal person.
- E. An act done by police officers only.

*(Each question is two Marks)*

**[20]**

## QUESTION 2

**Indicate whether the following statements are true or false:**

- 2.1 Public authorities cannot engage in private law contracts with individuals but only other authorities.
- 2.2 Superior organs may not revoke or amend decisions in a relationship within the same hierarchy.
- 2.3 In mandate as a form of delegation, the original functionary must exercise his/her own independent judgment in regard to a discretion entrusted to him/her.
- 2.4 In deconcentration, functions performed by the delegate are still performed in the name of the functionary who delegated the powers.
- 2.5 Deconcentration means: delegans may interfere and perform the functions themselves.
- 2.6 In administrative law, an individual is in a subordinate position, meaning government is vested with authority and an individual has no right of recourse.
- 2.7 Assignment as a form of delegation is whereby power is transferred completely.





- 2.8 The President's powers are given only by the people, through voting and not by legislation.
- 2.9 A state is a legal person made up of people who have wealth.
- 2.10 The statement Namibia is a unitary state means is a one nation. (United)

***(Each question is two marks)***

**[20]**

### **QUESTION 3**

- 3.1 Define assignment. (8)
- 3.2 In terms of Cooperative Government, there are three levels of authority, **NAME** them. (3)
- 3.3 Discuss the importance of Cooperative Governance in State functions. (4)

**[15]**

### **QUESTION 4**

The Ministry of Lands has an agreement with the Local Authorities, authorizing them to enter into contracts with the residents to buy land at a subsidized price. John a resident of one of the Local Authorities, entered into a contract and has defaulted. The Local Authority has cancelled the contract. John claims the Local Authority cannot cancel the contract because the contract is administered in terms of administrative law. Advise John based on the Scholtz case, Scholtz v Cape Divisional Council 1987 (1) SA 68 (CPD), discuss both what was argued by Scholtz and the Court's decision. **[10]**

### **QUESTION 5**

- 5.1 John is employed by the Ministry. In terms of his employment, the law dictates that his functions should be performed by someone with certain skills and is not permitted to shift his responsibility to another. His supervisor asks him to shift his responsibility to a colleague at in the same organ because he wants to give him another responsibility. John refuses the instruction. The boss now alleges John is rude. Advise John. (10)
- 5.2 John has been mandated with the power to implement the decisions of his supervisor in terms of mandate as a form of delegation. John goes ahead and makes an additional decision on what had been concluded by his supervisor. Advise the supervisor. (5)
- 5.3 Power has been transferred to Anna in terms of deconcentration. After performing the function as she had been instructed, the boss now says Anna performed the function in her own name and not that of the delegans. Advise Mary (5)

**[20]**



## QUESTION 6

- a) What distinguishes Public Law relationship from Private Law relationship? (6)
- b) What is the most important factor as to why it is so important to distinguish Private Law from Public Law? (1)
- c) Name two types of administrative acts.
- d) Decide in the following scenario whether the Minister of Education acted correctly. Give a reason for your answer:

The Council of the Namibia University of Science and Technology is authorized to appoint a Vice chancellor. A Vice Chancellor is appointed by the said council. However, the Minister of Education does not approve of the said appointment and appoints a Vice Chancellor of his own choice.

(6)

**[15]**



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HEAD OF DEPARTMENT  
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