



**NAMIBIA UNIVERSITY  
OF SCIENCE AND TECHNOLOGY**

**FACULTY OF HUMAN SCIENCES**

**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 2019</b>	<b>PAPER: THEORY</b>
<b>DURATION: 3 HOURS</b>	<b>MARKS: 100</b>

<b>JUNE 2019 EXAMINATION QUESTION PAPER</b>	
<b>EXAMINER(S)</b>	MRS. H. von ALTEN  MR. 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>

**PERMISSIBLE MATERIALS**

1. Examination paper
2. Examination script

**THIS QUESTION PAPER CONSISTS OF 4 PAGES (Excluding this front)**

### **QUESTION 1**

- a) Identify the differences between the Regional Court and the Supreme Court. (8)
  - b) What determines jurisdiction in a criminal case as opposed to a civil case? (4)
  - c) Which of the courts in fact create judicial precedent? (2)
- [14]**

### **QUESTION 2**

The brutal murders of several women in the last few weeks caused a huge outcry in the media, among public officials and the public at large. The Minister of Justice immediately reacted and had a draft Bill drawn up to amend the current Domestic Violence Act to ensure more measures for the protection of women. As he found time of the essence the said Minister immediately tabled same in the National Assembly. Did the said Minister act correctly? Briefly explain. **[4]**

### **QUESTION 3**

Timothy is facing financial problems after his construction business collapsed as a result of the economic crisis affecting the nation. The bank is about to repossess one of his houses. To prevent this, he borrows an amount of N\$ 150 000 from Tutungeni of Tutungeni Cash loans. The agreement is that Timothy has to pay back the money with 10% interest within a period of 6 months. However, Timothy defaulted on his payments and to recover some of his money Tutungeni went to Timothy's house, beat him up and threatened to take his vehicles if he does not pay him in the next two months.

- a) Are Tutungeni's actions justified under the circumstances? Substantiate your answer (4)
  - b) Are there any remedies for Timothy in this regard? (4)
- [8]**

### **QUESTION 4**

Identify whether Public or Private Law applies to scenarios below. Give a reason for your answer.

- a) On recommendation of the Judicial Service Commission, the President appoints a High Court Judge. (2)
- b) Sawasawale is summarily dismissed after he was caught on camera stealing from the butchery he was working for. (2)
- c) Satan Pedophile is found guilty and sentenced to 10 years for raping a 10 year old girl. (2)

- d) After a series of corruption scandals implicating her office, the President sacks the Prime Minister. (2)
- e) After failing her job interviews, Katrina accuses the predominantly white and coloured panel of racism. (2)

[10]

#### QUESTION 5

- a) In terms of the Tobacco Products Control Act, 2010 a Tobacco Products Control Committee and a Products Control Fund is established. In terms of section 26 of the said Act, the Permanent Secretary of the Ministry of Health and Social Services is responsible for the administration of the Fund, subject to the directions of the Minister of the said Ministry given after consultation with the abovementioned Committee. How should the Minister and the committee act according to administrative principles? (3)
- b) In terms of section 36 of the said Act, the Minister of Health and Social Services, in consultation with the Minister of Finance, may by regulation, impose a levy on the import, distribution or sale of tobacco products. How according to administrative principles must the two Ministers act? (3)
- c) In terms of section 3 of the Animal Health Act, 2011, the Minister of Agriculture, Water and Forestry, on recommendation of the Chief Veterinary Officer, may appoint in writing, as veterinary official, for the purposes of this Act, a staff member employed in the Ministry. How must the said parties act in terms of administrative law? (3)

[9]

#### QUESTION 6

- a) A newly appointed Minister Urban and Rural Development approaches you to advise him how to delegate certain functions to the officials working in his Ministry. Advise him in detail as to all the possibilities at his disposal. (9)
- b) The same Minister wishes to delegate a certain function to the Municipality of Windhoek. Advise him how he would achieve this and the powers he would have with regard to the function so delegated. (5)

[14]

#### QUESTION 7



Identify the administrative action in each of the following scenarios. In your answer advise whether the author of the said action is *functus officio*, giving a reason for your answer and when legal force of the said action commences.

- a) In terms of section 70 of the Local Authorities Act 23 of 1992 Mr Itamalo, who owns a property in Windhoek West, is dissatisfied with the valuation made of his property by the Municipality of Windhoek. He is successful with his objection in the Municipal valuation court. (8)
  - b) Mr de Sousa applies to the Ministry of Home Affairs and Immigration for a study permit. He is denied same, but successfully appeals to the Minister and receives the said permit. (8)
  - c) Due to the increase in rabies incidences in Windhoek, the Municipality of Windhoek in terms of section 94(1)p(iii) of the Local Authorities Act 23 of 1992, makes a regulation making it compulsory that all dogs be vaccinated against rabies. (4)
- [20]**

#### **QUESTION 8**

In the scenarios below, the actions can be invalidated, as the common law requirements relating to author have not been adhered to. Identify in each action below which common law requirement relating to author has not been adhered to:

- a) The Liquor Act provides that only persons with legal qualifications shall chair the liquor licencing board. The bank manager of Bank Windhoek who has a banking qualification chairs the said board. (1)
  - b) A Road Transportation Board which is empowered to issue one permit in a particular area, issues three permits for that area. (1)
  - c) The Municipality of Windhoek issues hawkers' permits to persons who wish to trade as hawkers in the Municipal area of Rehoboth. (1)
  - d) Local authorities are empowered to regulate street trade by issuing trading licenses. The Trading Licenses Act provides that renewals of the said licenses shall take place in January each year. The Windhoek Municipality, due to a shortage of staff, renew the said licenses in March. (1)
- [4]**

#### **QUESTION 9**

Suppose the Minister of Home Affairs and Immigration has on several occasions made it clear that she does not approve of foreigners entering the country and taking up work in Namibia and will do all possible to prevent this. Mr Rodrigues, a foreign national, applied at the Namibian University of Science and Technology and was appointed as a lecturer in the Department of Social Sciences. However the said Minister of Home Affairs and Immigration has refused to grant him a work permit.

- a) What common law requirement has not been met? (1)
- b) Would non-compliance with the requirement mentioned in (a) above on its own invalidate the action? (1)
- c) What would the consequences of non-compliance with requirement mentioned in (a) above be? (3)
- [5]

**QUESTION 10**

What is meant by the power to grant dispensation? [2]

**QUESTION 11**

Mrs Hoveka owns a shebeen in Windhoek West near the old age home. Her clients sit and enjoy themselves at her shebeen until the early hours of the morning and the more they drink the louder they get. The residents of the old age home complain and request the Municipality of Windhoek to close the said shebeen. What will the said Municipality take into account to come to a decision based on proportionality? [6]

**QUESTION 12**

Briefly explain what is meant by delictual liability? [4]

**TOTAL MARKS: 100**