



**NAMIBIA UNIVERSITY  
OF SCIENCE AND TECHNOLOGY**

**FACULTY HUMAN SCIENCES**

**DEPARTMENT OF SOCIAL SCIENCES**

<b>QUALIFICATION: BACHELOR OF PUBLIC MANAGEMENT</b>	
<b>QUALIFICATION CODE: 07BPMN</b>	<b>LEVEL: 5</b>
<b>COURSE CODE: LPM521S</b>	<b>COURSE NAME: LAW FOR PUBLIC MANAGERS 1B</b>
<b>SESSION: JANUARY 2020</b>	<b>PAPER: THEORY</b>
<b>DURATION: 3 HOURS</b>	<b>MARKS: 100</b>

<b>SUPPLEMENTARY / SECOND OPPORTUNITY EXAMINATION QUESTION PAPER</b>	
<b>EXAMINER(S)</b>	MRS H. von ALTEN
<b>MODERATOR:</b>	ADV. M. SAAYMAN

<p style="text-align: center;"><b>INSTRUCTIONS</b></p> <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><li>4. Students must make sure that chapter 3 of the Namibian Constitution is attached to the script</li></ol>
--

**PERMISSIBLE MATERIALS**

1. Examination paper with Chapter 3 of the Namibian Constitution
2. Examination script

**THIS QUESTION PAPER CONSISTS OF 4 PAGES** (Excluding this front page and chapter 3 of the Namibian Constitution)

### **QUESTION 1**

- a) Human rights are said to be inherent and entitlements. What is meant by the terms “inherent and entitlements? (5)
- b) What is the basic reason for having a constitution in any country? (2)
- c) Identify how the Constitution which we have now in Namibia, differs from the constitution in place before independence. (4)

**[11]**

### **QUESTION 2**

- a) Identify at what levels human rights protected. (3)
- b) What instruments protect human rights at each level? (5)
- c) What is the main difference between the rule of law and the rechtsstaat principle? (2)

**[10]**

### **QUESTION 3**

The Street and Traffic Regulations of the Windhoek Municipality forbids the conducting of the business of hawking, vending or peddling on any street in Windhoek. Markus needs extra money and starts selling fruit, sweets and chips outside the back gates of Namibian University of Science and Technology, namely in Brahmsstrasse. He argues the Namibian Constitution guarantees freedom to trade and as it is the supreme law, it overrides the said regulation. Discuss the validity of his argument? **[10]**

### **QUESTION 4**

Amakali Primus, the son of Teresa Shekupe, who is in grade 5 and 12 years old, was removed from his grandfather’s home at the Onjamba village, without the grandfather’s permission and taken to the Eheke village, to permanently herd and graze cattle and is thus not permitted to attend school. Identify the rights that have been infringed. **[10]**

### **QUESTION 5**

Nadine, a fourteen old girl, was supposed to fly to Germany with her aunt. At Hosea Kutako International Airport, the immigration officers detained her and locked her in the detention cells at the said airport, as they suspected that she was not a Namibian citizen and was in possession of a forged passport. Which rights have been infringed? **[2]**

### **QUESTION 6**

Identify three possible ways in which commencement of legislation takes place. **[3]**

### QUESTION 7

Give a word or phrase (or complete the sentence), in the context of definitions and terms relevant to Law for Public Managers.

- a) The right to be heard by the court. (1)
  - b) ----- is different from the passing or enactment of legislation (1)
  - c) Regime where the Constitution is the supreme law of the land (1)
  - d) Chapter 3 of the Namibian Constitution is also known as..... (1)
  - e) This contains a programme of action or a declaration of intent with regard to the principles contained in the particular statute. (1)
  - f) An indigenous African concept refers to a practical humanist disposition towards the world, and refers to compassion, tolerance and fairness, which is since time immemorial reflected in the African law. (1)
  - g) This Latin term means "of the same kind" (1)
- [7]**

### QUESTION 8

- a) Mr Pogoshi is charged for doing business on a Sunday under the Lord's Day Observance Proclamation 54 of 1921 and/or the Sunday Trading Proclamation 12 of 1919. At his trial, his legal representative argues that the said Proclamations have not been applied since forty years and as a result, these provisions have fallen away due to disuse. Is the said legal representative technically and legally correct? Give a reason for your answer. (4)
  - b) Would your answer be different if Mr Pogoshi had been charged under a common law rule that has not been used for some odd forty years? (2)
- [6]**

### QUESTION 9

Mr, Keagile appeared in court in June 2012 on a charge of contravening the Internal Security Act. The said Internal Security Act was repealed in September 2012 by a new Internal Security Act.

Under which Act will Mr Keagile's trial take place? Give a reason for your answer. **[4]**

### **QUESTION 10**

In the language dimension of the interpretation process certain basic principles must be followed. Explain these principles. [5]

### **QUESTION 11**

Mr. Ashipala, an employee in the Ministry of Home Affairs is caught speeding along Independence Avenue, on his way home from work. He is charged a fine for violating the traffic regulations, which fine he refuses to pay and is thus summoned to court. In court he raises the defense that government bodies are not bound by their own legislation. Discuss briefly whether he would succeed with this defence. [6]

### **QUESTION 12**

- a) Which factors in the historical and comparative dimensions assist to find the purpose of the legislation. (10)
  - b) Which would be the most important factor in (a) above and why? (1)
- [11]

### **QUESTION 13**

On the 5<sup>th</sup> of August 2018, Mr. Mandaza suffered damages due to the fact that a police vehicle collided into his motor vehicle. In terms of the Police Act a claim against the police must be instituted within 6 months of the collision. The summons was served on the 5<sup>th</sup> of February 2019. The said Police Act does not give a definition for the word "month". Discuss briefly whether the summons has been served in time. [5]

### **QUESTION 14**

- a) When would the courts not be entitled to modify the meaning of a text? (4)
- b) A "Semi-Precious Stones Act" was promulgated by Parliament. Section 10 of the said Act makes it illegal to sell sodalite, a semi-precious stone found in northern Namibia. Further the said section lays down a penalty of 2 years imprisonment for anyone found guilty under this section. Mr. Shabangu, a tourist from South Africa, travels to a remote area in the north of Namibia and is offered a 5kg sodalite stone by Mr. Samuels. Mr. Shabangu buys the said stone. On his way back to Windhoek, Mr. Shabangu is stopped at the roadblock and the police officers find the sodalite and promptly arrest him for buying and being in possession of sodalite in terms of the above mentioned Act. At his trial, Mr. Shabangu, in his defense, states that the said section 10 of the said Act only prohibits the selling of sodalite and not the buying and possession thereof. The court nevertheless finds him guilty and imposes a one year prison sentence. Which rule under which interpretative method did the court use to find him guilty? (2)

- c) What in the end would be the determining factor? (2)  
[8]

**QUESTION 15**

Complete the following sentences:

A legislative provision that requires exact compliance is .....

A legislative provision that requires substantial compliance is ..... [2]

**TOTAL MARKS: 100**