



**NAMIBIA UNIVERSITY
OF SCIENCE AND TECHNOLOGY**

FACULTY HUMAN SCIENCES

DEPARTMENT OF SOCIAL SCIENCES

QUALIFICATION: BACHELOR OF PUBLIC MANAGEMENT/CRIMINAL JUSTICE	
QUALIFICATION CODE: 07BPMN/07BCJC/07BACJ	LEVEL: 5
COURSE CODE: LPM511S	COURSE NAME: LAW FOR PUBLIC MANAGERS 1A
SESSION: JULY 2019	PAPER: THEORY
DURATION: 3 HOURS	MARKS: 100

SUPPLEMENTARY / SECOND OPPORTUNITY EXAMINATION QUESTION PAPER	
EXAMINER(S)	MRS H. von ALTEN MR C. HARRIS
MODERATOR:	ADV. M. SAAYMAN

INSTRUCTIONS
<ol style="list-style-type: none">1. Answer ALL the questions.2. Write clearly and neatly.3. Number the answers clearly.

PERMISSIBLE MATERIALS

1. Examination paper
2. Examination script

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

QUESTION 1

Identify the difference between the Regional Court and the High Court. [8]

QUESTION 2

Are the following statements true or false? Motivate your answer.

- a) It is said the Supreme Court is only a court of appeal; no trials take place before this particular court. (2)
- b) The Constitution is the supreme law of the land. However, chapter 3 of the said Constitution can be amended on instructions from the executive branch of government. (2)
- c) Due to its unwritten nature, customary law is often ignored by courts when adjudicating tribal matters. (2)

[6]

QUESTION 3

- a) What is the most important law in Namibia? (1)
- b) What is the originating source of law in Namibia? (1)
- c) What is the most important source of law in Namibia? (1)

[3]

QUESTION 4

"It is constitutionally accepted for apartheid era laws prior to independence to remain in force in order to avoid a legal vacuum." Do you agree with this statement? Explain. [5]

QUESTION 5

What type of action (criminal and civil) will be initiated in the following scenarios?

- a) Peter writes an article in a local newspaper in which he accuses Sarko Divollo as being the head of a criminal gang terrorising the streets of Windhoek. (1)
- b) Sepo and Ndana are drinking beer at a local tavern. They are interrupted by Guribeb who, without asking, grabs a beer from the table and downs it without any care in the world. Livid, they grabbed him and beat him with their fists and kicked him in his groin until he fainted. (1)
- c) Dobson Nyathi undergoes a gastric bypass surgery at a local hospital and a scissor is left in his stomach. (1)

- d) Pendapala and Witbeen are primary school learners. One day they came to school late and as punishment their school Principal ordered their class teacher to whip them with a copper cable. (1)
- d) Sarah intends to take legal action against a company where she is employed after her boss sent her sexually explicit messages on her phone. (1)
- [5]**

QUESTION 6

- a) There are three distinctions between Public and Private Law. Identify which one of the three will be the most distinguishing factor to identify a Public Law relationship. (2)
- b) In terms of article 94(1)(af) of the Local Authorities Act, 1992, the Municipality of Windhoek makes a regulation prohibiting the keeping of bees in the residential and industrial municipal area of Windhoek. Mr Alberts, a beekeeper, who lives in Hochland Park, has 10 beehives on his property, the honey of which he sells at the Bio-Market in Klein Windhoek on Saturdays. Mr Albert's neighbour was stung by several bees while watering his garden and lodges a complaint with the Municipality with regard to the keeping of bees by Mr Alberts. A Municipal officer is sent to Mr. Alberts's premises and he instructs Mr Alberts to destroy the bees or move them to a rural area. Mr Alberts agrees to remove the said bees within one week to a friend's farm near Otjiwarongo. Does Private or Public Law apply? Give a reason for your answer. (3)
- c) Mr Lumbo owns Plot 123 in Windhoek West. The Ministry of Safety and Security wishes to purchase this plot to build further Police offices. A price is agreed upon and Mr Lumbo sells the said plot to the said Ministry. Does Private or Public Law apply? Give a reason for your answer. (3)
- [8]**

QUESTION 7

- a) What is a juridical relationship? (2)
- b) When will a juridical relationship turn into an administrative one? (2)
- [4]**

QUESTION 8

In the scenarios below, identify the type of delegation used by the Minister of Higher Education, Training and Innovation and provide reasons for your answers thereto. You are further requested to refer to the type of power the Minister possesses in each of the given scenario.

- a) The Minister issues a directive requesting the Executive Director to attend a local university's graduation ceremony and deliver a speech on her behalf. (6)
- b) The Minister of Higher Education, Training and Innovation orders her Director of Research and Innovation to attend a seminar on research, innovation and technology

at Luderitz on her behalf, and to take any action in line with the policies of her Ministry and the Government of the Republic of Namibia. (4)

- c) The same Minister issues a directive to the Regional Education Directorate to cancel plans to officially open a local school feeding program so that she can do it herself.

(5)

[15]

QUESTION 9

In terms of section 72(1) of the Water Resource Management Act 24 of 2004, the Minister of Agriculture, Water and Forestry, by notice in the Government Gazette, declares the Omatako Dam and surrounding area as a water management area for the purpose of protecting the water resource, riverine habitat, watershed, environment or ecosystem at risk of depletion, contamination, extinction or disturbance from any source, including aquatic and terrestrial weeds. A year later the said Minister decides to increase the said management area and informs his Department of Water Affairs accordingly by memorandum, to implement this decision. Did the said Minister act correctly? Explain. [5]

QUESTION 10

In the scenario below, you are requested to identify an administrative action. In the same vein, you are expected to refer to the concept of “functus officio” and state whether the action/s can be revoked and give a reason for your answer. You are further expected to identify when the action has legal force.

The Katima Mulilo Town Council, like many urban centres in the country, is facing a critical shortage of serviced land. Jack Stanza applied for a plot with the relevant Chief Clerk of the Katima Mulilo Municipality in line with the Local Authorities Act. To his disappointment, his application was turned down by the Chief Clerk. He then decided to appeal to the Chief Executive Officer (CEO) of the Katima Mulilo Town Council. This time around, the CEO overturned the decision of the Chief Clerk and granted him the right to buy a plot on town council land. [7]

QUESTION 11

The Society for the Prevention of Cruelty to Animals (S.P.C.A) does act in the public interest, but administrative law principles will only be applied to this Society if it is a government authority. How will one decide whether the said S.P.C.A. is a government authority? [5]

QUESTION 12

Internal appeal is a judicial act. True or False? Without enumerating the practical consequences, give a reason for your answer. [7]

QUESTION 13

- a) Should an administrative act not be clear and understandable but vague and confusing, what approaches could be taken to try to remedy the defect and which approach is to be preferred? Give a brief reason for your answer. (4)
- b) Article 18 of the Namibian Constitution states that administrative bodies and administrative officials shall act fairly and reasonably. What does "fairly" refer to? Briefly explain. (4)
- [8]**

QUESTION 14

Joseph is working for NaTIS Branch in City Centre and is transferred to Northern Industrial Area. This is very inconvenient for him, as he is now not within walking distance from his work and thus has to get up earlier in the morning to be in time for work. In spite of the fact that he took this matter to his superiors, it was to no avail. Can he take this matter to court? Explain. **[8]**

QUESTION 15

- a) Titus Sakasaka is convicted and subsequently sentenced by a Magistrate court to a period of 6 years in prison for theft. He is not happy with the result and approaches the High Court. What process will be used? Explain. (2)
- b) Jacobus Matokwani was arrested with a bag full of dagga. He was promptly brought to a district Magistrates' court and the Magistrate forgot to inform him of his right to a lawyer of his own choice. Nevertheless, the Magistrate sentenced him to an effective 3 years in prison. What process will be used to approach the High Court? Explain. (2)
- c) A certain Traditional Authority is of the opinion, which is in line with its customary laws, that any girl who reaches the stage of puberty is a woman and as such should get married. However, the Ministry of Gender Equality and Child Welfare argues that the assertions made by the Traditional Authority are invalid and contrary to the spirit of the Constitution. What process will they use to approach the High Court? Explain (2)
- [6]**

TOTAL MARKS: 100