



**NAMIBIA UNIVERSITY
OF SCIENCE AND TECHNOLOGY**

**FACULTY OF HUMAN SCIENCES
DEPARTMENT OF SOCIAL SCIENCES**

QUALIFICATION: BACHELOR OF PUBLIC MANAGEMENT	
QUALIFICATION CODE: 07BPMN	LEVEL: 5
COURSE CODE: LPM 521S	COURSE NAME: LAW FOR PUBLIC MANAGERS 1B
SESSION: NOVEMBER 2022	PAPER: THEORY AND CASE STUDIES
DURATION: 3 HOURS	MARKS: 100

FIRST OPPORTUNITY EXAMINATION	
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INSTRUCTIONS	
<ol style="list-style-type: none">1. The paper has TEN questions.2. ALL the questions are compulsory.3. Read carefully before answering.4. Write clearly and neatly.5. Number the answers clearly and according to the structure in the examination question paper.6. Candidates will be penalised for incorrect spelling and illegible handwriting.	

ANNEXURE

The Namibian Constitution (Chapter 3) (8 pages)

PERMISSABLE MATERIAL

None

THIS EXAMINATION PAPER CONSISTS OF 6 PAGES (Excluding 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.

1.1 Who may amend the legislation?

- (A) Any government agencies
- (B) Only the Higher courts
- (C) All the courts
- (D) Competent bodies as so authorized by law

1.2 What is meant by the demise of a legislation?

- (A) Is where laws are made by courts during the interpretation
- (B) Is where the laws are declared invalid by the courts and repealed
- (C) Is the separation of powers
- (D) Where the legislation is included in the statutes

1.3 When interpreting legislation the following is part of the rules:

- (A) The starting point is context
- (B) The starting point is the ordinary meaning but only take context into consideration if it becomes impossible to deal with the meaning alone
- (C) Starting point is the ordinary meaning which takes context into account from the beginning
- (D) Starting point is context and balance with the ordinary meaning

1.4 Although a Right of freedom is guaranteed by the Namibian Constitution, these rights are sometimes limited by Art 22 of the same Constitution. Which list below has the correct list of these rights?

- (A) Freedom of movement, Right to human dignity and fair trial
- (B) Freedom of movement, right to privacy and freedom of expression.
- (C) Arrest, fair trial, right to life and right to property.
- (D) A and B

- 1.5 The Right to life means;
- (A) It is a source of all personal rights.
 - (B) A Police is entitled to protect this right by even killing
 - (C) Criminals ,especially those that kill have to be punished by killing
 - (D) It can be suspended
- 1.6 A right to a child is also that of nationality. Meaning a child is;
- (A) Recognized by the nationality of the parents
 - (B) Denied access to many more other rights without a nationality
 - (C) Entitled to a state even without a nationality
 - (D) None of the above
- 1.7 Who may amend a subordinate legislation?
- (A) Parliament
 - (B) State officials under the relevant body
 - (C) Administrative body as authorized
 - (D) Both parliament and administrative authority
- 1.8 The difference between adoption and promulgation is;
- (A) When the bill is passed by the three arms of government it is called adoption and promulgation is when is published
 - (B) When the bill is passed by the body authorized in terms of Art 44 of the Namibian Constitution is called adoption and promulgation is when it is published.
 - (C) When the bill it is passed by the body authorized in terms of Art 44 of the Namibian Constitution is called adoption and promulgation is when the National Council also passes it
 - (D) None of the above
- 1.9 Methods that the courts use to keep the legislation alive are:
- (A) Down reading, Reading up, reading in and restrictive
 - (B) Restrictive , severance, reading in and reading up
 - (C) Only reading in , reading up and reading down
 - (D) Reading down, reading up, reading in and severance

- 1.10 The phrase don't miss the wood for the tree during the interpretation means:
- (A) Interpretation means dealing with intra-textual context and extra-textual.
 - (B) The interpreter has to avoid missing the point by not balancing the text and context.
 - (C) If the next is not clear interpreter should not confuse the matter by mixing both context and text.
 - (D) None of the above.

(TWO (2) MARKS EACH) TOTAL MARKS 20

QUESTION 2

INDICATE WHETHER THE FOLLOWING STATEMENTS ARE TRUE OR FALSE NO NEED TO MOTIVATE YOUR ANSWER:

- 2.1 Namibian Constitution does not contain a single reference to the interpretation of statutes.
- 2.2 Subtraction or addition during interpretation of legislation is seen in the light of tria politicas.
- 2.3 Subordinate legislation has to be invalidated by the original legislation.
- 2.4 Legislation may be halted, meaning it is temporarily removed until certain conditions are met.
- 2.5 Total repeal of a legislation can only be done by the marker and not courts.
- 2.6 Directory provisions means that any form of none compliance will be condoned.
- 2.7 If there is substantial compliance only, the legislation must be declared null and void.
- 2.8 Democracy is Kratein, meaning (obey) and Demos (people).
- 2.9 Entitlement right is exercised by the National Assembly on behalf of the citizens. It can be called direct democracy.
- 2.10 Fundamental rights and freedoms today are not associated with democracy because it denotes nothing else but majority rules.

(TWO (2) MARKS EACH) TOTAL MARKS 20

QUESTION 3

Suppose a regulation of the hostels at the Namibia University of Science and Technology (NUST) prohibits any person of the opposite sex to stay the night in the same room. Further, that any visitors to the said hostels have to be out of the rooms before 22:00 during the week and 0:00 over week-ends. However, the said regulations have not made any provisions for a consequence should the prohibition be ignored. Mr. Wanga, who lives in the hostel is caught with his girl friend in his hostel room at 6:00 one morning and it is obvious that she had spent the night with him. At a disciplinary hearing Mr. Wanga is evicted from the hostel. He appeals the decision on the ground that the said regulation does not cater for an eviction. What common law rule will NUST use to defend their eviction? [4]

QUESTION 4

How and why has the law making function of the courts changed since independence? [5]

QUESTION 5

- a) Government created human rights. Is this statement true or false? (1)
- b) Chapter three of the Namibian Constitution is said to be entrenched. What in short is the meaning of the word "entrenched"? (1)
- c) At what levels are human rights protected? (3)
- d) What instruments protect human rights at each level? (5)

[10]

QUESTION 6

What is the most important principle of statutory interpretation today? Give a reason for your answer. [5]

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) Assume that a certain Expropriation Act is unconstitutional. Will it automatically be invalid? Explain with reference to the Constitution. (6)
- b) What court/s will have jurisdiction in (a) above? (2)
- c) Will unconstitutional common law be dealt with in the same way as legislations? (3)

[11]

QUESTION 9

Identify 5 (five) differences between the text-based approach and the text-in-context approach. [10]

QUESTION 10

10.1 Besides purpose, identify other factors that restrict the law-making process of the court. [5]

10.2 What is the difference between interpreting Chapter 3 of the Namibian Constitution and interpreting the rest of the Constitution? [3]

[8]

END

TOTAL MARKS 100