

ZIMBABWE EZEKIEL GUTI UNIVERSITY

Department of Public Law

Administrative Law (LLB106)

Examination

13 JUNE 2018

3 HOURS

Instructions

- (i) Answer two questions from section A. Answer two questions from section B.
- (ii) Each question carries 25 marks.
- (iii) Students may bring into the exam un-annotated and clean texts of applicable legislation and the 2013 Zimbabwean Constitution.
- (iv) Copies with notes inside shall not be allowed and may be confiscated. No student can share his/her copy with another.
- (v) Number your answers accordingly

NB: DO NOT TURN OVER THE QUESTION PAPER OR COMMENCE WRITING UNTIL INSTRUCTED TO DO SO.

Section A Answer two questions from this section

Question 1

With the aid of case law, discuss the circumstances where there is no requirement for the exhaustion of internal remedies before approaching the courts for a remedy [25 marks]

Question 2

With reference to case law and relevant applicable legislation, discuss the different classes of administrative action. [25 marks]

Question 3

Discuss the theories of administrative law and their relevance in the control of administrative action. [25 marks]

Section B

Answer two questions

Question 5

Professor Scuff applied for a post of CEO at Bakers Inn Bread Company. The advertisement for the post stipulated the required qualifications for the job. Professor Scuff meets all the requirements. Of all the candidates that applied Professor Scuff is the only one who meet the criteria to fill in the post. In addition, Professor Scuff has been acting in the CEO position for 2 years after the resignation of the former substantive CEO. Interviews were conducted, and Professor Scuff was not successful. He wrote to the committee requesting reasons for the decision. The committee refused and stated that supply of reasons was discretionary and further the reasons could not be disclosed in the public domain because of the need to protect state security. Professor Scuff approaches you for legal advice. Advise him on the position of the law on the issues presented in this case and what he can do to enforce his rights. [25 marks]

Question 6

Nyasha, a university student at Zimbabwe Ezekiel Guti University appeared before the Student Disciplinary Committee charged with assaulting a fellow student. The Committee found him guilty and expelled him from the university. The Committee was composed of a Chairperson and two lecturers. Nyasha alleges that one of the lecturers, Atkins, is a distant relative of the student that he assaulted. During the disciplinary hearing the lecturers did not ask any questions and the verdict was delivered without much discussion. Nyasha also states that:

- he was only informed of the hearing thirty minutes before it was due to commence;
- the Chairman was extremely hostile towards him and because of this he did not ask if he could cross-examine the witnesses giving evidence against him;
- he was not allowed to be legally represented as the Chairman had stated that “we never allow lawyers to disrupt the work of this Committee”.

After having been found guilty, Nyasha appealed to the Vice-Chancellor who turned down his appeal.

The relevant disciplinary regulations are as follows:

- a) The Student Disciplinary Committee shall consist of a Chairperson and at least two lecturers from the same faculty as the student and 2 members of the Student executive council.
- b) The student charged shall have a right of audience before the Student Disciplinary Committee.
- c) The student charged shall be entitled to be legally represented subject to the agreement of the Chairman.
 - d) Any student found guilty of misconduct shall have the right to appeal to the Vice-Chancellor. There shall be no further right to take the case on appeal or review to any court of law whatsoever.

Advise Nyasha of his rights in this matter. **(25 marks)**

Question 4

- a) When is it legally acceptable for an administrative authority to proceed by requiring only written submissions rather than an oral hearing? **[10 marks]**
- b) Legal representation should not be allowed in every case. Discuss **[15 marks]**