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FEEDBACK TUTORIAL LETTER SEMESTER 1: (2023)

LAW FOR PUBLIC MANAGERS 1A LPM 112S

Assignment 1& 2

Assignment 1

QUESTION 1

- High Court: Highest civil and criminal trial court(1)
Hears civil and criminal appeals from lower courts(1)
- Supreme court: Highest court in Namibia(1)
Hears only appeals and no trials(1) [4]

QUESTION 2

- Jurisdiction is the authority which a court has (1)
to decide a case before it (1)
and to take cognisance (1)
of matters presented for decision (1) [4]

QUESTION 3

- a. High court (1)
b. Supreme Court (1) [2]

QUESTION 4

- a. Case law (1)
Judicial precedents (1)
b. Doctrin of Stare Decisis (1) [3]

QUESTION 5

- a) The Bill must be forwarded back to the National Assembly **(1)**
where a two-thirds majority must be obtained for the Bill to go forward **(1)**
then signed by the President **(1)** (2)
- b) If the Bill is passed by a simple majority the president can refuse to sign it **(1½)**
If the Bill has been passed by at least a two-thirds majority, the president cannot
refuse to sign **(1½)** (3)
- [5]**

QUESTION 6

- a. That in Private law the parties are on equal footing as they enter the relationship voluntarily and in Public Law the parties are on unequal footing as the one party i.e. the State is acting with power and authority. **(1)**
- b. Public Law **(1)**
as the parties are on unequal footing as the Municipal officer is acting with power and authority **(1)**
obtained from the regulation made under the Local Authorities Act.**(1)**
- [4]**

QUESTION 7

Original legislation made by Parliament **(1)**
with the power give to it by the Constitution **(1)**
Sub-ordinate legislation made by the Executive **(1)**
With the power given to it by Original Legislation **(1)**
Administrative law will govern sub-ordinate legislation **(1)** **[5]**

QUESTION 8

- a. Before independence under Parliamentary sovereignty,**(1)**
Parliament could make any law it pleased as long as the correct procedure was followed **(1)**
and no court of law could test the validity of any legislation made **(1)**

and thus the court merely looked whether the administrative organ or official acted with the powers given to it by the relevant legislation. **(1)**

However now under Constitutional sovereignty **(1)**

the Constitution is supreme and not Parliament **(1)**

and the courts may test the validity of legislation as against the Constitution thus do not merely look whether intra vires **(1)**

but whether fair **(1)**

and reasonable **(1)**

and in compliance with the common law **(1)**

[10]

b. Article 18 **(2)**

[1]

QUESTION 9

Principle of co-operative governance **(1)**

Which is important for the following reasons:

Effective functioning **(1)**

Participation in decision making **(1)**

Assistance and support **(1)**

Expertise sharing leading to better service to the public **(1)**

[5]

QUESTION 10

The Namibian Constitution **(1)**

Since it demarcates **(1)**

the powers **(1)**

functions **(1)**

and organization of the administration **(1)**

[5]

TOTAL: 50 MARKS

Assignment 2

QUESTION 1

If the one party is a state organ (1)
and obtains authority via legislation (1)
and exercises it (1)

[3]

QUESTION 2

2a) review, (1)
alter, (1)
cancel (1)

(3)

b) When the task has been completed (1)
and a right has been given (1)

(2)

[5]

QUESTION 3

a) In a general relationship the same rules apply to all subjects (1)
And they are created or varied by legislation and not by an individual resolution (1)
In an individual relationship specific rules apply to specific subjects (1)
And they are created or varied by individual decisions/measures (1)

(4)

b) The decision by the minister is not valid (1)

as he must vary the original regulations by promulgating a new regulation(1) i.e. must vary it in the same way in which the original one was made.(1)

(3)

[7]

QUESTION 4

On account of Art. 18 NC all administrative acts can be judicially reviewed.

(1)

However, judicial review of **internal administrative acts** does not operated in every case. (1)

Internal administrative acts can be divided into acts affecting rights and privileges of officials (1) and those not affecting rights and privileges of officials.(1)

This scenario falls into the former category.(1)

However acts affecting the rights and privileges of official can be further divided into those rules relating to promotion, transfer, secondment and performance of tasks in general, (1) and disciplinary measures against officials.(1)

The former are generally not reviewable because they are agreed to (1) but the latter actions are reviewable.(1)

Thus as Zebu's case falls in the latter he may go on review to a court. (1) [10]

QUESTION 5

a) No (2) (2)

b) Judicial control is the review which courts have on decisions or actions by administrative officials or organs (2)

Internal control is the reconsideration by a higher organ or official of a decision or action of a lower official or organ within the same department (2)

(4)

c) Internal appeal is not normally permitted in respect of judicial

administrative acts, since these decisions by judicial bodies may only be altered by a higher judicial body. **(2)**

Internal appeal does not arise within the sphere of legislative administrative action since these acts are usually performed by the highest organ within the department. **(2)**

(4)

[10]

QUESTION 6

a) No **(1)**

This is a valid beneficial disposition and as a right has been given **(1)**
it can only be revoked in the presence of an express or implied
statutory authorization **(1)**

(3)

b) 'functus officio' means that the body or official is no longer legally
qualified to decide upon an issue because the task has been completed

(2)

c) The author of a legislative administrative act is not functus officio **(1)**
but the change will not affect acquired rights **(1)**
in the absence of express or implied statutory authority**(1)**

The author of a judicial administrative act is functus officio**(1)**

His decision is final and binding and can only be altered by a higher judicial body**(1)**

(5)

[10]

QUESTION 7

a) The power to condone or dispense with non-compliance with certain formal or procedural provisions**(1)**
(1)

b) It will not be allowed:

Where it will lead to non-compliance with other requirements which are necessary to validate the administrative action. **(2)**

Where non-compliance with procedural or formal requirements would materially prejudice the interests of the individual. **(2)**

(4)

[5]

TOTAL MARKS: 50