

UNIVERSITY EXAMINATIONS



QR Access Code: a07e5b5d

16 October 2024

ADL2601

Administrative Law

**100 Marks
3.30 Hours**

First Examiner: Dr. J. Ramages

Second Examiner: Mr S. Selelo

THIS PAPER CONSISTS OF 9 (NINE) PAGES – INCLUDING INSTRUCTIONS.

**PLEASE READ THE FOLLOWING INSTRUCTIONS CAREFULLY BEFORE
ANSWERING THE EXAMINATION QUESTIONS.**

1. The examination question paper counts **100 marks**.
2. It consists of 20 (twenty) compulsory questions. Answer ALL of the questions.

3. The duration of the examination is 3 hours and 30 minutes. Your answers must be submitted via the myExams platform on the 16th of October 2024 on or before 12h00pm (South African Standard Time).
4. In addition to the duration of the examination indicated on the timetable, you are given **30 minutes to FINALISE the uploading of your exam file**. Your exam file must be uploaded via the myExams platform on **16th of October 2024 BEFORE 12h00pm (South African Standard Time)**.
5. This a **closed-book examination**. While the examination is in progress, you are not allowed to consult another person or any source in order to assist you to answer any of the questions contained in this question paper. While the examination is in progress, you may not assist another student in answering any of the questions contained in this question paper.
6. This examination is proctored via the Invigilator App. You are required to activate (or log in to) the Invigilator app between **7:45am** and **08:30am** (South African Standard Time).

The QR code is below:



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- 6.1 **Please note:** If a student is found to have been outside the invigilator app for a total of 10 minutes during their examination session, they will be considered to have violated Unisa's examination rules and their marks will be withheld.
- 6.2 **You only have 10 minutes after the due time to submit your script on the Invigilator App.**
- 6.3 You will have **48 hours from the date of their examination to upload their invigilator results from the Invigilator App**. Failure to do so will result in students deemed not to have utilised the invigilation or proctoring tools.

7. The uploading of your exam file on the myExams platform must be **finalised within 30 minutes of the scheduled (timetabled) end of the exam.**
- 7.1 When ready to submit, open the Take-Home (Assignment) assessment again and click on the Add Submission button.

Submission status

Submission status	No attempt
Grading status	Not marked
Due date	Saturday, 11 June 2022, 12:00 AM
Time remaining	37 days 8 hours
Last modified	-

Submission comments

▶ Comments (0)

▼
Add submission

- 7.2. Note the file requirements such as:
- File size limit.
 - Number of files that can be submitted.
 - File formats allowed.
- 7.3. Check the acknowledgment checkbox and upload your answers document and then click on the Save changes button.

File submissions

☒ This submission is my own work, except where I have acknowledged the use of the works of other people.

Maximum file size: 50MB, maximum number of files: 1

Files

A Sample PD...

Accepted file types:

Document files .doc .docx .epub .gdoc .odt .ott .pdf .rtf
 PDF document .pdf
 Word 2007 document .docx
 Word document .doc

Save changes Cancel

- 7.4. Review your submission information regarding the status and click on your submission file link to check if it's correct.

Submission status

Submission status	Submitted for grading
Grading status	Not marked
Due date	Saturday, 11 June 2022, 12:00 AM
Time remaining	37 days 8 hours
Last modified	Wednesday, 4 May 2022, 3:05 PM

File submissions

 A Sample PDF.pdf	4 May 2022, 3:05 PM
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Submission comments

► Comments (0)

- 7.5. If you need to resubmit a file, you can click on the Edit Submission button. Note: You will need to delete any existing files.

Submission status

Submission status	Submitted for grading
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File submissions

 A Sample PDF.pdf	4 May 2022, 3:05 PM
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Submission comments

► Comments (0)



Edit submission

Remove submission

- 7.6 Use proper PDF conversion software to create the final file for upload. Free PDF conversion software is available on the Internet.
- 7.7 Add your student number and the module code in the file name. That will assist you to select the correct document to upload during submission.
- 7.8 You are advised to preview your submission (answer script) to ensure legibility and that the correct answer script file has been uploaded.
8. The cover page for your take-home exam must include your name, student number and the module code.

9. It is preferred that your take-home exam is typed. However, handwritten submissions will also be accepted. If the take-home exam is typed, the maximum length is **10** pages. If the take-home exam is handwritten, the maximum length is **15** pages.
10. Whether your answers are typed or handwritten, your submission on the myExams platform on Moodle must be made in the form of **one PDF** document. Only the last file uploaded and submitted will be marked.
 - 10.1 The exam answer file that you submit must not be password protected or uploaded as a “read only” file.
 - 10.2 Your examination answer file will not be marked if:
 - 10.2.1 you send your examination answer file via email.
 - 10.2.2 you submit the incorrect examination answer file. A mark of 0% will be awarded.
 - 10.2.3 you submit your exam answer file on an unofficial examination.
 - 10.2.4 you submit your examination answer file in the incorrect file format.
 - 10.2.5 you submit a password-protected document.
 - 10.2.6 you submit your examination answer file late.
 - 10.2.7 you submit your answer file from a registered student account that is not your own.
 - 10.3 The mark awarded for an illegible examination answer file submission will be your final mark. You will not be allowed to resubmit after the scheduled closing date and time of the exam.
 - 10.4 Listening to audio (music) and utilising audio-to-text software has been strictly prohibited during your examination session, unless use of the software is related to a student's assistive device which has been declared. Listening to music, utilising such software and/or failing to declare the software is a transgression of Unisa's examination rules and the student's marks will be withheld.
11. If your answers are typed, ensure that the following requirements are adhered to. Items 11.1-11.7 applies to written assignments as well.
 - 11.1 The text must be typed in Arial font, size 12 with single line spacing within the paragraph, and double line spacing after the paragraph.
 - 11.2 The text must be justified.
 - 11.3 All of the pages must be numbered in the right-hand corner at the bottom of the page.
 - 11.4 All margins must be 2.5cm, but the left margin must be 3cm.
 - 11.5 South African English and not American English should be used. For example, the correct spelling is “Labour” and not “Labor”.

- 11.6 Do not use abbreviations or SMS language.
- 11.7 All quotes that are two lines long (or less), must form part of the main text, be written in italics, and be bracketed by quotation marks. Where a quotation is longer than two lines, it must be typed in a separate paragraph in italics in size 11 font and must be indented by 1 cm. No quotation marks are required when the quotations stand alone. Use quotations very sparingly. In this take-home exam, a maximum of 5% of the text may be quoted.
12. **PLEASE DO NOT CUT AND PASTE ANSWERS FROM THE STUDY GUIDE (OR ANY OTHER SOURCE).**
13. The arguments that you make must be logical, well-structured and substantiated by all of the relevant legal principles. Use the time given wisely.
- 13.1 Ensure that you give reasons for each answer. Substantiate your answers by referring to ALL of the relevant authorities, e.g. sections from relevant legislation and/or court cases in the text or in your footnotes.
- 13.2 You are required to have read and summarised the prescribed cases yourself. The summaries in the Study Guide are not sufficient for this exam. When using case law to support your answer, please include complete references to the relevant cases in your footnotes. This means that you must not only include the name of the case but also the exact page and section and/or paragraph where the information can be found. The same applies to articles and books used.
- 13.3 A number of students lose marks because they do not approach problem-type questions correctly. When answering such questions, it is important to first clarify for yourself the area of work where the answer must be sought. Once you have done this, set out the relevant legal principles. Deal only with those principles that relate to the given facts. Next, apply these principles to the facts. This is where most of the students lose marks - they set out the law in some detail, but then do not illustrate how it applies to the factual situation they have been asked to solve. Finally, state your conclusion.
14. You must complete the online declaration of own work when submitting.
- 14.1 By ticking the Honesty Declaration, you confirm that you have read (i) the University's [Policy on Copyright Infringement and Plagiarism](#) and the [Student Disciplinary Code](#), which are both available on myUnisa: www.unisa.ac.za/unisarules, and (ii) the information relating to student values and plagiarism that is found at <https://www.unisa.ac.za/sites/myunisa/default/Study-@-Unisa/Student-values-and-rules>.
- 14.2 Students suspected of dishonest conduct during the examinations will be subjected to disciplinary processes. Students may not communicate with other students, or

request assistance from other students during examinations. Plagiarism is a violation of academic integrity, and students who do plagiarise or copy verbatim from published work will be in violation of the Policy on Academic Integrity and the Student Disciplinary Code and may be referred to disciplinary hearing. Unisa has a zero tolerance for plagiarism and/or any other forms of academic dishonesty.

14.3 The use of Artificial Intelligence software (ChatGPT, etc.) and online sources (Course Material) during your online examination session is strictly prohibited.

14.4 Unless a student is exempted because of disability or incarceration, students who have not utilised invigilation or proctoring tools will be deemed to have transgressed Unisa's examination rules and will have their marks withheld.

PLEASE NOTE:

If you experience challenges with the Invigilator app, please send a WhatsApp **message** to the technical helpdesk on 073 505 8273. Do not contact the lecturers.

For all other exam-related challenges, you may contact the SCSC on 080 000 1870 or e-mail Examenquiries@unisa.ac.za or refer to [Get-Help](#) for the list of additional contact numbers.

Case Study

Mrs Kolosi, the primary caregiver of her minor grandchild, receives a monthly Child Support Grant (CSG) from the South African Social Grants Authority (SASGA)¹. Both she and her grandchild are proud South Africans. Mrs Kolosi has over the past year been at the forefront of a community-led movement seeking to expose corruption in the grant system at SASGA and has on more than one occasion been warned that her political activities 'may get her into trouble'. She relies on the grant as the sole source of income to ensure that her grandchild is fed and able to attend school.

In early 2024, Mrs Kolosi was informed that the payment of this monthly CSG was cancelled by the Director-General of SASGA in terms of the SASGA Act² on the basis that it had come to the attention of the Director-General of SASGA that she was 'no longer eligible' for a CSG (although her grandchild remains a minor). Mrs Kolosi approaches you, an attorney, for advice regarding several aspects - please advise on the following.

1. In terms of section 33 of the South African Constitution, advise Mrs Kolosi of the three requirements which administrative action must meet. [3]

¹ This is a hypothetical department created solely for the purpose of this exam.

² This is a hypothetical law created solely for the purpose of this exam.

2. Should Mrs Kolosi wish to institute legal proceedings against SASGA, what authoritative sources of law from an administrative law perspective could she rely on. [7]
3. To launch proceedings against SASGA, Mrs Kolosi would be required to demonstrate that the Director-General's decision qualified as administrative action. Advise, Mrs Kolosi on whether the Director-General's decision qualifies as administrative action in terms of section 1 of the Promotion of Administrative Justice Act 3 of 2000 (but it is not necessary to discuss the exclusions in the Act). [16]
4. In preparing a case against the Director-General of SASGA, list the persuasive sources of administrative law which you can use to prepare for trial. [4]
5. In the preceding fact set, identify the organ of state, and discuss the meaning of the term as defined in the Constitution of South Africa, 1996. [5]
6. If Mrs Kolosi is dissatisfied with a decision of the Director-General of SASGA, may she immediately take the matter to court? [2]
7. Are there any instances in which the courts dispense with the preceding rule in the previous question? [3]
8. Discuss how the requirement that internal remedies must be exhausted before approaching a court of law has been justified? [4]
9. Assume that no reasons were given by the Director-General to Mrs Kolosi for the cancellation of the CSG, what remedy is available to Mrs Kolosi if she is not satisfied with the lack of reasons provided by the Director-General? Answer the preceding question in terms of the relevant provision(s) of PAJA. [7]
10. Mrs Kolosi is dissatisfied with the Director-General's decision, and she wants to know if she can challenge it. List the ways in which the legal force of administrative action can be ended? [6]
11. Discuss when administrative action needs to be procedurally fair in terms of section 3(a) of the Promotion of Administrative Justice Act 3 of 2000. [4]
12. In the context of the facts set presented above, identify the characteristics of an administrative law relationship. [3]
13. If the Director General exceeds his authority in terms of the SASGA Act, what is this known as? Discuss the meaning of this concept. [4]
14. The basis of legality is that the public administration must..... [4]
15. Identify the different forms of abuse of power by the administrator (i.e. the Director General) when exercising his powers. [4]
16. Mrs Kolosi is dissatisfied with the Director-General's decision based on it being unreasonable, please enumerate the factors as set out by O'Regan J which are relevant to determining whether a decision is reasonable in *Bato Star Fishing (Pty) Ltd v Minister of Environmental Affairs* 2004 4 SA 490 (CC). [6]
17. In the context of administrative law "rules of natural justice" is the collective term for .. Please discuss. [2]

18. It is unclear to Mrs Kolosi why the Director General took a decision against her. In terms of section 33(2) of the South African Constitution, 1996 discuss which persons have a right to reasons. [3]
19. Discuss the different forms of internal control. [5]
20. Mrs Kolosi is intent on challenging the legality of the Director-General's decision. Discuss the grounds of review of the legality of administrative action. [8]

Total [100]

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