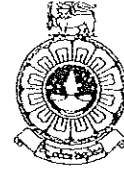


**THE OPEN UNIVERSITY OF SRI LANKA**  
**FACULTY OF HUMANITIES AND SOCIAL SCIENCES**  
**DEPARTMENT OF LEGAL STUDIES**  
**BACHELOR OF LAWS DEGREE PROGRAMME**  
**FINAL EXAMINATION – 2017/2018**  
**LLU5709/LWU3311 – ADMINISTRATIVE LAW**  
**DURATION: (THREE) 03 HOURS**



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**Date: 20<sup>th</sup> February 2020**

**Time: 01.30 p.m. – 04.30 p.m.**

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**Total No. of Question : 08**

**Answer Five (05) questions only.**

**Candidate will be penalized for illegible handwriting.**

01. “In the everyday work of this Court, we are accustomed to examining the validity of Acts of Parliament. Less often does the validity of an executive act come to be considered, but it stands upon the same footing.” [R v Richards, Ex parte Fitzpatric and Brown (1955) 92 CLR 157, 165]

In light of the above statement, critically evaluate the concept of judicial review of administrative action with special reference to Sri Lanka.

(20 marks)

02. The Arms Corporation (Armscor) of Serendib is a state-owned entity regulated by the Arms Corporation Act. Armscor was incorporated to provide military material, equipment, facilities and services to the Department of Defence in Serendib. The state exercises ownership control of Armscor through the Minister of Defence. Armscor's affairs are managed and controlled by its Board, which comprises nine non-executive members and two executive members. General David was appointed to the Board to by the Minister's predecessor in terms of the provisions of the Armscor Act. He was designated as Chairperson in order to address various governance issues. The Minister convened three meetings with the Board none of which was attended by General David. The Minister expressed her displeasure to him by a letter. He replied that the Minister has given late notice of the meetings. Since he had important prior appointments he could not cancel them. He also asked that the future meetings with the Board be convened through him, as the Chairperson.

By a letter, the Minister terminated General David's membership of the Board in terms of section 10 of the Armscor Act which provides that "[a] member of the Board must vacate office if his or her services are terminated by the Minister on good cause shown". The Letter to General David also explained that in the Minister's opinion, General David had "not acted in the best interests of the Department" and that his services as Chairperson of the Board were therefore terminated.

Assume that Serendib legal system is similar to that of Sri Lanka. Discuss the legal issues involved in the above situation. Cite relevant authorities to support your answer.

(20 marks)

3. The Ministry of Justice under the Access to Justice Project is organizing a workshop for administrative officers of the Ministers. The Ministry has identified various themes. One of them is '*Rule of law and legality of administrative action.*' The Ministry invites you as a resource person to make a presentation.

Prepare a comprehensive text of your proposed presentation on the above theme with references to relevant legal authorities.

(20 marks)

04. Latha is a student of the MA in Development Studies in the University North Western of the State of Island. She has submitted the dissertation and the examiner found that in compiling it she had copied various texts from several sources. The examiner made a written complaint to the relevant University Authority. Latha has been charged with the offence of plagiarism and the charge sheet was served on the 17<sup>th</sup> December 2019. She was required to appear before a panel of inquiry on 02<sup>nd</sup> January 2020. Latha requested the panel in writing to provide two weeks more to appear before the panel and to give her an opportunity to retain a lawyer to argue her case.

Since she did not get a reply until 27<sup>th</sup> December she went to the University and inquired about her request. The Registrar informed her that the non-academic trade union strike is scheduled to be commenced from 14<sup>th</sup> January 2020 and that it might last for more than two months. Hence, the University wants to complete the inquiry as early as possible and she could not be given more time. The Registrar also said that her second request to retain a lawyer was also not accepted by the inquiry panel.

Latha wants to know the grounds on which she can challenge the decision of the panel. Assume that the state of Island legal system is similar to that of Sri Lanka. You are required to advise her with relevant legal authorities.

(20 marks)

05. Newland Municipal Council of the State of Restoria is mandated under the Municipal Councils Act to collect garbage within its city limits. The Municipal Council ceased collection of garbage from 05<sup>th</sup> February. Garbage had accumulated in several areas across the city. Nihal one of the resident talking to Balaya TV channel complained that the non-collection of garbage has been prevailing for the past two weeks. He also added that with the prevailing rainy conditions, the inefficient garbage disposal will give rise to several consequences, including the spread of dengue.

Although the residents made several requests verbally and in writing to the Municipal Council no action has been taken so far. The residents want to seek legal remedies.

Assuming that Restoria legal system is similar to that of Sri Lanka, advice the residents with reference to the relevant statutory provisions and case law.

(20 marks)

06. Discuss the impact of declaratory orders in Sri Lanka under Administrative law.

(20 marks)

07. In April 2019, three churches and three luxury hotels in the capital city of Utopia were targeted in a series of coordinated terrorist suicide bombings. During the explosions several residential buildings were also damaged. The affected residents moved to temporary shelters arranged by the state authorities.

Subsequent to the incidents, the Ministry of Disaster Management has issued a circular under the Disaster Management Act and announced that the “residents who have been affected by the terrorist attacks in April 2019 will be eligible to apply for compensation”. The circular included a clause which included the provision of the Act to the effect that the decision made by the Minister of selection of eligible candidates is final and conclusive and cannot be questioned in any court of law.

John, one of the affected residents, forwarded an application to the Ministry through appropriate channels. After a month the Ministry published a list of beneficiaries who are eligible to obtain compensation. John noticed that his name does not appear in the list. He inquired from the Ministry as to why he is not eligible for compensation. The officials said that a complaint has been received from the residents of his area that a relative of John is one of the key suspects in the above terrorist attacks. It was because of this that his application was rejected.

John made an appeal to the Ministry of Disaster Management to reconsider his application. He received a reply stating that the decision made by the Minister is final and conclusive.

John wants to know whether he can challenge the decision of the Minister.

Assuming that Utopia legal system is similar to that of Sri Lanka, advise John with reference to relevant decided cases.

(20 marks)

08. Write notes on any **two (02)** of the following.

- a. Rule against bias
- b. Error on the face of the records.
- c. Legitimate expectation.

(2 x 10 = 20 marks)

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