

THE OPEN UNIVERSITY OF SRI LANKA
 FACULTY OF HUMANITIES AND SOCIAL SCIENCES
 DEPARTMENT OF LEGAL STUDIES
 LLB DEGREE PROGRAMME-2023/2024
 LEVEL 5
 LLU5709 ADMINISTRATIVE LAW
 FINAL EXAMINATION
 DURATION THREE (03) HOURS



DATE :23rd May 2025

TIME: 1.30 PM- 04.30 PM

Total number of questions - 08

Answer five (05) questions only.

Illegible handwriting will be penalized.

1. The Renewable Energy Production Act, 2020, empowers the Minister of Energy to issue rules for the promotion and regulation of solar energy use in the country. Under Section 30 of the Act, the Minister is given the power to delegate limited regulatory functions to the State Electricity Regulatory Boards (SERB), such as fixing tariffs and ensuring compliance. On 2nd April 2025, the Minister issued a rule under Section 30 permitting the SERB to modify tariff on solar energy units, and withhold the subsidy to private solar power companies, as required in case of public interest. Section 35 requires SERB to give two months' prior notice and a hearing to solar producing companies before the new rates are imposed. Section 40 of the Act states: 'No order made by a regulatory board under this Act shall be challenged in any court of law'. The SERB has taken the following decisions on 10th April 2025 with immediate effect.
 - a) Issued an order, reducing the per-unit purchase price of electricity from Rs 35/= to Rs 12/= with immediate effect on all private solar producers on the grounds of excess supply and financial burden on the state.
 - b) Cancelled the already existing solar energy power purchasing contracts with five major solar companies on the same ground mentioned in (a)

Eco Energy Pvt. Ltd. is one of the five major companies that entered into a 10-year fixed-rate contract with the SERB. They wish to challenge the decisions of the SERB.

Advise Eco Energy Pvt. Ltd

Support your answer with case law.

(20 marks)

2. A group of residents living along Green Park Avenue claimed that the City Council of Ciera (CCC) made their locality insecure and unsanitary by constructing a filling station on a plot of public land in the area. Further, they claimed that the CCC began using the adjacent public land as a parking and service ground for its garbage trucks, tractors, water carriers, and backhoes. These vehicles are stationed in the area for long periods, often leaking wastewater and emitting unbearable smell and noise. Residents repeatedly lodged written complaints requesting the CCC to maintain the land properly, relocate vehicles

and undertake sanitary measures. However, to date, the residents have not received any response. Having exhausted all efforts, the residents are planning to file a law suit.

Advise the residents on the following:

- a) The appropriate remedy available for them and the requirements they should satisfied before the Court to obtain the remedy. **(12 marks)**
 - b) Discuss possible challenges the residents may encounter in seeking the remedy you have discussed above. **(08 marks)**
3. The Eco-Management Act empowers the Green Regulatory Board (GRB) to monitor compliance with environmental standards and cancel factories' licenses that are detrimental to human health and the environment. Section 4 of the Act requires a public hearing for not less than two weeks and a show-cause notice before such cancellation. According to Section 10, the Board is empowered to forward complaints to the statutory tribunals constituted under the National Green Tribunal Act for the adjudication and imposition of monetary compensation.

The GRB recently revoked the license of OIS Power Company, a large-scale battery manufacturing company, with immediate effect. The GRB claimed that the company removes its hazards to the adjoining lake without adhering to the prior notices issued by the GRB. In addition, the GRB directed OIS Power Company to pay ten million rupees to the affected villagers.

- a) Examine the legal consequences of the above incident. **(12 marks)**
 - b) Advise OIS Power Company on the appropriate legal remedy. **(08 marks)**
4. Dr. Pero, a government medical officer, was dismissed by the Health Ministry of Rasino for allegedly committing medical negligence. He is the main consultant of a QS Private Hospital. He was called for a hearing, and he noticed that Dr. Tabu is the chairperson of the inquiry panel. Dr. Tabu is the owner of Beta Private Hospital, a direct competitor of QS Private Hospital. The inquiry committee relied on an internal report and did not provide Dr. Pero with a copy of the report or an opportunity to cross-examine witnesses; legal representation was not allowed, and no reasons were given for the dismissal.
- a) Examine whether the principles of natural justice have been violated in the above scenario. Support your answer with case law. **(10 marks)**
 - b) What legal remedies, if any, are available to Dr. Pero? Discuss with reference to relevant case law. **(04 marks)**
 - c) 'Justice not only to be done but must appear to be done to the litigating public.' Concerning this statement, discuss how this principle underpins the tests of bias. **(06 marks)**

5. The Minister for the Coast Conservation and Fish Production Development of Bali issues the following directives.
- (a) Ban the use of all diesel-powered boats in the deep sea with immediate effect. The Act empowers the Minister only to "regulate" the emission standards in consultation with relevant stakeholders and after a 30-day prior notice on any proposed changes.
 - (b) Cancel the license of a seafood manufacturing company for alleged health violations without giving any notice. The Act requires the minister to issue a show-cause notice and provide a two-week response period before cancellation of the license.

Discuss whether the above directives can be exempted from judicial review taking the following into consideration.

- i. Section 25 of the Act also states that "no court shall have jurisdiction to question any decision made by the minister under this Act."
 - ii. The legal provisions of the state of Bali are similar to the Interpretation (Amendment) Law No: 29 of 1974 of Sri Lanka. **(20 marks)**
6. Romesh is an officer working at Katunayake Airport. On 15th March 2025, while on duty, he initiated the search of a passenger who was suspected of attempting to smuggle gold coins. With the assistance of some other officers, the suspect was arrested, and the gold coins were forfeited. After one week of the incident, Romesh sought a reward under the Circular No. 400 of the Customs Department. It states that the chief initiating officer who is involved in the detection process is entitled to claim rewards for such detections. According to the Act, 'Chief Initiating Officer' means "The Senior Executive Officer of Customs is the first to identify a violation or initiate an investigation related to customs regulations". The circular further states that, in the event of any conflicts, the matters should be resolved by the Commissioner General of Customs in consultation with the Customs Board."
- Kanishka, another officer involved in the same incident, also claimed the reward, stating that he, and not Romesh, was the actual initiating officer according to the circular. The Director General of Customs decided that Kanishka would also be treated as an initiating officer and granted the reward. Romesh challenged the decision by filing a case, arguing that it was irrational, arbitrary, and unjustified. The Customs Department contended that the Director General's decision was an exercise of his absolute discretion and could not be questioned in any court of law.
- a) Assume that you are the presiding judge in this case. Drawing on the principles of Administrative Law, write a judgment including the appropriate remedy for Romesh. **(12 marks)**
 - b) "The rule of law requires that discretion must be exercised within legal limits." Discuss this statement with reference to the controls over abuse of discretion in administrative law.

(08 marks)

- 7 'While the delegated legislations offer flexibility and efficacy in responding to complex and evolving regulatory needs, it also raises concerns regarding accountability, democratic legitimacy, and the potential for abuse of power.... The mechanisms of judicial control were established to ensure their legality and conformity with the principles of constitutionalism.'

Shrivastava, Manas. "Introduction to Delegated Legislation and Its Judicial Control." Issue 2 Int'l JL Mgmt. & Human. 7 (2024): 3018.

- a) In light of the above statement, critically evaluate how delegated legislation is associated with democratic concerns and how it may undermine the principle of separation of powers.
- b) Explain the mechanisms through which the judiciary controls delegated legislation.

(10x2=20 marks)

- 8 Write short notes on any two of the following.

- (a) Indirect and direct exclusion of jurisdiction of courts
(b) Advantages of declaratory orders in Administrative Law
(c) Scope of the writ of Certiorari
(d) Error on the face of the record

(10x2=20 marks)

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