

October/November 2021

ADL 2601

Administrative Law

100 Marks
3 Hours 15 Minutes

First examiner: Dr A Anthony
Second examiner: Dr J Ramages

This paper consists of 7 pages.

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

1. The examination question paper counts **100 marks**.
2. It consists of 7 questions. Answer **ALL** of the questions.
3. The duration of the examination is **3 hours and 15 minutes**. Your answers must be submitted via the myExams platform on **17 September 2021** on or before **17:15** (South African Standard Time).
4. This is 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.
5. **SUBMISSION OF YOUR EXAMINATION ANSWER FILE**
Your answer to this portfolio examination must be submitted online on the myExams platform.
 - 5.1 Access myExams at <https://myexams.ac.za/portal> and login using your student number and myUnisa password.
 - 5.2 Go to your specific examination site through the site tabs on the horizontal navigation bar. Also check your **Sites** link in the top right-hand corner if you do not find the site on the horizontal navigation bar.
 - 5.3 Once the site has loaded, select the **eAssessment** tool from the left-navigation menu
 - 5.4 The list of all available assessments in the site will be displayed.

- 5.5 Select the assessment for which you want to upload the examination answer file by **clicking on the title of the assessment** in the list. A new page will open.
- 5.6 Submit your examination answer file.

The screenshot shows a 'Submission' page. Under the 'Attachments' section, it says 'No attachments yet'. There are two buttons: 'Choose File' and 'or select files from workspace or site'. Below this, there is a checkbox for 'Honor Pledge: I have neither given nor received aid on this assignment. (You must respond to submit your assignment.)'. At the bottom, there are buttons for 'Submit', 'Preview', 'Save Draft', and 'Cancel'. A warning message 'Don't forget to save or submit!' is displayed at the bottom.

You are allowed to attach **ONE** PDF file.

Under **Attachments**, click the **Choose File** button to browse for a file on your device.

The screenshot shows a 'Submission' page. Under the 'Attachments' section, it says 'This assignment allows submissions by attaching documents only.' Below this, there is a list of attachments: 'Examination 1 Responses.docx (12 KB; 11-Feb-2016 13:09) Remove'. There are buttons for 'Choose File' and 'or select more files from workspace or'. Below this, there is a checkbox for 'Honor Pledge: I have neither given nor received aid on this assignment. (You must respond to submit your assignment.)' which is checked. At the bottom, there are buttons for 'Submit', 'Preview', 'Save Draft', and 'Cancel'. A warning message 'Don't forget to save or submit' is displayed at the bottom.

Once you have attached your answer file, the name of the file, as well as the file size and upload time stamp will be displayed under **Attachments**.

Tip: You may click **Remove** to remove the attachment if you selected the wrong file.

Tip: Select the **honour pledge**. Students **MUST** check the honour pledge before submission if it appears on the screen. A student will not be able to submit the assessment if he/she did not check the honour pledge.

When you are ready and satisfied that you have correct answer file, click the **Submit** button to complete your assessment submission.

Tip: If you are not yet ready to submit, you may click **Preview** to preview the submission, or **Save Draft** to save your submission and submit it later. Click **Cancel** to exit the assessment without saving or submitting.

You are advised to preview your submission to ensure that it is legible and that the correct answer file has been uploaded.

Time permitting, you will be allowed to resubmit your exam file twice.

5.7 Submission confirmation

Submission Confirmation

☒ You have successfully submitted your work. You will receive an email confirmation containing this information.

User: [redacted]
Class site: ABT1511-15-S1
Assignment title: Examination 1
Submission ID: [redacted]
Submitted on: 11-Feb-2016 13:38
History: [redacted]

Your submission included the following:

Submitted Attachments

Examination 1 Responses.docx (12 KB; 11-Feb-2016 13:09)

[Back to list](#)

Once you have submitted your assessment, you will receive a confirmation message on the screen. **Make a screen copy for your records.** In addition, if you have opted to receive email notifications, you will also receive an email confirmation of your submission.

6. The cover page to your take-home exam must include your name, student number and the module code.
7. It is preferred that your portfolio exam is typed. However, handwritten submissions will also be accepted. If the portfolio exam is typed, the maximum length is **6** pages (which includes the cover page and the bibliography). If the portfolio exam is handwritten, the maximum length is **7** pages (which includes the cover page and the bibliography).
8. Whether your answers are typed or handwritten, your submission on the myExams platform must be made in the form of **one PDF** document.
 - 8.1 The exam answer file that you submit must not be password protected or uploaded as a “read only” file.
 - 8.2 Your examination answer file will not be marked if:
 - 8.2.1 you send your examination answer file via email.
 - 8.2.2 you submit the incorrect examination answer file.
 - 8.2.3 you submit your exam answer file on an unofficial examination platform (including the invigilator cellphone application).
 - 8.2.4 you submit your examination answer file in the incorrect file format.
 - 8.2.5 you submit a password-protected document.
 - 8.2.6 you submit your examination answer file late.

- 8.3 The mark awarded for an incomplete 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.
- 8.4 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.
9. If your answers are typed, ensure that the following requirements are adhered to. Items 9.3-9.6 applies to written assignments as well.
- 9.1 The text must be typed in Arial font, size 12 with single line spacing within the paragraph, and double line spacing after the paragraph.
- 9.2 The text must be justified.
- 9.3 All of the pages must be numbered in the right hand corner at the bottom of the page.
- 9.4 All margins must be 2.5cm, but the left margin must be 3cm.
- 9.5 South African English and not American English should be used. For example, the correct spelling is "Labour" and not "Labor".
- 9.6 Do not use abbreviations or SMS language.
10. The arguments that you make must be logical, well-structured and substantiated by all of the relevant legal principles. You are given **3 hours** and **15 minutes** (not 2 hours) to complete the portfolio exam. Use the time given wisely.
- 10.1 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.
- 10.2 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.
11. By ticking the Honour Pledge, 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>.

12. Students suspected of dishonest conduct during the examination will be subjected to disciplinary processes. UNISA has zero tolerance for plagiarism and/or any other forms of academic dishonesty.

PLEASE NOTE:

If you experience technical problems of any kind on the day(s) of the examination (including network or loadshedding challenges) and your examination answers are not submitted by the cut-off time, please apply online for an aegrotat exam within 3 days of the examination session. Include supporting documentation with your application.

Students experiencing technical challenges may contact the SCSC on 080 000 1870 or email Examenquiries@unisa.ac.za or refer to [Get-Help](#) for the list of additional contact numbers.

Question 1

The Road Transportation Act 14 of 1977 regulates public transportation of persons and goods. It allows the Transport Commission the discretion to grant, renew, amend or transfer applications for public permits in terms of section 3 of the Act. It also allows for withdrawal, suspension or variation of a permit in terms of section 25 of the Act. In December 2019, the Head of Transport Commission was outraged by the number of accidents which occurred and the resultant loss of life. He consequently ordered the Transport Commission to summarily withdraw (i.e. without being convicted of an offence) the permits relating to any vehicle which is found to exceed the speed limit by 20 km/ph, with no exceptions as of 31 December 2019.

The provision on which the Transport Commission relies on to withdraw the permits is section 25 which reads as follows:

25. Withdrawal, suspension or variation of a permit. –

(1) Subject to the provisions of subsection (2) the Commission may at any time –

(a) Withdraw, suspend or vary for such period as it may deem fit, any public permit granted by it -

(i) If the holder of such permit has been convicted of any offence under this Act or under any law relating to the regulation of traffic.

In January 2020, David Goliath drives down the N1 in a truck on his way to deliver alcohol to a bar in Alexandra. David is caught driving more than double the permitted speed limit (this means more than 20km/ph above the speed limit) and is stopped by an official of the Transport Commission. He **summarily** receives notice that his permit to transport goods in the truck is immediately withdrawn. He is later convicted of contravening section 25(1)(a)(i) above in February 2020. David is naturally gravely upset and approaches you for legal advice. He alleges that the transport of goods is his primary source of income. He needs your assistance in determining whether the action taken by the official of the Transport Commission constitutes administrative action so that he can take the matter on judicial review.

- 1.1 Identify the administrative relationship in the above scenario. Explain your answer
(5)
- 1.2 Identify the organ of state in the above scenario and explain your answer with reference to the Constitution
(5)
- 1.3 Discuss whether the decision of the official to withdraw David's permit constitutes administrative action.
(15)
- 1.4 Would the withdrawal of David's permit by the official be **lawful** if section 25 of the Road Transportation Act 14 of 1977 provided an opportunity to make representations in terms of administrative law to the Transport Commission before the permit could be withdrawn?
(15)
- 1.5 If section 25 of the Road Transportation Act 14 of 1977 provided for an opportunity to make representations in terms of administrative law prior to withdrawal, would the decision of the official be **procedurally fair**?
(15)
- 1.6 Discuss the **reasonableness** of the decision by the official to withdraw David's permit.
(15)
- 1.7 If the Road Transportation Act 14 of 1977 does not allow David to appeal the decision made by the official, what other options would be available to him for legal relief?
(10)

Question 2

What are the three primary differences between original and subordinate legislation, and when will delegated legislation be passed into law?
(4)

Question 3

Discuss the concept of administrative legality.
(5)

Question 4

What does *ultra vires* mean, and what role does the concept play in administrative law?

(2)

Question 5

What is the purpose of judicial review and what are the grounds of review for the legality of administrative action?

(4)

Question 6

When will the actions/activities/inaction of an organ of state (as defined in section 239 of the South African Constitution) qualify as administrative action?

(4)

Question 7

True or false:

Does constitutional law and administrative law form part of public law?

(1)

TOTAL: {100}

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