



*“Investing in Africa’s future”*

**COLLEGE OF BUSINESS, PEACE, LEADERSHIP & GOVERNANCE**

**MPM311: ADMINISTRATIVE LAW, ETHICS & PROFESSIONALISM**

**END OF SECOND SEMESTER FINAL EXAMINATIONS**

**NOVEMBER/DECEMBER 2019**

**LECTURER: C. MUNGUMA**

**DURATION: 3 HRS**

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### **INSTRUCTIONS**

Answer **QUESTION 1** from **Section A (COMPULSORY)**

Answer any **THREE** questions from **Section B**

Marks allocated to each question are indicated in brackets at the end of the question.

DO NOT repeat material.



## SECTION A

### Question 1

The Minister of Home Transport has decided to put a toll gate along the Nyanga to Mutare road at a point 1 kilometer from the Harare highway. Prior to doing so he did not consult or engage communities staying within the vicinity of the proposed site. As a result of the proposed tollgate, all employees of Africa University (AU) who stay in Mutare town will pay toll fees whenever they report for duty and pass through the toll gate. This can be more than twice a day in the event of a person having business in town. The Old Mutare area falls within the Greater Mutare boundary just as the Penhalonga area which is not affected by the Nyanga tollgate. Likewise, the Magamba Vocational College area and surrounding areas which is in the Greater Mutare area is not affected by the tollgate. Only those from the Nyanga direction are affected by this proposal.

Buses belonging to AU on shuttle services will pay toll fees more than 6 times daily. In addition, all medical staff of Old Mutare Hospital, support staff, teaching staff for Hartzell Primary and Secondary school are also affected by this development. Residents of the Old Mutare area are affected by the toll gate. As the toll gate is constructed, the University and the Old Mutare Mission Centre write a 6 page letter contesting the site chosen by the minister as being unsuitable and unfair to them. The minister acknowledges receipt of the letter and promises to arrange a meeting “shortly” with the affected residents. Six months later the minister has not convened the meeting and the toll gate has been commissioned and is set to start operations in a week’s time. The minister has not even provided a substantive written response to the objection to the Old Mutare Residents.

You have been approached as a legal adviser of the Old Mutare community and surrounding areas.

a) Explain the steps you will take to protect your client’s interests in the above case. In your proposal you are required to provide the legal arguments you will use in support of your client’s case. [18]

b) What are the steps that the Minister failed to take in dealing the above case? [7]

## SECTION B

### Question 2



Discuss with the aid of case law whether constitutional bodies (like the office of the Prosecutor General) can have their decisions reviewed by the courts in Zimbabwe. [25]

### **Question 3**

Zimbabweans have a constitutional right to fair Administrative action. Discuss this right as it is provided by the Constitution and the Administrative Justice Act. [25]

### **Question 4**

- a) How do the courts control the enactment of delegated legislation in Zimbabwe? [15]
- b) How is unreasonableness used to challenge decisions of administrators? [6]
- c) Analyse statute as a source of law in Zimbabwe. [4]

### **Question 5**

- a) Compare and contrast the jurisdiction of:
  - i) The Supreme Court and the Constitutional Court.
  - ii) Administrative Court and the Magistrate Court. [10]
  - iii) In your view which court handles the majority of administrative court cases in Zimbabwe? [5]
- b) Compare the common law and Statute as sources of administrative law in Zimbabwe. [10]

### **Question 6**

- a) Discuss why it is important that those who are dissatisfied with public official's decisions should exhaust their domestic remedies before approaching the courts for legal relief? [17]
- b) What are the principles that the Constitution impose on the public service as they discharge their functions? [8]

### **Question 7**

- a) What does the *nemo judex in sua causa* (rule against bias) principle of natural justice provide? [20]
- b) How does the principle help citizens and administrators in their day to day work? [5]

**End of Paper**