

THE OPEN UNIVERSITY OF SRI LANKA  
LL.B. DEGREE PROGRAMME – LEVEL 5  
FINAL EXAMINATION 2008/2009  
**ADMINISTRATIVE LAW – LWU 3311**  
DURATION - 3 HOURS



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**Date: 28<sup>th</sup> March 2009**

**Time: 9.30 – 12.30 p.m**

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Students will be penalized for illegible handwriting

**Answer FIVE (5) questions only.**

1. 'A good starting point for consideration of administrative law is the plausible view that one of its purposes is to promote certain values (or 'ideals') about the way governors should perform their functions and behave in dealing with the governed.'

Peter Cane & Leighton McDonald, *Principles of Administrative Law*, p. 313.

Discuss the above statement in the light of some salient principles of Administrative law which regulate the conduct of public authorities in discharging their duties.

2. The Urban Council of M-land had made a closing order in regard to the house of Colvin on the ground that it was unfit for human habitation. Colvin appealed to the Local Government Board against the order as prescribed in the Urban Council Act. The Board held an inquiry and dismissed the appeal. Colvin informs you that he had brought to the notice of the Board the fact that the Urban Council had made the closing order disregarding the principles of natural justice in that it refused to permit him to appear before the Urban Council officer who made the recommendation for ordering the closure and that Colvin was not permitted to peruse the report of the preliminary inquiry conducted by an Inspector of the Urban Council who carried out the inspection of the house. He also informs that he had requested the Local Government Board to permit him to summon all twenty-five Members of the Urban Council and the Secretary of the Council as well as the Inspector, for the inquiry before the Board. The Board granted him permission to summon and cross-examine the Chairman and Secretary of the Urban Council but refused him permission to summon or cross-examine the other members and the Inspector. Colvin further alleges that he is entertaining a reasonable suspicion that the decision of the Board was influenced by the Chairman of the Urban Council as one of the members of the Board is a close relative of the Chairman. It is also stated that his request to retain a lawyer to prosecute his appeal was denied by the Board.

Colvin wants to challenge the validity of the decision of the Board. Advise him as to the grounds on which he could mount a successful challenge. Support your answer with a discussion of relevant cases.

3. 'Judicial review, it is often said, is not an appeal from a decision, but a review of the manner in which the decision was made'

*Chief Constable of North Wales Police v. Evans* [1982] 3 All E R 141,155

In the light of the above statement, critically analyze with reference to decided cases, the grounds of judicial control of administrative discretion *vis-a-vis* the constitutional foundation of judicial review.

4. 'The *Anisminic* case brought the doctrine of error of law on the face of the record within the *ultra vires* principle.'

Do you agree with the above statement? Give reasons for your answer.

5. The Chairman of the X Urban Council has been given the authority to issue and revoke license to operate cinemas. He was also authorized to set out suitable terms and conditions under which the license should be issued. A license was issued to Star line cinema a few months ago.

The neighboring people now complain that the cinema is located close to a girls' school and the people who go to view films during the day disturb the school. They also complain that the cinema is kept open on poya days and public holidays and children are allowed to watch adult movies.

The people have made a written complaint to the Chairman but no action has been taken for more than four months.

The people ask your advice on which grounds and as to what remedy they can seek against this.

Advise them.

6. "The declaratory judgment is the most ubiquitous, but perhaps, the most generally useful, of the remedies now available in proceedings against administrative authorities"

Friedmann, *Law in the changing Society*, p.19

Discuss this statement with reference to the controversial jurisdictional problem in regard to the issue of the order of declaration with regard to administrative actions in Sri Lanka.

7. The Commissioner of Land has been given powers under the Land Redemption Ordinance to acquire 'agricultural land'. He acquired a land of Davidson consisting of a dwelling house, a well, 150 coconut trees and 2 acres of paddy field. Davidson alleges that the Commissioner had no power to acquire his land because it did not fall within the definition of agricultural land under the Ordinance. Further, he says the Commissioner's son and Davidson's son-in-law are not on good terms in their business dealings and therefore this is an act of personal revenge. He seeks your advice as to the grounds on which he could successfully challenge the decision of the Commission.

Advise him.

8. 'A standard argument for delegated legislation is that it is necessary for cases where Parliament cannot attend to small matters of detail. But quite apart from emergency powers, Parliament sometimes delegates law-making power that is quite general.'

H.W.R.Wade & C.F.Forsyth, *Administrative law*, 7<sup>th</sup> Edn, p.862.

Critically examine the above statement and the justification or otherwise of the reasons for making delegated legislation.

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