

RHODES UNIVERSITY



ADMINISTRATIVE LAW B

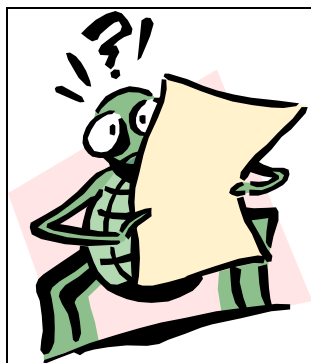
2012



1. Overview

Administrative Law B is a final year course for the LLB degree. Its purpose is to introduce students to, and familiarise them with the concept of judicial review. Judicial review is a very important method of controlling the exercise of public power. Therefore, the primary focus of Administrative Law B will be on how the courts hold administrative functionaries to the constitutional requirements of lawfulness, reasonableness and procedural fairness.

A reasonable knowledge of Constitutional law and a thorough understanding of Administrative Law A, the Constitution of the Republic of South Africa, 1996 (Constitution) and PAJA is most certainly an advantage for an understanding of Administrative Law B. This is because the discussions in this course will be informed by the values and principles of the Constitution and applicable legislation.



2. ASSUMPTIONS OF PRIOR LEARNING

Administrative Law B builds on Administrative Law A. Therefore, students will be required to transfer the knowledge they acquired in Administrative Law A which concentrated on the

theoretical underpinnings of Administrative Law and the control of public power.

It is assumed that students:

- Understand key important provisions of the 1996 Constitution and a clear understanding of Administrative Law A, Constitutional Law and applicable legislation;
- Can read, analyse and extract the relevant information from the case law and other sources;
- Have ability to communicate effectively in the medium of instruction.



3. OUTCOMES

3.1 Specific Outcomes

At the end of the course the students should be able to demonstrate the following:

- Understand the right to a just administrative action in the context of judicial review
- Define judicial review and its purpose
- Apply the requirements of lawfulness, reasonableness and procedural fairness to a set of facts.
- Explain and understand the right to be given reasons for administrative action.
- Identify the appropriate procedure and remedies available to persons aggrieved by an administrative action.
- Evaluate the adequacy of the grounds for judicial review and suggest law reforms where necessary.

3.2. Critical Outcomes

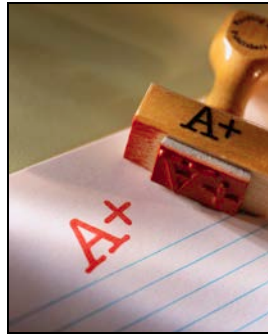
Apart from the knowledge and skills which relate specifically to Administrative law, the following are the skills that are central to the study and practice of the law which this course intends to enhance, namely:-

- Ability to collect, understand and analyse information from various sources of information (cases, legislation and journal articles).
- To work collaboratively on complex social issues through teamwork.
- To communicate effectively through class debates and presentations.
- The ability to explain in writing, the principles of law in legal and social contexts.
- To use technology for legal research (for example, Jutastat, typed assignments, internet searches and many more).



4. TEACHING METHOD

From the very beginning it must be mentioned that the course will be critical and forward-looking. However, it will naturally involve a detailed discussion of the current law through contact hours. There will be two contact hours in a week. As much as direct lecturing method will be used for this course. Students remain required to prepare themselves in advance for participation in the discussion by doing appropriate research and reading. Student's preparation should be such that (s)he is equipped, if so asked, to lead the discussion of the topic. This approach will ensure that students learn to think critically and not merely absorb information.



5. ASSESSMENT

The class component of this course amounts to 30% of the final mark. A longer closed book exam, which will be written at the end of the semester will account for the remaining 70% of the course mark. Students' class work component will be assessed on the basis of one assignment or one class test, to be determined.

Specific Outcomes <u>Students are expected to be able to:</u>	Assessment Criteria <u>Students must:</u>
1. Define judicial review and its purpose	1.1 Distinguish judicial review from appeal. 1.2 Explain how the tension between these two concepts can be resolved. 1.3 Critically explain the purpose of judicial review/
2. Apply the requirements for lawfulness, procedural fairness and reasonableness to a set of facts	2.1 Describe what each ground of review means. 2.2 Correctly identify which ground(s) of review may be involved in a given situation.
3. Explain and understand the right to be given reasons for administrative action.	3.1 Explain the importance of reasons for effective decision-making; 3.2 Understand and apply the regulations for the right to reasons.
4. Identify the appropriate procedure and remedies available to persons aggrieved by an administrative action	4.1 Select and explain the appropriate procedures for bringing an application for judicial review. 4.2 Analyse the effectiveness of this selected remedy. 4.3 Apply the most appropriate remedy to the given situation.

5. Evaluate the adequacy of the grounds for judicial review and suggest law reforms where necessary

5.1 Describe each ground of review

5.2 Analyse their adequacy.

5.3 Identify shortfalls and make suggestions for law reform where necessary.

Attendance at lectures is therefore compulsory. It is accepted, however, that the ideal of 100% attendance is generally not attainable. A student may miss no more than five lectures for this course. Students are responsible for collecting, retaining and presenting all relevant documents (doctor's letters, etc) in respect of the lectures missed and filling out the necessary LOA (leave of absence) form. A student who misses more than the permissible lectures, has not met the course requirements and as a result no DP certificate will be granted for this course.

NB NB –ATTENDANCE REGISTERS WILL THUS BE KEPT FOR DP PURPOSES AND STUDENTS SHOULD SUBMIT THE NECESSARY LOA'S FOR MISSING LECTURES.



6. COURSE CONTENT

1. INTRODUCTION

Introduction to Admin Law B and revision of the most important aspects of Admin Law A: PAJA & Judicial Review, Admin Action etc.

2. LAWFULL ADMINISTRATIVE ACTION

- Authority
- Jurisdiction
- Abuse of a discretion

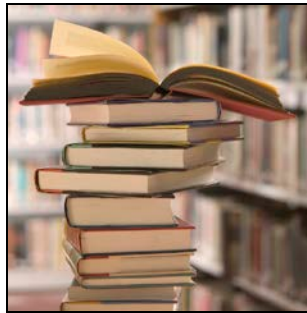
3. **REASONABLE ADMINISTRATIVE ACTION**

4. **PROCEDURALLY FAIR ADMINISTRATIVE ACTION**

- *Audi alteram partem*
- *Nemo iudex in sua causa*

5. **THE RIGHT TO BE GIVEN WRITTEN REASONS**

6. **PROCEDURAL ISSUES AND REMEDIES**



7. RESOURCES

In order to assist your preparation for lectures, a list of core readings is provided. However, it is expected that you will read more widely than in the readings listed.

Prescribed Book:

C Hoexter *Administrative Law in South Africa second edition* (2012) Juta: Cape Town

Recommended

- G Quinot *Administrative Law Cases and Materials* (2008);
- Y Burns & M Beukes *Administrative Law under the 1996 Constitution* Third Edition (2006).
- C Plasket 'The Fundamental Right to Just Administrative Action: Judicial Review of Administrative Action in a Democratic South Africa' (2002) *Unpublished PHD Thesis*.

8. CONTACT DETAILS

- Should you wish to contact the lecturer, Ms Helena van Coller, you may do so via e-mail: h.vancoller@ru.ac.za or at her office on the first floor of the Law Faculty (Room F6A, next to the Dean's office). Her telephone number is 046 603 7249.



ENJOY THE COURSE !