

# **Tutorial Letter 201/1/2016**

## **Administrative Law**

**ADL2601**

**Semester 1**

**Department of Public, Constitutional and  
International Law**

This tutorial letter contains important  
information about your module.

Bar code

Dear Student

You should have received the following thus far:

The study guide	The text of this module's tutorial matter
Tutorial letter 101	The general information tutorial letter
Tutorial letter 201	This tutorial letter (online under Additional Resources)

THIS IS YOUR FINAL TUTORIAL LETTER FOR THE FIRST SEMESTER OF 2016. It contains the following:

- 1 THE OCTOBER/NOVEMBER 2015 EXAMINATION PAPER**
- 2 ASSIGNMENT 01: COMMENTARY**
- 3 ASSIGNMENT 02: COMMENTARY**
- 4 THE EXAMINATION: FORMAT, PREPARATION AND WRITING**

#### **EXAMINATION DATE**

ONLY PROVISIONAL DATES ARE PRESENTLY AVAILABLE. PLEASE MAKE SURE THAT YOU HAVE RECEIVED THE **FINAL EXAMINATION TIMETABLE** BY THE END OF **APRIL** (FOR THE **FIRST SEMESTER**).

#### **1 The October/November 2015 examination paper**

(Please take note that the answers we provide for the questions in the examination paper are suggested answers. They are meant to guide and assist you in preparing for the examination. Furthermore, they provide guidelines on how you should answer a question using only essential points rather than re-writing the study guide. Pay careful attention to the general comments below on how to formulate your answers to the questions in the examination.)

#### **Set of facts:**

Mrs Mangu and Mr Hurter are neighbours. Mrs Mangu applied for the removal of a restrictive condition that limits her right to build higher than one storey. Her application was summarily turned down by the Department of Public Works and she was not given any reasons for this decision. It later appears that the official who turned down the application was Mr Hurter. Mrs Mangu and Mr Hurter have a history of neighbourly disputes concerning Mr Hurter's encroaching wall and Mrs Mangu's noisy Saturday evenings.

Answer the following questions with reference to the set of facts, where applicable, and substantiate your answers.

#### **Question 1**

- 1.1 Briefly explain what an administrative-law relationship is. Do you think Mrs Mangu is a subject of an administrative-law relationship? (6)

An administrative-law relationship exists between two parties in an unequal/vertical relationship. One of the subjects is a person or body clothed in state authority/organ of state who is able to exercise that authority over a person or body in a subordinate position whose rights are affected by the action. The parties involved are the Department of Public Works/Mr Hurter (organ of state) and Mrs Mangu (in a subordinate position).

1.2 Is Mr Hurter an organ of state? Explain your answer with reference to the Constitution of the Republic of South Africa, 1996. (7)

“Organ of state” is defined in section 239 of the Constitution and includes (a) any department of state or administration in the national, provincial or local sphere of government; or any other functionary or institution that (i) exercises a power or performs a function in terms of the Constitution or a provincial constitution; or (ii) exercises a public power or performs a public function in terms of any legislation. However, a court or a judicial officer is not included.

Yes, Mr Hurter is an organ of state – he is an administrator who acts on behalf of the Department.

1.3 Identify the administrative action in the set of facts. In your answer you should give a full definition of the concept “administrative action” as provided in the Promotion of Administrative Justice Act (PAJA) 3 of 2000. (12)

S 1 of PAJA defines “administrative action” as any decision taken, or any failure to take a decision, by -

- (a) an organ of state, when-
  - (i) exercising a power in terms of the Constitution or a provincial constitution; or
  - (ii) exercising a public power or performing a public function in terms of any legislation; or
- (b) a natural or juristic person, other than an organ of state, when exercising a public power or performing a public function in terms of an empowering provision,

which adversely affects the rights of any person and which has a direct, external legal effect.

There are exceptions to the definition, for instance, judicial decisions.

The decision to turn down Mrs Mangu’s application amounts to administrative action because it complies with the definition in that it involves a decision by an organ of state (the Department or Mr Hurter) which has adversely affected the rights of a person (Mrs Mangu) and which appears to have had a direct external legal effect.

[25]

## Question 2

2.1 Answer the following questions. Each question is provided with a number of options as possible answers. Only one option or statement in respect of each question is correct. You must therefore identify the correct option and write down the number of the option that you have identified next to the question number.

2.1.1 Just administrative action is regulated in terms of...

- (a) **section 33 of the Constitution.**
- (b) section 195 of the Constitution.
- (c) section 1 of PAJA.
- (d) section 33 of PAJA.

- 2.1.2 The ... is a binding source of administrative law.
- (a) decision by the United States Supreme Court
  - (b) Green Paper on asylum seekers
  - (c) Constitution**
  - (d) 2014 journal article by Prof C Hoexter
- 2.1.3 An administrative act will take effect ...
- (a) once the decision-maker has made a reasonable decision.
  - (b) as soon as the regulation has been promulgated.
  - (c) as soon as the judicial institution gives its ruling.
  - (d) upon the decision becoming known.**
- 2.1.4 Public administration must be governed by the “democratic values and principles enshrined in the Constitution”. Which one of the following is **NOT** included as one of these principles?
- (a) The promotion and maintenance of a high standard of professional ethics.
  - (b) The promotion of efficient, economic and effective use of resources.
  - (c) A development-orientated public administration.
  - (d) The provision of services in a fair manner and according to municipal means.**
- 2.1.5 ... of administrative power is characterised by the senior functionary transferring certain powers and activities to an independent organ or body “which carries out these powers and functions entirely in its own name”.
- (a) Deconstruction
  - (b) Decentralisation**
  - (c) Deconcentration
  - (d) Mandate

(5)

2.2 Briefly explain the simplest form of delegation.

(3)

The simplest form of delegation occurs in the form of a mandate that is an instruction or command. The senior administrator makes a decision and then hands it over to another administrator to implement or execute – strictly speaking, there is no proper delegation of power.

2.3 Explain the form of delegation also referred to as an “independent control relationship”.

(7)

We speak here of an “independent control relationship” or decentralisation. When there is a decentralisation of power, we find that the delegator transfers certain powers and activities to an independent body. In essence, we find in this situation a complete delegation of power and the delegate becomes fully responsible for the exercise of the power. An example of this type of delegation is that in which a minister appoints a panel or board of experts to issue licences or concessions. The minister may not personally perform the function which he or she has delegated. This does not mean that the minister now has no power of control or supervision over the body. He or she exercises control

- (1) by way of the appointment of the body’s members; and
- (2) by way of appeal to or review by the minister of the decisions made.

2.4 There are three forms of abuse of power by an administrator. Explain when an administrator exercises power in bad faith. You may give an example.

(5)

- exercising power with an unauthorised or ulterior purpose (explanation: When the administrator uses his or her power for a purpose other than that set out in the enabling statute, the action amounts to the abuse of a power for an unauthorized purpose.)

- exercising power using an unauthorised procedure (explanation: We find that the administrator usually uses an unauthorised procedure when the proper and correct procedure is more difficult, time-consuming and cumbersome. The administrator then circumvents this correct, but difficult procedure by using a short cut.)
- exercising power using ulterior motives to defeat the purpose of the law (explanation: When exercising power *in fraudem legis*, the administrator deliberately and intentionally evades the provisions of the empowering statute.)

[20]

### Question 3

- 3.1 Briefly explain how PAJA gives effect to the right to reasonable administrative action. **DO NOT** explain how PAJA gives effect to the right to written reasons. (5)

PAJA gives effect to the right to reasonable administrative action by giving an individual the capacity under section 6(1) "to institute proceedings in a court or a tribunal for the judicial review of an administrative action" on the ground that

the exercise of the power or the performance of the function authorised by the empowering provision, in pursuance of which the administrative action was purportedly taken, is so unreasonable that no reasonable person could have so exercised the power or performed the function (s 6(2)(h)).

In *Bato Star*, Justice O'Regan emphasised the importance of reading section 6(2)(h) of PAJA in line with the wording of section 33(1) of the Constitution. She held that even if it may be thought that the language of section 6(2)(h), if taken literally, might set a standard such that a decision would rarely if ever be found unreasonable, that is not the proper constitutional meaning which should be attached to the subsection. The subsection must be construed consistently with the Constitution and in particular section 33 which requires a simple test, namely that an administrative decision will be reviewable if it is one that a reasonable decision-maker could not reach. The simple test is therefore one that states that administrative action will be reviewable, if it is one that a reasonable decision-maker could not reach.

- 3.2 In *Bato Star Fishing (Pty) Ltd v Minister of Environmental Affairs* 2004 4 SA 490 (CC), Justice O'Regan listed factors that must be considered to determine whether a decision is reasonable. List the factors. Do you think Mr Hurter's decision was reasonable? (8)

- (a) the nature of the decision;
- (b) the identity and expertise of the decision-maker;
- (c) the range of factors relevant to the decision;
- (d) the reasons given for the decision;
- (e) the nature of the competing interests involved; and
- (f) the impact of the decision on the lives and well-being of those affected.

No, no reasons were given for the decision. The identity of the decision-maker also indicates some form of potential bias.

- 3.3 One of the rules of natural justice requires that the administrator must be impartial. Discuss the rule against bias with reference to the above set of facts. (7)

*Nemo iudex in sua causa* is one of the rules of natural justice and it is the rule against bias or prejudice. It means that no one can be the judge in their own cause. One cannot act if there is personal or financial interest.

In *Rose v Johannesburg Local Road Transportation Board* 1947 4 SA 272 (W) the chairman of the board dealing with transportation permits was a director of three taxi companies. His financial interest in these clearly constituted bias in adjudicating on the permits.

In *Liebenberg v Brakpan Liquor Licensing Board* 1944 WLD 52 the mayor of the town insisted on being present when the board was considering a liquor licence application of his brother. Although the board insisted this did not influence the decision, the court held that the suspicion of bias was enough to set aside the decision because of the mayor's personal interest.

*BTR Industries SA v Metal and Allied Workers Union* 1992 3 SA 673 (A) also held that a reasonable suspicion of bias satisfies the test. The Constitutional Court confirmed this test in the *SACCAWU v Irvin & Johnson* case. The Constitutional Court preferred to use the phrase "a reasonable apprehension of bias". In other words, the affected person merely has to prove an appearance of bias rather than the existence of actual bias.

There is potential bias (personal interest) in evidence in the set of facts since the decision by Mr Hurter might have been influenced by his strained relations with Mrs Mangu, suggesting bias on the part of the administrator.

3.4 Does the decision to reject the application by Mrs Mangu to remove the restrictive condition constitute procedurally fair administrative action in terms of PAJA? Substantiate your answer with reference to the relevant provisions in PAJA. (10)

Administrative action which materially and adversely affects the right or legitimate expectations of any person must be procedurally fair. (S 3(1) of PAJA). Briefly, legitimate expectation means that the rules of natural justice are extended to those cases where no vested right exists, but only a "legitimate expectation" of a benefit that may be granted or a benefit that will not be withdrawn before a hearing has occurred. This expectation is not merely a hope or wish, but based on something more concrete, such as an express promise, or a regular practice which can reasonably be expected to continue. It does not mean that the person is guaranteed success, but only that he should receive a hearing.

Fair administrative practice depends on the circumstances of each case. (s 3(2)(a) of PAJA).

**Mandatory requirements:** (these seem like a codification of rules of natural justice) (s 3(2)(b) of PAJA)

- Adequate notice of the nature and purpose of proposed action
- Reasonable opportunity to make representations
- Clear statement of administrative action
- Adequate notice of right of review or internal appeal
- Adequate notice of right to request reasons

**Discretionary requirements:** (s 3(3) of PAJA)

- Opportunity to obtain assistance, even legal assistance in complex cases

- Opportunity to present and dispute information and arguments
- Opportunity to appear in person

S 3(4) of PAJA states that the requirements in s 3(2) of PAJA may be departed from only if reasonable and justifiable. This is determined by taking all relevant factors into account, which include:

- The objects of the empowering provision
- The nature and purpose of and need for the action
- The likely effect of the administrative action
- The urgency of the matter
- The need to promote efficient administration and good governance

Section 3(5) of PAJA states that the administrator may also follow a different but fair procedure if the empowering provision authorises this.

The decision to reject Mrs Mangu's application does not constitute procedurally fair administrative action in terms of PAJA because, *inter alia*, Mrs Mangu was not given an opportunity to make representations; and was not given adequate notice to request reasons for the administrative action. S 3(4) and S 3(5) of PAJA do not seem to be relevant for present purposes.

[30]

#### Question 4

- 4.1 Suppose Mrs Mangu approached the Department of Public Works and requested reasons for Mr Hurter's decision, would the Department be obliged to provide Mrs Mangu with reasons? Substantiate your answer with reference to the relevant provisions in PAJA. (5)

Section 5 provides for the furnishing of reasons as required by section 33(2) of the Constitution. In other words, section 5 gives effect to section 33(2).

Section 5(1) requires the provision of written reasons at the request of any person whose rights have been materially and adversely affected by any administrative action and who has not been given reasons for the action. Section 5(1) reads that any person whose rights have been materially and adversely affected by administrative action and who has not been given reasons for the action may, within 90 days after the date on which that person became aware of the action or might reasonably have been expected to have become aware of the action, request that the administrator concerned furnish written reasons for the action.

The administrator (to whom the request is made) is obliged to give that person adequate reasons in writing within 90 days of receiving the request (s 5(2)). In other words, the administrator *must* provide adequate reasons.

The Department of Public Works is therefore obliged to give reasons for its decision in terms of PAJA.

- 4.2 Suppose the Department responded to Mrs Mangu's request for reasons as follows: "No restrictive conditions are removed at this point in time". Do you think that this response provides an adequate reason? Substantiate your answer with reference to case law. (7)

The standard of reasons for the decision is that of adequacy. What will constitute adequate reasons will depend on the circumstances of each and every case, that is, the context within which the decision is taken. In *Nomala v Permanent Secretary, Department of Welfare* 2001 8 8CLR 844 (E) the termination of a



disability grant was at issue. The applicant was informed that she had to re-apply for a disability grant. In a "standard form reasons letter" she was informed that her re-application had been unsuccessful since she was found to be "not disabled". In an application for the review of the refusal of the grant the "sufficiency or otherwise of the reasons contained in this letter" constituted the core of the application.

The court held that ticking boxes on the "standard form reasons letter" is inadequate since this ticking of boxes "... disclose nothing of the reasoning process or the information upon which it is based".

The reasons given did not provide sufficient information for any disappointed applicant to prepare an appeal. Furthermore, the reasons do not educate the beneficiary concerned about what to address specifically in an appeal or a new application. It does not instil confidence in the process, and certainly fails to improve the rational quality of the decisions arrived at.

In *Minister of Environmental Affairs and Tourism v Phambili Fisheries (Pty) Ltd; Minister of Environmental Affairs and Tourism v Bato Star Fishing (Pty) Ltd* [2003] 2 All SA 616 (SCA); 2003 6 SA 407 (SCA), quoting Cora Hoexter (at para 40), the SCA held the following:

[I]t is apparent that reasons are not really reasons unless they are properly informative. They must explain why action was taken or not taken, otherwise they are better described as findings or other information.

In the same paragraph the court also quoted with approval from the Australian decision *Ansett Transport Industries (Operations) Pty Ltd v Wraith* (1983) 48 ALR 500 at 507. The decision was to the effect that in order to provide adequate reasons it is necessary for the decision-maker:

... [t]o explain this decision in a way which will enable a person aggrieved to say, in effect: "Even though I may not agree with it, I now understand why the decision went against me. I am now in a position to decide whether that decision has involved an unwarranted finding of fact, or an error of law, which is worth challenging.

This requires that the decision-maker should set out his understanding of the relevant law, any finding of fact on which his conclusions depend (especially if those facts have been in dispute), and the reasoning processes which led him to those conclusions. He should do so in clear and unambiguous language, not in vague generalities or the formal language of legislation.

The response by the Department is not adequate reasons.

#### 4.3 What are the powers of senior administrators when exercising internal control? (4)

The senior functionary or institution has the power to reconsider or re-examine – to "review" – the decision and then to confirm it, set it aside or vary the decision. When a decision is varied, the decision is substituted by another.

The senior functionary or institution may consider the validity, desirability or efficacy of the administrative action in question. The controlling body may also take policy into consideration.

Formal control is also exercised by examining the manner in which the decision was reached.

Internal control, in the form of an internal appeal, does not give rise to a final and binding decision. As a result, the same matter may be raised again within the same departmental hierarchy.

#### 4.4 List and explain the various forms of judicial control. (9)

##### Statutory appeal

- The courts may hear appeals only where this is provided for by statute.



- An appeal may be lodged against a final decision or final order, not against a provisional order.
- Details regarding the appeal will appear in the relevant statute.

#### Judicial review

- The courts have inherent review jurisdiction in terms of the common law.
- It entails reviewing the legality of a decision.
- Review in terms of the Constitution, section 6 of PAJA, the Supreme Court Act or in terms of the relevant legislation.
- Grounds of review: infringement of a fundamental right or failure to comply with sec 6 of PAJA (the requirements of valid administrative action).

#### Interdict

- If the applicant fears and can prove that an action or impending action by the administrator will affect his rights, he may apply for an interdict restraining the administrator from carrying out its action.
- Aimed at preventing unlawful administrative action.

#### Mandamus

- Compelling the administrator to perform some or other statutory duty.
- *Mandamus* cannot stipulate *how* the power should be exercised.

#### Declaratory order

- Used when there is a clear legal dispute or legal uncertainty regarding the validity of administrative action.
- May also be used to determine whether actual or pending administrative action is lawful.

#### Defence in criminal proceedings

- Administrative action may be challenged by raising its invalidity as a defence in criminal law.

[25]

**TOTAL: {100}**

## 2 Assignment 01

### Suggested answer

The *audi alteram partem* rule, as interpreted and developed by our courts, consists of the following:

- (1) The individual must be given an opportunity to be heard on the matter (ie the opportunity to put his or her case).
- (2) The individual must be informed of considerations which count against him or her.
- (3) Reasons must be given by the administrator for any decisions taken.

Over and above the three-legged *audi alteram partem* rule, the rules of natural justice embrace a further rule, namely *nemo iudex in sua causa* (literally: "no one may be a judge in his or her own cause"). In other words, the decision-maker must be, and must be reasonably perceived to be impartial or unbiased. This is known as the rule against bias.

The rules of natural justice are "constitutionally entrenched" so that these rules are no longer only common-law rules, but now have a constitutional basis. It is important to note that procedural fairness should not be regarded as a codification of pre-constitutional law, or be confined to the principles of natural justice. In essence, such a view will negate the truth that fairness is a flexible concept depending on the circumstances of each case. In other words, the content of the common-law rules gives a good indication of

the content of the constitutional right with this proviso: the constitutional right is not confined to the rules of common law.

**Administrative action which materially and adversely affects the right or legitimate expectations of any person must be procedurally fair. (S 3(1) of PAJA).** Briefly, legitimate expectation means that the rules of fair procedure are extended to those cases where no vested right exists, but **only a “legitimate expectation” of a benefit that may be granted or a benefit that will not be withdrawn before a hearing has occurred.** This expectation is not merely a hope or wish, but **based on** something more concrete, such as **an express promise or a regular practice which can reasonably be expected to continue.** It does not mean that the person is guaranteed success, but only that he **should receive a hearing.** **Application to the scenario.**

**Fair administrative practice depends on the circumstances of each case (s 3(2)(a) of PAJA).**

**Mandatory requirements:** (These seem like a codification of rules of natural justice) (s 3(2)(b) of PAJA.)

- Adequate notice of the nature and purpose of proposed action
- Reasonable opportunity to make representations
- Clear statement of administrative action
- Adequate notice of right of review or internal appeal
- Adequate notice of right to request reasons

**Discretionary requirements:** (s 3(3) of PAJA)

- Opportunity to obtain assistance, even legal assistance in complex cases
- Opportunity to present and dispute information and arguments
- Opportunity to appear in person

S 3(4) of PAJA states that the requirements in s 3(2) of PAJA may be departed from only if reasonable and justifiable. This is determined by taking all relevant factors into account.

Section 3(5) of PAJA states that the administrator may also follow a different but fair procedure if the empowering provision authorises this.

The decision of the Cape Town City Council to refuse the application does not constitute procedurally fair administrative action in terms of PAJA because, *inter alia*, Jetset Projects was not given an opportunity to make representations; was not given adequate notice of the right of review or internal appeal, and was not given adequate notice to request reasons for the administrative action. S 3(4) and s 3(5) of PAJA do not seem to be relevant for present purposes.

### 3 Assignment 02

(The correct answers are marked in bold.)

#### Question 1

"Organ of state" is defined in section...of the Constitution.

1. 1
2. 33
3. 197
4. **239**

**Question 2**

A general administrative-law relationship is created, changed or ended by..., that is by general means.

1. **legislation**
2. judicial decision
3. any organ of state
4. the authorised organ of state

**Question 3**

Which one of the following is **NOT** a binding/authoritative source of administrative law?

1. The Constitution
2. **Foreign law**
3. Case law
4. International law

**Question 4**

"Administrative action" is defined in section 1 of PAJA. Which one of the following examples complies with this definition?

1. The Minister of Police decides to continue prosecuting Mrs Radebe.
2. The municipal council of Diepsloot fails to address the housing shortage.
3. Justice Naidoo holds the Minister of Home Affairs accountable for failing to issue Mr Modiga's passport.
4. **An officer in the Department of Health decides to reject Ms Fargan's application for parole based on medical grounds.**

**Question 5**

Just administrative action is aimed at preventing organs of state, public institutions and functionaries, as well as natural and juristic persons – administrators – from abusing or misusing their power in their dealings with an individual who is in a subordinate position. Hence the constitutional demand that administrative action must be performed...

1. proportionally, legitimately and in a democratic manner.
2. timely, cost-effectively and in a transparent manner.
3. **lawfully, reasonably and in a procedurally fair manner.**
4. effectively, reliably and in a sensible manner.

**Question 6**

The *audi alteram partem* rule means that...

1. the administrator must be reasonable.
2. **the administrator must hear both sides.**
3. the administrator must be impartial.
4. the administrator must be well educated.

**Question 7**

In what circumstances may the minister identify a group of administrative actions in respect of which the administrator must automatically furnish reasons?

1. When the court specifies that the minister may do so.
2. When a large group of individuals is affected negatively and adversely by the administrative action.
3. **When the administrator requests the minister to do so.**
4. When it will be more time- and cost-efficient because of the nature of administrative action taken.

**Question 8**

The advantages of internal control are, amongst others, that they are cheaper, less time-consuming and ...

1. administrative decisions are easily enforceable.
2. **administrative decisions are thoroughly re-evaluated.**
3. administrative decisions are final and binding.
4. administrative decisions can be recorded easily.

**Question 9**

Which one of the following is a form of internal control?

1. **The Public Protector**
2. Statutory review
3. Judicial review
4. Chapter 2 (of the Constitution) applications

**Question 10**

If an applicant fears that an action by the administrator will affect his rights, he may apply for a ... restraining the administrator from carrying out his actions.

1. mandamus
2. declaratory order
3. **interdict**
4. review procedure

**[10 marks]**

**4 The examination: Format, preparation and writing****Format of the examination**

(1) The format of the examination paper will be similar to the format of the October/November 2015 examination paper.

(2) You will again be given a short set of facts and some of the questions will be based on these facts.

(3) There will be FOUR (4) questions with sub-questions in the examination and they will count a total of 100 marks.

(4) The questions in the examination (both short and long questions) will test your knowledge, your insight and your ability to apply theory to practice. Multiple-choice questions form part of the examination paper, similar to those given in your second assignment.

The shorter type of questions will carry a mark allocation varying between approximately 2 and 8 marks per question.

(5) You do not have to study any additional study material. However, make sure that you study the court cases and the relevant legal principles pertaining to them, as they are discussed in the guide.

### **Answering the examination questions**

~ As mentioned above, you will write a two-hour examination paper consisting of four (4) (compulsory) questions, counting a total of 100 marks. You must answer all four questions.

~ Read attentively through all the questions in your examination paper in order to gain an idea of what the questions are about. Make sure that you understand the instructions before you rush into writing an answer. Identify key words and terms.

~ Do not separate subsections of questions, for example, 2(a), then 1(b), then 3(a), by answering them in different places in your examination answer book. If you wish to return to a particular question, simply leave enough space to return to it.

~ Number your answers correctly.

~ Plan your answer roughly before starting to write. You may think that this will take up too much time, but you will in fact gain time by avoiding repetition, irrelevant discussion and confusion.

~ Divide your time according to the number of questions and pay attention to the marks allocated to each question.

~ Avoid repetition and irrelevancies. You will not receive any marks for repeating a fact. Answer questions concisely but not superficially. Include every step in the legal argument in your answer, starting with the first step, no matter how obvious it may seem to you. (I know that we know, but we must be able to see that you know.)

~ Distinguish between instructions such as explain, compare, list and analyse. List means just that – no discussion or embellishment is necessary. Make sure that you understand what is expected of you.

~ Give reasons for all your answers (briefly, or fully, depending on what is required). In fact, it is quite a good idea to write as if you are explaining the legal position to an intelligent layperson who knows nothing about the law.

~ When referring to case law, limit your discussion of the facts to the absolute minimum, and concentrate on the legal aspects of the issue. What has happened is of less importance than the reason on which the judgment is based.

~ It is in your own interest to write legibly and intelligibly. Even if your handwriting is a problem, there are still a few things you can do about it: write with dark ink, write on every second line, space your work by leaving lines open between questions, et cetera. Remember: it is to your advantage if we can read what you have written.

~ Finally, please do not contact us after you have written the examination paper. We are not allowed either to discuss the paper with students or to divulge examination results. However, we will be only too happy to discuss the course, and any difficulties you may be experiencing, before the examination.

All that remains is for us to wish you success in the examination.

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