

Ollscoil na hÉireann, Gallimh
National University of Ireland, Galway

Semester II Examinations, 2002/2003

Exam Code(s)	1BA6, 1CW1, 1EM1, 1OA1.
Exams(s)	1 st Bachelor of Arts (Public & Social Law) 1 st Bachelor of Civil Law Erasmus & Occasional
Module Codes(s)	LW115.II
Module(s)	Public Law I
Paper No.	1
Repeat Paper __ Special Paper __	
External Examiner(s)	Dr. Gerard Hogan
Internal Examiner(s)	Mr. Tom O'Malley
Instructions	Answer THREE questions
Duration	TWO Hours
No. of AnswerBooks	
Requirements:	
Handout	
MCQ	
Statistical Tables	
Graph Paper	
Log Graph Paper	
Other Material	
No. of Pages	2
Department(s)	Law

1. In 1999 John Browne, who was then a practising barrister, wrote a book on refugee law in which he advocated major reforms in Irish law in order to make it more difficult for immigrants to secure the right to remain in Ireland. He argued that mass immigration, unless it was curbed, would create a serious clash of cultures and would prove to be a major drain on the economy. In December 2002, Mr Browne was made a judge of the High Court. Some months ago, Ms. Joy Olubemia, a native of Nigeria, was informed by the Minister for Justice that her request for asylum had been turned down and that she was to leave the Ireland immediately. She applied for, and was granted, leave to challenge the Minister's application by way of judicial review. The full hearing is due to take place next week and Ms Olubemia has just learned that Judge Browne has been assigned to hear the case. Ms. Olubemia's solicitor is aware of the views formerly expressed by Judge Browne on asylum and immigration matters. He seeks your opinion as to whether there are any grounds on which Judge Browne might be asked to recuse himself or, failing that, if there is any ground on which an appeal might be taken to the Supreme Court in the event that Ms Olubemia loses her case. Advise him.
2. Write an essay on the doctrine of legitimate expectations, including in your answer an assessment of whether a legitimate expectation, if found to exist, confers a substantive benefit or a procedural right.
3. Michael applied to Galway City Council for permission to operate a stall as a casual trader in the local market area. He proposes to sell homemade cheeses. He has now received a letter from the Council informing him that his application has been refused. A number of other people who made similar applications at the same time to operate other stalls selling various kinds of produce have been successful. Michael claims that the Council's decision is unreasonable and seeks your advice as to whether he can challenge the decision on that basis. Advise him as to whether he can do so and as to the likelihood that he would succeed if he challenged the matter by way of judicial review.
4. Peter had been employed as a civil servant for several years in the Department of Trade. Over the years, he has had various disputes with colleagues and, as a result, had been moved on several occasions to different positions within the department. Some weeks ago, his supervisor, with whom he has had bad relations asked Peter if he would consider taking early retirement as his presence was a source of friction within the office. Peter told him that he would not in any circumstances consider retiring until he reached the age of 60. (He is now 50 years of age). The following week, he received a letter from the Minister for Trade informing him that he was dismissed as of the end of the month. Peter wishes to challenge his dismissal by way of judicial review. Advise him of any grounds on which he might do so.
5. Describe with reference to the appropriate case law the criteria employed by the courts when deciding if the decisions of a particular body or organisation are subject to judicial review.
6. "Discretion, once conferred by statute on a public body or an official, may not, under any circumstances, be fettered or delegated." Discuss.

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