

SUMMER EXAMINATIONS 1998/1999

LL.B. - ALL YEARS  
OCCASIONAL STUDENTS

ADMINISTRATIVE LAW (LW316)

Mr. G. Whyte  
Mr T. O'Malley

Time allowed: **THREE** Hours

Answer **FOUR** questions. Erasmus Students Answer **THREE** Questions.

1. Liam was convicted by the Special Criminal Court on a charge of conspiracy to murder and was sentenced to 12 years' imprisonment. The prosecution alleged that Liam was a 'drugs baron' who was owed money by several drug addicts and that he conspired with others to have one of those addicts killed as a 'lesson' to the others. He had denied this charge. In the Special Criminal Court, trials are held before a bench of three judges sitting without a jury. Shortly after Liam was convicted and sentenced, it was discovered that one of the Judges was married to a leading anti-drugs campaigner in the area in which Liam was alleged to be supplying drugs and that the Judge himself had made financial contributions towards the campaign. Liam now feels that he may have been denied a fair trial as a result of this connection. Advise him of any ground on which he might challenge the verdict and sentence by way of appeal or review.
2. *'It is only in the rarest of circumstances that the High Court should quash a decision by an inferior court or a public body on the ground of reasonableness or proportionality. Otherwise, the distinction between appeal and review will be virtually obliterated'.* Discuss this statement with reference to existing Irish and English law.
3. *'The origins of several fundamental tenets of Irish constitutional law are to be found more frequently in the British rather than the American constitutional tradition'.* Discuss.
4. In 1994, Nora bought a plot of land near Clifden. Before completing the purchase she consulted the county development plan to see if the land was zoned for any particular purpose and it was not. She also spoke to the County Manager who assured her that there would be no difficulty in securing planning permission to build a house on the plot at some time in the future. Some months ago, she applied for planning permission but was refused it on the ground that under a European Directive which entered into force in 1996, the land in question was now designated as an area of scientific interest and the council was therefore prohibited from allowing any further houses to be built on it. Nora claims that she bought the land for the sole purpose of building a house and was led to expect that the necessary permission would be granted. Advise her of any ground on which she might challenge the refusal of planning permission. Is she likely to succeed?
5. Describe the procedures to be followed when seeking leave to apply for judicial review and the criteria applied by the courts when deciding if such leave should be granted.

PTO

6. The Bar Council is a non-statutory body which regulates the barrister's profession in accordance with a code of practice drawn up and approved by the Council itself. To be entitled to practice as a barrister, a person must be a member of the Law Library. Membership may be granted, refused or withdrawn by the Bar Council in accordance with the code. Recently, a complaint was made against Teddy, a barrister specialising in criminal law. It was alleged that he had accepted a substantial sum of money from a person whom he defended on drug charges while also in receipt of fees under the criminal legal aid scheme. (This is regarded as a serious breach of the code). The Bar Council investigated the complaint but refused Teddy's application to have his side of the case argued on his behalf by a senior counsel. As a result of the investigation, Teddy's membership of the Law Library was withdrawn. Advise Teddy as to whether the Bar Council's decision is subject to challenge by way of judicial review. (Note. You need not deal with the law relating to natural justice when answering this question).
7. Answer (a) and (b)
- (a) Describe the circumstances in which the High Court may remit a criminal case to the court of trial after it has quashed a conviction by way of certiorari.
  - (b) In January 1998, John was dismissed from the Gardai following an internal inquiry which concluded that he had accepted a bribe. The final decision to dismiss was made by the Garda Commissioner who took account of certain reports which were submitted by investigating officers but which John was not given an opportunity to consult to or to challenge. John was unaware at the time that this would have provided a ground for challenging the dismissal. In May 1999, the High Court quashed the dismissal of another member of the Gardai precisely on this ground. John now seeks your advice as to whether he should now proceed to challenge his own dismissal. Advise him of any difficulties he may encounter.
8. Describe the circumstances in which damages may be awarded in judicial review proceedings.