

UNIVERSITY OF SWAZILAND
INSTITUTE OF DISTANCE EDUCATION
DEPARTMENT OF LAW
FINAL EXAMINATION PAPER, MAY 2005

TITLE OF PAPER : **INTRODUCTION TO LABOUR LAW**

COURSE CODE : **DL 034**

TIME ALLOWED : **THREE (3) HOURS**

INSTRUCTIONS : **ANSWER ANY FOUR (4) QUESTIONS.**

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QUESTION ONE

In terms of Section 36(a) of the Employment Act 1980, an employer may terminate the services of an employee on the basis that the conduct of or work performance of the employee has, after written warning, been such that the employer cannot reasonably be expected to continue to employ him. The said Act also makes provision for a similar remedy at the disposal of an aggrieved employee. With reference to case law and the relevant section of the Employment Act, discuss fully, the remedy that an employee can invoke. [25 MARKS]

QUESTION TWO

In terms of the common law and the Industrial Relations Act, an employer may, in the event of an unlawful strike action, seek court intervention by interdict to restrain employees from carrying out or continuing such strike action. [25 MARKS]

Referring to statutory or case authorities discuss:

- (a) the remedy of an interdict and any ancillary relief that an aggrieved employer could use. [10 marks]
- (b) the common law requirements for the granting of an interdict; [10 marks]
- (c) under what circumstances may the Minister responsible for employment intervene in industrial strike action? [5 marks]

QUESTION THREE

Write short notes on the following:

- (a) The right to strike; [5 marks]
 - (b) The right to a certificate of service; [5 marks]
 - (c) the right to freedom of association; [5 marks]
 - (d) the right not to be neither unfairly dismissed nor unfairly disciplined; [5 marks]
 - (e) the right to prescribed days off. [5 marks]
- [25 MARKS]

QUESTION FOUR

Discuss fully and explain six remedies available to an employer upon breach by an employee of a contract of employment.

In your answer refer to relevant statutory provisions and case law as applicable.

[25 MARKS]

QUESTION FIVE

SMAWU, a registered trade union operating in the manufacturing industry, wants to gain recognition at Swaziland Sorghum Brewers. The union already boasts of more than 35 paid up members in a bargaining unit with 68 employees in the company. 32 days have already lapsed since the union tendered its written application for recognition as the exclusive collective bargaining representative of certain categories of employees as are named in the application; such recognition being to enable the union to negotiate general conditions of employment. The company's Human Resources Director is reluctant to respond to the application as he believes 'unions are by their nature destructive' and as such should be avoided.

If you were to advise both the company and the union on their respective rights and duties under the Industrial Relations Act 2000, what advice would you give? In your discussion refer to the relevant provisions of the said Act.

[25 MARKS]