

UNIVERSITY OF SWAZILAND
FINAL EXAMINATION PAPER, MAY 2005

COURSE NAME : **LABOUR LAW**

COURSE CODE : **L 607**

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

INSTRUCTIONS : **ANSWER ANY FOUR [4] QUESTIONS.**
ALL QUESTIONS CARRY EQUAL MARKS.

[STUDENTS ARE REQUESTED IN THEIR OWN INTERESTS TO WRITE LEGIBLE]

**THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSION HAS BEEN GRANTED
BY THE INVIGILATOR**

QUESTION 1

Jeff has worked for NOKIA MOTORS for seven years. In May 2000, Nokia Motors announced a management buy out by the existing directors with immediate effect. The new directors continued to trade on the same premises.

The name of the company was changed to Portable Motors. A week after the take-over, a memo from the new directors addressed to the staff stated that all employee contracts shall be binding on the new company.

In the memo, it was stated further that, if a staff member decides to leave, or retires then the new company shall be liable to pay the severance/retirement entitlements due to the new employee from the date she/he joined the Nokia Motors.

Jeff has worked for 2 years for the new company (Portable Motors) when he resigns and claims his terminal benefits from Portable Motors.

You are required to advise him on the prospects of success of his claim/application in the light of section 33 *bis* of the Employment Act of 1980.

[25 marks]

QUESTION 2

A fair dismissal should comply with certain requirements. State these requirements. Discuss also, how Section 42(2)(b) of The Employment Act may affect the choice of a penal sanction that an employer may impose upon an employee who has been found guilty.

[25 marks]

QUESTION 3

The draft Constitution seeks to alter the existing labour law by affording workers certain fundamental rights. In your opinion, what impact will the constitution have on labour law.

[25 marks]

QUESTION 4

An employee owes his employer various duties. A breach of those duties entitles the employer to certain remedies. Identity those duties and state the remedies that are appropriate in the event of breach of each of those duties. Provide a reasoned answer.

[25 marks]

QUESTION 5

You have been consulted by teachers who want to form a break-away union from Swaziland United Teachers Association. How would you advise them on the requirements of registration required by the Industrial Relations Act No.1 of 2000.

[25 marks]

QUESTION 6

Employees of MASHAYINA (Pty) Ltd wants to go on strike, demanding that the employer should provide a transport service for them, as they find it difficult to commute to and from work.

Advise them of the requirements to be met before they can embark on a strike and what consequences would befall them should they either comply or fail to comply with such requirements.

[25 marks]

QUESTION 7

The Human Resources Manager of Coolers Ltd consults you for assistance in formulating work place policies on HIV/AIDS.

State why is there a concern over employees with HIV/AIDS and what privacy principles should be put in place. What steps should be taken if the employer considers dismissing an infected employee on the grounds of incapacity.

[25 marks]