

**UNIVERSITY OF SWAZILAND
INSTITUTE OF DISTANCE EDUCATION
DEPARTMENT OF LAW
FINAL EXAMINATION PAPER- 2006**

TITLE OF PAPER : INTRODUCTION TO LABOUR LAW

COURSE CODE : DL 034

TIME ALLOWED : THREE (3) HOURS

INSTRUCTIONS : ANSWER ANY FOUR (5) QUESTIONS

**THIS PAPER SHOULD NOT BE OPENED UNTIL PERMISSION HAS
BEEN GIVEN BY THE INVIGILATOR.**

QUESTION ONE

The new Constitution Act makes significant provisions that entrench important constitutional norms and principle that have an important bearing on the development of labour law in Swaziland. To some extent it brings the law of Swaziland in line with international labour conventions and standards.

With reference to the relevant ILO convention and principles and citing specific provisions in the constitution discuss the above statement. In regard to current registration advise if the statutory law confirms to the constitution.

[25 MARKS]

QUESTION TWO

Mlawula Mdluli is an elected leader of an emerging trade Union, MPONDO TRADE UNION. The Union being a newly formed trade union seeks registration and in due course recognition at the manufacturing plant where it is based. It boasts of a membership of 44 in a workforce of some 75 employees; a membership that has taken eagerly to the formation of a representative body to at long last undertake negotiations with the employer SUPERWHEEL TYRES. The company's Human Resources Manager has indicated that such a union can only be permitted on the premises over his dead body and will resist it as it is undesirable and would be disruptive.

Briefly outline the procedures of Registration. Assuming the trade union has achieved registration, what would your advice be to both Mdluli and the Human Resources Manager regarding the principles and procedural rules for recognition? Would your answer differ if the registered and paid up membership was 32. With reference to the statutory provisions and applicable principles give your answer as concisely as possible.

[25 MARKS]

QUESTION THREE

- a) Define a contract of employment setting out the essential elements that distinguish this type of contract.

[10 MARKS]

- b) Does an employment contract have to be in writing? If not, then what is the significance of Section 22 and 25 of the Employment Act, 1980. Discuss fully with reference to the specific provisions of the sections cited.

[15 MARKS]

QUESTION FOUR

Sibongile is employed as a secretary in a law firm. Her employer Blair has lately taken to being regularly abusive from time to time instructing her to run errands including buying groceries. She has often been required to clean the office premises as the cleaning attendant has recently been dismissed. However the last straw is that her employer has decided to deduct expenses relating to any wastage of paper from her salary as a cost-cutting measure. With reference to the Employment Act of 1980 and relevant decided cases advise Sibongile as to the legal position.

[25 MARKS]

QUESTION FIVE

Citing statutory provisions, briefly discuss the following:

- a) The collection and payment of trade union or staff association membership dues; [5 MARKS]
- b) Notice of withdrawal or revocation of dues deductions under the Industrial Relations Act 2000; [5 MARKS]
- c) Agency shop agreements; [5 MARKS]
- d) The difference between an **industry** union and a **trade** union as defined in the repealed Industrial Relations Act of 1996 and the current Act of 2000, respectively; [5 MARKS]
- e) What the doctrine of *majoritarianism* in the context of collective bargaining means. [5 MARKS]