

**UNIVERSITY OF SWAZILAND  
INSTITUTE OF DISTANCE EDUCATION  
DEPARTMENT OF LAW  
SUPPLEMENTARY 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 1**

The Industrial Relations Act of 2000 as amended has put in place key institutions for the determination and resolution of industrial disputes. In so doing it has conferred these institutions with important powers to carry out this function.

- a) With reference the legislation outline what these institutions are and discuss their jurisdiction under the Act; [15 MARKS]
- b) Briefly describe the concept of alternative dispute resolution and how it differs from the traditional formal processes for the hearing of disputes. [10 MARKS]

### **QUESTION TWO**

Write short notes on the following:-

- a) the right to strike; [5 MARKS]
- b) the right to certificate of service; [5 MARKS]
- c) the right to freedom of association; [5 MARKS]
- d) the right not to be either unfairly discussed or unfairly disciplined; [5 MARKS]
- e) the right to prescribed days of ; [5 MARKS].

### **QUESTION THREE**

- a) Discuss the difference between summary dismissal and constructive dismissal; [5 MARKS]
- b) With reference to Sections 42 and 36 of the Employment Act explain the concepts of procedural and substantive fairness in relation to the employers' right to discuss an errant employee [20 MARKS]

#### **QUESTION FOUR**

**Uncle Furn Stores** enters into an agreement with **Bra Con** in terms of; which latter is employed as a salesman. Under this agreement the shop owner undertakes to pay **Bra Con** his salary on the basis of 5% of all hire-purchase sales concluded and signed up.

- a) Motivating your answer, advise whether a valid contract of employment can be said to exist between the shop and **Bra Con**;  
[10 MARKS]
- b) Would it make any difference to your answer if **Uncle Furn Stores** undertook to pay **Bra Con** partly by way of food rations and partly by a fixed salary sum? Discuss fully.  
[15 MARKS]

#### **QUESTION FIVE**

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]