

UNIVERSITY OF SWAZILAND

DEPARTMENT OF LAW

FINAL EXAMINATION PAPER, 2006 (SUPPLEMENTARY)

TITLE OF PAPER : LABOUR LAW

COURSE CODE : L304/L607

TIME ALLOWED : THREE (3) HOURS

INSTRUCTIONS : ANSWER FOUR (4) QUESTIONS
ALL QUESTIONS CARRY EQUAL MARKS

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

QUESTION ONE

a) With reference to decided cases, clearly outline the procedures that have to be followed by employees in Swaziland before they may engage in a lawful (protected) strike.

(10 marks)

b) Discuss the rights of workers who engage in a protected strike in Swaziland.

(15 marks)

(25 marks)

QUESTION TWO

“The adoption of a constitution is an essential requirement for the registration of any organization, be that of an industry union, staff association or employers’ association.”
Discuss.

(25 marks)

QUESTION THREE

Zenzo Mkhize is an employee of ABC (Pty) Ltd. He has been found by a disciplinary committee to have been drunk on duty and the Committee has decided to suspend Mr. Mkhize from duty. Scelo Lukhele, the newly hired Human Resource Manager for ABC (Pty) Ltd has approached you for clarification with regards to the law, specifically:

- a) the circumstances under which an employee may be suspended;
- b) the duration of the suspension;
- c) whether the employee is entitled to remuneration during the period of suspension.

Advise Mr. Lukhele on legal issues arising in this case.

(25 marks)

QUESTION FOUR

SESMAWU, a registered industry union operating in the Electricity Supply Industry, an essential service, wants to gain recognition from the Swaziland Electricity Board. The union already has, as members, 52 of the 107 employees who are within the bargaining unit in the organization. 44 days have already expired since the union tendered its written application for recognition to the company as the exclusive collective employee representative for such categories as are named in the application, concerning all terms and conditions of employment including wages and hours of work. The General Manager – Human Resources for the company comes to you with the above facts and reminds you the Swaziland Electricity Board is an essential service in terms of section 93 (9) of the Industrial Relations Act, 2000. He further reminds you that employees in essential services are not allowed to engage in strike action and that SEB, as an essential service does not need to recognize a union.

Making reference to case law and the relevant sections of the law, advise your client about both his rights and the rights of the union.

(25 marks)

QUESTION FIVE

Mzwandile Ndodana is an employee of Zanemvula (Pty) Ltd. Mr. Ndodana is employed as a Production Manager and has been holding this post for the past seven years. His current salary is E26, 000 per month including all benefits. In September 2005, the company introduced a new product line after the Managing Director, Mr. Smith had been told by his European counterparts that they are looking for a supplier for this particular line. Mr. Smith, after a brief analysis, discovered that it would cost the company very little to produce this new line but it would bring a huge profit to the company. Without embarking on any meaningful product development, Mr. Smith instructed that production start on this line immediately. The product was transported by sea, like all other products

that the company sold to the European market. Unfortunately for Mr. Smith, the product was spoilt and by the time it reached its final destination, the buyers were unable to use it and therefore declined to make any payments for what it had already received and cancelled all pending orders. Mr. Smith was very angry and commissioned consultants to investigate why the product was spoilt.

In the making of the product, there are three main sections of the company that are involved:

- a) The quality assurance section determines the standards to be observed and met for the product to be of the highest quality and they forward these to the production section.
- b) The production section makes the product to the specifications of quality assurance, which checks the product before it is shipped to the customer.
- c) The machinery section which has to make sure that all the machines are in good working order and fix broken machinery.

The consultant reported that the fault was with the production department, stating categorically that in their opinion, the Production Manager was incompetent.

The Managing Director, Mr. Smith called a meeting which was attended by himself and the Production Manager. At this meeting Mr. Smith informed Mr. Ndodana of the contents of the consultant's report and asked him to briefly give his side of the matter. On the day following the meeting, Mr. Ndodana received a letter from the Managing Director terminating his services with immediate effect.

Mr. Ndodana has approached you for advice. Advise him fully of his rights and any remedies open to him.

(25 Marks)

QUESTION SIX

What, in your opinion are the advantages of the new system of reporting labour disputes in Swaziland over the old one.

(25 Marks)