

UNIVERSITY OF SWAZILAND

DEPARTMENT OF LAW

FINAL EXAMINATION PAPER, 2006 (MAIN)

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

Sabelo Dlamini is a doctor working for the Health and Sanitation Department of the Manzini City Council. Amongst his duties, Dlamini is required to write and publish text on health and sanitation issues on behalf of his employer. While doing some research, he stumbled upon certain novel facts about a certain illness and published a book detailing the symptoms of the illness and methods of treatment.

The book is now producing a lot of revenue which the Council insists should come to it and has sued Dlamini for the proceeds of the book sales. Dlamini has come to you for advice on the matter, saying that he is entitled to all the proceeds for the sale as he is the author of the book and all research therefor was conducted outside of his working hours and therefore not in the course of his employment.

Advise Dlamini on any rights he has in this matter, if any.

(25 Marks)

### QUESTION TWO

“The new Constitution of Swaziland has very important implications on the industrial relations of this country.” Discuss.

(25 marks)

### QUESTION THREE

National Union of Financial and Allied Workers is an industry union duly registered under the Industrial Relations Act, 2000. On 24 November, 2003 the Union wrote to Insurance Brokers (Pty) Ltd, a firm of insurance brokers, seeking recognition as the exclusive collective employee representative for all categories of its employees including branch managers, accountants and supervisors. Having received no reply from the Brokers

despite several reminders, the Union applied to the Industrial Court to have it declared the exclusive employee representative for all employees of Insurance Brokers (Pty) Ltd. The Brokers contend that:

- a) it is not a financial institution and does not fall within the industry within which the Union operates;
- b) in any event, the Union cannot represent branch managers, accountants and supervisors.

Discuss the legal issues involved having regard to decided cases and the provisions of the relevant legislation

(25 marks)

#### QUESTION FOUR

Hlangabeza Tsabedze (HT) is employed by Sibaya (Pty) Ltd, a company based in Mbabane. HT has been in the employ of Sibaya (Pty) Ltd since 1990 when he joined the company as a junior marketing executive having just completed his studies at the University of Swaziland. In December 2005, HT lost his wife in a horrific motor vehicle accident and was granted compassionate leave by the company. After he returned to work, HT was not the same. He spoke to no one and refused to even speak to clients. His immediate boss is very worried by HT's behaviour but has since done nothing about it. After putting it off for as long as possible in the hope that HT would get back to normal and perform his duties as before, HT's boss has approached your firm for advice on how to deal with HT's situation. Write a brief advising him of what his best options are under the prevailing laws.

(25 Marks)

#### QUESTION FIVE

Sebenzile Thwala was employed for eleven years by XYZ, a sole trader in Manzini as an accountant. On the tenth year of her employment, Mrs. Thwala fell pregnant and was overjoyed as she had been trying to have a baby for a long time. She went and informed her employer of the good news, but to her astonishment her employer told her that it was not the best time in the business for her to have a baby and that the only way Mrs. Thwala would be able to keep her job is if she did not take maternity leave. The only concession her employer made was that she could stay away only for five working days after the birth of her baby, failing which she would be replaced.

Mrs. Thwala has approached you for advice on her rights and obligations in the circumstances. Advise her accordingly.

(25 Marks)

#### QUESTION SIX

Mr. Smith has been sent to Swaziland by the International Bar Association to conduct a study on the role of the Conciliation, Mediation and Arbitration Commission (CMAC). He is desirous of getting an independent perspective on the Commission and decides to drive to Kwaluseni to talk to some people. He is referred to you by your colleagues who think you showed great knowledge on the subject during class discussions.

Write a paper describing CMAC and critically analyzing its role in the settlement of labour disputes.

(25 marks)