

UNIVERSITY OF SWAZILAND
INSTITUTE OF DISTANCE EDUCATION
DEPARTMENT OF LAW
SUPPLEMENTARY EXAMINATION PAPER JULY, 2007

TITLE OF PAPER :INTRODUCTION TO LABOUR LAW

COURSE CODE :DL 034

TIME ALLOWED :THREE (3) HOURS

INSTRUCTIONS :ANSWER ANY FOUR (4) QUESTIONS.

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

QUESTION ONE

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.

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) Discuss circumstances under which the Minister responsible for employment may intervene in industrial strike action.

[5 Marks]

[Total: 25 Marks]

QUESTION TWO

Discuss fully and explain six remedies available to an employer upon breach by an employee of his/her contract of employment.

In your answer refer to the relevant statutory provisions and case law where applicable.

[25 Marks]

QUESTION THREE

(a) Discuss the essential components of a contract of employment.

[10 Marks]

(b) List and discuss the main sources of labour law.

[15 Marks]

[Total: 25 Marks]

QUESTION FOUR

- (a) Termination of the contract due to failure on the one part to comply with the obligation arising therein is a universal remedy.

Distinguish between dismissal by notice and summary dismissal. In your answer refer to four grounds which will justify summary termination.

[10 Marks]

- (b) Explain what is meant by the term "specific performance". [5 Marks]

- (c) Explain the duty to remunerate the employee. [10 Marks]

[25 Marks]

QUESTION FIVE

In terms of Section 36(a) of the Employment Act 1980 an employer may terminate the services of an employee on the basis that the conduct of or work performance of the employee has, after written warning, been such that the employer cannot reasonably be expected to continue to employ him. The said Act also makes provision for similar remedy at the disposal of an aggrieved employee. With reference to case law and the relevant section of the Employment Act discuss fully the remedy that an employee can invoke.

[25 Marks]

QUESTION SIX

Name and briefly explain the duties that arise on the part of the employer upon the conclusion of the contract of employment.

[25 Marks]

QUESTION SEVEN

With reference to relevant legislation, write short notes on the following:

- (a) Protest action; [5 Marks]

- (b) Remedial powers of the Industrial Court in cases of dismissal; [10 Marks]

- (c) The functions of an employers' federation. [10 Marks]

[Total: 25 Marks]