

UNIVERSITY OF SWAZILAND

DEPARTMENT OF LAW

FINAL EXAMINATION PAPER, 2007 (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**

Zendoda (Pty) Ltd is a newly established catering company situated in Mbabane. The company has been in business for the past five months. The employees of the company have determined that they want to come together so that they are able to bargain with the company collectively. Advice them on the various options open to them, on the procedures to be followed for each of these options, and on which of the options is the best.

(25 Marks)

### **QUESTION TWO**

The Swaziland National Union of Farm Labourers has been in negotiations with their employers regarding salary increments. The Union is of the view that the negotiations are not going anywhere and that the employers are not negotiating in good faith and therefore have resolved that the best way to make the employers see their point of view is to go on strike. The executive of the Union has approached you for advice on the procedures that they have to follow to ensure that their strike is protected.

(25 Marks)

### **QUESTION THREE**

Sisekelo (Pty) Ltd, makers of steel products has a labour force of 400. Owing to the reduction in sales of its products, the company has decided to cut down its labour force. At a meeting with the leaders of the representative trade union, the management of Sisekelo outlined its plan and urged union leaders to inform the workers of the decision to reduce the workforce by 75 employees. Consequently, and in accordance with its discussion with the union leaders, the company terminated the services of Nolwazi, Lulu and Sibusiso who were among the first people to be

employed at the inception of the company 25 years ago. These three believe that their termination cannot be justified under the law.

Advise them as to their legal rights. Would your answer be different if the three employees had been selected for termination on the basis that they were active members of the union?

(25 marks)

#### **QUESTION FOUR**

“After the completion of his probation, an employee should not be dismissed on the grounds of poor work performance, unless after an enquiry certain requirements have been met”. Discuss this statement fully, making reference to decided cases.

(25 Marks)

#### **QUESTION FIVE**

According to section 42 (2) (b) of the Employment Act, 1980 provides that:

*“The services of an employee shall not be considered as having been fairly terminated unless the employer proves-*

- (a) that the reason for the termination was one permitted by section 36; and*
- (b) that, taking into account all the circumstances of the case, it was reasonable to terminate the service of the employee.*

Critically analyse the above provision of the Employment Act.

(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)