

UNIVERSITY OF SWAZILAND
INSTITUTE OF DISTANCE EDUCATION
DEPARTMENT OF LAW
MAIN EXAMINATION PAPER MAY, 2009

TITLE OF PAPER : **INTRODUCTION TO LABOUR LAW**
COURSE CODE : **DL 034**
TIME ALLOWED : **THREE (3) HOURS**
INSTRUCTIONS : **(1) ANSWER FOUR QUESTIONS.**
(2) QUESTION ONE IS COMPULSORY

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QUESTION ONE - COMPULSORY

SMAWU is a duly registered trade union in the manufacturing sector. They have been negotiating wages and bonuses with ABC Garments (Pty) Ltd. After a protracted negotiation process, both parties decide that enough is enough. SMAWU refused to accept a proposal from the management of ABC Garments and the latter was not prepared to backdown. They agreed to disagree. SMAWU then lodged a dispute with the Conciliation Mediation and Arbitration Commission. Advise SMAWU what their rights and obligations are as laid down in the Industrial Relations Act No.1/2000 (as amended) with respect to this chosen course of action. In your answer, also advise the employer, ABC Garments (Pty) Ltd what their rights are and how they would counter this action by the union.

[25 Marks]

QUESTION TWO

List and discuss the duties of an employee. If an employee is unable to perform any of his duties, what remedies are available to the employer?

[25 Marks]

QUESTION THREE

List and discuss the various methods in which a contract of employment may be terminated. In your answer, also include the methods laid down in the Code of Good Practice: Termination of Employment published in terms of section 109 of the Industrial Relations Act 2000 (as amended).

[25 Marks]

QUESTION FOUR

The dismissal of an employee must be both procedurally and substantively fair. With reference to legislation and decided cases, discuss the above statement, including in your answer the procedures to be followed by an employer to ensure that the dismissal is fair.

[25 Marks]

QUESTION FIVE

Discuss Legislation as a source of Labour Law in Swaziland.

[25 Marks]

QUESTION SIX

In terms of section 36(a) of the Employment Act 1980 (as amended), an employer may terminate the services of an employee on the basis that the conduct 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 employee in turn has a similar remedy provided for in the aforesaid Act. With reference to decided cases and the relevant section of the Act, discuss fully the remedy that an employee can invoke.

[25 Marks]

QUESTION SEVEN

Write short notes on the following rights of an employee in an employment contract:-

- (a) the right to sick leave; **[10 Marks]**
- (b) the right to freedom of association; **[10 Marks]**
- (c) the right to a certificate of service; **[5 Marks]**

[Total: 25 Marks]