

DEPARTMENT OF LAW

FINAL EXAMINATION PAPER, 2011 (SUPPLEMENTARY)

TITLE OF PAPER : LABOUR LAW

COURSE CODE : L304

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

According to Grogan (2009:28), like any contract, the *locatio conductio operarum* commences when the parties have agreed to its essential terms....

With reference to relevant authority, discuss the essential terms of an employment contract.

(25 Marks)

QUESTION TWO

The employment relationship gives rise to certain duties between the parties to it. Critically analyse EITHER the employer's duties to his/her employee OR the employee's duties to his/her employer.

(25 Marks)

QUESTION THREE

Sebentile Hlanze is an employee of Zamokuhle (Pty) Ltd, a company located in Manzini. Ms. Hlanze was employed by the company as the Managing Director's secretary in July, 2000. A week ago, the Human Resources manager called Ms. Hlanze and asked her to deliver some documents in Mbabane. Ms. Hlanze refused to carry out this instruction. The HR Manager promptly dismissed Ms. Hlanze, on the spot, asking her to leave the company premises within 15 minutes.

Ms. Hlanze has come to you for advice.

(25 Marks)

QUESTION FOUR

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Mbenga (Pty) Ltd is a company located in the Matsapha Industrial Area. The Company, through its Chief Executive Officer (CEO) Ms. Msibi has given you instructions that it has 663 people in its employ. You are further instructed that on or about 2007 the company entered into a recognition Agreement with the Manufacturing and Allied Workers' Union (MAWU) and that 507 of its employees are members of this union. Further Ms. Msibi has informed you that at various times in the past three years. the membership of the union has fluctuated, so much so that for the four month period commencing August 2010, the fully paid up members of the union were about 300 of the 600 unionisable employees, but this number has since risen above 400.

At its AGM in January 2011, MAWU elected one Mr. Mamba, the Chief Financial officer, who is not a member of the Union, as its treasurer and the said Mr. Mamba has agreed to serve as an official of the union. Ms. Msibi has on several occasions requested Mr. Mamba not to participate in union activities, but has not had any success

Discuss all the legal issues that arise herein.

(25Marks)

QUESTION FIVE

Discuss the various methods of labour dispute resolution under the Industrial Relations Act, 2000. In your discussion, outline the advantages or disadvantages of arbitration over the court process.

(25 Marks)

QUESTION SIX

Critically discuss automatically unfair dismissals.

(25 Marks)