

UNIVERSITY OF SWAZILAND

FACULTY OF SOCIAL SCIENCE

DEPARTMENT OF LAW

FINAL EXAMINATION PAPER, 2012 (MAIN)

TITLE OF PAPER : LABOUR LAW  
COURSE CODE : L304  
TIME ALLOWED : THREE (3) HOURS  
INSTRUCTIONS : ANSWER FOUR (4) QUESTIONS  
ALL QUESTIONS CARRY EQUAL MARKS

**DO NOT OPEN THIS PAPER UNTIL PERMISSION HAS BEEN GRANTED BY THE INVIGILATOR**

### QUESTION 1

Gcama Gadlela was employed by Sibeko Holdings (Pty) Ltd as a technician on the 14<sup>th</sup> September, 2000. Gadlela continued to work for the company until July 2012, when he was suspended following that he was suspected for removing from the company premises certain machinery belonging to the company including a grinder and drilling machine. The company has approached you for assistance in holding Gadlela responsible for his actions and has requested you to

- a) Draft a charge sheet on the basis of which Gadlela will be given an opportunity to defend himself from any wrong doing.

(10 Marks)

- b) Compile a brief, supported by relevant authority, on the requirements of procedural fairness for the company to make sure it remains within the confines of the law.

(15 Marks)

### QUESTION 2

“The Constitution of Swaziland of 2005 has had a very positive impact on the labour laws of the country”.

Discuss the accuracy of this statement.

(25 Marks)

### QUESTION 3

Write short notes on the following;

- a) Legitimate Expectation (10 Marks)  
b) The dominant impression test for determining the contract of employment (10 Marks)  
c) Variation of the contract of employment (5 Marks)

### QUESTION 4

Mgcibelo Tfwala has been employed by Sibeko Holdings since February, 2005. On the 18<sup>th</sup> October, 2011, Tfwala, while driving the company motor vehicle to deliver it at a garage in Manzini for service, as instructed by his supervisor, is involved in a very serious accident. Tfwala sustained injuries on both his arms and severe burns on his face and torso. The motor vehicle was damaged beyond repair.

Tfwala was hospitalized for eight months and was finally released and declared by his doctor to be fit for 'certain kinds of duties'. The company, when Tfwala reported to work in July, 2012, asked Tfwala to resign from the company, failing which his services would be terminated, and any benefits he may be entitled to forfeited. Tfwala thinks this is unfair, and has approached you for a legal opinion regarding his rights in the matter.

(25 Marks)

#### QUESTION 5

Write short notes on the following:

- (a) The duties of trade unions (8 marks)
- (b) The collective bargaining process (8 marks)
- (c) The role of the Conciliation, Mediation and Arbitration Commission in the industrial relations of Swaziland (9 marks)