

UNIVERSITY OF SWAZILAND
INSTITUTE OF DISTANCE EDUCATION
DEPARTMENT OF LAW
MAIN EXAMINATION PAPER MAY 2016

TITLE OF PAPER : **INTRODUCTION TO LABOUR LAW**
COURSE CODE : **DL 034**
TIME ALLOWED : **THREE (3) HOURS**
INSTRUCTIONS : **(1) ANSWER FOUR (4) QUESTIONS.**
(2) QUESTION ONE IS COMPULSORY.

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

QUESTION ONE – COMPULSORY

SMAWU, a registered trade union operating in the manufacturing industry wants to gain recognition at Sidwashini Timber & Planks (Pty) Ltd. The union already boasts of more than forty (40) paid up members in a bargaining unit of seventy (70) employees in the company. Twenty five (25) days have already elapsed since the union has submitted its written application for recognition as the employee representative of certain categories of employees as are named in the application. Such recognition would enable the union to negotiate general conditions of employment. The company's Human Resources Manager is reluctant to respond to the application because he believes unions are by their very nature destructive and should be discouraged.

Advise both the **company** and the **union** on their respective rights, options and obligations under the Industrial Relations Act 2000 (as amended).

In your answer give specific and clear references to the relevant provisions of the Act.

[25 Marks]

QUESTION TWO

Mr. Xulu was recently dismissed by ABC (Pty) Ltd. He was earning E2 000 (Two Thousand Emalangi) per month. He was working 20 days a month. He worked for ABC for 21 years.

Calculate, stating the **formula** and the **legal basis** (section of the relevant Act);

- | | |
|--|-----------|
| (a) Severance allowance payable; | [5 Marks] |
| (b) Additional Notice payable; | [5 Marks] |
| (c) Maximum Compensation for unfair dismissal; | [5 Marks] |
| (d) Maximum Compensation for automatically unfair dismissal; | [5 Marks] |
| (e) What is the Notice Pay due? | [5 Marks] |

[TOTAL: 25 Marks]

QUESTION THREE

Discuss the common law duties of an employee who is engaged under the *locatio conductio operarum*.

[25 Marks]

QUESTION FOUR

Discuss the remedy of **constructive dismissal**, making reference to the relevant legislation and decided cases. **[25 Marks]**

QUESTION FIVE

Discuss **Legislation** as a source of Labour Law in Swaziland.

[25 Marks]

QUESTION SIX

Discuss the three **remedies** for unfair dismissal, making reference to decided cases and the relevant provisions of the applicable Act.

[25 Marks]

QUESTION SEVEN

(a) Distinguish between a **strike** and a **lock-out**. **[5 Marks]**

(b) Distinguish between an **interest dispute** and a **rights dispute**. **[5 Marks]**

(c) What are the consequences of a protected strike? **[10 Marks]**

(d) How are disputes in "**essential services**" resolved? **[5 Marks]**

[Total: 25 Marks]