

**UNIVERSITY OF SWAZILAND**  
**INSTITUTE OF DISTANCE EDUCATION**  
**DEPARTMENT OF LAW**  
**MAIN EXAMINATION PAPER MAY 2017**

**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.**

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BY THE INVIGILATOR**

### QUESTION ONE – COMPULSORY

Discuss the right of employees to **withdraw from duties or labour** and the steps such employees must take to ensure that their withdrawal of labour is in conformity with the relevant Act.

In your answer, state what consequences, if any, apply to **both compliance and non-compliance** with the relevant provisions of the Act.

[25 Marks]

### QUESTION TWO

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 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 terms and 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 make reference to relevant case law and give specific and clear references to the relevant provisions of the Act.

[25 Marks]

### QUESTION THREE

Name and discuss the common law duties that arise on the part of an **employee** who is engaged under the *locatio conductio operarum*. In your answer make reference to relevant case law.

[25 Marks]

#### QUESTION FOUR

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

[25 Marks]

#### QUESTION FIVE

Sibongile is employed as a Secretary in a popular Law firm. Her employer Youngblood Dlamini has of late been regularly abusive and oppressive, frequently instructing her to run menial tasks that are inconsistent with her duties. Her protestations on the harsh treatment were largely ignored by Youngblood. The last straw however came when Youngblood held Sibongile in an intimate embrace after winning a case he had been working on. His advances were unsolicited and unwelcome on the part of Sibongile.

Advise Sibongile of her options regarding this behavior by her employer. In your answer make reference to the relevant sections of the relevant Act and to decided cases.

[25 Marks]

#### QUESTION SIX

Briefly discuss the following:

(a) The remedy of reinstatement;

[10 Marks]

(b) The right not to be unfairly dismissed;

[10 Marks]

(c) The right to sick leave.

[5 Marks]

[Total 25 Marks]

#### QUESTION SEVEN

Distinguish between:

(a) A **strike** and a **lock-out**;

[5 Marks]

(b) An **interest dispute** and a **rights dispute**;

[5 Marks]

(c) A **staff association** and a **trade union**;

[5 Marks]

(d) **Summary dismissal** and **dismissal on notice**; and

[5 Marks]

(e) **Collective labour law** and **individual labour law**.

[5 Marks]

[Total 25 Marks]