

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCES
DEPARTMENT OF LAW
LABOUR LAW MAIN EXAM PAPER- SEMESTER I 2017/2018

Programme of Study : **LLB (N/P) III & B.Com V**

Title of Paper : **Labour Law**

Course Code : **L304**

Time Allowed : **3 Hours**

INSTRUCTIONS:

1. Answer any four (4) Questions
2. In answering any question make sure that your expression is clear, you handwriting is legible, and that you refer to case law.
3. Begin each question on a new page.

THIS PAPER MUST NOT BE OPENED UNTIL PERMISSION HAS BEEN GRANTED BY INVIGILATOR(S).

QUESTION 1

(a) International labour law is considered as a source of Swaziland labour law. Explain the correctness of this statement, referring to authority.

[10 Marks]

(b) Discuss the statutory definitions of an employee in Swaziland labour law and refer to the case of *Percy Lokotfwako v STBC* IC Case No. 151/2007.

[15 Marks]

[25 Marks]

QUESTION 2

(a) Distinguish between a strike and a lockout.

[5 Marks]

(b) Distinguish between an interest dispute and a rights dispute.

[5 Marks]

(c) What is a protected strike, and what are its consequences?

[10 Marks]

(d) How are disputes within essential services resolved?

[5 Marks]

[25 Marks]

QUESTION 3

(a) Certain provisions of the Constitution of Swaziland, such as sections 14, 17, 24, 25 & 32, deal with labour law and the protection of the rights of workers. Explain the content and legal effect of these provisions?

[15 Marks]

(b) With reference to case law, analyse what an employee's duty to be respectful and obedient entails.

[10 Marks]

[25 Marks]

QUESTION 4

SUFIAW, a registered Trade Union operating in the finance industry seeks recognition at Bidvest Bank. The union already has more than fifty (50) 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. Bidvest Bank's Human Resources Manager is reluctant to respond to the application because he believes unions are by their very nature destructive and that unions should be discouraged. Advise both the Bank and SUFIAW on their respective rights and obligations referring to specific provisions of the Industrial Relations Act 2000 (as amended) and case law.

[25 Marks]

QUESTION 5

'Check Us' Supermarket in Manzini has employed 10 cashiers. 6 of the cashiers are members of the Cashiers Union of Swaziland (CUSWA) which is recognized by the supermarket. The remaining 4 cashiers are not members of any union. During the past two years, CUSWA has been successful in negotiating better conditions of employment for its members within 'Check Us'. Pursuant to these successful negotiations, all the cashiers employed by Check us have equally received good very salary adjustments. CUSWA is currently in other negotiations with Check Us, whereby CUSWA is demanding that Check Us must deduct a fee from the non-unionised cashiers and remit that fee to CUSWA. CUSWA claims that these 4 cashiers are unjustly benefiting from the fruits of collective bargaining made by CUSWA within Check Us. Check Us argues that they cannot deduct such fees as that would amount to union affiliation or membership fees, yet the employees prefer to remain without a union. Moreover, Check Us argues that remitting the fees to CUSWA would conflict with the employee's rights to freedom of association, the right to choose their own union as provided for in sections 14 and 25 of the Constitution.

Write a legal opinion in which you explain the correct position of the law in this matter, as well as the obligations and rights of the parties.

[25 Marks]

END OF PAPER