

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF SOCIOLOGY
FINAL EXAMINATION PAPER, MAY 2007

TITLE OF PAPER : **INTRODUCTION TO ELEMENTS OF LABOUR LAW**

COURSE CODE : **SOC 410**

TIME ALLOWED : **TWO (2) HOURS**

INSTRUCTIONS : **1. ANSWER ANY THREE (3) QUESTIONS.**
2. ALL QUESTIONS CARRY EQUAL MARKS.

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

QUESTION 1

- (a) Distinguish between the contract of employment and contract of service. (5 marks)
- (b) Explain five (5) essential elements of a contract of employment. (5 marks)
- (c) With reference to *Friedlander v Hodes* 1944 CPD 149, explain the common law duty of an employee with respect to maintaining reasonable efficiency at the workplace. (15 marks)

QUESTION 2

- (a) Discuss factors that ought to be considered in a case where constructive dismissal is alleged. (5 marks)
- (b) With reference to three (3) common law duties of an employee, discuss three (3) fair reasons that can necessitate the termination of a contract of employment of an employee by an employer as envisaged by The Employment Act, 1980 (as amended). (20 marks)

QUESTION 3

Using examples, discuss the following:

- (a) Five (5) common law duties of an employer. (10 marks)
- (b) five ways in which a contract of employment can lawfully come to an end. (10 marks)
- (c) Two (2) judicial tests used to determine whether a person is an employee or not. (10 marks)

QUESTION 4

Discuss the extent to which the trade union movement and political parties of the 1960s to date *were legs of the same* body in Swaziland's labour history. (25 marks)

QUESTION 5

Discuss the role played by the Conciliation, Mediation and Arbitration Commission (CMAC) in dispute resolution in Swaziland.

QUESTION 6

- (a) Explain what is entailed by a dismissal for operational requirements. (5 marks)
- (b) Explain the process involved in a situation where the employer contemplates terminating the contracts of employment of his/her employees in accordance with operational requirements. (20 marks)