

KABARAK



UNIVERSITY

EXAMINATIONS

2008/2009 ACADEMIC YEAR

FOR THE DEGREE OF BACHELOR OF COMMERCE

COURSE CODE: HRMT 415

COURSE TITLE: LABOUR LAWS

STREAM: Y4S1

DAY: WEDNESDAY

TIME: 2.00 – 4.00 P.M.

DATE: 25/03/2009

INSTRUCTIONS:

Answer all questions in Section A and any other one from Section B. Legibility is important. Be precise and clear in your answer.

PLEASE TURN OVER

SECTION A

1. (a) Discuss four sources of labor law in Kenya. (8 Marks)

(b) State four duties of the government, under the Industrial Relations Charter. (4 Marks)

(c) Discuss exhaustively two ways of handling trade disputes. (4 Marks).

(d) Three persons accompanying three workers of Matopeni Company Limited joined the workers, at the request of the workers, to pull the company van which had been stuck in mud and want to be paid by the company for the work rendered. What entitlements are due to them and from whom? (4 Marks)
2. (a) The managers of Ugunduzi Company Ltd are very unhappy with the junior staff who are members of the Allied Workers' Trade Union which has called a for a strike by way of a notice to the management and the Minister. They have reported to the directors who have reclined into a crisis meeting for over three hours. You are called upon to by the directors to give five likely causes of this situation, and the best course of action since the situation was seemingly violent when they left for their homes the previous evening. Advise. (10 Marks)

(b) Discuss the four main benefits due to permanent and pensionable employee. (8 Marks)

(c) Are there any disadvantages of Arbitration over court hearings in dispute settlements? (2 Marks)

SECTION B

3. (i) Jemima, an employee of Nakummatrons Limited, is newly married to John, and in their happy moments, she conceives unexpectedly. She had had been earmarked for retrenchment in May next year but before then she is to go for her annual leave on 1st November 2009. She gives birth to a bouncing baby girl on 15th September 2009 and does not resume from her annual leave in on 1st of December and her employer is very cross with her, and wants to sack her on 2nd December since this is the long-awaited opportunity for him to get rid of her sooner than retrenchment time because the Asian girl he has always wanted to marry is really in need of a job similar to that of Jemima. Under the contract of employment, either party should give a three month's notice or pay the other a sum equivalent to the salary payable for the period of notice. Using appropriate law guidelines advise Jemima and also the manager. (14 Marks)

(b) The members of the Kenya Union of Teachers have called for a strike over government delay in implementing a salary increase. The Teachers' Service Commission has gone to the Industrial Court and obtained an order staying the strike and yet KNUT wants to proceed as planned. Briefly state the implications of that strike if it takes effect and indicate under what circumstances the KNUT could lawfully proceed. (8 Marks)

4. (a) Name and briefly describe two types of employment. (2 Marks)

(b) Paul has been working for James for five months as a casual laborer. He has been paid a gross salary of Ksh 3222/= per month for all that period whereas the Wage Regulation Order stipulates that he is entitled to a gross salary of ksh 5222/= per month. What should the court do with John? And does James have any remedy? (4 Marks)

(c) The members of the Kenya Union of Teachers have called for a strike over government delay in implementing a salary increase. The Teachers' Service Commission has gone to the Industrial Court and obtained an order staying the strike and yet KNUT wants to proceed as planned. Briefly state the implications of that strike if it takes effect and indicate under what circumstances the KNUT could lawfully proceed. (8 Marks)

(d) Matata Employers Company has recently asked its employees to reapply for their jobs for no apparent reason. The employees, through their union, wanted to go on strike yesterday but the company quickly averted the same by a lock-out. Is the action of the employer lawful? Explain. What are the circumstances when a lock-out is unlawful? (8 Marks)

5 (a) A house-help by name Jane is twelve and a half years old, a fact which Joseph, her immediate boss, knows well about. She has worked for him for three years, of which Joseph recalls having paid her for five months only. In the last two months John has been hurling a broom towards her whenever he sees her, because he has been suggestively winking at her yet she is ignoring him. Identify some of the wrongs Joseph has committed under the employment laws, while explaining what both need to do to remedy the situation. (12 Marks)

(b) The Collective Bargain Agreement between members of Upside Down Inside Out Company and the Trade Union of the workers of the company provided that where there is an issue of sexual harassment at the work place, the issue should be referred to an arbitrator. Mary alleges that Tom and Jerry did sexually harass her at the work place on Monday. She has asked you to get her an award from the Industrial Court. How does she go about getting the proper remedy? (4 Marks)

(c) Discuss the four requirements of the Factories Act, with regard to a worker's health. (4 Marks)

END