



**UNIVERSITY OF JOHANNESBURG  
KINGSWAY CAMPUS**

**COLLEGE OF BUSINESS AND ECONOMICS  
JOHANNESBURG BUSINESS MANAGEMENT**

**DEPARTMENT OF BUSINESS MANAGEMENT  
SUPPLEMENTARY FINAL WRITTEN ASSESSMENT**

**SUBJECT: LABOUR RELATIONS**

**CODE: BMA9X07**

**DATE: 27 JULY 2018**

**TIME ALLOWED: 180 MINUTES**

**TOTAL MARKS: 100**

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**EXAMINER: MRS ES FOURIE**

**MODERATOR: PROF MM BOTHA**

**NUMBER OF PAGES: 3 (INCLUDING COVER PAGE)**

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**INSTRUCTIONS TO CANDIDATES:**

**ANSWER ALL THE QUESTIONS.**

**IN YOUR ANSWERS YOU MUST REFER TO RELEVANT CASE LAW, LEGISLATION, CONSTITUTIONAL AND LITERARY AUTHORITY WHERE APPLICABLE. PLEASE NOTE THAT STUDENTS MAY USE CLEAN COPIES OF LEGISLATION DURING THE EXAM.**

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-2-

MODULE: LABOUR RELATIONS (BMA9X07)**QUESTION 1**

Discuss the onus of proof in dismissal disputes. In your answer you must distinguish between dismissals as defined in section 186 of the Labour Relations Act 66 of 1995 (*LRA*) and dismissals for one of the reasons listed in section 187 of the *LRA*.

**[10]****QUESTION 2**

TUPCO (Pty) Ltd is a bus operator that for many years, has had something of a monopoly on suburban bus routes, in the form of concessions granted by the Department of Transport. A driver and a conductor service the buses that operate on each route; both of them work on the same routes every day. The company also has a head office, where 100 people are employed as accountants, human resources managers, and the like. The company also has its own workshops, where all buses used on the company's routes are regularly serviced and repaired. These are housed in a separate company, TUPCO Workshops (Pty) Ltd. The 52 employees engaged in this company are mainly motor mechanics and other technical staff.

As a result of a change in government policy, all concessions to operate buses on the routes concerned have been cancelled, and all bus operators are invited to tender for specific routes. The terms of the tender do not require any employees engaged in terms of existing concessions to be transferred to any new operator. After the bids have been adjudicated and awarded, TUPCO loses 50% of its existing routes to other bidders.

Sections 197 and 197A of the LRA regulate the employment-related consequences of the transfer of a whole or part of a business. Discuss the consequences of a business transfer for both employees and employer parties.

**[25]****QUESTION 3**

Mr Jones has been employed as a commercial pilot by Fly High Airlines (Pty) Ltd (FHA). For five years he has been flying both domestic and international routes and has even received awards in the aviation industry for his abilities as a pilot. During September 2015 the human resources manager, Ms Peters, is informed by Mr Jones that he is in a same sex relationship and is HIV positive, but that he is on medical treatment for his condition. Ms Peters considers this information as disturbing and in particular regards it as a serious threat to FHA, not on account of Mr Jones being homosexual but on account of the fact that being HIV positive may lead to complicated medical illnesses and conditions which may adversely impact upon the ability of Mr Jones to be a competent pilot.

Consider the abovementioned facts and answer the following questions:

- 3.1 Would it amount to unfair discrimination in terms of any labour legislation were FHA to dismiss Mr Jones without further consideration? (20)
- 3.2 Explain the specific defence of an inherent requirement of a job in terms of section 6(2) of the Employment Equity Act 55 of 1998. (5)

**[25]**

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MODULE: LABOUR RELATIONS (BMA9X07)**QUESTION 4**

Edgars (Pty) Ltd is contemplating retrenching 880 workers. Edgars (Pty) Ltd employs more than 3500 workers. Edgars (Pty) Ltd is currently faced with declining profitability and the loss of market share. Edgars (Pty) Ltd's operations director, Neal Jones, said that they had given this decision a great deal of thought over a period of time and it was in line with the major problem facing the company in respect of declining profitability and loss of market share. This decision was not taken lightly and he said that they have been looking at possible alternatives that may reduce the number of full-time people that may be affected.

Consider the above facts and answer the following questions:

- 4.1 Discuss the requirements that the retrenchment must meet in order to be substantively fair. In your answer you must also refer to the definition of operational requirements as provided for by labour legislation. (20)
- 4.2 Discuss the procedural requirements that the retrenchments must meet in order to be procedurally fair. In your answer you must indicate whether section 189A of the Labour Relations Act 66 of 1995 will be applicable. (20)

**[40]**

**TOTAL MARKS: [100]**