



PROGRAM : NATIONAL DIPLOMA IN HUMAN RESOURCES
SUBJECT : LABOUR LAW
CODE : BAH11A1
DATE : EXAMINATION
13 JUNE 2017
URATION : 2 HOURS
WEIGHT : 50 : 50
TOTAL MARKS : 100

EXAMINER : MR S NKOSI (UJ)
MODERATOR : MR M VAN STADEN
NUMBER OF PAGES : FOUR (4) PAGES

REQUIREMENTS:

UJ EXAMINATION ANSWER BOOK

INSTRUCTIONS TO CANDIDATES:

1. Use the UJ Examination Book and number your answers correctly.
 2. DO NOT use Tip-ex.
 3. DO NOT use sms-language
 4. Draw a line to separate answers between questions.
 5. Calculators are permitted.
 6. Write your name, surname and student number on the answer book.
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QUESTION 1

- a) List the sources of labour law. (7)
- b) Mention the main distinguishing features between a contract of employment (contract of services) and a contract of service (piece of work). (5)

[12]

QUESTION 2

F, a general worker at ABC (Pty) Ltd, a printing company, is allowed 10 days' vacation leave, and 2 months maternity leave in terms of F's employment contract with the company. The Basic Conditions of Employment Act 75 of 1997 allows all workers in her position 21 days of vacation leave, and 4 months' maternity leave. However, a recent bargaining council collective agreement fixes vacation leave at two weeks per year. Explain, with reference to authority, which specific provisions are applicable to F's situation.

[6]

QUESTION 3

S has recently been appointed as a warehouse supervisor at Cotton Candy (Pty) Ltd. He works from Monday to Friday, and earns R12000 a month plus medical and pension benefits. He started working for Cotton Candy on 1 June 2005. Using the facts given, explain the following conditions of employment to S:

- 3.1 overtime. (6)
- 3.2 sick leave. (4)
- 3.3 regular night work. (5)

[15]

QUESTION 4

W, works for XYZ (Pty) a small business enterprises with its main place of business in Pimville, Soweto. He is asked by his manager M to remove M's car from the pavement adjacent to the premises and park it in one of the parking bays. Instead of parking the car as asked, W decides drive to Sandton to pick up his girlfriend for some shopping. Whilst on his way there, he gets involved in a collision with another car. The other car is severely damaged.

- a) Is XYZ (Pty) Ltd liable for the damage caused to the other car? Discuss with particular reference to relevant principles and case law. (8)
- b) If W were an independent contractor, on what basis would XYZ (Pty) Ltd be held liable for the damaged caused? (5)

[13]

QUESTION 5

In 2010 M a mechanic, entered into an employment contract with Auto-Electrical (Pty) Ltd. The contract included a clause in terms of which he was prevented from setting up a business in completion with Auto-Electrical on termination of employment. It also prevented him from joining any of its competitors for a period of five years within a radius of 25km from its premises. In 2016 M who had obtained a Diploma in panel-beating and spray-painting in the meantime, terminated his employment contract with Auto-Electrical and started his own auto-electrical repairs and panel-beating business. Using the facts provided, answer the following questions:

- a) What is the clause referred to in the facts called? (1)
- b) What legal remedy, if any, does Auto-Electrical (Pty) Ltd have against M; and what is the purpose of the remedy? (2)
- c) What factors are likely to influence the court in making its decision in this regard? (7)

[10]

QUESTION 6

A, your 45 year-old aunt, has just started working at Iron & Steel Mining Company Ltd as a general worker. She does not know whether to join a union or not. She would like to know what rights she has in terms of the Labour Relations Act 66 of 1995. Advise A with particular reference to the following concepts:

- a) Organisational rights of unions in South Africa, and the circumstances in which they may be exercised (10)
- b) The check list of requirements as stated in Item 7 of the Code of Good Practice: Dismissal that Iron & Steel needs to consider before dismissing A.(7)

[17]

QUESTION 7

P, a 40 year-old white male pilot with considerable experience applied for a position of "Senior Pilot" at Flywell Airways. During the interview he informed the prospective employers that he was infected with the HIV-virus about 10 years ago. He also told them that he was in a same-sex relationship. Flywell did not appoint him to the post. Instead they appointed N, a 24 year black female from Malawi, with 200 hours or one and half years' flying experience. Advise P on the following aspects:

- a) The legality and constitutionality of pre-appointment medical and psychometric tests, including the one for HIV that P had to undergo. (10)
- b) Would your answer be different if Flywell were a fishing and food-processing company? (4)
- c) Whether by appointing N Flywell unfairly discriminated against him (P) in the circumstances of the case. (13)

[27]

TOTAL: [100]
