



UNIVERSITY
OF
JOHANNESBURG

FACULTY : LAW
DEPARTMENT : LABOUR LAW
CAMPUS : APK
MODULE : ABR0021/ LLW41B0
SEMESTER : SECOND SEMESTER
EXAM : SUPPLEMENTARY 2020

DATE : **SESSION** 1ST SESSION:
ASSESSOR(S) : DR ES FOURIE
MODERATOR : PROF MM BOTHA (UP)
DURATION : 120 MINUTES PLUS 15 MINUTES READING TIME
MARKS : 60

NUMBER OF PAGES: 2 PAGES
INSTRUCTIONS:

1. PAY ATTENTION TO THE MARK ALLOCATION OF EACH QUESTION AND PLAN YOUR ANSWERS ACCORDINGLY
2. ANSWER ALL THE QUESTIONS. READ ALL QUESTIONS CAREFULLY AND ANSWER COMPREHENSIVELY. REFER TO ANY RELEVANT AUTHORITY

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MODULE: ABR0021/ LLW41B0 – LABOUR LAW

QUESTION 1

DUSWO, a registered trade union, seeks organisational rights. DUSWO only represents 18 out of 75 employees. It had represented 35, but due to the employer's restructuring, its membership had been reduced dramatically. DUSWO seeks organisational rights as a sufficiently representative trade union, however, the employer, Group 4 Falck (Pty) Ltd, refuses to grant DUSWO any organisational rights.

Consider the above facts and critically evaluate the provisions of organisational rights in labour legislation, with reference to majority and sufficiently representative trade unions. **[20]**

QUESTION 2

Ms North was employed as a secretary at Liberty Group Limited. She alleges that her manager, Mr West, harassed her on four separate occasions during 2018. This took the form of inappropriate comments and physical contact. During this time, she was also experiencing financial difficulties. She discussed this with Mr West. At this stage, she did not report the harassment as she feared that she might lose her job. However, the harassment continued and on 25 August 2018 she contacted Mr Soller, the human resources consultant, and disclosed the sexual harassment by Mr West. No steps were taken to investigate the claim and Ms North submitted her resignation. Ms North seeks your advice in respect of this matter.

Critically analyse the legal position of Ms North and advise her of any possible remedies that she may have under applicable labour legislation. In your answer you must also consider the concepts of discrimination, harassment and the onus of proof in this dispute. **[20]**

QUESTION 3

The protection extended by labour statutes traditionally applies only to persons who are defined as employees. Evaluate the definition in the various statutes, including the Constitution and the presumption in section 200A of the Labour Relations Act 66 of 1995. **[10]**

QUESTION 5

Discuss the remedies in dismissal disputes. In your answer you must distinguish between dismissals as defined in section 186 LRA and dismissals for one of the reasons listed in section 187. **[10]**

TOTAL MARKS: [60]