



SYLLABUS

EMPLOYMENT LAW

OBJECTIVE

The student will be able to apply the legal principles as described in each in each of the nine sections when they have completed the study of Labour Law.

RECOMMENDED TEXTBOOK

A practical guide to Labour Law (Latest Edition) by J du Plessis, M Pouche, B Jordan and M van Wyk: Butterworths, Durban.

SYLLABUS

1. The Common Law Contract of Employment
2. The Basic Conditions of Employment Act No 75 of 1997
3. The Compensation for Occupational Injuries and Diseases Act No 130 of 1993
4. The Unemployment Insurance Act No 30 of 1966
5. The Occupational Health and Safety Act No 85 of 1993
6. The skills Development Act (once promulgated)
7. The Employment Equity Act (once promulgated)
8. The Labour Relations Act No. 66 of 1995

The Common Law Contract of Employment

- ❑ Definition of a contract of employment
- ❑ Essential elements of the contract of employment
- ❑ The contract of employment and similar relationships
- ❑ Original and development of Common Law rules
- ❑ Formation of a contract of employment
- ❑ The employer's duties in the contract
- ❑ The employee's remedies
- ❑ The employee's duties in a contract of employment
- ❑ The employer's remedies
- ❑ Termination of the contract

The Basic Conditions of Employment Act No 75 of 1997

- ❑ Regulations relating to working time of ordinary hours of work

- ❑ Regulations relating to overtime, meal intervals, daily and weekly rest periods, pay for work on Sundays, night work and regulations on public holidays.

Regulations relating to written particulars of employment, payment of remuneration information about remuneration, deductions from remuneration, information about remuneration, deductions from remuneration, calculation of remuneration of wages.

- ❑ Regulations relating to notice of termination of employment, payment in lieu of notice, employees in accommodation provided by employers, payment on termination, severance pay, certificate of service.
- ❑ Regulations on the prohibition on the employment of children and on forced labour
- ❑ Regulations concerning the monitoring and enforcement of the Act viz functions and powers of labour Inspectors, compliance orders, protection of employees against discrimination.

The Compensation for Occupational Injuries of Disease Act 130 of 1993

- ❑ Application of the Act
- ❑ Duties of the employer
- ❑ Procedure to claim compensation, the right to compensation, compensation for disablement, death and occupational diseases.
- ❑ Claiming compensation from the employer or a third party

The Unemployment Insurance Act No 30 of 1966

- ❑ Application of the Act
- ❑ Conditions to qualify for benefits – the types of benefit
- ❑ Claims procedure
- ❑ Duties of the employer

The Occupational Health and safety Act No 85 of 1993

- ❑ Application of the Act
- ❑ Advisory council for Occupational Health and Safety – Functions of the Council
- ❑ Duties of employees and employers
- ❑ Health and Safety representatives – functions of health and safety representatives
- ❑ Health and Safety committees – functions of committees
- ❑ Inspectors – functions and powers
- ❑ Miscellaneous provision of the Act

The Skills Development Act (Once promulgated)

- ❑ Objectives of the Act
- ❑ Establishment of Research and Strategic Planning Unit (also functions)
- ❑ Establishment and functions of employment services
- ❑ Learnerships – development, agreements
- ❑ Training programmes
- ❑ Quality and relevance of skills development programmes
- ❑ Procedures for financing
- ❑ Training providers
- ❑ Skills development levy
- ❑ Educational and Training Funds / National Skills Fund
- ❑ Establishment of Sector Education and Training Authorities (SETAS)
- ❑ Functions of SETAS
- ❑ National Skills Authority – functions, meetings, committees etc.

The Employment Equity Act (once promulgated)

- ❑ Purpose and application of the Act
- ❑ Prohibition and elimination of unfair discrimination
- ❑ Medical and psychological testing
- ❑ Applicants who are regarded as applicants for jobs
- ❑ Burden of proof in disputes
- ❑ Affirmative action – duties of designated employers – affirmative action measures, consultation with employees, matters of consultation, Disclosure of information
- ❑ Employment equity plans and reports, publication of reports, successive equity plans
- ❑ Establishment of a Commission for employment equity – composition, functions, staff and expenses, public hearings, reports by Commission
- ❑ Monitoring, enforcement and legal Proceedings – viz. power of labour Inspectors compliance orders, appeals / reviews against compliance orders, role of CCMA in conflict of proceedings powers and jurisdiction of CCMA and Labour Court
- ❑ Protection of employee rights
- ❑ Codes of good practice
- ❑ Breach of confidentiality
- ❑ Liability of employers for contraventions of the Act (fines)

The Labour Relations Act No 66 of 1995

- ❑ Framework of the Labour Relations Act
- ❑ Collective bargaining
- ❑ Worker participation
- ❑ Dismissals

- ❑ Dispute resolution by the CCMA
- ❑ Strikes and lockouts
- ❑ Employment equity

EXAMINATION

1. Students will write one three-hour in the subject Labour Law – the examination is conducted twice per annum in May and October.
2. The examination will comprise five questions of which the student must answer four questions – each question will comprise 25 marks – giving a total of 100 marks.
3. The questions will comprise a mixture of straightforward recall-type questions and also situational type questions in which the student's ability to apply legal principles to a given situation will be tested

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