



## 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 (Second Edition) by J du Plessis, M Pouche, B Jordan and M van Wyk: Butterworths, Durban. 1996

Please note that there is no reasonably priced text book currently available and even the above textbook is partially out of date as a result of the rapid changes currently taking place in the field of Labour Law. In some cases reference will have to be made directly to the statute in question.

#### SYLLABUS

1. The Common Law Contract of Employment	10%
2. The Basic Conditions of Employment Act No 75 of 1997	16%
3. The Compensation for Occupational Injuries and Diseases Act No 130 of 1993	8%
4. The Unemployment Insurance Act No 30 of 1966	7%
5. The Occupational Health and Safety Act No 85 of 1993	9%
6. The Skills Development Act (once promulgated)	10%
7. The Employment Equity Act (once promulgated)	15%
8. The Labour Relations Act No. 66 of 1995	25%

#### 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
- Origin 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 above topics can be found in Chapter Two of the textbook, pages 7 – 17 and will form 10% of the examination)

### 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.

(The above can be found in chapter Two of the Statute BCEA 1997.)

- 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.

(The above can be found in Chapter Four of the Statute BCEA 1997.)

- 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.

(The above can be found in Chapter Five of the Statute BCEA 1997.)

- Regulations on the prohibition on the employment of children and on forced labour

(The above can be found in Chapter six of the Statute BCEA 1997.)

- Regulations concerning the monitoring and enforcement of the Act viz functions and powers of labour Inspectors, compliance orders, protection of employees against discrimination.

(The above topic can be found in Chapter Ten of the Statute BCEA 1997.)

(The above section will form 16% of the Syllabus.)

### 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 above topics can be found in Chapter 5 of the textbook, 55 – 62 and will form 8% of the examination.)

### 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 above topics can be found in Chapter six of the Text book, pages 81 – 85 and will form 7% of the examination.)

### 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 above topics can be found in Chapter Seven of the textbook, pages 99 – 106 and will form 9% of the examination.)

### 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 above topics can be found in the Statute (+ pages) once promulgated and will form 10% of the examination.)

### 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 expensed, 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 above topics can be found in the Statute once promulgated will form 15% of the examination. Reference can be also be made to Chapter 18 of the textbook.)

### 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

(The above topics can be found in Chapters 11 to 15 of the textbook, pages 217 – 318 and Chapter 18 page 337 – 347. These Chapters must be studied in detail and will form 25% of the examination.)

## **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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