

LABOUR LAW – QUESTION PAPERS FOR MAY/JUNE EXAMS

QUESTION PAPER OCTOBER/NOVEMBER 2015

QUESTION 1

Write brief notes on the following:

- a) Formal equality as a form of equality based on section 9(3) & (4) of SA Constitution. (2)
- s9 (3) of the Constitution states that, The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language or birth;
 - Sub-section (4) No person may unfairly discriminate directly or indirectly against anyone on one or more grounds in terms of subsection (3). National legislation must be enacted to prevent or prohibit unfair discrimination.
- b) Fixed-term employees as a category of non-standard employees. (3)
- Temporary employment services (hereafter TES) (Common called labour brokers) and employees employed by them are temporary employees
 - Fixed term employees Part-time employees
- c) The duty of the employer to deal fairly with the employee. (4)
- To remunerate the employee
 - To provide the employee with work
 - To provide safe working conditions
 - To deal fairly with the employee
- d) Constructive dismissal as a form of dismissal in terms of the LRA (4)
- The employee must show he/she has resigned
 - The employee must show that the reason for the resignation was that continued employment became intolerable
 - The employee must show that it was the employer's conduct that created the intolerable circumstances.
- e) The meaning of "same work" for purposes of "equal pay for work" (4)
- The Labour Court explained that the issue of equal pay for equal work was not regulated in an Act in SA but was dealt with in *Mangena & Others v Fila SA* case;
 - Paying an employee is an employment policy or practice to the EEA
 - Paying an employee less than another employee for performing the same or similar work based on a specified or an unspecified ground to EEA constitutes less favourable treatment. Therefore any claim for equal pay for work that is the same or similar, falls to be determined to the EEA.
 - The same is valid for claims for equal pay for work of equal value. The claimant must establish a link between the differentiation and a specified or unspecified ground. Once such a link is established, section 11 of the EEA then requires the employer to show that the discrimination is not unfair.
- f) The meaning of "suitably qualified" for purposes of benefitting from affirmative action.(4)
- Suitably qualified means that the person has one or a combination of the following factors:
- ❖ Formal qualifications
 - ❖ Prior learning
 - ❖ Relevant experience
 - ❖ The capacity to acquire, within a reasonable time, the ability to do the job
- g) The meaning of "small employer" in context of dismissal based on operational reasons. (2)
- A small employer is an employer that employs fewer than 50 employees.
 - The LRA does not make provision for a large-scale dismissal by a small employer; therefore a small employer will retrench employees in accordance with section 189.

Labour Relations Exam Questions November 2014

Cecilie Bingham



Labour Relations Exam Questions November 2014:

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Employment Relations Cecilie Bingham, 2016-03-26 Shortlisted in the Management and Leadership Textbook Category at CMI Management Book of the Year Awards 2017 In this new original book Cecilie Bingham puts fairness trust organisational justice and power at the heart of employment relationships in a variety of settings This thought provoking text provides academic practical and theoretical insights into the contested nature of contemporary work and employment relations at workplace level It should become essential reading for students scholars practitioners and policy makers in the field Professor David Farnham University of Portsmouth UK Mapped to CIPD learning outcomes at level 5 and level 7 Employment Relations Fairness and Trust in the Workplace critically reflects on current research commentary evidence and practice in the employment relationship with a unique focus on organizational justice Combining theoretical concepts tools and models with practical examples it is packed with innovative learning features designed to help students to engage with the subject including Extracts of recent news items linked to chapter content Insights to help link theory and practice supported by podcast interviews on the book's companion website A series of case study snippets activities and revision exercises The book is complimented by a companion website featuring a range of tools and resources for lecturers and students including PowerPoint slides Instructors manual multimedia links podcasts and free SAGE journal articles Suitable for Undergraduate and Postgraduate students on Employment Relations Industrial Relations or HRM courses

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