

UGANDA MARTYRS UNIVERSITY
FACULTY OF LAW
EXAMINATIONS FOR THE DEGREE OF BACHELOR OF LAWS
YEAR FOUR, SEMESTER TWO 2022/2023
LLB 4215 LABOUR LAW II

DATE: MONDAY 15TH MAY 2023

TIME: 2.00PM – 5.30PM

INSTRUCTIONS

1. Students shall choose and answer Four (4) questions in total taking at least one (1) question from each of the three (3) sections.
2. Question carry marks as indicated in each question
3. This is a fully open examination.
4. Well-structured answers supported by relevant provisions of the law and decided cases, and where necessary, illustrations, will earn higher marks.
5. This examination shall be regulated by University Regulations on examination including instructions on the answer booklet.
6. Students shall use **ONLY ONE** answer booklet provided by the University.

SECTION A: SOCIAL SECURITY AND SOCIAL PROTECTION

1. Explain the major challenges with the social security system prevailing in Uganda. (25 MARKS)
2. You have been approached to advise on the following scenarios:
 - a) Goliath Ltd who have 3 employees on a contract of 3 years each, and 4 casual workers who are all interested in registering with NSSF. Goliath Ltd feels that it is not necessary to register with NSSF because the 4 casual workers may leave anytime. The casual workers have consistently worked for the company for 18 months.

- b) **Bernard Ojok** who died last month, had been contributing with the Fund. His two brothers have approached the Fund to claim for his benefits given that they are the eldest members of the family. Mr. Ojok had two children, aged 12 and 13 years and a wife, married in Church of Uganda who wish to claim for the benefits.
- c) A group of ten employees who lost their jobs in Goliath Ltd in March this year, now seek their benefits because by end of October they had not found alternative employment. The employees lost their jobs as a result of the Covid-19 lockdown and have no money for food and other essentials.
- d) **Moses Okumu** who has tested positive for Covid-19 but can still perform his duties, would like to access his invalidity benefits to enable him buy fruits and other vitamins. The NSSF has declined to accept his request and he has threatened to sue the Fund.
- e) The High Court has ordered NSSF to attach the benefits of a member of the Fund to pay that member's loan of Ug Shs 20,000,000/= which he had obtained from a "loan shark"

Citing the law applicable, advise on the issues which arise. [25 MARKS]

SECTION B: OCCUPATIONAL SAFETY AND HEALTH:

- 3. Discuss the aims of the Occupational Safety and Health Act, 2006 in Uganda. What challenges, if any, have impeded its effective enforcement? **[25 MARKS]**
- 4. **Karamoja Mabati Ltd** is an iron sheet making company which recently started operating in Kampala Industrial area. It has recruited 35 permanent staff and 200 temporary staff. **Karamoja Mabati Ltd** has recruited a Human Resources Officer. During the induction process, she heard the following concerns from the staff:
 - a) Recently a fire broke out in the administration department of **Karamoja Mabati Ltd** and it was impossible to put out the fire because of the lack of firefighting equipment on site.
 - b) The machinery used for cutting the iron sheets has very dangerous parts. However, workers have to stand very close to it to be able to swiftly remove the iron sheets.

- c) The workers have not received any form of training on how to operate the equipment. In fact, the instructions on the machines are written in Russian; on recruitment they were told that the manufacturer would train them on how to operate these machines, but to date, no training has been offered.
- d) The workers are not aware of any materials they may need to protect themselves while at work. The supervisor has advised staff to find out from neighboring factories and buy their own equipment for use while on site.
- e) The staff have one hand washing facility which is available for use to the entire team of workers.

Advise the Human Resources Officer of the main issues raised above and what steps the company ought to take to ensure compliance with the Occupational Safety and Health Act. [25 MARKS].

5. Critically examine the Inspector's roles and responsibilities under the Occupational Safety and Health Act, 2006. [25 MARKS].

SECTION C: LABOUR DISPUTES & WORKERS COMPENSATION:

6. Critically examine the major underlying principles under the Workers Compensation Act, 225, with respect to compensation to employees for personal injuries. [25 MARKS].
7. (a) John Muto is the District Labour Officer of Napak. In October 2020, he mediated a Labour dispute between Ojale Moses and Napak Rural Development Agency ['NRDA'] a local NGO based in Napak. Ojale Moses in his Labour complaint alleged wrongful termination and sought one-month compensation in lieu of notice, severance pay for the 5 years he had worked for NRDA. In their reply, NRDA contended that Ojale absconded from duty in September 2020 when he was asked to produce certified copies of his academic testimonials which he had been promising for "ages" NRDA maintains that as far as they are concerned, Ojale voluntarily opted out of his employment with them when he absconded and as such there is nothing owing under the contract of employment. After three unsuccessful sessions of mediation, NRDA asked John Muto to refer the matter to the Industrial Court for arbitration.

On 28th October 2020, John Muto adjudicated over the matter and found for Ojale and made the award accordingly as prayed.

Assume that you have been asked to review the above case file and advise your Managing Partner on the propriety of the proceedings pointing out specific areas for which you would advise an appeal if NRDA was your Client. **Please advise. [10 MARKS].**

(b) Discuss the various aspects for which compensation is payable under the Workers Compensation Act, Cap 225. **[15 MARKS].**

8. The 'scientific' and 'mathematical' processes under the Workers Compensation Act, Cap 225 for purposes of compensation to an employee for personal injuries undermine the purpose for which the law was enacted. With the aid of authorities, discuss. **[25 MARKS].**

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