

UGANDA MARTYRS UNIVERSITY
NKOZI
UNIVERSITY EXAMINATION
December 2023
FACULTY OF LAW
BACHELOR OF LAWS (LLB) YEAR 1 END OF SEMESTER ONE FINAL
ASSESSMENT ACADEMIC YEAR 2023/2024
LABOUR LAW I
YEAR 3 FIRST SEMESTER
COURSE CODE LLB 4106

DATE: Monday, 11th December 2023
TIME: 2:00pm–5:30pm
DURATION: 3HRS:30minutes

Instructions:

1. This is a partially open book examination. In this Examination, only the use of relevant Labour Law legislations and clean copies of the reading list are allowed. No student is allowed to bring into the examination room and or consult classroom notes, cases, statutes or other written materials in any form during examinations
2. This examination is comprised of two sections, A and B. Students should answer two questions from each section. All questions carry equal marks (25).
3. Your English must be COMPREHENSIBLE and your handwriting must be LEGIBLE. Clarity of expression and use of proper authorities will earn extra marks.
4. All UMU regulations and rules governing examinations and the accompanying penalties thereto in case of breach apply to this exam in entirety.

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SECTION A

Question One

Distinguish between a contract of services from a contract for services and the criteria adopted by the courts of law in differentiating the two types of contracts. (25 marks)

Question Two

You have been contracted to work in the Legal department of A & B Bank Ltd. The human Resource Manager has approached you to draft a contract of service for Ms. Namusoke Teddy, who is hired as a Legal Officer on an initial contract of five years.

Draft a standard contract limiting your scope to the key terms that reflect the provisions in the Employment Act 2006 to be adopted by the bank. (25marks)

Question Three

Critically examine the modes of termination of a contract of employment at both common law and under the Employment Act 2006. (25marks)

Question Four

Trace the evolution the employment laws in Uganda. (25marks)

SECTION B

Question Five

Pinky Akash was recruited from India to work with Airtel (U) Ltd in Kampala, Uganda as a sales representative in April 2018. She was given no written contract but was told orally that she would be on probation until such time as the management deemed it necessary to confirm her. She has not been confirmed yet. The Human Resource Manager verbally communicated to her the terms of her appointment as follows:

- i) Work from 7:00am to 7:00pm with lunch break of 15 minutes during lunch hours, Saturdays, Sundays and public holidays inclusive
- ii) Not to have annual leave
- iii) Not to have sick leave
- iv) No provision for maternity leave
- v) To receive only 50% of the total salary compared to her male counterparts.

Two days ago, she informed her employer that she was pregnant and would like to go for maternity leave. When the manager learnt of this, he decided to end her employment asserting that she was still on probation without any entitlements.

Pinky believes she is being treated unfairly and is now in your chambers seeking legal advice. Please advise her. **(25marks)**

Question Six

Read the following scenarios and respond to the questions that follow.

- a) Ms. Maria Ruto was the subject of sexual harassment by her co-workers. She complained to her immediate supervisors whose response was that Maria is very sensitive and should adopt a more worldly approach to these things. Maria would like to complain about her supervisors' conduct but there is no complaints policy providing for the procedures in place to raise the matter with higher management. Advise Maria on her rights and remedies against her employer. **(10marks)**
- b) Alex and Martha are both employees of an Architects with headquarters in Kampala, Uganda. During routine planning meeting the Human resource manager communicated that as per staff demands, the management has agreed to casual dressing by staff on Fridays. To that effect, the Human resource management sent an email to all staff that they are allowed to "dress down" in casual wear on Fridays. On one Friday, Martha, one of the associate architects at the firm dressed up in midriffs commonly known as "*kundi show*" and tight skinny jeans. When she entered office, there was a stir with employees turning to look at her. Later in the day, at the weekly meeting, Martha winked at Alex, a junior architect as he presented his proposal. Alex was very perturbed and stammered throughout the presentation. He lodged a complaint with the Human resource manager insisting that Martha should be investigated for sexual harassment. Martha was invited by email to the firm's disciplinary committee to respond to a sexual harassment complaint lodged against her by Alex and that she needed to respond to the complaint. When she appeared before the disciplinary committee, she was informed of the specifics of the complaint against her by Alex who was also in attendance. In her defence, she stated that "in this age and era, I wonder how Stone Age people can be disturbed by midriffs". Upon hearing this, Alex flew into a rage and punched Martha. He was refrained from inflicting further blows by Mark, a member of the committee. The managing Architect, Muwonge Charles who was in the meeting was in utter shock and he immediately ordered that both Martha and Alex be fired. They were escorted out of the premises by the office security. Since then, the two, Martha and Alex have settled their differences and intend to seek legal redress. They are before you for advice, please advise them. **(15marks)**

Question Seven

Jesco is a registered company in Uganda. The company is established and is operating several businesses including milk production, flower exportation, sugar factory and mining industry. Recently, the company advertised for a legal officer and company secretary positions to help the management of the company in its operations. Upon shortlisting, Fiona was recruited as the company secretary and Ojok as the legal officer on permanent contracts.

While Ojok and Fiona were going through the company employment records, they discovered the following: In each of the following scenarios, please advise the parties of their legal rights under the employment and other laws of Uganda

- a) The company only pays lunch and breakfast as wages to their employees (5marks)
- b) No disabled, pregnant, HIV+ and Muslims are allowed on the company premises (5marks)
- c) Susan, a 14 year old girl is employed in the milk factory to pack milk and yoghurt. The company argues that since she never had formal education, providing her a job will complement vocational studies and that if she doesn't work, she may join prostitution at an early age. (5marks)
- d) James who has been working at the coal mine in Mubende has 7 children all studying in Mubende. He has been transferred to Kabale to work in the sugar factory with short notice, no financial support by the company even when his contract of employment doesn't have a mobility clause. Upon his failure to comply with the transfer notice, the company dismissed him for failure to comply with orders of the company. (5marks)
- e) Yudesi, an employee applied for leave however, the company declined her application on the grounds that no employee is allowed to take leave unless he/she is going for Christmas festival or Independence Day celebrations. Yudesi insisted and went on leave upon which the company stopped remitting her NSSF and stopped her wages and sick leave allowances as a way of punishing her for failing to comply with the company's orders. (5marks)

Question Eight

Mt. Elgon University is a private University that offers diplomas, bachelors and masters degrees to students in Uganda based in Bududa. It has a population of twenty thousand students and pays over 100,000,000/= in staff salaries.

Due to the effects of COVID 19, majority of the students didn't return after the 2020 total lockdown announced by the government, and in order to remain viable and survive, the university council has taken 2 cost saving measures. First, it eliminated 20 non-

essential lecturing positions, and it decided to temporarily lay off the employees in its Arua campus. The campus employed 20 people whose length of service ranged from 2 to 4 years.

Prof. Musa is one of the employees whose positions have been eliminated. He was asked to leave immediately and was assured that Mt. Elgon University would meet all requirements and entitlements the Employment Act, 2006. Prof. Musa had been employed continuously by Mt. Elgon University for 12 years, receiving a monthly salary of Uganda Shillings 5,200,000/=.

You work with Merry Associated Advocates which has been approached by Prof. Musa to be advised on his rights and entitlements and the managing partner has allocated his file to you. With relevant authorities, write a legal memorandum advising Prof. Musa of his rights and entitlements under Uganda's employment law regime. **(25marks)**