MASINDE MULIRO UNIVERSITY OF SCIENCE AND TECHNOLOGY

SCHOOL OF BUSINESS AND ECONOMICS
MAIN, BUNGOMA, WEBUYE

UNIVERSITY EXAMINATIONS (MAIN)

2023/2024 ACADEMIC YEAR

THIRD YEAR, SECOND SEMESTER

FOR THE DEGREE

OF

BACHELOR OF COMMERCE

COURSE CODE: BCB 337

COURSE TITLE: LABOUR LAW

DATE: MONDAY 8TH APRIL 2024 **TIME: 3.00-5.00PM**

INSTRUCTIONS TO CANDIDATES

Answer **QUESTION ONE** and **any other Two**

TIME: 2 Hours

MMUST observes ZERO tolerance to examination cheating

This Paper Consists of 2 Printed Pages. Please Turn Over.

QUESTION ONE (Compulsory)

Rigour Company Limited registered in Kenya has been in operation for the last fifteen years. The company has employed 1800 employees on various employment terms. In the recent past, the employees have been complaining of poor terms and conditions of employment. In particular, the employees' wages are arbitrarily deducted with no justifiable reason and many of the employees have gone for over two years without leave. In one occasion, an employee was assaulted by his supervisor for reporting to work late.

The employees are up in arms alleging that the director of safety and health services does not know his functions as the company has not complied with the requirements of the law. Employees are not provided with protective clothing, they are not given proper training on how to use the equipment and in fact when two employees got injured and demanded to be compensated, management threatened to terminate their services without any benefits.

This situation led to one of the employees mobilizing the others into forming a trade union which would enable them have a collective bargaining agreement with their employer. This move was however highly opposed by the managing director who threatened summary dismissal to all employees involved in the exercise.

As an expert in labour law:

(a) (i) Outline FIVE duties of an employer as per the Occupational Safety and Health Act, 2007 in ensuring the safety, health and welfare at work of all persons working in his workplace **(5mks)**

(ii) Summary dismissal can only be effected on grounds of gross misconduct. Expound on any FIVE matters that may amount to gross misconduct so as to justify the summary dismissal of Rigour Company employees for lawful cause **(5mks)**

(iii) Employees of Rigour Company have not gone for leave for over two years. Describe FIVE types of leaves they are entitled to **(5mks)**

(b) Section 19 (1) of the employment Act, 2007 lays down the grounds for lawful deduction of employee wages. Explain FIVE such grounds that would have informed the deduction of wages for Rigour company employees **(5mks)**

(c) Rigour Company employees were mobilizing themselves to form a trade union which would enable tem have a collective bargaining agreement with their employer. Illustrate to them the necessary requirement for registration of a collective agreement as provided under the labour Relations Act 2007 **(5mks)**

(d) Describe the various contracts of employment under which the employees of Rigour Company have been engaged in **(5mks)**

QUESTION TWO

(a) Your employer is not sure as to what does not amount to discrimination at the work place. Explain to your employer what is not considered to be discrimination under the employment Act 2007 **(10mks)**

(b) The management of Mafuta manufacturing company would wish to report an accident that occurred at their premises two weeks ago where an employee sustained serious injuries. Demonstrate the procedure for reporting an accident under the Work Injury Benefits Act 2007**(10mks)**

QUESTION THREE

(a) After completing college you intend to set up an employment agency for purposes of procuring jobs for the youth in your county. Illustrate any FIVE duties required of you as a person operating an employment agency under the labour institutions Act 2007 **(10mks)**

(b) The constitution of Kenya 2010 brought about fundamental changes in the manner in which labour activities are handled. Examine the provisions of the constitution that have impacted on labour law in Kenya **(10mks)**

QUESTION FOUR

(a) Although the common law of England is recognized and applied in Kenya as a source of labour law, it has certain deficiencies. In view of tis statement identify any FIVE such deficiencies **(10mks)**

(b) Section 27C of the employment Act 2007 stipulates that an employee may apply to the employer for a change in terms and conditions of employment relating to times when the employee is required to work. Examine the grounds under which an employer may refuse to grant such an application **(10mks)**

QUESTION FIVE

(a) As a general rule child labour is an offence under Kenyan law and international law. However, under the employment Act 2007, children may be employed under certain conditions. Explain FIVE such conditions **(10mks)**

(b) Evaluate the provisions of section 75B of the Employment Act 2007 regarding obtaining of personal data of employees **(10mks)**