



**FOURTH YEAR EXAMINATION FOR THE AWARD OF THE
DEGREE OF BACHELOR OF LAWS
FIRST SEMESTER, 2022/2023
(SEPTEMBER-DECEMBER, 2022)**

LLBK 413: LABOUR LAW

STREAM: LLBK Y4 S1

TIME: 2 HOURS

DAY: THURSDAY, 12:00 – 2:00 P.M.

DATE: 22/12/2022

INSTRUCTIONS

- 1. Do not write anything on this question paper.***
- 2. Answer Question ONE [Compulsory] and any other TWO Questions.***
- 3. Illustrate your answer with relevant cases and statutory provisions where applicable.***

QUESTION ONE

- a) Patricia, Marriam and Andrew have sought advice in respect of situations they have encountered while working for the same employer, Legend Insurance Agency (LIA). LIA runs a call centre in Kisii which has been in existence for the last six years.

Patricia has worked at the call centre for the last two years. Recently her supervisor's behaviour has changed, and she has started to feel upset about the way she is being treated. Her supervisor is constantly criticising her and swears at her in front of other members of staff. She feels she can no longer work in these conditions.

Marriam has recently been offered a new job at a rival business. The offer is subject to her references. LIA has refused to provide her with a reference or Certificate of employment. The new employer is not prepared to offer her the job without her employer's reference or certificate of employment. She has already handed in her notice on the expectation she would have a new job.

Andrew has worked at the call centre for the last five years as a clerk in the accounts department. His monthly salary is Kshs 51,200/= after tax. He recently made a serious error in one of his calculations which led to a

Kshs 101,000/= loss by the company. According to a written company policy document which Arthur signed last year, all losses must be repaid by the employee.

- (i) Advise Patricia of any steps she could take against LIA. (12 marks)
 - (ii) Advise Marriam whether she can make LIA provide her with a reference and certificate of employment. (5 marks)
 - (iii) Is there any claim that Andrewr could bring against LIA if the money were deducted from his salary? (8 marks)
- b) Mituli Seaside Productions Ltd manufactures seaside novelties in its factory based at Kisumu. In the recent past there has been a large staff turnover on the production lines due to there being many unskilled production staff.

Hannah has for the past three years worked in the wages department of the business as a wages clerk. Three months ago, she applied unsuccessfully for a position in the sales department. Anne is disabled and has had appropriate adjustments made to her office. She suspects that the reason she has not been given the job in the sales department is due to her disability, as it would mean she would have to visit potential customers and her disability may embarrass the company.

Advise Anne about any claim she may have. (5 marks)

QUESTION TWO

- a) In the context of contracts of employment, explain the common law duties imposed on: -
- (i) employers; and (5 marks)
 - (ii) employees. (5 marks)
- b) The Regina Tripster Restaurant has a reputation for good food. All the staff are paid more than the industry average due to this unrivalled success.

Dinah is a waitress at the restaurant, and she has worked for the business for the last two years on a series of three-month fixed term contracts with a couple of weeks off in between. Last week she was found drunk, in the back storeroom for which she received a warning. Yesterday the manager told her to go and not bother coming back after finding her again intoxicated.

Advise Danah whether she may be successful in a claim for unfair dismissal. (10 marks)

QUESTION THREE

- a) Discuss why the court declared section 7 in so far as it provides for the Minister's approval or exemption and section 10 (4) of the Work Injury Benefits Act, to be inconsistent with the former and current Constitution. (10 marks)
- b) Discuss the duties of an occupier under the Occupational Health and safety Act 2007 (10 marks)

QUESTION FOUR

- a) Discuss the circumstances under which the Registrar of Trade Unions may cancel or suspend the registration of a trade union, employers' organisation, or federation. (10 marks)
- b) Explain the powers conferred to a labour officer, for the purposes of monitoring or enforcing compliance with any labour law. (10 marks)

QUESTION FIVE

Write explanatory note on any **FOUR** of the following:-

- a) Prohibited strikes or lockouts. (5 marks)
- b) Contents of wages order . (5 marks)
- c) Functions of a Director of Work Injury Benefits (5 marks)
- d) Duties of self-employed persons under the Occupational Health and safety Act 2007. (5 marks)
- e) Registration of workplaces (5 marks)