



KISII UNIVERSITY
UNIVERSITY EXAMINATIONS

SPECIAL EXAMINATIONS
FOURTH YEAR EXAMINATION FOR THE AWARD OF THE
DEGREE OF BACHELOR OF LAWS
FIRST SEMESTER, 2021/2022
(FEBRUARY - JUNE, 2022)

LLBK 413: LABOUR LAW

STREAM: Y4 S1

TIME: 2 HOURS

DAY: MONDAY, 11:30 – 1:30 P.M.

DATE: 25/07/2022

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) Lillian has been employed as a secretary by a company called Norton Paper Products (Pvt) Ltd for the last two years. She is also a keen member of a trade union which regulates the paper industry. In January 2019, she went on maternity leave for three months up to the end of March 2019 and, upon her return, she discovered that another employee, Loyce, had been transferred from a different department to replace her. Upon Lillian's return to work she was informed that her membership of a trade union was contrary to company policy. In addition, she was told that since her position had been filled whilst she was away on maternity leave, she would now be required to work in another department.

Explain how Lillian's rights have been violated.

(4 Marks)

- b) Advice Rivelco Company Limited as to its liability for disability and sex discrimination in the following cases.

Noami is a supervisor of area representatives for Rivelco Company Limited. Her job is to go round all representatives every month and check on their performance. While she was on leave, she travelled abroad and contracted a rare

disease which made her blind in one eye and is partially sighted on the other. As a result, she cannot drive out to all representatives, many of whom work kilometres away where public transport is hardly available. Rivelco Company Limited dismisses her on account of incapacity in that she cannot perform her job.

Edwin, who is one of the security guards at Rivelco's Company Limited main office, has been living as a woman for several years. He has recently undergone a gender reassignment surgery. Rivelco Company Limited dismissed Edwin, who now calls herself Edwina, because neither the male nor the female employees wish to share washrooms with her.

Purity, who is 49 years old, applies for a job as a receptionist with Rivelco Company Limited. The application is rejected because she was not a school leaver as stated in the job advertisement. (9 Marks)

- c) As an expert in human resource management, you have been requested to register a trade union by a group of workers working in an educational institution.

Outline the steps you will take to ensure that you have registered the union. (10 Marks)

- d) Explain the functions of the National Labour Board. (5 Marks)

QUESTION TWO

- a) Distinguish between and explain the meaning of unfair dismissal, constructive dismissal, wrongful dismissal in relation to employment law. (10 marks)
- b) Discuss the rights and privileges of persons with disabilities with regard to employment in Kenya (10 Marks)

QUESTION THREE

- a) Discuss the extent to which the Kenyan Constitution protects labour relations. (10 Marks)
- b) What is collective bargaining and what procedure is followed before a collective bargaining agreement can be legally enforceable in Kenya.

(10 Marks)

QUESTION FOUR

- a) “The Kenyan labour laws do not take the form of a comprehensive labour code like in others labour law systems; rather they are derived from a multiplicity of both legal and no-legal sources which interact in a complex manner.”(Anonymous).Discuss. (10 Marks)
- b) Explain the procedure of reporting of accidents under the Work Injury Benefits Act. (5 Marks)
- c) Discuss the functions of the International Labour Conference of the ILO. (5 Marks)

QUESTION FIVE

Write explanatory notes on the following.

- a) Terminating a contract of employment under the Kenyan labour law regime. (5 Marks)
- b) Duties of an employee under the Occupational Safety and Health Act. (5 Marks)
- c) Deductions which may be lawfully made under the Employment Act. (5 Marks)
- d) Occupational Diseases under the Work Injuries Benefits Act. (5 Marks)