



DIPLOMA
January-June

Sessional Examination
EL122 - Employment Law

BOTSWANA OPEN UNIVERSITY

Diploma in Human Resources Management

Employment Law

EL 122

Sessional Examination

Marks : 100

Duration: 3 Hours

Instructions:

1. The examination consists of **Four** sections: A, B, C and D.
2. Begin each answer to a new question on a new page.
3. Answer questions according to instructions given in each section.
4. Write answers in the answer booklet provided.
5. Write in grammatical English.



SECTION A MULTIPLE CHOICE QUESTIONS

[10 MARKS]

Answer ALL questions. Each question carries ONE (1) mark.

Choose the best answer from the given alternatives.

1. Characteristics of good laws include all of the following except _____.
 - A. equality
 - B. selective
 - C. consistence
 - D. uniformity

2. Which of the following is not a source of Law in Botswana?
 - A. The Constitution
 - B. Common Law
 - C. Church
 - D. Legislation

3. Which one of the following is NOT covered by Section 18 of the Trade Dispute Act which specifies the jurisdiction of the Industrial Court?
 - A. To hear and determine all trade disputes in Botswana
 - B. To hear and determine criminal cases in Botswana
 - C. To hear appeals and reviews from decisions of mediators and arbitrators in the Ministry of Labour and Home Affairs
 - D. To give directions, which are necessary for the expedient and fair administration of justice in disputes



4. Which one of the following is NOT an example of Common Law duties of an employee?
- A. To do their job with reasonable care and skill
 - B. To obey all reasonable orders
 - C. To act in good faith towards the employer
 - D. To show competitors the competitive secrets of the employer
5. One thing that an employer should NOT consider when dismissing an employee from work is _____.
- A. Race and gender
 - B. Nature of the position held
 - C. Extent of the incompetence
 - D. Nature and cause of incompetence
6. Which one of the following is NOT stated by the court as a right for a fair dismissal?
- A. Right to be told of the nature of the offence
 - B. Right to be given adequate notice prior to the hearing
 - C. Right to call witness
 - D. Right to insubordination



7. Which explanation best describes suspension from work?
- A. To reduce to a lower rank or class
 - B. The submission of a dispute to one or more impartial persons for a final and binding decision
 - C. An attempt by the parties to resolve their dispute with the aid of neutral third party
 - D. The rendering of a contract of employment temporarily inoperative
8. Which statement best describes the fundamental principle of natural justice?
- A. Defence must be fairly heard before he is judged
 - B. There is nothing wrong being a judge in your own case
 - C. The defence may not be allowed to call in a witness
 - D. The complainant may instruct the presiding officer what decision to take
9. Which of the following actions by the employee will NOT constitute serious misconduct?
- A. Offering or receiving bribes
 - B. Acts of violence
 - C. Habitual or wilful neglect of duties
 - D. None of the above
10. Which statement best describes termination of employment contract?
- A. It means coming to an end of a contract of employment either in terms of the Common Law or as stipulated in the Employment Act
 - B. It means coming late to work
 - C. It means promotion
 - D. It means transfer



SECTION B - TRUE /FALSE QUESTIONS

[10 MARKS]

Answer ALL questions. Each question carries ONE (1) mark

State whether each of the following is True or False

1. A person cannot be represented at a hearing by a lawyer of his/her choice or by workers representatives.
2. An insolvent person is one whose assets are far much less than his/her liabilities.
3. Common law refers to unwritten law that has been adopted or inherited from another legal system.
4. Privatisation refers to a situation where a government owned entity or an entity which is being controlled by the state is converted into a private organisation.
5. Redundancy is provided for in the Employment Act as a way of terminating employment.
6. Employees have no prerogative when it comes into business and when to wind off, harvest and go out of business.
7. A Public Officer is not a servant to the public, and his/her conduct must not be characterised by courtesy, humility etc.
8. The principle of transparency dictates that members of the public are entitled to have access to non-confidential information on the operation and activities of the Public Service.
9. Posting means the appointment of an officer to a different higher body.
10. The Workers Compensation Act applies to both Government employees as well as employees employed by private companies.



SECTION C - SHORT ANSWER QUESTIONS

[30 MARKS]

Answer all questions from this section

Question 1

What are the major benefits of belonging to a trade union as an employee? **(5 marks)**

Question 2

List five ways in which a person may become a citizen of Botswana. **(5 marks)**

Question 3

Please list any five requirements that a legal strike should follow as an appropriate procedure. **(5 marks)**

Question 4

Give a list of any five factors that the court takes into account when assessing compensation to be paid for wrongful dismissal. **(5 marks)**

Question 5

List any five inferior courts systems found in Botswana. **(5 marks)**

Question 6

Give any five ways or sources that can be used to communicate the terms of a contract. **(5 marks)**



SECTION D -ESSAY-TYPE QUESTIONS

[50 MARKS]

Answer any two questions from this section

Question 1

Read the following extract and then answer the questions below.

Part A

(18 marks)

An investor from Asia comes to open a vehicle manufacturing plant in Botswana. This requires employment of people at all levels of production. You been hired as a consultant to explain in detail, the six essential factors in the formation of a contract of employment in Botswana as summarised by J.Riekert and J Grogan in the year 1993'. Discuss in detail.

Part B

(7 marks)

Issues of employer and employee relations are influenced a lot by what the law says. During a job interview (as Human Resource Officer candidate), you have been asked to demonstrate what you understand law to be, and what its functions are. Discuss

Question 2

Part A

(15 marks)

You have just been hired a Human Resource Manager at one of the new formed coal mines in the CKGR. There is a report marked to you from the Safety and Health Officer and the report indicates that the mine has failed safety audit and this threatens stoppage of production by the Ministry of Minerals, if the audit queries are not addressed urgently. You are tasked to explain to Executive Management, the duty to provide safe working conditions for the employees in order for an immediate action to be taken. Discuss this, giving examples of case law if possible.



Part B

(10 marks)

Recently at your workplace, there has been many complaints from some employees that their colleagues have a tendency of demanding sexual favour with a reward in return. The employer decided to introduce Anti-Harassment Policy, and as Head of Human Resources, you have been tasked with explaining what this policy is about. Discuss giving examples of incidents of Work Harassment.

Question 3

Read the following extract and then answer the questions below.

PART A

(15 marks)

You have just been hired as the first Human Resource Manager of a company that has many dismissal cases that are being challenged before Labour Court. When reading through all these pending cases, you realise that chances of winning the cases by the employer are almost zero. This is because it is either the disciplinary procedure followed was completely wrong and unfair, or the conducts that led to such a dismissal do not warrant that action. You are then tasked with teaching management on the dismissal of employees from work and the grounds under which dismissal can be applied. You have to discuss any five grounds (using examples or cases where possible) under which dismissal can be applied.

Part B

(10 marks)

A junior manager intends to hold a disciplinary hearing for one of his employees in the production line. Whilst preparing for the disciplinary hearing, he comes across a term 'Suspension' as a form of punishment (in the Employee Conditions of Service). He is not very sure what this term means, and he comes to you for advice to explain what Suspension means. You also have to discuss and where possible, give examples or cases on the two purposes that suspension can serve. Discuss.

End of the Examination