



**NAMIBIA UNIVERSITY
OF SCIENCE AND TECHNOLOGY**

**FACULTY OF COMMERCE, HUMAN SCIENCES AND EDUCATION
DEPARTMENT OF SOCIAL SCIENCES**

QUALIFICATION: BACHELOR OF SPORTS MANAGEMENT	
QUALIFICATION CODE: 07BOSM	LEVEL: 6
COURSE CODE: SLR611S	COURSE NAME: SPORTS LAW AND REGULATIONS
SESSION: JUNE 2022	PAPER: THEORY AND CASE STUDIES
DURATION: 3 HOURS	MARKS: 100

FIRST OPPORTUNITY EXAMINATION	
EXAMINER	Mariette Hanekom
MODERATOR	Retha van Zyl

INSTRUCTIONS
<ol style="list-style-type: none">1. The paper has 6 main questions.2. ALL the questions are compulsory.3. Read carefully before answering.4. Write clearly and neatly.5. Number the answers clearly and according to the structure in the examination question paper.6. Use full sentences and proper paragraphs when answering questions. The inappropriate use of bullet-points will be penalised, as will poor spelling and grammar and illegible handwriting.

ANNEXURES

Selected extracts Labour Act 11/2007 (6 pages)

PERMISSIBLE MATERIAL

None

THIS QUESTION PAPER CONSISTS OF 7 PAGES (Including this front page, excluding annexure)

QUESTION 1

Choose the correct answer from the given options in each of the following questions.

- 1.1 If an employee reasonably believes that it is not safe to continue working at her place of work, she may:
- A. Resign from her job
 - B. Report her employer to the Minister of Labour
 - C. Leave her place of employment until the situation has been rectified, unless her employer instructs her to stay.
 - D. Inform her employer of such belief and leave her place of employment until the situation has been rectified
- 1.2 In terms of the Labour Act 11/2007 “overtime” refers to any work done:
- A. In excess of eight hours a day
 - B. After 17h00
 - C. Between 20h00 and 07h00
 - D. Outside normal working hours, excluding Sundays (if it is not a normal working day for the employee) and Public Holidays
- 1.3 A preferential right is:
- A. A right one party obtains in order to accept or refuse the purchase of an item first
 - B. A right, which comes into existence because you have a certain period to decide to contract at a later date
 - C. A right, which comes into existence on a certain future date
 - D. None of the above
- 1.4 Choose the MOST CORRECT statement.
- A. An employer must provide an employee with adequate housing, sanitary and water facilities
 - B. If it is required from an employee to live at the place of employment the employer must only provide an employee with adequate housing
 - C. If it is required from an employee to live at the place of employment, the employer is obliged to provide the employee with adequate housing, sanitary and water facilities
 - D. An employer must provide an employee with adequate housing, sanitary and water facilities or the cash equivalent thereof
- 1.5 The main difference between arbitration by the Court of Arbitration for Sport and mediation by the same organisation is that:
- A. Arbitration is done by a panel of arbitrators whereas mediation uses only one arbitrator
 - B. An arbitration ruling has the same enforceability as a judgement by a court of law, whereas mediation is a non-binding and informal process
 - C. With arbitration the parties have a dispute whereas with mediation they are on an amicable basis

- D. Arbitration only takes place in Switzerland, but mediation can take place all over the world
- 1.6 Which of the following would make a contract voidable?
- A. Mistake, illegality and duress
- B. Duress, misrepresentation and undue influence
- C. Misrepresentation, mistake and duress
- D. Illegality, duress and undue influence
- 1.7 Severance pay can always be claimed:
- A. If an employee is retrenched
- B. If an employee retires at the age of sixty
- C. Both A and B
- D. None of these answers
- 1.8 Jojo's girlfriend is pregnant and he is concerned about how this will impact on them financially. He asks the Sports Law class for advice.
 WIETZ says she is entitled to 12 weeks of fully paid maternity leave.
 GREG says that during her maternity leave she is entitled to her usual remuneration payable except for the basic wage.
 DENZEL says that during her maternity leave her employer must continue to pay her basic wage.
 MANGALISO says this is a disaster and they are doomed to a life of poverty.
 Who is the MOST CORRECT?
- A. Wietz
- B. Greg
- C. Denzel
- D. Mangaliso
- 1.9 Which one of the following is a reason for concluding a contract in restraint of trade?
- A. The protection of competition
- B. The protection of the public
- C. The protection of trade secrets
- D. None of the above options
- 1.10 Which of the following suggests that there is no agreement between the parties?
- A. A salesman tells a customer that the car that she is thinking of buying is a 2019 model, but it was actually made in 2018. The customer agrees to buy the car
- B. Fred puts a knife to Zanele's throat and demands that she sells her flat to him. Zanele signs the contract
- C. Andile thinks that he might have employed the twin brother of the man he actually wanted to employ
- D. All the agreements are valid

QUESTION 1 continues on the next page

- 1.11 Nitesh agrees to sell his PlayStation to Pam for N\$ 2000. The day before Pam is to collect it, Nitesh sells and delivers the same PlayStation to Nathan for N\$ 2 500. Nathan does not know about Nitesh's sale to Pam. The contract between Nitesh and Pam is:
- A. Void, because performance is objectively impossible
 - B. Valid, because performance is subjectively impossible
 - C. Void, because it is illegal to sell the same item to two persons at the same time
 - D. Voidable, because Nitesh made a misrepresentation to Pam by making her believe that he is going to sell the PlayStation to her
- 1.12 The purpose of the law of delict is to:
- A. Pay the plaintiff's medical expenses
 - B. Make the plaintiff feel better
 - C. Compensate the plaintiff for the harm caused by the defendant's wrongful and culpable conduct
 - D. Punish the perpetrator
- 1.13 When a debtor intentionally or negligently does something which makes performance impossible, this is known as:
- A. Supervening impossibility of performance
 - B. Objective impossibility of performance
 - C. Subjective impossibility of performance
 - D. Prevention of performance
- 1.14 One of the following is not an obligation of the employee:
- A. To make his/her services available
 - B. To follow unlawful instructions of the employer
 - C. To be obedient to supervisors
 - D. None of the above
- 1.15 One of the following is a reason for cancellation of a contract in the event of *mora debitoris*:
- A. When the creditor has made time of the essence by means of a notice of rescission
 - B. When the breach of contract is excusable
 - C. When no *lex commissoria* is present in the contract
 - D. When an award for damages will adequately compensate the plaintiff

Two marks each [30]

QUESTION 2 follows on the next page

QUESTION 2

Briefly answer the following questions.

- 2.1 Name the elements of a delict. (5)
- 2.2 Indicate whether the following statement is correct / incorrect / partially correct. Motivate your answer.
“Consensus is the most important requirement for a valid contract.” (4)
- 2.3 How is severance pay calculated? (2)
- 2.4 What are the requirements for “negligence” in terms of the law of delict? (4)
- 2.5 Must a contract always be in writing? Motivate your answer. (3)
- 2.6 Compare *mora debitoris* and *mora creditoris*. (2)
- 2.7 Explain the difference between a contract that is void, and a contract that is voidable. (5)
- [25]

QUESTION 3

Ndapewa is appointed as full-time secretary by Fancy Pants Boxing Promotors (FPBP). Her contract of employment contains (*inter alia*) the following clauses:

Time of employment

The employee will work from 08h00 until 05h00 Monday to Friday. The employee will be permitted a lunch break daily between 13h00 and 14h00.

Granting of Annual/Vacation leave

The employee is entitled to 15 working days annual leave, which must be taken within two (2) months of completion of the leave cycle. The granting of vacation leave shall be subject to the approval by the CEO and the employee shall take her annual leave only at such a time as may fit in with the activities of the business and if she has sufficient vacation leave to her credit. It is compulsory that staff members take annual leave every year.

Maternity Leave

Female employees shall be entitled to twelve (12) weeks leave for confinement purposes, of which four (4) weeks shall be at full remuneration. The remainder of the leave granted for confinement purposes shall be deemed to be special leave without pay.

Compassionate leave

During each period of 12 months of continuous employment, an employee is entitled to five (5) working days' compassionate leave with full remuneration.

Sick Leave

Sick leave shall be calculated over a cycle of three (3) years from the date of appointment based on 24 calendar days with full pay.

Are the provisions of her employment agreement in line with the requirements laid down in the Labour Act 11 / 2007? Discuss in full.

[15]

QUESTION 4

Naledi used to be a promising Namibian tennis player but years of partying have eroded her skills and chased away her sponsors. Desperate for some money, she decides to sell her car. She places an advertisement on Facebook and the very next day Jono makes her an offer by way of a telephone conversation, which Naledi accepts. They agree that delivery of the car will take place on 3 April 2022 and that payment will take place on 15 April 2022.

Answer the following questions based on the above facts:

- 4.1 On 30 March 2022 the car is stolen from Naledi's garage. Shortly after it is found in a nearby veld, burnt out and damaged beyond repair. A subsequent investigation reveals that Naledi had hired the thief to steal the car as she felt she would get more money from the insurance company than by selling it to Jono. Advise Jono about how this affects the contract and what his rights are under these circumstances. (4)
- 4.2 Assume that Naledi had been feeling very sorry for herself and had been drinking heavily in the hours just before accepting Jono's offer. Discuss the validity of the contract. (3)
- 4.3 Assume the subject of the sale was cocaine and not a car. Jono is eager to get his hands on the cocaine. Naledi delivers the cocaine on 3 April 2022 but Jono fails to pay her on 15 April 2022. Does Naledi have a claim against Jono? (3)

[10]

QUESTION 5 FOLLOWS ON THE NEXT PAGE

QUESTION 5

In each of the following instances, indicate whether there was an act (conduct) in terms of the law of delict. Motivate your answers.

- 5.1 Mbewa is watching a dog-racing event. Suddenly Jackson's dog escapes from its kennel and bites Mbewa.
- 5.2 Fighters Sports Club is having repairs done to its sports grounds. They fail to put up a warning that there is a deep hole in the ground. Mbewa falls into the hole.
- 5.3 A Police Officer on duty watches a skirmish between two men but makes no attempt to break up the fight. One of the men is stabbed.
- 5.4 Mbewa is on holiday at a game farm and is hiking a mountain trail when he is attacked by a lion.
- 5.5 Jackson is driving when he has an unexpected epileptic seizure. He crashes into Mbewa's car.

Two marks each [10]

QUESTION 6

In each of the following instances indicate whether the dispute is a dispute of rights or a dispute of interest.

- 6.1 ABC Sports Equipment Manufacturers refuse to grant maternity leave to their employees.
- 6.2 ABC Sports Equipment Manufacturers inform their employees that, due to economic circumstances, they will not be getting a salary increase in 2022.
- 6.3 Meme Kuku runs a restaurant that is open seven days a week. The employees that work on Sundays are paid the same amount per hour as those who work on any other ordinary day of the week. They want to be paid extra.
- 6.4 The employees of Seashells Football Club want the club to establish a pension fund for them.
- 6.5 The employees of Seashells Football Club want their employer to allow them to use their compassionate leave to attend the funerals of aunts, uncles, or cousins.

[10]

TOTAL MARKS 100

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