



RHODES UNIVERSITY

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YEAR: 2016

LECTURER: MR JC ROBERTSON

NAME OF COURSE: LABOUR LAW

1. OVERVIEW

This course is aimed at ensuring that students are well equipped with a thorough knowledge of the principles of Labour Law as well as an ability to apply the law in practice.

2. ASSUMPTIONS OF PRIOR LEARNING

Capable of independent work. Know how to and where to access the resources of the law library. An ability to read, understand, extract and integrate relevant principles from various sources. Are capable of applying legal problem solving techniques and legal referencing conventions.

3. SPECIFIC OUTCOMES

At the end of this course students will be able to demonstrate the following:

- ❖ A knowledge of the theoretical aspects, constructs and policy issues relating to the development and modification (resultant on the numerous pieces of employment legislation) of the contract of employment in South African Labour Law
- ❖ A knowledge of the laws applicable in respect of the rights and duties of employees and employers relating to collective bargaining and the ability to apply this understanding to hypothetical situations
- ❖ A knowledge of the Labour Relations Act, 1995, the Basic Conditions of Employment Act, 1997, the Employment Equity Act, 1998, relevant Codes of Good Practice, relevant international sources and case law
- ❖ An ability to research the various sources of Labour Law and Employment Law and integrate the understandings acquired in addressing a wide range of labour law

issues and scenarios including:

- An ability to identify whether an employment relationship exists or not and to distinguish the employment relationship from similar relationships such as independent contractors and agents.
- An ability to identify procedural and substantive fairness or unfairness in misconduct, operational reasons and incapacity scenarios.
- An ability to identify procedural and substantive fairness or unfairness in unfair labour practice scenarios.
- An ability to describe the dispute resolution path in misconduct, operational requirements and incapacity scenarios.
- An ability to examine and critically evaluate collective bargaining and industrial action and processes
- An ability to critically evaluate the law of employment equity with specific reference to affirmative action, dealing with HIV/AIDS issues in the workplace and harassment in the workplace.
- An ability to apply their knowledge to a wide range of scenarios.

4. CRITICAL OUTCOMES

Students will be able to:

- ❖ Organise and manage themselves
- ❖ Collect, analyze and evaluate information
- ❖ Identify and solve problems
- ❖ Communicate effectively in writing

5. TEACHING METHOD

The course is taught by way of two lectures per week. Students are expected to prepare for lectures by doing the prescribed reading beforehand and are encouraged to engage in lecture room discussions. All the prescribed material will not be addressed directly in lectures. Students are expected to take responsibility for their learning.

6. RESOURCES

- ❖ Prescribed Book: John Grogan **Workplace Law** 11th ed (2014) Juta
- ❖ Recommended Books: M McGregor and AH Dekker eds, M Budeli at al **Labour Law Rules** 2nd ed (2014) Siber Ink
A Van Niekerk and N Smit eds, MA Christianson et al **Law@work** 3rd ed (2015) LexisNexis
- ❖ Legislation: Labour Relations Act 66 of 1995 (LRA)
Basic Conditions of Employment Act 75 of 1997 (BCEA)
Employment Equity Act 55 of 1998 (EEA)
- ❖ Codes of Good Practice: Code of Good Practice: Dismissal (Schedule 8 to The Labour Relations Act 66 of 1995)
Code of Good Practice: Who is an Employee?
Code of Good Practice on Picketing
Code of Good Practice on Dismissal Based on Operational Requirements
Code of Good Practice; Preparation, Implementation and Monitoring of Employment Equity Plans
Amended Code of Good Practice on the Handling of Sexual Harassment cases in the workplace
Code of Good Practice on HIV and AIDS and the World of Work
Code of Good Practice on Equal Pay.
Remuneration for Work of Equal Value
- ❖ Case Law as prescribed from time to time.
- ❖ Journal Articles as prescribed from time to time.

7. ASSESSMENT

The class component of this course counts 30%. This will be on the basis of one assignment and one class test, each counting 15%. At the end of the semester there is one summative assessment in the form of a two-hour exam. The mark obtained in the exam counts 70% towards the final mark.

SPECIFIC OUTCOMES	ASSESSMENT CRITERIA
Students are expected to be able to:	Students must:
1. Demonstrate a broad knowledge of relevant statutory and case law.	1.1 Submit written answers to questions relating to employment issues, with reference to appropriate statute law and case law e.g.'s. 1.2. Answer correctly short questions concerning the relevant statutory and case law.
2. Demonstrate an ability to identify whether an employment relationship exists or not.	2.1 In response to given sets of facts, identify whether an individual is an employee or not and to provide valid reasons therefore.
3. Demonstrate an ability to identify whether substantive fairness exists or not.	3.1 In response to given sets of facts, identify whether substantive fairness exists or not and to provide valid reasons therefore.
4. Demonstrate an ability to identify whether procedural fairness exists or not.	4.1 In response to given sets of facts identify whether procedural fairness exists or not and to provide valid reasons therefore.
5. Demonstrate an ability to describe dispute resolution paths in various scenarios.	5.1 In response to given sets of facts describe various dispute <u>resolution paths</u> .
6. Demonstrate an ability to critically evaluate the law of employment equity.	6.1 In an essay or examination context, critically evaluate a given aspect of the law <u>governing employment equity</u> .
7. Demonstrate an ability to critically evaluate collective bargaining and collective dispute resolution.	7.1 In response to given sets of facts describe and evaluate the various aspects of collective labour law.
8. Demonstrate an ability to apply their knowledge on a wide range of scenarios.	8.1 Describe the likely outcome, with full motivation, in given scenarios.

8. COURSE CONTENT

❖ Introduction to Labour Law

- Origins and development of Labour Law, Sources and Philosophy

❖ Individual Labour Law

- The employment relationship, the parties, the contract of employment (formation, requirements, duration, termination), duties of the parties, basic conditions of employment

❖ Unfair Labour Practice, Prohibition of Unfair Discrimination and Affirmative Action

- Unfair labour practices, unfair discrimination, remedies, affirmative action and penalties.

❖ Discipline and Dismissal

- Role and function of discipline in employment arena, the various forms of dismissal, remedies, procedural and substantive fairness

❖ Collective Labour Law

- Freedom of association, organisational rights, collective bargaining, workplace forums, strikes/lockouts, pickets, protest action

❖ Dispute Resolution

- CCMA, Public Sector and Private Sector Bargaining Councils, The Labour Courts, Labour inspectors, Private dispute resolution, The Equality Court, The High Court, The Supreme Court of Appeal, The Constitutional Court