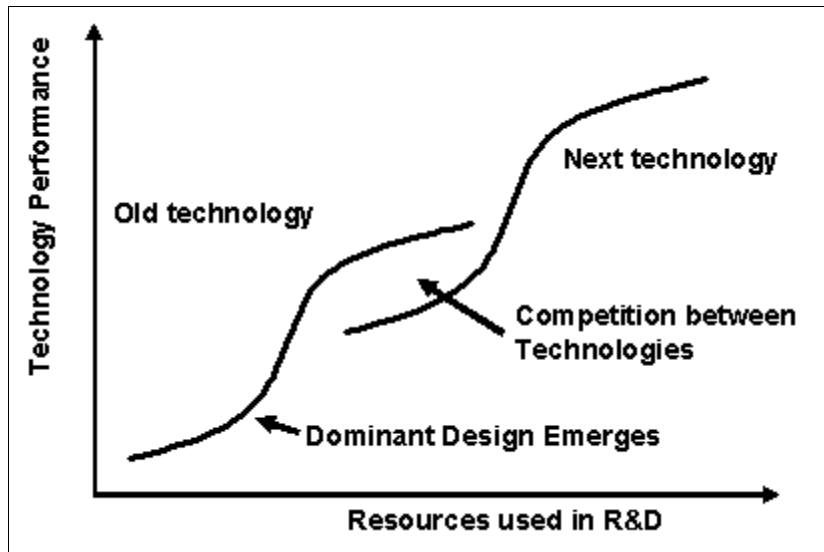


Feedback on tutorial 1 – EMA2602 – Semester 1 of 2018



Dear Student

You were asked to answer the following questions from the workbook:

| | | |
|------------|--------|---------|
| 4C.1.1 | 4C.2.1 | 4C.3.1 |
| 4C.4.1 (c) | 4C.5.1 | 4C.5.5 |
| 4C.5.6A | 4C.5.8 | 4C.7.2 |
| 4C.7.3 | 4C.7.4 | 4C.9.1 |
| 4C.9.3 | 4C.9.6 | 4C.10.1 |
| 4C.10.2 | | |

I would like to thank the student who uploaded answers for tutorial 1. I would be really pleased if all the students do tutorials 2 to 6. Please don't be afraid to make use of all the student support systems offered by myUnisa. I am sure that you will learn a lot by doing the tutorials – remember that it is better to make mistakes now, rather than in the examination.

Answering these tutorials should form part of your preparation for the examination. My suggested solutions follow.

Question 4C.1.1

State four (4) advantages of sound employment relations. (4)

Answer 4C.1.1

(METS-3: 62, 63), Any four of the following: (4)

- Motivated employees
- Improved productivity
- Reduced absenteeism
- Better performance
- Lower labour turnover
- Reduction in throughput time
- Fewer dismissals

Question 4C.2.1

List the three participants (role players) of the employment relations system and briefly outline their functions and roles. (6)

Answer 4C.2.1

(METS-3: 63)

Employee – Provide labour in exchange for compensation. Trade unions usually negotiate on behalf of employees for better wages and working conditions.

Employer - Must clarify the roles and responsibilities of employees, e.g. by means of job descriptions. Must ensure that the necessary labour legislative requirements are met. Management represents the employer.

State – Must provide legal framework (laws and regulations e.g. BCEA, LRA). Watchdog role. (6)

Question 4C.3.1

Define “contract of employment”.

(2)

Answer 4C.3.1

(METS-3: 64, 65)

It is an agreement between an employer and employee that stipulates their respective duties and obligations in the employment relationship.

(2)

Question 4C.4.1 (Grievances)

c) Describe the purpose of the grievance procedure and briefly explain how grievances should be lodged and handled.

(6)

Answer 4C.4.1 (c)

(METS-3: 68, 69)

Purpose

A form of upward communication.

It informs employees on how to manage and resolve grievances.

Procedure (main features)

- 1) Informal procedure – immediate supervisor
- 2) Formal procedure – complaint is presented to a higher level of management
- 3) Formal procedure – senior management
- 4) External procedure – Bargaining council / CCMA
- 5) Resolution

Question 4C.5.1

State the primary aim of organisational discipline. (2)

Answer 4C.5.1

(METS-3: 70)

The primary aim of discipline in any organisation should not be to punish employees, but rather to point out their unacceptable behaviour or performance and to motivate them to change it. (2)

Question 4C.5.5

Define demotion. (2)

Answer 4C.5.5

(METS-3: 71)

Terms and conditions of employment are changed in such a way that the employee is required to perform different tasks, in a different position, usually coupled with a reduction in status. ✓✓

Question 4C.5.6 A

Whilst doing a spot check at the gate, the security guard finds that a worker that is employed by one of the workshops has a shifting spanner in his overall pocket. How should this situation be managed in terms of the organisation's disciplinary code and hearing procedure? (12)

Answer 4C.5.6 A

(Students may refer to the disciplinary procedure as in METS-3, pp 72-73. There is a lot of information that can be provided here)

In this case Security may be the complainant and the head of the workshop may be the presiding official. The worker may be accused of theft, a dismissible offence, if it is believed that the evidence support such an allegation. The worker may be suspended with pay while the investigation and disciplinary hearing are conducted. A disciplinary complaint form may be completed and a hearing date may be set after evidence has been gathered. If the employee or his/her representative unreasonably refuses to attend the enquiry, management may hold it in his/her absence and shall use whatever evidence is available to

arrive to a conclusion. During the hearing the chairperson should try to get clarity on the following issues:

1. Does this worker's job require the use of spanners?
2. Did somebody give him/her written permission to take the spanner off the mine's property?
3. Did the worker buy the spanner from the mine? This can be checked on his/her record and the logbook of the foreman.
4. Did the worker forget to hand the spanner back or was it his/her intention to steal it?
5. Check for and consider any witness reports or statements from co-workers.
6. Check the worker's record for any previous offences.

During the pre-inquiry, the IR/LR department should explain to the worker his/her rights and the complaint against him in his/her own language.

During the hearing the employees' rights must be fully complied with. Use the hearing checklist to do so. [In this case it will be difficult to prove him/her guilty of stealing if nobody can state or give evidence that he wanted to steal the spanner.] If the employee was entitled to take the spanner he/she will be found not guilty.

The policies of most organisations recommend discharge for theft and, therefore, this worker could be discharged if found guilty. If found guilty, the worker may wish to appeal. He/she would, however, be suspended from his/her normal duties and asked to report to the HR Department every day. The appeal case will have the next level of management, as the presiding official. The appeal case will only be affected by new evidence and, if discharged, the worker will not get paid for the days that he/she has been suspended. If not discharged, the worker will get full payment for the period during which he/she was suspended.

(Any 12 valid, relevant facts.)

(12)

Answer by a past student

Disciplinary code and Hearing procedure

- Notification – must be in writing. Adequate notice period imperative. Notification letter should include the time, venue, date, allegations and rights of the employee
- Opening Letter of Proceedings – Confirm that everyone is present and introduce them
- Level of Disciplinary Action- Confirm that the employee is aware of the level of the disciplinary action initiated and that the formal disciplinary action is being taken in terms of the organisation's disciplinary policy
- Confirm the allegations- Confirm that the employee is aware of the allegations. Read the allegations
- Process of the proceedings- 1.) Each party gives overview of the event. 2) Initiator calls witnesses to substantiate the facts. 3) Employee responds to the allegations and summarises his/her version of the incidents. 4) Employee and/or representative may cross-examine the initiator and witnesses. 5) Employee/representative presents his/her side of the story. 6) Witnesses may be called to substantiate facts. 7) Initiator may cross-examine these witnesses.
- Chairperson to Reach a Verdict- Chairperson will state and motivate the decision as to whether the employee is guilty or not guilty with regard to the allegations
- Mitigation- Elements to consider are; situational factors, personal problems, employee's record and personal circumstances
- Aggravation- Initiator may address the chairperson on subject of suitable penalty and why.
- Determine the penalty and communicate the decision- The chairperson will state and motivate with regard to suitable penalty
- Right to Appeal- Chairperson must advise the employee of his/her right to appeal

Answer by another past student

Theft is one of the offences that are dismissible on a first offence when found guilty on the results of the disciplinary hearing:

Steps in the Disciplinary Procedure:

- ✓ **Notification:** The notification should be in writing. Adequate notice is imperative and the notification letter should include the time, venue, date, allegations and rights of the employee.
- ✓ **Opening Letter of Proceedings:** Confirm that everyone is present and introduce them.
- ✓ **Level of Disciplinary Action:** Confirm that the employee is aware of the level of the disciplinary action initiated and that the formal disciplinary action is being taken in terms of the organisation's disciplinary policy.

✓ **Confirm the Allegations:** Confirm that the employee is aware of the allegations and read the allegations.

✓ **Process of the Proceedings:**

1. Each party gives a brief overview of the event.
2. Initiator calls witnesses to substantiate the facts.
3. Employee responds to the allegations and summarises his/her version of the incidents.
4. Employee and/or representative may cross-examine the initiator and witnesses.
5. Employee/representative presents his/her side of the story.
6. Witnesses may be called to substantiate facts.
7. Initiator may cross-examine these witnesses.

✓ **Chairperson to reach a verdict:** Chairperson will state and motivate the decision as to whether the employee is guilty or not guilty with regard to the allegations.

✓ **Mitigation:** Elements to consider are: Situational factors, personal problems, employee's record and personal circumstances.

✓ **Aggravation:** Initiator may address the chairperson on the subject of a suitable penalty and why.

✓ **Determine the Penalty and Communicate the Decision:** The chairperson will state and motivate the decision with regard to a suitable penalty.

✓ **Right to Appeal:** Chairperson must advise the employee of his/her right to appeal.

Question 4C.5.8

In terms of the Labour Relations Act there are only three grounds that justify dismissal. List and briefly explain them.

(6)

Answer 4C.5.8

(METS-3: 75)

- **MISCONDUCT:** (if an employee intentionally or negligently breaks a rule at the workplace for example steals company goods)
- **INCAPACITY:** (If an employee cannot perform duties properly due to illness, ill health or inability), and
- **OPERATIONAL REQUIREMENTS:** Reasons of the employer (if a company has to dismiss employees for reasons which are related to purely business needs (i.e. retrenchments) and not because of some failing on the part of the employee) (6)

Question 4C.7.2

Define strike.

(3)

Answer 4C.7.2

(METS-3: 82) Any **three** of the following 4 facts:

The partial or complete concerted refusal to work {1}, or the retardation or obstruction of work {1}, by persons who are or have been employed by the same employer or by different employers {1}, for the purpose of remedying a grievance or resolving a dispute in respect of any matter of mutual interest between employer and employee {1}.

(3)

Question 4C.7.3

May an employer withhold wages from striking workers who are participating in a protected strike?

(1)

Answer 4C.7.3

(METS-3: 83)

Yes.

(1)

The “no work, no pay” principle applies during a strike.

Question 4C.7.4 (Similar to question 4.10, METS-3: 89)

List the consequences of a protected strike and lockout.

(5)

Answer 4C.7.4

(METS-3: 83) – Any five relevant facts

- Workers may not be dismissed for participating in a protected strike action. Such a dismissal will constitute an automatically unfair dismissal.
- Involvement in a protected strike does not constitute a breach of contract. Civil legal proceedings may not be instituted against a striking person.
- Employers are not obliged to remunerate striking workers except if remuneration includes payment in kind.

- Workers may be dismissed due to their conduct during a strike after procedural and substantive requirements have been followed.
- Workers may be dismissed due to the economic implications the strike had on the organisation after the procedural and substantive requirements have been followed.
- Some limitations apply in respect of the employer's ability to employ replacement workers. An employer may not take into employment any person –
 - a) To continue or maintain production during a protected strike if the whole or a part of the employer's service has been designated a maintenance service; (a service is a maintenance service if the interruption of that service has the effect of material physical destruction to any working area, plant or machinery)
 - b) For the purpose of performing the work of any employee who is locked out, unless the lock-out is in response to a strike

(5)

Question 4C.9.1

Discuss the purpose of the Employment Equity Act (No 55 of 1998).

(3)

Answer 4C.9.1

(METS-3: 85)

(3)

- Equal opportunities
- Eliminate unfair discrimination (in terms of race, gender, pregnancy, marital status, family responsibility, ethnic origin, colour, sexual orientation, age, disability, religion, HIV status, conscience, belief, etc.)
- Implementation of affirmative action
- Designated groups identified by this legislation: black people, women, people with disabilities

(Any 3 relevant facts.)

(Students have to be fairly specific because a vague answer may explain the purpose of other human resource related acts such as the LRA and BCEA. To say, for example, that the purpose of the EEA is to ensure that employees are not taken advantage of or that all employees are treated fairly, could just as well be the purpose of the LRA and BCEA.)

Question 4C.9.3 (Legislation)

- i) Briefly describe the purpose of the Unemployment Insurance Fund (UIF). (2)
- ii) List the workers that are excluded from the Unemployment Insurance Act 63 of 2001. (6)
- iii) What contributions do employees and employers have to make to the UIF? (2)

Answer 4C.9.3

- i) 1) The UIF provides benefits and security for unemployed people.
2) Illness and maternity benefits are also paid from this fund. (2)
- ii) (Chapter 4, section 4.9 of METS-3)
 - Workers working less than 24 hours a month for an employer
 - Learners
 - Public servants
 - Foreigners working on contract
 - Workers who get a monthly state (old age) pension
 - Workers who only earn commission (6)
- iii) (METS-3: 86)
 - 1% of workers' pay
 - Employers also have to contribute 1% of the total wage bill (2)

Question 4C.9.6

The Employment Equity Act 55 of 98 provides for the implementation of affirmative action in the workplace. In terms of this piece of legislation

- i) define designated groups. {3}
 - ii) define designated employers. {1}
 - iii) state the purpose of the employment equity plan and list some of the aspects that must be addressed by it. {3}
- (7)

Answer 4C.9.6

(METS-3: 85)

- i) black people ✓; women ✓ and people with disabilities ✓ {3}
 - ii) An employer who employes 50 or more employees ✓ {1}
 - iii) The purpose of the employment equity plan is to state how the organisation will progress from the current/previous structure to a new diverse structure. ✓ Workforce analysis must be done to determine which groups are under-represented. ✓ Policies and procedures must be identified that could constitute unfair employment barriers to designated groups. ✓ Goals and a timetable for implementation must be specified. ✓ Benchmarks to be included. ✓ {3}
- (7)

Question 4C.10.1 (Legislation)

It is a big task to learn and continuously update your knowledge of the various acts of a country as they change. For reference purposes it is important to know the purpose of the acts relevant to the business environment in general and your specific industry so that you know which act to consult when you want to refresh your memory or look up something. Match each of the statements or descriptions (on the left-hand side) with the relevant Act (on the right-hand side). Note that more than one item from the left-hand side may be linked to a specific Act. In your answer book, write down only the number and next to it the letter representing the correct option, eg 1. z. (15)

| | Acts |
|---|--|
| 1. Children under the age of 15 may not be employed | |
| 2. This Act regulates a fund that provides benefits and security for unemployed people (who previously contributed to it) | a) Unemployment Insurance Act 63 of 2001 |
| 3. This Act specifies details regarding severance pay | b) Labour Relations Act |
| 4. This Act provides guidelines for workplace discipline. | c) Skills Development Act 97 of 1998 |
| 5. This Act provides details regarding annual, sick, | d) Occupational Health and |

| | |
|--|--|
| maternity and family responsibility leave | Safety Act 85 of 1993 |
| 6. This Act regulates a fund that provides maternity benefits. | e) Basic Conditions of Employment Act 75 of 1997 |
| 7. This Act specifies the notice period that must be given by employees on termination of employment | f) Compensation for Occupational Injuries and Diseases Act 130 of 1993 |
| 8. This Act specifies payment for Sunday work and work on public holidays | g) Employment Equity Act 55 of 1998. |
| 9. This Act provides for a skills plan for all employees. | |
| 10. Employers must reduce the risks to health and safety in the workplace. | |
| 11. This Act specifies ordinary hours of work | |
| 12. This Act requires employees to invest in the education and training of the workforce. | |
| 13. This Act deals with claims due to injuries in the workplace. | |
| 14. Equal opportunities should be provided to all employees in the workplace. | |
| 15. This Act states that an employee has the right to join a trade union. | |

Answer 4C.10.1

1. e (METS-3: 66)
2. a (METS-3: 86)
3. e (METS-3: 66)

4. b (METS-3: 70)
5. e (METS-3: 65, 66)
6. a (METS-3: 86)
7. e (METS-3: 66)
8. e (METS-3: 65)
9. c (METS-3: 86)
10. d (METS-3: 87)
11. e (METS-3: 65)
12. c (METS-3: 86)
13. f (METS-3: 87)
14. g (METS-3: 85)
15. b (METS-3: 84)

Question 4C.10.2

Describe the role of unions in an organisation. What matters should they be consulted about?

(6)

Answer 4C.10.2

- * They represent members in disciplinary and grievance procedures; also at disputes referred to the CCMA (METS-2:pp 76, 80).
- * They participate in decision-making (joint decision-making), especially decisions that may impact on the workforce.
- * They should be informed of retrenchments and the criteria for retrenchment.
- * There should be participating on National Training Boards and involved in joint decision-making regarding training at the workplace by unions.

- * They should be involved in the determination of selection processes, employment levels and deployment of labour.
- * They should be consulted with regard to any decisions relating to sub-contracting of work.
- * They should participate in health and safety committees and the election of safety representatives.
- * They should be involved in the development of specific, detailed policies that impact on employees such as affirmative action, sexual harassment, environmental issues such as smoking, HIV and Aids.
- * There should be consultation with unions about shift times, overtime arrangements, production targets and so forth.
- * They have to be consulted on retrenchment decisions. (6)

See also: (METS-3: 63)

General remarks

Remember to consider the number of marks allocated to a question when answering it. It will give you an idea of how much information to provide.

Remember to read the answers given by other students. You are welcome to comment on their answers (and mine). The idea is to create an environment on myUnisa where we can learn from one another.

Please do tutorial 1 now if you have not done so yet.

Please do tutorial 2 as soon as possible and upload your answers to myUnisa.

I wish you the very best with your studies.

Wilhelm (Willie) P. Nel