

Review and comment of assignment 1 (Semester1 2018)

Question 1 to 8 is based on METs Chapter 4.

Question 1.

- Role-player in employment relations- there is three parties on this relation (employer (organisation/company, employee (trade union) and state) this relation is called tripartite relationship.
E.g. in summary when you are employed in an organisation, automatically primary relationship is established. These relationship is economical, because employee is doing work in exchange of remuneration.
 - Employees has a right to join trade union of his choice of which main function of that union it will be negotiating on behalf of employee for better wages and working condition(for those leaners who are in mining and steel industry such union are NUM, UASA, NUMSA, Solidarity and AMCU)

N.B. Employer must ensure that goals are met through effective planning, organising, leading and controlling (See chapter 2 of METS for further discussion of POLC) and role and responsibility of employee must be clarified.

 - State provides legal frame work, which help on ensure that employees and employers conduct their relationship accordingly to law. (Laws and regulations e.g. BCEA, LRA). Watchdog role.
- Good employment relations will results in the following:
 - Motivated employees
 - Improved productivity
 - Reduced absenteeism
 - Better performance
 - Lower labour turnover
 - Reduction in throughput time
 - Fewer dismissals

Question 2 and 3

- The Basic Condition of Employment Act requires employer to supply their employees at the commencement of employment with the particular list below:
 - The full name and address of employer
 - The name and occupation of the employee or brief description of the work for which the employee id employed
 - The place of work
 - The date on which employment began
 - Ordinary working hours and days
 - Wage or rate and method of calculating wages
 - The rate of pay for overtime
 - Any other cash payments and any payment kind to which employee is entitled.
 - How frequently remuneration will be payed
 - Any deduction on remuneration
 - Leave on which employee is entitled for
 - Period of notice required to terminate employment
 - List of documents that form part of employment.

- The Basic Conditions of Employment Act (BCEA) stipulates all the minimum basic conditions of employment.
 - Ordinary hours of work – no employer shall require or permit an employee to work more than:
 - ❖ 45 hours in a week;
 - ❖ Nine hours in any day if an employee works for five days or less in a week; or
 - ❖ Eight hours in any day if an employee works on more than five days in a week.

N.B. it might happen that you found other organisation entitled their employees with more leave days than in BCEA e.g. 25 days annual leave as is 21 in BCEA, more than 4 month maternity leave and 5 days consecutive family responsible leave (depends on agreement between union and organisation)

- Meal interval it should not be less than 30 minutes for employees who work continuously for more than 5 hours.
- An employee must have rest period of 12 hours consecutive hours.
- Work that performed after 18h00 and before 06h00 next day is night work. Employee must be compensated with night shift allowance if so agreed. And if there is need of transport it should be available.
- Employee who work on Sunday must receive double the ordinary wage for that day.

Question 4

- The main aim of discipline in an organisation is to correct unacceptable behaviour and adopt a progressive approach in the workplace.
- The disciplinary procedure must be fair, just and equitable for the entire workforce, irrespective of race, sex, and religion or job category.
- The Labour Relation Act provides guidelines for workplace discipline.

Question 5

Example of disciplinary code

Offences	First offence	Second offence	Third offence	Fourth offence
Minor offences <ul style="list-style-type: none"> • Arrival late for work • Loafing 	Verbal warning	First written warning	Final written warning	Dismissal
Serious offences <ul style="list-style-type: none"> • Absenteeism • Leaving company premises without permission • Sleeping on duty 	Written warning	Final written warning	Dismissal	

<ul style="list-style-type: none"> Abusing sick leave benefits 				
Very serious offences <ul style="list-style-type: none"> Refusal to carry out lawful instructions Being under the influence of alcohol/drugs in the workplace 	Final written warning	Dismissal		
Dismissible offences <ul style="list-style-type: none"> Theft Fraud Violation of safety regulations Assault at the workplace Deliberately damaging company property 	Dismissal			

- The employee is entitled to different rights regarding a disciplinary inquiry Including:
 - Employee has a right to have an interpreter during disciplinary hearing
 - Employee has a right to call his/her own witness during disciplinary hearing.

Question 6

- CCMA stands for Commission for Conciliation Mediation and Arbitration.
- CCMA is an independent dispute resolution body. It was established by labour relation act. The main objective of CCMA is to promote a sound working environment relationship, to prevent labour disputes from arising and settle dispute that do arise.
- Some mechanisms available when solving dispute are pre-dismissal arbitration, conciliation, conciliation arbitration, arbitration, labour court and labour appeal court.
- The commissioner has no power to make a decision, but will assist the parties in attempting to reach an agreement.
- Labour court has the same powers as a provincial division of the Supreme Court.

Question 7

- Every employee has the right in forming a trade union and to join a trade union.
- Trade union has rights of access to a workplace to recruit and communicate with their members. Also entitled to hold meetings with employees outside working hours.
- The other organisational rights of registered, representative unions is that the employer may deduct union subscriptions or levies and pay them over to the union when a member of such a union provided such authorisation in writing.

Question 8

- a) The Sector Education and Training Authorities (SETAs) must approve every learnership programmes before it can be forwarded to the department of Labour.
- The purpose of the Unemployment Insurance Fund (UIF) is to provide benefits and security for unemployed people and for the dependents of deceased contributors. Illness and maternity benefits also paid from this fund.
- Employees must contribute 1% of their salary to the UIF, while employers must contribute 1% of their total salary bill to the UIF.

Question 9 to 10 is based on METs Chapter 6.

Question 9

- The law of contract which forms part of the law of obligations is based on the simple principle that one must honour their promises.
- A building or construction contract may be defined as a contract in terms of which one party, namely builder or contractor agrees to perform construction or engineering work for another, the client who turn normally undertakes to render counter-performance in the form of payment of a sum of money.
- In any project, following parties might be present:
 - The client (Employer)
 - The principal agent (engineer)
 - The contractor
 - The clerk of works (resident engineer)
 - Subcontractors and
 - Other prime contractors or consultants.

Question 10

- An obligation is a legal tie or bond that is created between the debtor (earthmoving contractor) and creditor (mine). An obligation creates a right to performance in favour of one party, called the creditor, and it places a duty to perform on the other party, called the debtor. It gives the creditor the right to claim that the debtor shall perform by giving or paying something, doing something, or refraining from doing something. In this case that thing is "loading and hauling". At the same time it places a duty on the creditor to perform in terms of the agreement by doing something, by refraining from doing something or by giving/paying something. In this case the mine has to pay the earthmoving contractor and provide an environment in which it could function safely and productively.
- Creditor – a person who may claim performance from the other party.
- Debtor – a person who has a duty to perform

Ref: Management for Engineers, Technologists and Scientists, 3rd edition, by Wilhelm P. Nel