

Tutorial Letter 201/2/2015

LLW2602

COLLECTIVE LABOUR LAW

Semester 2

Department of Mercantile Law

IMPORTANT INFORMATION:

This tutorial letter contains important information
about your module.

BAR CODE

CONTENTS

Dear Student

This tutorial letter contains the following:

- 1 **COMMENTARY ON ASSIGNMENT 01: (SECOND SEMESTER)**
- 2 **REMINDER OF THE SUBMISSION OF ASSIGNMENT 02**

PLEASE NOTE:

- The **Labour Relations Act, 1995** is referred to as the “**LRA**”.

1 COMMENTARY ON ASSIGNMENT 01: (SECOND SEMESTER)

QUESTION 1

AW Union can acquire organisational rights in one of the following four ways:

- **Collective agreement:** a registered trade union and the employer can conclude an agreement that regulates organisational rights. Even if a union is not representative, it can still acquire rights by way of a collective agreement (section 20 of the LRA).
- **Membership of a bargaining council:** a registered trade union which is a member of a council automatically acquires the right of access to the workplace and the right to the deductions of membership subscription fees by stop order, in all workplaces that fall within the scope of the council. The union acquires these rights irrespective of the level of its representivity in the workplace (section 19 of the LRA).
- **Strike action:** a trade union, including a minority union, may strike in demand of organisational rights, even if it does not meet the set threshold.
- **Section 21 procedure:** a registered union which is sufficiently representative may notify the employer in writing that it seeks to exercise its organisational rights. If the employer refuses to grant the requested organisational rights, the union may refer the matter to the CCMA, which will conciliate the matter. If this fails, the CCMA will arbitrate the dispute.

QUESTION 2

- (i) **The purpose of a strike** is to remedy a grievance or resolve a dispute in respect of any matter of mutual interest between employer and employee.
- (ii) **The purpose of a protest action** is to promote or defend the socio-economic interests of workers.

QUESTION 3

The strike in which members of MPU employed by WM are engaged, is called a secondary or sympathy strike. This takes place when employees employed by a secondary employer (WM) engage in a strike in support of demands made by employees employed by a primary employer (YY). WM's inability to supply YY with milk will influence YY's operation, which will exert pressure on YY to accede to the demands by its employees.

The following requirements must however be met for the secondary strike to be protected:

- The primary strike itself must be protected: the primary strike must have met all the procedural requirements for protection prescribed by section 64, namely that the dispute must have been referred for conciliation to either the CCMA or a bargaining council; that a certificate stating that the dispute was unresolved must have been issued, or 30 days must have passed before the strike can start; and that the prescribed notice was given to the employer;
- Notice: the secondary employer must have been given 7 days written notice before the commencement of the secondary strike; and
- Proportionality: the nature and extent of the secondary strike must be reasonable in relation to the possible direct or indirect effect that it may have on the business of the primary employer.

2 REMINDER OF THE SUBMISSION OF ASSIGNMENT 02

Please remember that your second compulsory assignment is due on 25 September 2015.

We wish you everything of the best with your studies. Do not hesitate to contact us if you have any questions regarding the contents of this module.

YOUR LECTURERS
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