INSTRUCTIONS

1. Students are requested, in their own interests, to write legibly.

2. This paper consists of **FOUR (4)** pages. Please ensure that you have all of the pages.

3. **Answer any 3 (three) out of 4 (four) questions.**
QUESTION 1

The 400 employees (teachers, minders, and cleaners) at Peter Pan School for the Handicapped have entered into wage negotiations with the school. They are represented by the People's Trade Union which generally enjoys a very good relationship with the management of the school. After three wage negotiation meetings, the parties are nowhere near reaching settlement. This is largely due to the fact that the school is facing a financial crisis because of the mismanagement of funds, and has very limited finances available for the employees' annual wage increase. The school has dismissed those who were responsible for the mismanagement of funds and are discussing the retrenchment of another 100 employees. The employees demand is for a 200% wage increase, and the inflation rate is accepted by all parties to be at 4.5%. The employees' wages are all higher than most employees employed in comparable institutions.

One day, the employees wait until the parents of the children have dropped their children off at the school, and left. Then they announce that they are striking. They leave the children unattended, and gather at the school gates where they sit in the shade, stating that they will not return to work unless they are given at least a 100% wage increase.

The school principal phones you in a panic – wanting to know what he can /should do. Provide him with detailed advice.

[Total Q1: 25 marks]

QUESTION 2

Bloom is two months pregnant. She is employed as a waitress. She suffers from intense morning sickness – which has resulted in her missing 10 of her 20 shifts in the last week. She says that the smell of food worsens her nausea. Her employer dismisses her for taking time off in excess of her leave entitlement, after giving her a fair opportunity to present her case against dismissal (all she says in her defence is: “I didn’t ask to get pregnant”). He then employs someone to take her place. How would you argue her case for unfair dismissal and what remedy/ies could you request?

[Total Q2: 25 marks]
QUESTION 3

Mr Zuma worked at Gupta Construction Pty (Ltd). On 26 March 2016, while operating a 50 ton vehicle he caused an accident by allowing his vehicle to hook onto certain electrical cables, dragging them down and exposing other employees to risk. He was immediately tested for the intake of alcohol and it was established that he was significantly beyond the legal limit. He also displayed apparent symptoms of being under the influence of alcohol; in particular he smelt of alcohol, had red eyes and demonstrated a general appearance of being intoxicated. Because he was unfit to carry out his tasks, he was immediately suspended from duty for the shift. Following a disciplinary hearing where Mr Zuma admitted that he had an alcohol abuse problem, he was dismissed for both damage to company property and being under the influence of alcohol whilst operating heavy machinery. He claims that a few weeks earlier another employee committed a similar offence in similar circumstances and was given a warning.

He wishes to challenge this matter on the basis that the sanction of dismissal is too harsh. Give full advice with reference to case law.

[Total Q3: 25 marks]

QUESTION 4

Dr Jane Smith (a white female) has been working as a senior Human Resource manager at the Department of Health for 10 years. She has recently received a PhD from UKZN in Industrial Psychology. The position of Director of Human Resources is advertised and Dr Smith applies, thinking she is well qualified for the post and that her experience meets the requirements. She is interviewed for the post together with 4 other candidates (2 blacks and 2 whites). On assessment she received an average rating of 80%, the highest score obtained by any candidate.
The difference between Dr Smith's score and the second rated candidate, Mr Zwane (a black male) was 25%. Mr. Zwane worked in the Human Resources Division in the South African Police Services for 5 years in a senior management position.

In its recommendation the selection panel agreed that due to the difference between Dr Smith's score and that of Mr Zwane, service delivery would be adversely affected if the latter were to be appointed.

The panel's recommendation was discussed at a meeting with the Head of the Department, Dr Ndlovu. Dr Ndlovu stated that appointing Dr Smith would aggravate the representivity status of the department and that 'such appointment will not enhance service delivery to a diverse community'. The post is left vacant and Dr Smith believes that she has been unfairly discriminated against on the basis of her race. Advise her of her chances of success with such a claim. Refer to relevant case law.

[Total Q4: 25 marks]

TOTAL FOR PAPER: 75 MARKS