

## SYLLABUS FOR THE 2019 BAR EXAMINATIONS LABOR LAW AND SOCIAL LEGISLATION

**NOTE:** This syllabus is an outline of the key topics that fall under the core subject “Labor Law and Social Legislation”. Accordingly, all Bar candidates should be guided that only laws, rules, issuances, and jurisprudence pertinent to these topics as of **June 30, 2018** are examinable materials within the coverage of the 2019 Bar Examinations.

### I. GENERAL PROVISIONS

- A. Basic policy on labor
- B. Construction in favor of labor
- C. Constitutional and Civil Code provisions relating to Labor Law

### II. PRE-EMPLOYMENT

- A. Recruitment and placement of local and migrant workers (Labor Code and RA 8042, as amended by RA 10022)
  1. Illegal recruitment and other prohibited activities
    - a. Elements
    - b. Types of illegal recruitment
    - c. Illegal recruitment vs. *estafa*
  2. Liability of local recruitment agency and foreign employer
    - a. Solidary liability
    - b. Theory of imputed knowledge
  3. Termination of contract of migrant worker without just or valid cause
  4. Ban on direct hiring
- B. Employment of non-resident aliens

### III. LABOR STANDARDS

- A. Conditions of employment
  1. Coverage
  2. Hours of work
    - a. Normal hours of work; hours worked
    - b. Meal periods
    - c. Night-shift differential
    - d. Overtime work
    - e. Computation of additional compensation (rates only); facilities vs. supplements
  3. Weekly rest periods
  4. Holidays
  5. Service incentive leaves
  6. Service charges
  7. 13<sup>th</sup> month pay
- B. Wages
  1. Payment of wages
  2. Prohibitions regarding wages
  3. Wage distortion; concept
  4. Non-diminution of benefits
- C. Leaves
  1. Service incentive leave
  2. Maternity leave
  3. Paternity leave
  4. Solo parent leave
  5. Leave benefits for women workers under RA 9710 and RA 9262
- D. Special groups of employees
  1. Women

- a. Discrimination
- b. Stipulation against marriage
- c. Prohibited acts
- d. Sexual harassment (RA 7877)
2. Minors (RA 7610, as amended by RA 9231)
3. *Kasambahay* (RA 10361)
4. Homeworkers
5. Night workers
6. Apprentices and learners
7. Persons with Disabilities
  - a. Discrimination
  - b. Incentives for employers

#### IV. SOCIAL WELFARE LEGISLATION

- A. SSS Law (RA 8282)
  1. Coverage and exclusions
  2. Dependents and beneficiaries
  3. Benefits
- B. GSIS Law (RA 8291)
  1. Coverage and exclusions
  2. Dependents and beneficiaries
  3. Benefits
- C. Disability and death benefits
  1. Labor Code
  2. POEA-Standard Employment Contract

#### V. LABOR RELATIONS

- A. Right to self-organization
  1. Coverage
  2. Ineligibility of managerial employees; right of supervisory employees
  3. Effect of inclusion as employees outside of the bargaining unit
  4. Non-abridgement
- B. Bargaining unit
- C. Bargaining representative
- D. Rights of labor organizations
  1. Check off, assessments, and agency fees
  2. Collective bargaining
- E. Unfair Labor Practices
  1. Nature, aspects
  2. By employers
  3. By labor organizations
- F. Peaceful concerted activities
  1. Strikes
  2. Picketing
  3. Lockouts
  4. Assumption of jurisdiction by the DOLE Secretary
  5. Injunctions

#### VI. POST-EMPLOYMENT

- A. Employer-employee relationship
  1. Tests to determine existence
  2. Kinds of employment
    - a. Regular
    - b. Casual
    - c. Probationary
    - d. Project

- e. Seasonal
- f. Fixed-term
- g. Security guards
- h. Floating status
- 3. Legitimate subcontracting vs. labor-only contracting
  - a. Elements
  - b. Trilateral relationship
  - c. Solidary liability
- B. Termination by employer
  - 1. Just causes
  - 2. Authorized causes
  - 3. Due process
    - a. Twin-notice requirement
    - b. Hearing
- C. Termination by employee
  - 1. Resignation versus constructive dismissal
- D. Preventive Suspension
- E. Reliefs from illegal dismissal
- F. Money claims arising from employer-employee relationship
- G. Retirement

**VII. MANAGEMENT PREROGATIVE**

- A. Discipline
- B. Transfer of employees
- C. Productivity standard
- D. Bonus
- E. Change of working hours
- F. *Bona Fide* Occupational Qualifications
- G. Post-employment restrictions

**VIII. JURISDICTION AND RELIEFS**

- A. Labor Arbiter
- B. National Labor Relations Commission
- C. Judicial review of labor rulings
- D. Bureau of Labor Relations
- E. National Conciliation and Mediation Board
- F. DOLE Regional Directors
- G. DOLE Secretary
- H. Grievance machinery
- I. Voluntary arbitration
- J. Prescription of actions
  - 1. Money claims
  - 2. Illegal dismissal
  - 3. Unfair labor practice
  - 4. Offenses under the Labor Code
  - 5. Illegal recruitment

- NOTHING FOLLOWS -