

<p style="text-align: center;"><b>2018 BAR EXAMINATIONS</b> <b>LABOR LAW AND SOCIAL LEGISLATION</b></p>
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**I. FUNDAMENTAL PRINCIPLES AND CONCEPTS**

- A. Legal basis
- B. 1987 Constitution (State Policies, Bill of Rights & Social Justice)
  - 1. Article II, Sections 9, 10, 18, 20
  - 2. Article III, Sections 4, 8, 10, 16, 18(2)
  - 3. Article XIII, Sections 2, 3, 13, 14
- C. Civil Code
  - 1. Articles 1700 to 1703

**II. RECRUITMENT AND PLACEMENT**

- A. Illegal recruitment (Labor Code and R.A. No. 8042 or the Migrant Workers and Overseas Filipinos Act of 1995, as amended by R.A. No. 10022)
  - 1. Elements
  - 2. Prohibited activities (Article 34, Labor Code)
  - 3. Types of illegal recruitment
  - 4. Illegal recruitment vs. estafa
  - 5. Liability of local recruitment agency and foreign employer
    - a) Solidary liability
    - b) Theory of imputed knowledge
  - 6. Termination of contract of migrant worker without just or valid cause
  - 7. Ban on direct hiring
- B. Regulation of Recruitment and Placement Activities
  - 1. Suspension or cancellation of license or authority
  - 2. Regulatory and visitorial powers of the Department of Labor and Employment (DOLE) Secretary
  - 3. Prohibited activities

**III. LABOR STANDARDS**

- A. Conditions of employment

1. Scope
  2. Hours of work
    - a) Principles in determining hours worked
    - b) Normal hours of work
      - (1) Compressed work week
      - (2) Power interruptions/brownouts
    - c) Meal Break
    - d) Waiting time
    - e) Night shift differential
    - f) Overtime work
    - g) Rest periods
  3. Holiday pay, 13<sup>th</sup> month pay
  4. Service charge
- B. Wages
1. Wage *versus* salary
  2. Payment of wages
  3. Facilities *versus* supplements
  4. Non-diminution of benefits
  5. Prohibitions regarding wages
  6. Wage Order, Wage Distortion
    - a) General concepts
- C. Leaves
1. Service Incentive Leave
  2. Maternity Leave
  3. Paternity Leave
  4. Parental Leave for solo parents (R.A. No. 8972)
  5. Leave benefits for women workers under special laws (R.A. No. 9710 or the Magna Carta of Women, and R.A. 9262 or the Anti-Violence against Women and Their Children Act of 2004)
- D. Special Groups of Employees
1. Women
    - a) Discrimination
    - b) Stipulation against marriage
    - c) Prohibited acts
    - d) Sexual Harassment

2. Minors (R.A. No. 7610, as amended by R.A. No. 9231)
3. *Kasambahay* Law (R.A. No. 10361)
4. Homeworkers
5. Night workers
6. Migrant Workers (R.A. No. 8042 or the Migrant Workers and Overseas Filipinos Act of 1995, as amended by R.A. No. 10022)
  - a) Claims for compensability of work-related death, sickness, or disability
7. Apprentices and learners
8. Disabled Workers
  - a) Equal opportunity
  - b) Discrimination on employment
  - c) Incentives for employers

#### IV. POST-EMPLOYMENT

- A. Employer-employee relationship
  1. Tests to determine employer-employee relationship
  2. Kinds of employment
  3. Subcontracting *versus* Labor-Only Contracting
    - a) Elements
    - b) Trilateral relationship
    - c) Solidary liability
- B. Termination of Employment
- C. Termination by Employee
  1. Resignation *versus* Constructive dismissal
- D. Termination by Employer
  1. Just Causes
  2. Authorized Causes
  3. Due Process
    - a) Twin-notice requirement
    - b) Hearing; Ample opportunity to be heard
- E. Reliefs from Illegal Dismissal
- F. Preventive Suspension
- G. Retirement

**V. MANAGEMENT PREROGATIVE**

- A. Discipline
- B. Transfer of employees
- C. Productivity standard
- D. Bonus
- E. Change of working hours
- F. Marriage between employees of competitor-employers
- G. Post-employment ban

**VI. SOCIAL WELFARE LEGISLATION**

- A. SSS Law (R.A. No. 8282)
  - 1. Coverage and Exclusions
  - 2. Dependents, beneficiaries
  - 3. Benefits
- B. GSIS Law (R.A. No. 8291)
  - 1. Coverage and Exclusions
  - 2. Dependents, beneficiaries
  - 3. Benefits
- C. Employee's compensation – coverage and when compensable

**VII. LABOR RELATIONS**

- A. Right to self-organization
  - 1. Who may/may not exercise the right
    - a) Doctrine of necessary implication
  - 2. Commingling/Mixture of membership
  - 3. Rights and conditions of membership
    - a) Nature of relationship
      - (1) Member-Labor union
      - (2) Labor union-Federation
        - (i) Disaffiliation
        - (ii) Substitutionary doctrine
- B. Bargaining Unit
- C. Bargaining Representative
  - 1. Determination of representation status
- D. Rights of labor organization

1. Check off, Assessment, Agency fees
2. Collective bargaining
  - a) Duty to bargain collectively
  - b) Collective Bargaining Agreement (CBA)
    - (1) Mandatory provisions of CBA
- E. Unfair Labor Practice
  1. Nature, aspects
  2. By employers
  3. By labor organizations
- F. Peaceful concerted activities
  1. By labor organization
    - a) Strike
      - (1) Valid versus Illegal strikes
    - b) Picket
  2. By employer
    - a) Lockout
  3. Assumption of jurisdiction
    - a) Nature
    - b) Effects of assumption of jurisdiction

## VIII. JURISDICTION AND REMEDIES

- A. Labor Arbiter
  1. Jurisdiction
    - a) Labor Arbiter versus Regional Director
  2. Requirements to perfect appeal to NLRC
  3. Reinstatement pending appeal
- B. National Labor Relations Commission
  1. Jurisdiction
- C. Court of Appeals
  1. Appeal via Rule 65, *Rules of Court*
- D. Supreme Court
  1. Rule 45, *Rules of Court*
- E. Bureau of Labor Relations
  1. Jurisdiction
- F. National Conciliation and Mediation Board

1. Conciliation vs. Mediation
2. Preventive mediation
- G. DOLE Regional Directors
  1. Recovery/Adjudicatory power
- H. DOLE Secretary
  1. Visitorial and enforcement powers
  2. Power to suspend effects of termination
  3. Remedies
- I. Voluntary arbitrator
  1. Jurisdiction
  2. Remedies
- J. Prescription of actions
  1. Money claims
  2. Illegal dismissal
  3. Unfair labor practice
  4. Offenses under the Labor Code
  5. Illegal recruitment

**IMPORTANT NOTES:**

- The listing of covered topics is not intended and should not be used by law schools as a course outline. This listing has been drawn up for the limited purpose of ensuring that the Bar candidates are guided on the coverage of the 2018 Bar Examinations.
- All laws, rules, issuances and jurisprudence pertinent to every subject and its listed topics as of June 30, 2017 are examinable materials within the coverage of the 2018 Bar Examinations.
- Principles of law are not covered by the cut-off period stated herein.