

**COVERAGE**  
**LABOR LAW AND SOCIAL LEGISLATION**  
**2015 BAR EXAMINATIONS**

**I. Fundamental Principles and Policies**

- A. Constitutional provisions
  - 1. Article II, Secs. 9, 10, 11, 13, 14, 18, 20.
  - 2. Article III, Secs. 1, 4, 7, 8, 10, 16, 18(2).
  - 3. Article XIII, Secs. 1, 2, 3, 13, 14.
- B. Civil Code
  - 1. Article 19
  - 2. Article 1700
  - 3. Article 1702
- C. Labor Code
  - 1. Article 3
  - 2. Article 4
  - 3. Article 166
  - 4. Article 211
  - 5. Article 212
  - 6. Article 255
  - 7. Article 277

**II. Recruitment and Placement**

- A. Recruitment of local and migrant workers
  - 1. Illegal recruitment (Sec. 5, R.A. No. 10022)
    - a) License vs. authority
    - b) Essential elements of illegal recruitment
    - c) Simple illegal recruitment
    - d) Illegal recruitment in large scale
    - e) Illegal recruitment as economic sabotage
    - f) Illegal recruitment vs. *estafa*
    - g) Liabilities
      - (i) Local recruitment agency
      - (ii) Foreign employer
        - (a) Theory of imputed knowledge
        - (iii) Solidary liability
      - h) Pre-termination of contract of migrant worker
  - 2. Direct hiring
- B. Regulation and enforcement
  - 1. Suspension or cancellation of license or authority (Art. 35, Labor Code)
  - 2. Regulatory and visitorial powers of the DOLE secretary
  - 3. Remittance of foreign exchange earnings
  - 4. Prohibited activities

### III. Labor Standards

- A. Hours of work
  - 1. Coverage/Exclusions (Art. 82, Labor Code)
  - 2. Normal hours of work
    - a) Compressed work week
  - 3. Meal break
  - 4. Waiting time
  - 5. Overtime work, overtime pay
  - 6. Night work (R.A. No. 10151), Night shift differential
  - 7. Part-time work
  - 8. Contract for piece work (see Civil Code)
- B. Wages
  - 1. Wage vs. salary
  - 2. Minimum wage defined, Minimum wage setting
  - 3. Minimum wage of workers paid by results
    - a) Workers paid by results
    - b) Apprentices
    - c) Learners
    - d) Persons with disability
  - 4. Commissions
  - 5. Deductions from wages
  - 6. Non-diminution of benefits
  - 7. Facilities vs. supplements
  - 8. Wage Distortion/Rectification
  - 9. Divisor to determine daily rate
- C. Rest Periods
  - 1. Weekly rest day
  - 2. Emergency rest day work
- D. Holiday pay/Premium pay
  - 1. Coverage, exclusions
  - 2. Teachers, piece workers, *takay*, seasonal workers, seafarers
- E. Leaves
  - 1. Service Incentive Leave
  - 2. Maternity Leave
  - 3. Paternity Leave
  - 4. Parental Leave (R.A. No. 8972)
  - 5. Leave for Victims of Violence against Women and Children (R.A. No. 9262)
  - 6. Special leave benefit for women
- F. Service Charge
- G. Thirteenth Month Pay

- H. Separation Pay
- I. Retirement Pay
  - a. Eligibility
  - b. Amount
  - c. Retirement benefits of workers paid by results
  - d. Retirement benefits of part-time workers
  - e. Taxability
- J. Women Workers
  - a. Provisions against discrimination
  - b. Stipulation against marriage
  - c. Prohibited acts
  - d. Anti-Sexual Harassment Act (R.A. No. 7877)
- K. Employment of Minors (Labor Code and R.A. No. 7678, R.A. No. 9231)
- L. Househelpers (Labor Code as amended by R.A. No. 7655, An Act Increasing the Minimum Wage of Househelpers; see also – Household Service under the Civil Code)
- M. Employment of Homeworkers
- N. Apprentices and Learners
- O. Persons with disability (R.A. No. 7277, as amended by R.A. No. 9442)
  - a. Definition
  - b. Rights of persons with disability
  - c. Prohibition on discrimination against persons with disability
  - d. Incentives for employers

#### **IV. Termination of Employment**

- A. Employer-employee relationship
  - 1. Four-fold test
  - 2. Kinds of employment
    - a. Probationary
    - b. Regular
    - c. Project employment
    - d. Seasonal
    - e. Casual
    - f. Fixed-term
  - 3. Job contracting
    - a. Articles 106 to 109 of the Labor Code
    - b. Department Order No. 18-A
    - c. Department Circular No. 01-12

- d. Effects of Labor-Only Contracting
- e. Trilateral relationship in job contracting
  
- B. Dismissal from employment
  - 1. Just Causes
  - 2. Authorized Causes
  - 3. Due Process
    - a) Twin-notice requirement
    - b) Hearing; meaning of opportunity to be heard
  
- C. Reliefs for Illegal Dismissal
  - 1. Reinstatement
    - a. Pending appeal (Art. 223, Labor Code)
    - b. Separation pay in lieu of reinstatement
  
  - 2. Backwages
    - a. Computation
    - b. Limited backwages
  
- D. Preventive Suspension
  
- E. Constructive Dismissal

## **V. Management Prerogative**

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

## **VI. Social Welfare Legislation (P.D. 626)**

- A. SSS Law (R.A. No. 8282)
  - 1. Coverage
  - 2. Exclusions from coverage
  - 3. Benefits

4. Beneficiaries
- B. GSIS Law (R.A. No. 8291)
  1. Coverage
  2. Exclusions from coverage
  3. Benefits
  4. Beneficiaries
- C. Limited Portability Law (R.A. No. 7699)
- D. Employee's compensation – coverage and when compensable

## VII. Labor Relations Law

- A. Right to self-organization
  1. Who may unionize for purposes of collective bargaining
    - a) Who cannot form, join or assist labor organizations
  2. Bargaining unit
    - a) Test to determine the constituency of an appropriate bargaining unit
    - b) Voluntary recognition
      - (i) Requirements
    - c) Certification election
      - (i) In an unorganized establishment
      - (ii) In an organized establishment
    - d) Run-off election
      - (i) Requirements
    - e) Re-run election
    - f) Consent election
    - g) Affiliation and disaffiliation of the local union from the mother union
      - (i) Substitutionary doctrine
    - h) Union dues and special assessments
      - (i) Requirements for validity
    - i) Agency fees
      - (i) Requisites for assessment
- B. Right to collective bargaining
  1. Duty to bargain collectively
    - a) When there is absence of a CBA
    - b) When there is a CBA
  2. Collective Bargaining Agreement (CBA)
    - a) Mandatory provisions of CBA

- (i) Grievance procedure
    - (ii) Voluntary arbitration
    - (iii) No strike-no lockout clause
    - (iv) Labor management council
  - b) Duration
    - (i) For economic provisions
    - (ii) For non-economic provisions
    - (iii) Freedom period
- P. Union Security
  - a) Union security clauses; closed shop, union shop, maintenance of membership shop, etc.
  - b) Check-off; union dues, agency fees
- 4. Unfair Labor Practice in collective bargaining
  - a) Bargaining in bad faith
  - b) Refusal to bargain
  - c) Individual bargaining
  - d) Blue sky bargaining
  - e) Surface bargaining
- 5. Unfair Labor Practice (ULP)
  - a) Nature of ULP
  - b) ULP of employers
  - c) ULP of labor organizations
- C. Right to peaceful concerted activities
  - 1. Forms of concerted activities
  - 2. Who may declare a strike or lockout?
  - 3. Requisites for a valid strike
  - 4. Requisites for a valid lockout
  - 5. Requisites for lawful picketing
  - 6. Assumption of jurisdiction by the DOLE Secretary or Certification of the labor dispute to the NLRC for compulsory arbitration
  - 7. Nature of assumption order or certification order
  - 8. Effect of defiance of assumption or certification orders
  - 9. Illegal strike
    - a) Liability of union officers
    - b) Liability of ordinary workers
    - c) Liability of employer
    - d) Waiver of illegality of strike
  - 10. Injunctions
    - a) Requisites for labor injunctions
    - b) "Innocent bystander rule"

## VIII. Procedure and Jurisdiction

### A. Labor Arbiter

1. Jurisdiction
  - a) versus Regional Director
2. Reinstatement pending appeal
3. Requirements to perfect appeal to NLRC

### B. National Labor Relations Commission (NLRC)

1. Jurisdiction
2. Effect of NLRC reversal of Labor Arbiter's order of reinstatement
3. Remedies
4. Certified cases

### C. Bureau of Labor Relations – Med-Arbiters

1. Jurisdiction (original and appellate)

### D. National Conciliation and Mediation Board

1. Nature of proceedings
2. Conciliation vs. Mediation
3. Preventive mediation

### E. DOLE Regional Directors

1. Jurisdiction

### F. DOLE Secretary

1. Visitorial and enforcement powers
2. Power to suspend/effects of termination
3. Assumption of jurisdiction
4. Appellate jurisdiction
5. Voluntary arbitration powers

### G. Grievance Machinery and Voluntary Arbitration

1. Subject matter of grievance
2. Voluntary Arbitrator
  - a) Jurisdiction
  - b) Procedure
  - c) Remedies

### H. Court of Appeals

1. Rule 65, Rules of Court

### I. Supreme Court

1. Rule 45, Rules of Court

### J. Prescription of actions

**IMPORTANT NOTES:**

1. This listing of covered topics is not intended and should not be used by the law schools as a course outline. This was drawn up for the limited purpose of ensuring that Bar candidates are guided on the coverage of the 2015 Bar Examinations.
2. All Supreme Court decisions - pertinent to a given Bar subject and its listed topics, and promulgated up to **March 31, 2015** - are examinable materials within the coverage of the 2015 Bar Examinations.