



**CILEX Level 3 Certificate in Law and Practice/
CILEX Level 3 Professional Diploma in Law and Practice**

Unit 6 – Employment Law

Question paper

November 2023

Time allowed: 1 hour and 45 minutes (includes 15 minutes reading time)

Instructions and information

- It is recommended that you take **fifteen** minutes to read through this question paper before you start answering the questions. However, if you wish to, you may start answering the questions immediately.
- There are **two** sections in this question paper — Section A and Section B.
- You must answer **all** questions from Section A.
- There are three scenarios in Section B — you must choose **one** scenario and answer **all** questions relating to that scenario.
- This question paper is out of 70 marks.
- The marks for each question are shown — use this as a guide as to how much time to spend on each question.
- Write in full sentences — a yes or no answer will earn no marks.
- Full reasoning must be shown in your answers.
- Statutory authorities, decided cases and examples should be used where appropriate.
- You are **not** allowed access to any statute books.
- A basic calculator is provided should you require the use of one.
- You must comply with the CILEX Exam Regulations – Online Exams at Accredited Centres/CILEX Exam Regulations – Online Exams with Remote Invigilation.

Turn over

SECTION A

Answer all questions.

1. Identify **three** statutory rights that employees have. **(3 marks)**

2. Explain, using case law, what is meant by repudiation in relation to summary dismissal. **(5 marks)**

3. Identify **two** specific exclusions that do not meet the definition of 'disability' set out in the Equality Act 2010. **(2 marks)**

4. Identify the statutory notice periods owed to an employee under the Employment Rights Act 1996. **(4 marks)**

5. Explain the criteria for a claim of indirect discrimination under the Equality Act 2010. **(4 marks)**

6. Explain what is meant by a 'restrictive covenant' in an employment contract. **(5 marks)**

7. Explain the 'officious bystander' test. **(3 marks)**

8. Identify **two** reasons for dismissal that are automatically unfair under statute. **(2 marks)**

9. Identify **one** example in which the common law implied duty of good faith can protect an employer's business, using case law to illustrate your answer. **(2 marks)**

(Total Marks for Section A: 30 marks)

SECTION B

There are three scenarios — you must choose one scenario and answer all questions relating to that scenario.

Scenario 1

Olaf is the manager of Tutorz, an English-language school in Kempston. Miles is employed full time by Tutorz as a teacher. Last April, Miles was diagnosed with cancer and has since undergone several operations on his face, as well as intensive chemotherapy. The operations have left Miles' face disfigured and he now finds it difficult to smile or to talk for long periods of time.

When Miles returned to work in October, he was timetabled to teach three classes each day, Monday to Wednesday. Each class is three hours long with a 15-minute break in between. On Thursdays and Fridays, he is expected to do his marking and teaching preparation.

During one of his short breaks, Miles went into the staffroom. Jolene, one of his colleagues, saw Miles and said loudly: "Look at your face, we should call you Smiley Miley now!" and everyone laughed. Since this incident, Jolene has called Miles 'Smiley Miley' whenever she has seen him.

By Wednesday of each week, Miles was exhausted and he asked Olaf to temporarily reduce Miles' hours or adjust his timetable. Olaf refused, telling Miles: "Everyone else would want their timetables changing, so take it or leave it." Miles also told Olaf that Jolene calling him names was distressing. Olaf did not speak to Jolene about the name calling nor did he adjust Miles' timetable.

Two weeks later, Olaf called Miles into the office and said that as his speech was affecting his ability to teach, he was being dismissed.

Scenario 1 Questions

1. (a) Define 'disability' under the Equality Act 2010.

(3 marks)

(b) Explain whether Miles has a disability under the Equality Act 2010.

(10 marks)

(Total: 13 marks)

2. (a) Identify the **three** factors an employer should consider when making reasonable adjustments.

(3 marks)

(b) Explain whether Olaf is correct in saying that he does not have to adjust Miles' timetable.

(9 marks)

(Total: 12 marks)

3. Explain what claim Miles can bring in relation to the name calling and whether or not he will be successful in his claim.

(8 marks)

4. Explain whether Miles is likely to be successful in a claim for unfair dismissal.

(7 marks)

(Total Marks for Scenario 1: 40 marks)

Scenario 2

Hamilton had worked at Secure Storage Solutions (SSS) as a full-time security guard for three years, earning £350 per week. Each Monday, Hamilton was given a list of designated duties by Iris, his manager. These included making sure that the keys to all the security units were accounted for, ensuring that the building alarms were always switched on and checking the identification badges of all the clients entering and leaving the building to access their personal storage lockers.

Last Friday evening, a live televised boxing match was scheduled. Hamilton had asked if his brother, Kennedy, could cover his shift so that he could watch the boxing match but Iris refused. When Hamilton arrived for his shift on Friday, he was keen to get his security checks finished quickly so that he could watch the boxing match in the office. While he was on his rounds, Hamilton failed to notice that one of the storage lockers he was responsible for was slightly open, with the key still in the lock.

The next morning, Iris discovered the open storage locker. The contents of the locker were intact but she called Hamilton into her office. Iris told Hamilton that he was no longer required as he was stupid and useless at his job, and should have secured the open locker and removed the key. Iris then told Hamilton to leave immediately. Hamilton was very hurt by Iris' remarks and he was surprised that he had been dismissed as prior to this he had never been disciplined.

Scenario 2 Questions

1. Identify **three** factors from the scenario that would indicate whether Hamilton is either an employee or self-employed. **(3 marks)**

2. Explain:
 - (a) whether Hamilton would be successful in a claim for wrongful dismissal; **(10 marks)**

 - (b) the compensation available to Hamilton should he succeed; **(4 marks)**

 - (c) whether Hamilton can claim damages for his hurt feelings. **(2 marks)**

(Total: 16 marks)

3. Explain whether:
 - (a) Hamilton meets the requirements for unfair dismissal; **(8 marks)**

 - (b) Iris has a potentially fair reason to dismiss Hamilton. **(7 marks)**

(Total: 15 marks)

4. Identify:
 - (a) the **three** types of financial award available in an unfair dismissal claim; **(3 marks)**

 - (b) **two** other remedies, other than financial award, available for an unfair dismissal claim; **(2 marks)**

 - (c) which **one** remedy Hamilton is most likely to be awarded if he is successful. **(1 mark)**

(Total: 6 marks)

(Total Marks for Scenario 2: 40 marks)

Scenario 3

Nahid owns Speedy Racers, a go-kart stadium where the public can hire and race go-karts.

Conroy, who is 63, has worked at Speedy Racers for four years. One of his duties is returning the go-karts to the storage sheds at the end of the evening. Conroy has always done a good job and is very popular with the customers. At his recent appraisal, Nahid complimented him on his event-planning skills.

Two weeks ago, Conroy was driving a go-kart towards the storage sheds when he misjudged the bend, sped off the track and crashed through the safety barrier into Nahid's car. The collision caused £800 worth of damage.

When Nahid heard the crash, he rushed out of his office to see what had happened. He saw Conroy climbing out of a go-kart. Nahid was very angry and called Conroy the worst driver ever. Nahid told Conroy to report to the office immediately. While Nahid and Conroy were in the office, the office door was still open and everyone could hear Nahid yelling at Conroy. Nahid said: "You are too old to drive and I am going to deduct the £800 from your wages." Nahid also shouted: "I don't need idiots working for me!"

Conroy was so upset by the whole experience that he ran out of the office and never returned.

Conroy has now got a new job and has asked Nahid for a reference.

Scenario 3 Questions

1. Explain:

(a) what is meant by summary dismissal;

(4 marks)

(b) what is meant by constructive dismissal;

(4 marks)

(c) the basis on which Conroy may bring a claim for constructive dismissal and whether it is likely to be successful.

(8 marks)

(Total: 16 marks)

2. (a) Identify and explain what claim Conroy may have in relation to the statement: "You are too old to drive."

(9 marks)

(b) State what remedies Conroy would be entitled to if his claim is successful.

(3 marks)

(Total: 12 marks)

3. Explain, with reasons, whether or not Nahid is entitled to deduct any money from Conroy's wages.

(8 marks)

4. Explain the duty governing the content of references and whether Nahid will have to provide Conroy with a reference.

(4 marks)

(Total: 12 marks)

(Total Marks for Scenario 3: 40 marks)

End of the examination