



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

Unit 6 – Employment Law

Question paper

January 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 allowed to make notes on your scrap paper during the examination.
- You are **not** allowed access to any statute books.
- 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. Define what is meant by an employee.
(2 marks)
2. Identify and explain **two** implied common law duties of an employer.
(4 marks)
3. Explain what is meant by repudiation in relation to summary dismissal, using case law to illustrate your answer.
(4 marks)
4. Identify **two** particulars that must be included within the written statement under s.1 Employment Rights Act 1996.
(2 marks)
5. Define victimisation.
(3 marks)
6. Identify **three** statutory rights that employees have.
(3 marks)
7. Identify **three** situations, under Schedule 9 Equality Act 2010, when an employer can justify discriminating against workers.
(3 marks)
8. Identify the venues and time limits for a claim for wrongful dismissal.
(4 marks)
9. Identify and explain **two** ways an employee can be dismissed.
(4 marks)
10. State the minimum statutory notice period an employee must give to an employer.
(1 mark)

(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

Karen is a team leader in the Claims Department of a large insurance company, Kempston Insurance. Kempston Insurance has recently introduced a new computer system for processing claims. Karen has trained all three members of her team on how to use the new computer system.

George is 58 years old and has worked for Kempston Insurance for 20 years. He is struggling to adapt to the new computer system, which makes processing claims faster. George refuses to use the online training program to practise using the new computer system.

Karen has been contacted by a customer. The customer said that they had telephoned George about a claim they had made. The customer said George was rude to them on the telephone and told the customer to 'go away and annoy someone else'. Karen called George into her office. She told him about the complaint from the customer and dismissed him for being rude to the customer.

Josh is also in Karen's team. He has very long hair, which he wears loose down his back. Kempston Insurance has a dress code that requires all staff to present themselves smartly at work. Karen tells Josh to tie his hair back, but he refuses to do so. Josh says that there are women in the team with long hair who have not been asked to tie their hair back.

Karen introduces a new shift system to clear the backlog of claims. This requires all employees to work two-night shifts per week. Lydia has been working at Kempston Insurance for one year. Lydia is a single mother with two young children. Lydia tells Karen that she cannot work the night shifts, because she is unable to arrange childcare. Karen warns Lydia that if she refuses, she will be dismissed.

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Scenario 1 Questions

1. Identify **two** potentially fair reasons that Kempston Insurance can rely on to dismiss George and explain how they apply in George's case.

(8 marks)

2. Explain whether Karen has complied with the requirements set out in BHS v Burchell (1978) when dealing with George.

(7 marks)

3. Explain whether Josh is likely to be successful in a discrimination claim against Kempston Insurance.

(8 marks)

4. (a) Explain whether Lydia is likely to be successful in a claim for discrimination against Kempston Insurance.

(10 marks)

- (b) Identify the remedies available to Lydia if she succeeds in her claim and explain how they apply in her case.

(7 marks)

(Total: 17 marks)

(Total Marks for Scenario 1: 40 marks)

Scenario 2

Adam owns a performing arts academy for children. Evie, a singing coach, started working for Adam on a casual basis three years ago, when the academy first opened. Evie submits invoices monthly, is paid gross and is responsible for paying her own tax and National Insurance. Evie has bought the academy uniform of a t-shirt and red trousers. Adam has told Evie that the cost of the uniform can be deducted from her tax.

Evie was supposed to work on Saturday night, but she sent her brother Frank to cover her classes. Evie, instead, attended an audition for a popular television show. Adam was unhappy about this and refused to let Frank work. He subsequently gave Evie a written warning for missing her shift.

Harry has worked for Adam for two years as a minibus driver and prop maker. Harry was recently banned from driving, after being convicted of driving with excess alcohol. Adam dismissed Harry because of the driving ban.

Six months ago, Adam employed Jason as a drum teacher. Last week, Jason married his long-term partner, Simon. When the staff found out, they complained to Adam that 'it is not right 'to employ people like Jason'. One member of staff told Jason to his face that she did not like 'his sort' and it is 'wrong' that he is working with children. When Jason told Adam that these comments were making him feel anxious, Adam suggested it might be best for everyone if he left, and Adam gave Jason one month's pay in lieu of notice.

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Scenario 2 Questions

1. Explain, using the most appropriate test, whether:

(a) Evie is likely to be an employee of the academy;

(9 marks)

(b) Evie is likely to be self-employed.

(7 marks)

(Total: 16 marks)

2. Explain whether Adam has any potentially fair reasons to dismiss Harry.

(10 marks)

3. (a) Advise Adam of any potential claim(s) that Jason may bring against the academy.

(10 marks)

(b) Explain the burden of proof in a discrimination claim.

(4 marks)

(Total: 14 marks)

(Total for Scenario 2: 40marks)

Scenario 3

Donald is a midwife and has worked in Kempston's busy maternity hospital for 35 years. In March, Donald booked some time off work to attend his granddaughter's first birthday party on Saturday 2 June.

On Friday 1 June while Donald was attending to some of his patients on the ward, Sally, the hospital manager, approached him and said that he could no longer take Saturday off, as they were short-staffed. Sally explained that, as this weekend was the Kempston Music Festival, she had allowed several of the young midwives time off to go to the festival. Donald told Sally that he had booked this time off in March, so he could attend his granddaughter's birthday party. Sally laughed and told Donald she didn't care, saying: 'Isn't it about time you retired anyway? Then you can have all the time off you want.'

Later that day, while Donald was giving out dinners to the patients, he accidentally dropped one of the plates of food onto the floor. Sally saw this and called him an old fool and told him that his P45 was waiting for him in her office when he needed it. (A P45 is a document given to employees after their employment contract has ended.)

On hearing this, Donald immediately walked out of the hospital and did not return.

Turn over

Scenario 3 Questions

1. Explain:

(a) what is meant by summary dismissal;

(5 marks)

(b) the requirements to claim constructive dismissal.

(5 marks)

(Total: 10 marks)

2. Explain:

(a) the mutual duty of trust and confidence;

(4 marks)

(b) whether Sally's behaviour would amount to constructive dismissal;

(6 marks)

(c) whether Donald is likely to be successful in a claim for constructive dismissal.

(3 marks)

(Total: 13 marks)

3. Under the Equality Act 2010, identify and explain what claim Donald may have in relation to:

(a) the reasons given by Sally for cancelling his time off;

(7 marks)

(b) Sally's verbal comments to him in his workplace.

(10 marks)

(Total: 17 marks)

(Total marks for Scenario 3: 40 marks)

End of the examination