

THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 6 – EMPLOYMENT LAW*

Time allowed: 1 hour and 30 minutes plus 15 minutes' reading time

Instructions to Candidates

- You have **FIFTEEN** minutes to read through this question paper before the start of the examination.
- **It is strongly recommended that you use the reading time to read this question paper fully.** However, you may make notes on this question paper or in your answer booklet during this time, if you wish.
- **This question paper is divided into TWO sections. You must answer ALL the questions from Section A. There are three scenarios in Section B. You must answer the questions relating to ONE of the scenarios from Section B ONLY.**
- Write in full sentences – a yes or no answer will earn no marks.
- Candidates must comply with the CILEx Examination Regulations.
- Full reasoning must be shown in answers. Statutory authorities, decided cases and examples should be used where appropriate.

Information for Candidates

- The mark allocation for each question and part-question is given and you are advised to take this into account in planning your work.
- Write in blue or black ink or ballpoint pen.
- Attention should be paid to clear, neat handwriting and tidy alterations.
- Complete all rough work in your answer booklet. Cross through any work you do not want marked.

Do not turn over this page until instructed by the Invigilator.

* This unit is a component of the **CILEx LEVEL 3 PROFESSIONAL QUALIFICATIONS** and **LEVEL 3 LEGAL SERVICES KNOWLEDGE QUALIFICATIONS**

SECTION A

(Answer ALL questions in Section A)

1. Identify **two** statutory rights that an employee has which are not provided to a worker.

(2 marks)
2. Explain, using an example, an employer's implied duty to take reasonable care for their employees' health and safety.

(2 marks)
3. Identify who is entitled to a section 1 Statement of Particulars and by when it must be provided.

(3 marks)
4. Explain what is meant by the 'protected period' in relation to the protected characteristic of maternity and pregnancy under the Equality Act 2010.

(2 marks)
5. Explain the requirements for an employee to claim constructive dismissal, using an example to illustrate your answer.

(5 marks)
6. Explain how illegality can be a potentially fair reason for dismissal.

(3 marks)
7. Explain **two** ways in which the 'Effective Date of Termination' can be determined.

(4 marks)
8. Explain **two** advantages and **two** disadvantages of the different venues in which a claim for wrongful dismissal could be issued.

(4 marks)
9. Explain what is meant by a 'non-dealing covenant' and the circumstances when it will be unenforceable.

(3 marks)
10. Identify **two** medical conditions that are specifically included as a disability under the Equality Act 2010.

(2 marks)

(Total Marks for Section A: 30 marks)

SECTION B

(There are three scenarios in Section B. Answer the questions relating to ONE of the scenarios ONLY)

Scenario 1

Beni was employed for three years by Cane, Cobble and Proctor (CCP), an international civil engineering firm based in Kempston, England.

Although Beni often worked overseas, his workplace varied, depending on where he was needed. During the past ten months, Beni had been setting up CCP's new branch in Germany. CCP offers an excellent remuneration package, so Beni was paid an annual salary of £42,000, which was paid into his UK bank account. He also received an overseas allowance of £1,000 per month, as well as four complimentary flights per year.

During his time in Germany, Beni became seriously ill and needed emergency surgery. He suffered complications from the surgery and could not work for five months.

While Beni was on sick leave, CCP discovered that he had lied about his qualifications on his job application. He had falsely claimed that he had a postgraduate degree in civil engineering. On discovering this, CCP immediately wrote to Beni, terminating his contract.

Scenario 1 Questions

1. (a) Identify what an employee has to prove, in order to be eligible to claim unfair dismissal.
(3 marks)

(b) Explain whether Beni satisfies the criteria to claim unfair dismissal.

(10 marks)

(c) Explain what an employer must prove, in order to defend a claim of unfair dismissal.

(3 marks)

(Total: 16 marks)

2. Identify **two** ways in which a claim for unfair dismissal differs from a claim for wrongful dismissal.

(2 marks)

3. (a) Explain the criteria for a wrongful dismissal claim.

(7 marks)

(b) Explain whether Beni would be successful in a claim for wrongful dismissal.

(10 marks)

(Total: 17 marks)

4. If Beni is successful in a claim for wrongful dismissal, identify what damages he may be entitled to.

(5 marks)

(Total Marks for Scenario 1: 40 marks)

Scenario 2

Archie was employed at KPP, a software development company, for three years as a junior software developer. Three months ago, Archie developed an app that can be used to identify creatures in the wild. It proved to be very popular around the world, and made KPP a vast amount of money.

Archie did not think it was fair that KPP was making so much money from his design, so he asked for a substantial pay rise and a bonus, both of which KPP refused to pay.

Two months ago, Archie made a minor adjustment to the app, renamed it and marketed it himself. Archie made a significant amount of money from the new app.

When KPP discovered that Archie was doing this, it wrote to him, inviting him to attend a disciplinary meeting. The letter also asked him to stop using his app immediately. Archie refused to attend the meeting and told KPP that he owned the app anyway, so he could do as he pleased.

KPP then wrote to Archie, notifying him that it was terminating his contract, as it felt that there had been a breakdown in trust.

Sindy, aged 27, works for KPP as a receptionist. When she was given her contract 18 months ago, it stated that she was a casual worker and her contract could be terminated at any stage, with one week's notice. Sindy is treated as a casual worker and is paid £7.50 per hour, whereas the other receptionists at KPP are paid £10 per hour. Sindy's contract states that she is also entitled to 25 days' holiday per year including bank holidays.

Scenario 2 Questions

1. Explain whether Archie is correct, when he says that the app belongs to him.

(7 marks)

2. Explain the potentially fair reason that KPP has to dismiss Archie.

(10 marks)

3. Explain whether KPP has acted with substantial fairness when dismissing Archie.

(10 marks)

4. Identify **three** remedies for unfair dismissal.

(3 marks)

5. (a) Explain whether a contract of employment has to be in writing, and identify **one** advantage of having a written contract.

(3 marks)

(b) Explain whether Cindy's rights in relation to working time and pay have been breached.

(7 marks)

(Total: 10 marks)

(Total Marks for Scenario 2: 40 marks)

Scenario 3

Richard is the manager of Careful Cleaners Kempston (CCK), a company that specialises in cleaning rooms following a crime.

When cleaning, all the workers must wear protective clothing, including rubber gloves and overalls. A rota is provided each week, as the hours worked are varied and can include evenings and weekends.

Pritesh, who is 24 years old, is paid the same as the other workers: £10 per hour and an additional £5 per hour if he works an evening or weekend shift. Nadia is 21 and is paid £8 per hour. Nadia is referred to as 'the baby' of the group. She is the youngest worker and the only female. Nadia asked Richard why she is paid less money than Pritesh. Richard's response is that £8 per hour is all she is entitled to. Pritesh overhears this conversation and challenges Richard, who tells him to mind his own business and removes Pritesh from the weekend shifts.

Xavier also works for CCK. Four months ago, CCK was required to clean up a house following a drugs raid. Xavier arrived at work having forgotten his rubber gloves. While cleaning, he pricked his finger on a dirty hypodermic needle. Six weeks ago, as a result of the needle injury, he was diagnosed with HIV. During the next month, several of the workers at CCK refused to work with Xavier and those who did would often snigger at him and make remarks about his diagnosis. This treatment by the workers really hurt Xavier's feelings. Xavier asked Richard to speak to the other workers. Richard told Xavier to stop being so sensitive. Richard said they were only joking and didn't intend to cause offence, and he told Xavier: 'There is nothing I can do about it'.

Scenario 3 Questions

1. Identify the **three** forms of prohibited conduct under the Equality Act 2010.
(3 marks)

2. Explain what claims Nadia could pursue under the Equality Act 2010 in respect of the rate of pay she receives.
(9 marks)

3. In relation to Pritesh, explain:

(a) the burden of proof in any potential discrimination claim that he may bring;
(3 marks)

(b) what claim he could bring against Richard.

(7 marks)
(Total: 10 marks)

4. In relation to Xavier, explain:

(a) what claim he could bring under the Equality Act 2010;
(6 marks)

(b) which remedies would be available to him;
(9 marks)

(c) whether Richard is correct in saying there is nothing he can do about the other employees' sniggering and remarks.
(3 marks)
(Total: 18 marks)

(Total Marks for Scenario 3: 40 marks)

End of Examination Paper