



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

Unit 6 – Employment Law

Question paper

June 2022

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. Identify **three** matters that fall within the jurisdiction of an employment tribunal.

(3 marks)
2. State what is meant by a 'worker' under the Employment Rights Act 1996.

(3 marks)
3. Explain a mobility clause and when it might be enforceable.

(5 marks)
4. Identify the notice period that an employer should give to an employee after three years' continuous employment.

(1 mark)
5. An employer has a duty to provide reasonable adjustments for disabled workers under the Equality Act 2010. Identify the **three** factors that will be taken into account when deciding what is a reasonable adjustment.

(3 marks)
6. State the **three** ways in which dismissal can occur under the Employment Rights Act 1996.

(3 marks)
7. Explain what must be established for a claim of wrongful dismissal.

(4 marks)
8. Explain the legal consequences if an employer does not comply with the ACAS Code of Practice 1 when disciplining an employee.

(4 marks)
9. Explain what is meant by a collective agreement.

(2 marks)
10. State what is meant by direct discrimination on the grounds of pregnancy.

(2 marks)

(Total 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

Toni owns PoP, a fast food takeaway in Kempston, and she employs several full-time and part-time workers. The takeaway is open from 2pm until 4am.

Samuel works at PoP as the night shift supervisor. It was Samuel's 40th birthday on 30th May so he asked Toni for the night off. Toni refused saying that they were far too busy and that he would have to wait a couple of months until July before he could have time off. Since March, Samuel has been working six hours per day over a seven-day period with a 15 minute break each day. He also works an additional two hours of overtime each day.

Elin, who is 21, has worked as a part-time delivery driver for PoP since she was 18. She works every weekend and is often offered overtime during the week.

When Elin returned to work one night, after delivering some late-night orders, Samuel called her into his office with some other co-workers and told her to have an alcoholic drink with them. Elin said no, left the room and thought no more of it.

Toni found that the staff had had a small party and threatened to dismiss all those involved. Toni looked at the CCTV footage and saw Elin enter the room at 2am. If Toni had continued watching the CCTV she would have seen Elin leave again within two minutes. When Elin came into work the next day she was called into the office and Toni immediately dismissed her for attending the party.

Turn over

Scenario 1 Questions

1. Explain Samuel's statutory rights in relation to:

(a) the hours he works; and

(8 marks)

(b) his holiday entitlement.

(4 marks)

(Total: 12 marks)

2. Explain whether:

(a) Elin satisfies the criteria to bring a claim for unfair dismissal;

(6 marks)

(b) Toni has a potentially fair reason to dismiss Elin.

(3 marks)

(Total: 9 marks)

3. Explain the disciplinary procedure that Toni should follow when disciplining an employee.

(7 marks)

4. Explain, when dismissing Elin, whether Toni acted with:

(a) procedural fairness;

(8 marks)

(b) substantive fairness.

(4 marks)

(Total: 12 marks)

(Total for Scenario 1: 40 marks)

Scenario 2

Gaia owns an authentic Italian coffee shop in Kempston town centre.

Joon Woo, who is South Korean, had worked at the coffee shop for nine years and is a world-renowned barista, having won the world barista championship two years running.

Recently, Gaia started selling a new brand of coffee that Joon Woo found difficult to pronounce. Some of Joon Woo's work colleagues thought this was funny and ridiculed his accent in front of customers, saying that only Italians could know about real coffee.

This upset Joon Woo, and he complained to Gaia that he was being bullied by his colleagues. Joon Woo was surprised when Gaia asked him what he expected, when this was an authentic Italian coffee shop. She also said that as he had worked there for nine years, he should be able to speak English with a proper accent and pronounce the names of the Italian coffee correctly.

Enzo, another employee, overheard the conversation between Gaia and Joon Woo and politely explained to Gaia that she was being rude, disrespectful and should take action to prevent this treatment of Joon Woo. Gaia swore at Enzo in the storeroom, where everyone could hear, and told him to mind his own business and not to expect any more shifts until he learned some manners. When Enzo returned to work the next day, he saw that his name had been removed from all shifts. Enzo was so shocked by this that he walked out and did not return to work.

Turn over

Scenario 2 Questions

1. Explain the burden of proof for a claim under the Equality Act 2010. **(4 marks)**

2. (a) Explain whether Joon Woo could successfully claim under the Equality Act 2010. **(9 marks)**

(b) Explain the remedies available to Joon Woo should he be successful with his claim. **(9 marks)**
(Total 18 marks)

3. Explain whether Enzo could successfully claim under the Equality Act 2010. **(7 marks)**

4. (a) Explain the requirements to establish constructive dismissal. **(6 marks)**

(b) Explain whether Enzo is likely to succeed if he were to make a claim for constructive dismissal. **(5 marks)**
(Total: 11 marks)

(Total for Scenario 2: 40 marks)

Scenario 3

Said and Adam work as part of a ground maintenance crew for Tidy Apartments (TA), carrying out general maintenance and gardening.

Each week, Said and Adam are emailed a timesheet that lists the jobs to be completed. They are not assigned a fixed workplace. They use a company van and are provided with all equipment, such as lawnmowers. They contact Cam, their manager, by phone (not provided by TA) as well as by weekly videoconferences. They are also provided with high visibility clothing and safety goggles to use.

On Tuesday, Adam collected Said at 7am. They drove two hours to their first job. Adam was concerned that they were not being paid travelling time as Cam had said nothing about this. Adam would like to clarify this but was never given a contract of employment when he started working there.

Said was cutting the grass and accidentally crashed into a fencepost, snapping one of the fence panels. The property owner reported Said to Cam. Cam phoned Said to discuss the complaint but was so annoyed that he yelled at him, saying he should be more careful as next time he would be out of a job. Cam also told him that he would be deducting the cost of repair from his wages. Said, who is looking for a new job, is concerned this will affect his reference from Cam.

Adam and Said take it in turns to look after the company van each weekend. When it is Adam's weekend, he advertises grass cutting services on a social media website and completes the work using the company van and equipment. He usually earns £1000 for himself each weekend.

Scenario 3 Questions

1. Explain whether Said and Adam are employed by Tidy Apartments, using the most relevant test.

(7 marks)

For the purpose of the following questions, assume that Adam is an employee.

2. Explain whether Adam has a contract of employment with Tidy Apartments.

(3 marks)

3. Explain:

(a) what document Tidy Apartments should have provided Adam with;

(3 marks)

(b) what Adam can do as he has not received it; and

(3 marks)

(c) the potential remedies available to Adam.

(4 marks)

(Total: 10 marks)

4. Identify and explain the implied duty Adam has breached and the likely consequences of his actions.

(10 marks)

5. (a) Explain whether Cam has to provide Said with a reference, and what Said should consider if Cam does.

(5 marks)

(b) Explain whether Cam can deduct the cost of repairing the fence from Said's wages.

(5 marks)

(Total: 10 marks)

(Total for Scenario 3: 40 marks)

End of the examination