



**CILEX Level 6 Single Subject Certificate/CILEX Level 6 Professional Higher  
Diploma in Law and Practice/CILEX Level 6 Graduate Fast-Track Diploma**

**Unit 4 – Employment Law**

**Question paper**

**January 2023**

**Time allowed: 3 hours and 15 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. Each section has four questions.
- You must answer **four** of the eight questions — at least **one** question must be from **Section A** and at least **one** question must be from **Section B**.
- This question paper is out of 100 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 can use your own unmarked copy of the following designated statute book – ***Blackstone's Statutes on Employment Law 2021- 2022, 31st edition, Matthew Dyson, Oxford University Press, 2022.***
- 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 at least one question from this section.

1. The Equality Act 2010 aims to ensure equal pay between the sexes. However, the requirement to demonstrate a recognised 'comparator', as well as the potential defences available to the employer, may result in the legislation failing to adequately protect employees' rights.

Critically evaluate the statement above with reference to supporting case law.

**(25 marks)**

2. 'Legislation governing family rights fails to adequately protect families on a low income'.

Critically assess the statement above with respect to an employer's statutory duty to provide:

(a) shared parental leave;

**(12 marks)**

(b) paternity leave;

**(8 marks)**

(c) bereavement leave.

**(5 marks)**

**(Total: 25 marks)**

3. Critically analyse the effectiveness of the Transfer of Undertakings (Protection of Employment) Regulations 2006 in protecting the rights of transferred employees **before** and **after** a transfer.

**(25 marks)**

4. 'Restrictive covenants are rarely enforceable within an employment contract. Instead, employers should rely on the implied duties of good faith and fidelity to protect their interests'.

Critically assess the statement above.

**(25 marks)**

## SECTION B

Answer at least one question from this section

### Question 1

Andrea identifies as a transgender woman. She recently joined a team of staff working as lifeguards at Leisure Life Ltd. A few days into her employment, Andrea was told by her manager, Egbert, that she will need to get changed into her swimsuit, which is her work uniform, in a small shed at the back of the premises, rather than in the women's changing room. Andrea told Egbert that, as a transgender female, she has a right to access the women's changing facilities.

Andrea added that she will make a discrimination complaint against the company if she is denied this right. Egbert told Andrea 'You will struggle to prove your complaint against the company as we have an excellent anti-discrimination policy. Furthermore, as you have been employed with the company for less than a week, your rights in this matter are very limited'.

Leisure Life Ltd also employs Kavita as a lifeguard. Kavita was recently diagnosed with a bone condition that causes her severe pain and limited movement in her right knee. Kavita's doctor told her that the condition is unlikely to improve and may worsen with time. Kavita undergoes physiotherapy for this condition and also takes muscle relaxants and painkiller medication on prescription from her doctor. Kavita informed Leisure Life Ltd of this diagnosis and requested to be allowed to perform a 'desk job' on the days her condition flares up and prevents her being physically able to fulfil the duties of a lifeguard. Leisure Life Ltd told Kavita that there are 'no desk jobs' at the company as they are a very small team of just six people and all jobs are of a physical nature. Leisure Life Ltd further told Kavita that it does not have the resources nor financial capacity to create a desk job for her.

Advise Leisure Life Ltd if it has breached the Equality Act 2010 rights of Andrea and Kavita.

**[NOTE TO CANDIDATES: DO NOT consider remedies.]**

**(25 marks)**

**Turn over**

## Question 2

Beautify Ltd is an art dealership. Vishu has been employed by the company as a bilingual sales negotiator for the past three months. Vishu speaks both English and French when performing his job.

Vishu is keen to maintain and develop his knowledge of the French language through his job, particularly as these skills are essential to his vocation. In fact, when Beautify Ltd asked Vishu to work a 50-hour week, he happily agreed to do so as a means of honing his language skills.

Vishu received an email from Beautify Ltd stating that it will not need his services during the month of November 2022; no reason was given for this. The company confirmed that Vishu would still be paid his wages for that month and would return to his normal working hours from December 2022 onwards.

Upon returning to work in December 2022, Vishu was told that he will need to meet a client, Xander, in person to discuss an important deal. Vishu refused to meet Xander, stating that he was not made aware of the requirement to meet clients in person, nor was it expressed in his contract. Beautify Ltd told Vishu that meeting with clients in person is a well-known and essential custom in the art dealership industry and he, therefore, must have understood this when joining the company.

A week later, Vishu was speaking on the phone to Maria, a client of Beautify Ltd. While discussing a potential deal between Beautify Ltd and Maria, Vishu mentioned that he is considering starting his own business. Maria likes to help people starting out in business and she offered Vishu the deal she was going to give to Beautify Ltd. Vishu accepted the opportunity and made a profit of £500 from the deal; he did not mention this to Beautify Ltd. When Beautify Ltd found out about the deal between Maria and Vishu, it deducted the £500 value of the lost contract from Vishu's next wages.

Advise Vishu whether Beautify Ltd has breached his rights and whether he has breached his obligations to Beautify Ltd.

**[NOTE TO CANDIDATES: DO NOT consider remedies]**

**(25 marks)**

### Question 3

Clean Green is a restaurant chain with several branches. Clean Green had low profits in the last financial year, and it was decided that its' Northton branch would be closed.

Joely had been employed as a hostess at the Northton branch of Clean Green for three years. Joely's contract of employment contained a term requiring her to work 'within any of the branches of Clean Green that are a reasonable distance from the Northton branch'.

Upon closure of the Northton branch of Clean Green, Joely was offered a position as a hostess in the Eastville branch of Clean Green. The Eastville branch of Clean Green is a three-mile distance from Joely's previous place of employment, all other terms of her employment would remain the same. Joely refused the job and is claiming she has been made redundant.

Ying is the manager of the Eastville branch of Clean Green. He recently witnessed one of the waiters, Peter, who had been working at the restaurant for just two weeks, talking to a customer. Ying became angry upon seeing this, as he had a crush on Peter and thought Peter was flirting with the customer. Ying approached Peter while he was speaking to the customer and told Peter he should be ashamed of himself and that he was 'a sex pest' for flirting with the customer. Ying made these comments in front of restaurant customers and staff. Peter was extremely embarrassed and upset by the incident and immediately suffered a stress-induced panic attack, he then left the premises in tears. Peter emailed in his resignation the following day; he continues to suffer with panic attacks since the incident with Ying.

Advise:

- (a) Joely if she has been made redundant and if she is entitled to redundancy pay;

**(9 marks)**

- (b) Peter if his rights have been breached by Clean Green and of any potential claims he may bring against the company.

**(16 marks)**

**(Total: 25 marks)**

**Turn over**

#### Question 4

Kimmy had been employed as a cleaner at Niche Offices Ltd, an ink supply business, for three weeks. One morning while cleaning the offices, Kimmy found that the company had been dumping old ink in the communal dustbins. The old ink is hazardous waste material and should be disposed of in a separate toxic waste disposal bin.

Kimmy immediately told her manager, Didi, that the company should not be dumping waste in this way. Didi told Kimmy that she had no right to challenge established company practices and that she must dispose of old ink in the communal dustbins. Kimmy refused to do so.

The next day, Kimmy reported Niche Offices Ltd to the local council, she also made a post on a social media site about the company's inappropriate dumping of ink. Upon learning of Kimmy reporting the company to the local council, Niche Offices Ltd immediately terminated Kimmy's employment on the grounds of failure to follow a lawful order to dispose of the old ink in the communal dustbins.

Oliver also worked as a cleaner at Niche Offices Ltd. He had worked at the company for four years and, up until three months ago, he had an excellent attendance record and no disciplinary record. Three months ago, Oliver began experiencing severe headaches. These resulted in him taking an average of 16 days' sick leave from work during each of those three months. As a result, Niche Offices Ltd terminated Oliver's employment on the grounds of excessive absenteeism.

Zoe worked as a security guard at Niche Offices Ltd. On a night off from work, Zoe went out and got into a fight. She deliberately punched another person, causing them serious injury. This resulted in Zoe being arrested and charged with assault. Upon learning of this incident and the criminal charges against her, Niche Offices Ltd terminated Zoe's employment.

Advise Niche Offices Ltd if it had fair reasons to dismiss;

(a) Kimmy;

**(9 marks)**

(b) Oliver;

**(10 marks)**

(c) Zoe.

**(6 marks)**

**(Total: 25 marks)**

**End of the examination**