



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

June 2022

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, Richard Kidner, Oxford University Press, 2021***
- 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 employment relationship often requires that the employer entrusts the employee with access to confidential information. However, the employer does not know whether the employee will respect that confidentiality, as well as the employer's business interests, once the employment relationship comes to an end.*

With reference to the above statement, critically analyse how an employer can protect its business interests in an employment relationship.

(25 marks)

2. Critically evaluate whether common law adequately protects employees who feel forced to resign from their workplace due to the actions of their employer.

(25 marks)

3. Critically analyse judicial interpretation of the requirements of substantive and procedural fairness in dismissal for a 'potentially fair' reason under the Employment Rights Act 1996.

(25 marks)

4. Critically assess whether statute gives fathers and male caregivers adequate rights in relation to;

(a) paternity leave;

(14 marks)

(b) flexible working patterns.

(11 marks)

(Total: 25 marks)

SECTION B

Answer at least one question from this section.

Question 1

Josephine had been employed at BibiBoo, a clothing store, for three years as a senior shop floor manager. BibiBoo recently ran into financial difficulties and was forced to close the department in which Josephine had been working.

Two of Josephine's co-workers, Asha and Paul, were both made redundant due to this department closure. Asha was selected for redundancy due to her being the longest serving employee and therefore the closest to retirement age. Paul was selected for redundancy due to taking 'excessive' sick leave; most of which was due to him having multiple sclerosis (MS).

Josephine, however, was told by management that, rather than being made redundant, she would be offered a job in another department of the same clothing store.

When Josephine received her proposed new employment contract, she found that, while she would still be a 'shop floor manager', she would no longer be a 'senior shop floor manager'. Josephine noted that her working hours remained the same. However, there was a minor change in her place of work, as she would now be expected to work one day a month at the city centre branch of BibiBoo; this would mean a longer commute than she was used to. This came as a surprise to Josephine as there was nothing in her previous contract that suggested she would need to work at any other locations. All other terms, including payment, remained the same as those in Josephine's previous employment contract.

Upon reading the proposed terms of her new contract, Josephine decided to decline the offer of the job.

Advise BibiBoo:

(a) whether Josephine had legally valid reasons to decline the offer of the alternative job;

(9 marks)

(b) if Paul and Asha have been fairly selected for redundancy;

(8 marks)

(c) on the remedies available to Asha and Paul, if they are found to have been improperly selected for redundancy.

(8 marks)

(Total: 25 marks)

Turn over

Question 2

Baljit is a receptionist at ABC Learning, an adult education centre. He has worked for the company for two years and, in that time, he has always worn a turban to work (a garment worn on his head as a sign of his religious beliefs). ABC Learning recently brought in a new requirement that all company employees must refrain from wearing any type of hat or head covering when at work. When Baljit challenged this new rule, he was told that it was an essential measure needed to allow for clear CCTV images to be collected from company security systems. This was a means of protecting all employees and visitors to the centre. Baljit was told he would not be allowed to wear his turban to work anymore.

Desmond works as a security guard for ABC Learning. He is 67 years of age. ABC Learning has told Desmond that he must retire from his job within the next six months. The company requires all employees with a manual role to retire by age 68 years, irrespective of their ability or workplace performance.

Rita also works as a security guard for ABC Learning. Desmond was hired three months prior to Rita, and they have consistently worked together during the nine years they have both been with the company. Rita recently saw Desmond's payslip and realised that he is paid £1.50 more per hour than she is. When Rita queried this difference, management told her that Desmond had been with the company longer than her, so was on a higher wage.

Advise ABC Learning if it has breached any provisions of the Equality Act 2010 in its treatment of **Baljit, Desmond and Rita**.

[Note to candidates: Do not consider remedies]

(25 marks)

Question 3

Pastries UL Ltd is a cake shop with five employees, including Ken and Latifah, both of whom are 20 years of age and earn the Minimum Wage.

Recently, there had been a lot of demand for cakes, so the shop manager, Derek, asked an employment agency, EggAG, to send one individual to assist the shop during weekends; EggAG sent Huda. Huda is 27 years old and works at the cake shop for eight hours on Saturdays.

Huda is paid the same wages as Ken and Latifah. However, she is not allowed to use the staff canteen as it is for permanent employees only. Huda is told she will be able to access the canteen after she has worked for the company for 12 weeks.

One Saturday, Huda is working in the cake shop when she accidentally drops a baking tray, thereby ruining several handmade cakes that have to be disposed of. Later that same day, Huda is called to a meeting with Derek, the manager.

Derek tells Huda that Pastries UL Ltd will have to make a deduction to her wages to compensate for the loss of the expensive cakes she dropped. As Huda is leaving this meeting, Derek comments to her that she looks very good in the uniform, and that her 'body fills out the uniform much better than any other employee'. Huda feels humiliated by the comment and later feels uneasy around Derek. Huda decides not to make a complaint about Derek as she does not think she has any rights as an agency worker, particularly as Derek made just one such comment to her.

Advise Huda if Pastries UL Ltd has breached her statutory rights and, if so, the remedies available to her for each breach.

(25 marks)

Turn over

Question 4

Beany Drinks Ltd is a coffee shop that provided hot drinks to two office buildings; one building based in North London and the other based in West London. These two office buildings had different teams of staff providing coffee in each location; Leon and Pedro had both worked in the North London team; Leon had worked there for one year and Pedro for three years.

The owner of Beany Drinks Ltd, Meena, decided that the running of these two contracts was no longer benefitting the company, and it would now offer its services to the building in West London only.

Beany Drinks Ltd assigned the contract to provide drinks to the North London building to Open44 Ltd, a catering company. Leon and Pedro are assigned to work at Open44 Ltd.

Two months after taking over the contract to provide drinks to the North London building, Open44 Ltd terminated the employment of Leon. The company stated that it could not afford to keep both new employees (Leon and Pedro) as it had just moved to larger and more costly facilities. Open44 Ltd knew it would be moving to these new facilities two weeks prior to the transfer.

While Open44 Ltd retained Pedro's employment, it reduced his working hours to match those of existing employees; claiming this was necessary to avoid any claims from existing employees. When Pedro refused to accept this change, Open44 Ltd immediately dismissed him for gross misconduct.

In relation to TUPE 2006, advise Open44 Ltd;

(a) if there has been a relevant transfer;

(6 marks)

(b) if it has breached the rights of Leon and Pedro and, if so, the statutory claims and remedies available to them.

(19 marks)

(Total: 25 marks)

End of the examination

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