



## THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

### UNIT 4 – EMPLOYMENT LAW\*

**Time allowed: 3 hours 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.
- **All questions carry 25 marks. Answer FOUR only of the following EIGHT questions. This question paper is divided into TWO sections. You MUST answer at least ONE question from Section A and at least ONE question from Section B.**
- Write in full sentences – a yes or no answer will earn no marks.
- **Candidates may use in the examination their own unmarked copy of the designated statute book: Blackstone's Statutes on Employment Law 2017–2018, 27th edition, Richard Kidner, Oxford University Press, 2017.**
- 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 following CILEx qualifications: **LEVEL 6 CERTIFICATE IN LAW** and the **LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE**

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**SECTION A**  
**(Answer at least one question from this section)**

1. Critically assess how family and parental rights given to fathers have evolved over the past century.

**(25 marks)**

2. 'Express terms are only one source of terms in employment contracts.'

Critically evaluate the above statement.

**(25 marks)**

3. (a) Critically examine the substantive law of wrongful dismissal.

**(6 marks)**

- (b) Critically examine, using appropriate sources, the heads of damages available for wrongful dismissal.

**(19 marks)**

**(Total: 25 marks)**

4. (a) Compare and contrast the effectiveness in protecting the characteristic of disability in indirect disability discrimination and an employer's duty to make reasonable adjustments under the Equality Act 2010.

**(12 marks)**

- (b) Critically evaluate whether the law on discrimination, arising from a disability under section 15 Equality Act 2010, provides a fair balance between employees and employers.

**(13 marks)**

**(Total: 25 marks)**

**Turn over**

**SECTION B**  
**(Answer at least one question from this section)**

**Question 1**

Colin has been working as an electrician at Edwards Electrics Limited ('EEL') since August 2005. His engagement letter described him as a 'sub-contracted employee'. It also stated that the terms of the agreement were set out in the company manual. The manual provided that electricians worked on a self-employed basis. It also stipulated that electricians had the use of a van provided by EEL (and marked with the EEL logo), for which a monthly hire charge was payable by the electrician. Colin was also required to carry an EEL identity card and to wear overalls issued by EEL. EEL also provided him with a mobile phone.

The contract provided for normal working hours consisting of five days a week, in which Colin was required to complete a minimum of 40 hours. However, EEL had no obligation to provide Colin with work on any particular day, and if there was no work for him, he was not paid. While working for EEL, Colin could reject any particular job he was offered by EEL, provided he had adequate reasons.

Last week, Colin accidentally tripped over some wires at a customer's house and broke an expensive vase. The customer was angry and complained to EEL. EEL told Colin that £1,000 would be deducted from his remuneration over four months.

He has also been informed that he will have to work an 80-hour week for the next three months due to staff shortage. Colin has never worked more than 48 hours per week.

(a) Advise Colin as to his employment status.

**(12 marks)**

(b) Advise Colin whether he can bring any **statutory** claims, if it is determined that he is either a worker or an independent contractor.

**(13 marks)**

**(Total: 25 marks)**

## **Question 2**

Hedon Plc develops and supplies software for companies. Denise has been employed as an engineer in the operations team since February 2010. Her line manager in the team was Erica, who in turn reported to Fred, the office manager.

Between 17 October 2015 and 15 October 2016, Denise was on maternity leave. She took two weeks' annual leave and returned to work in November 2016. She worked on a part-time basis, four days a week between 9 am and 5 pm. However, it was agreed with Erica that there might be some flexibility around those times. Denise needed to leave work at 5 pm in order to collect her son from nursery.

In August 2017, an issue arose concerning Denise's working arrangements. One aspect of her role required her to delete software connections. This was to free up computer space and to improve functionality. This was work that had to be undertaken by the operations team after 5 pm. However, Denise agreed with Erica that she could do some of the preparation work before 5 pm and then complete the implementation of the deletion remotely from home. While Erica was on leave in August 2017, Fred refused Denise the same flexibility. This meant that Denise was required to work after 5 pm more frequently.

In October 2017, Fred decided to reorganise the department. His plan was to reduce the operations team from three members to two. Denise applied for the more senior role of manager, but was unsuccessful. She declined the opportunity to apply for the other role, the position of engineer. This was because the work focused on deletions. There would be no opportunity for progression, and the work would be required to be undertaken after 5 pm. There were no other suitable vacancies. Denise was made redundant on 1 December 2017.

Advise Denise what claims she can bring against Hedon Plc.

**[Do NOT discuss remedies.]**

**(25 marks)**

**Turn over**

### **Question 3**

Hector was employed as a customer service assistant at Kilminster City Council (KCC) in February 2011. In November 2017, KCC decided to outsource a number of its services to Zelok Limited. These included the pensions department, customer services, human resources services, benefits and support. KCC considered that it could make considerable savings by outsourcing these services to Zelok Limited. Once Zelok Limited took over the customer services department, Hector no longer had the same job there compared to his job at KCC. This is due to an amalgamation of services. Zelok Limited terminated his contract two weeks ago.

Imogen was an adviser in the pensions department of KCC. Zelok Limited proposed to relocate the pensions department function to its base in Chelmsford, 70 miles from Kilminster. Imogen refused to relocate, although the post she was offered in Chelmsford was similar to the one she already held. Imogen did not want to relocate to Chelmsford. She does not drive, and there is no practical means of commuting by public transport. Zelok Limited terminated her contract last week.

Advise Hector and Imogen.

**(25 marks)**

#### **Question 4**

Petroove Supermarkets ('Petroove') operates a number of supermarkets in northern England.

Karen is a checkout assistant in a Cumbrian branch of Petroove. She has worked there for six years. Recently, after talking to her cousin Lionel, she realised that distribution depot workers, at Petroove, such as Lionel, who are all male, are paid £4 per hour more than she is. These workers carry out their jobs at locations separate from the retail stores. The pay of supermarket-based workers and distribution depot workers was negotiated by different departments of the supermarket. Regarding other terms and conditions, the employment handbooks of Karen and Lionel are very similar.

Mateo is a bakery sales assistant at a Cumbrian branch of Petroove. He has worked there for four years and has been a very good employee. About a fortnight ago, he split up with his girlfriend and he has been subdued at work ever since. Yesterday, he was 20 minutes late for work. When his manager, Tobias, noticed this, he shouted at Mateo in front of his colleagues, 'I can't have employees who bring their personal lives to work. You are 20 minutes late and there is a queue of customers. This is disgraceful!' Mateo felt embarrassed and humiliated by this incident. He walked out of Petroove after this incident and did not return to work.

- (a) Explain whether Article 157 of the Treaty on the Functioning of the European Union and associated domestic legislation apply here? What claim can Karen bring against Petroove?

**(17 marks)**

- (b) What claim can Mateo bring against Petroove?

**[Do NOT discuss remedies in relation to part (b).]**

**(8 marks)**

**(Total: 25 marks)**

**End of Examination Paper**

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