



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. It is said that employers must apply proper and fair redundancy procedures to avoid redundancy claims.

Critically analyse the scope of procedural fairness in relation to consultation requirements and suitable alternative employment. The consequences of failure to follow these procedures should also be noted.

(25 marks)

2. Using relevant authority, critically analyse the effects of the sex equality clause and the material factor defence on an equal pay claim.

(25 marks)

3. Using relevant authority, critically evaluate the implied duties imposed upon employers.

(25 marks)

4. Critically evaluate the effect of the Equality Act 2010 in the areas of:

(a) disability discrimination;

(16 marks)

(b) age discrimination.

(9 marks)

(Total: 25 marks)

Turn over

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

Question 1

Alistair is a senior software engineer at Pittsburgh & Hamilton Limited (P&HL), a manufacturer of printing equipment. Having worked there for 15 years, he has decided to leave the company and work for another printing manufacturer. Last week, he notified his manager, Bianca, of his intention to leave. He has a notice period of three months. Yesterday, Bianca told Alistair that he should work from home during his notice period. Alistair has access to the company's manual for its highly successful, prize-winning three-dimensional printer. Although Bianca has informed Alistair several times during his employment that the manual is highly confidential, Bianca is worried that he will take this information away with him.

In Alistair's employment contract are the following clauses:

- 7.1 'The Company may, at its absolute discretion, require the Employee not to attend at work and/or not to undertake all or any of his duties hereunder during any period of notice (whether given by the Company or the Employee), provided always that the Company shall continue to pay the Employee's salary and contractual benefits. For the avoidance of doubt, there is no obligation on the Company to provide the Employee with any work during any period of notice and the Employee will not be entitled to work on his own account or on account of any other person, firm or company during that period.'
- 7.2 'The Employee agrees that at no time during the term of his employment with the Company will he engage in any business activity which is competitive with the Company nor work for any company which competes with the Company. For a period of one (1) year immediately following the termination of the Employee's employment, he will not, for himself or on behalf of any other person or business enterprise, engage in any business activity which competes with the Company within ten (10) miles of the facility in which the Employee was employed.'

Using relevant authorities:

- (a) advise Alistair on the effect and enforceability of clause 7.1 of this employment contract;
- (7 marks)**
- (b) advise Alistair whether Pittsburgh & Hamilton Limited can enforce clause 7.2 against him;
- (12 marks)**
- (c) advise Alistair whether he has any implied duty in relation to the company's manual after he leaves the company.

(6 marks)

(Total: 25 marks)

Question 2

Quentin is the manager of Tastee Burgers, a fast-food restaurant based in the city of Bristol. It is a small business with 14 employees.

Robert is a shift manager at Tastee Burgers. He has worked there for three years. About six months ago, he decided to adopt a young child. He has very recently been matched with a prospective adoptee. He has told Quentin that he intends to take adoption leave.

Sara was a waitress at Tastee Burgers for four years. She had been working there during university to pay for her medical degree. Her work record was excellent. About two months ago, she realised that one employee, Theresa, did not wash her hands after using the lavatory. Theresa then proceeded to put ice into the customers' cold drinks. Sara was concerned, because it happened several times. As a medical student, Sara knew how important personal and food hygiene are to the restaurant. When Sara told Quentin about this, he said that he would speak to Theresa. After a few days, Sara did not believe that he had done so, so she spoke to Quentin again. He told her to mind her own business. Sara then informed the Food Standards Agency about her concerns. When Quentin found out about this, he dismissed Sara instantly.

Advise Quentin as to the legal position of Tastee Burgers in relation to Robert and Sara.

(25 marks)

Turn over

Question 3

Demetra is a TV presenter at RFH Limited, a local TV station in Oxford. She has worked there for five years. She is a good presenter and her breakfast show is well liked by viewers. Demetra has a son, who is a talented swimmer.

Since April 2017, Demetra has been driving her son to swimming training very early in the morning before going to work. Recently, her son did not perform well in an important swimming competition. He therefore lost motivation in training. For several days, Demetra struggled to wake him up and take him to training. She was late for work in April 2018, because her son initially refused to train that day. When Frank, the TV producer, later realised that the show was aired without her for the first 20 minutes, he was angry. Demetra apologised and has not been late since that incident, until recently.

Four days ago, Demetra was late again for the breakfast show. Her son left his expensive swimming goggles behind and they had to return to the pool to pick them up. When Demetra slipped into the show, she was half an hour late. After the show, Frank walked into the studio and shouted: 'Demetra, have you lost your mind? This is the second time you have been late. This is the *second* time that we had to go ahead with the show without you. I've had it with you.' Three other staff in the studio also heard this. Demetra was very upset by this incident. Frank later dismissed her with immediate effect in an email.

Gabriel is a cameraman at RFH Limited. He is 25 years old and joined the company eight weeks ago. Keen to impress, he agreed on an hourly wage of £6.10. During his break recently, he realised that all the other cameramen are paid the living wage. When he spoke to his manager about it, he was told that the living wage does not apply to him, as he is still on probation. When Gabriel argued that this is unfair, his manager said that he would deduct £100 from this month's salary for being insolent.

- (a) Advise RFH Limited whether Demetra can bring any claim at common law. Discuss any potential remedies as well.

(14 marks)

- (b) Advise RFH Limited whether Gabriel can bring any statutory claim(s).

(11 marks)

(Total: 25 marks)

Question 4

Hee-Fei started working for Puri Cleaning Services Limited (PCSL) as a full-time cleaner in 2000. Hee-Fei and the other nine cleaners of PCSL provided cleaning services to Merseyside Airport. After a tendering process, PCSL lost this cleaning contract to Aurori Limited (AL).

PCSL dismissed Hee-Fei and his colleagues with effect from 30 April 2018. They were all employed by AL on 1 May 2018. AL did not buy any of PCSL's cleaning equipment. On 15 May 2018, AL informed Hee-Fei that his wages would be reduced from £250 to £220 a week. Hee-Fei was very unhappy about this reduction, as he has a family to support. He complained to his manager at AL and was dismissed.

Ian has been a part-time cleaner at AL since 20 May 2018. He recently realised that his sick pay is 15% less than the full-time cleaners at AL and he will not receive a Christmas bonus, which the full-time cleaners do. He is baffled and annoyed by this discrepancy. When he raised this issue with AL, he was told that he is lucky to be the only part-time cleaner at AL and he can leave AL anytime, if he does not like it.

Advise Aurori Limited of any employment issues arising from this scenario.

(25 marks)

End of Examination Paper

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