



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 6 – EMPLOYMENT LAW*

Time allowed: 1 hour and 30 minutes 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.
- **This question paper is divided into TWO sections. You must answer ALL the questions from Section A. There are three scenarios in Section B. You must answer the questions relating to ONE of the scenarios from Section B ONLY.**
- Write in full sentences – a yes or no answer will earn no marks.
- 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 **CILEx LEVEL 3 PROFESSIONAL QUALIFICATIONS** and **LEVEL 3 LEGAL SERVICES KNOWLEDGE QUALIFICATIONS**

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SECTION A

(Answer ALL questions in Section A)

1. Identify **two** sources of employment law. **(2 marks)**

2. Explain the 'multiple test' used to determine a person's employment status. **(5 marks)**

3. State **two** tests used to imply terms into a contract of employment. **(2 marks)**

4. Identify **three** contractual clauses an employer could use to protect their business interests when an employee leaves. **(3 marks)**

5. Explain the circumstances in which an employee may claim victimisation under discrimination legislation. **(5 marks)**

6. Explain the 'band of reasonable responses' test. **(3 marks)**

7. State the circumstances where a dismissal can occur under s.95 Employment Rights Act 1996. **(3 marks)**

8. Identify **two** protected characteristics under the Equality Act 2010 and give the correct section number for each named characteristic. **(4 marks)**

9. What is meant by PILON? **(1 mark)**

10. Explain whether there is a requirement for a contract of employment to be in writing. **(2 marks)**

(Total Marks for Section A: 30 marks)

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SECTION B

(There are three scenarios in Section B. Answer the questions relating to ONE of the scenarios ONLY)

Scenario 1

Wioleta owns Rapid Repairs Ltd, a garage in Kempston, which employs several mechanics.

Jon is 29 years old and has worked for Rapid Repairs Ltd as a workshop supervisor for five years. He is required to work every Monday to Saturday, from 7.30 am to 5.30 pm. His contract also states that he is entitled to one months' notice, 30 days holiday per year and that he is paid £7.50 per hour.

Jon has complained to Wioleta about the number of hours he works. Wioleta has told him that he has a duty of obedience and must do as she says.

Roger has worked for Rapid Repairs Ltd for two years. For the last few months, Roger has been secretly repairing cars for his friends. He has been doing this in the garage on a Sunday, while the garage is closed, in order to make some extra money. Wioleta recently found out about this and she immediately dismissed him.

Rapid Repairs Ltd also employs Alma as a mechanic. Alma has worked for the company for three years. She is very unhappy at work as Wioleta is always picking fault with her work, for no reason. Last week, in front of a regular customer, Wioleta shouted at Alma for smashing a car lightbulb when she accidentally dropped it on the floor. She called Alma a 'stupid idiot' and told her that she was a disgrace to mechanics everywhere. Alma wants to leave her job, but she is worried that Wioleta will give her a bad reference and that she will not be able to get another job.

Scenario 1 Questions

1. Explain whether Wioleta is correct that Jon must obey her and work the contractual hours.

(8 marks)

2. Explain which of the terms relating to Jon's contract of employment breach statutory requirements.

(8 marks)

3. (a) Identify the criteria for bringing a claim for wrongful dismissal.

(5 marks)

(b) Explain whether Roger is likely to be successful in a claim for wrongful dismissal.

(10 marks)

(Total: 15 marks)

4. In relation to Alma, explain:

(a) what claim she could make against Rapid Repairs Ltd if she feels she has no choice but to resign;

(5 marks)

(b) the duty governing the provision of references.

(4 marks)

(Total: 9 marks)

(Total Marks for Scenario 1: 40 marks)

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Scenario 2

Dani owns Doggy Day Care (DDC) Ltd.

Fraser is a dog carer who has worked for DDC for four years. Fraser has a written contract stating that his normal working hours are 7 am – 3 pm, Monday to Friday. Tax and national insurance are automatically deducted from his pay, each month. Fraser wears a work jacket with the logo 'Doggy Day Care' on it.

Fraser's contract also states that if he cannot attend work, Fraser can send someone else to cover his shifts; however, they must be on the DDC approved persons list. Fraser recently sent his friend Sunny to cover for him while he was in hospital. Sunny is on DDC's list. Dani was impressed with Sunny and has employed him as another dog carer.

Three months later, Dani phoned Fraser while he was out walking four of the dogs and told him to return immediately to the centre. When he arrived, Dani told Fraser that he was dismissed. Fraser had been dismissed because Dani had received a fine from the local council. Dani said that the fine was because a DDC employee had been seen walking dogs in Kempston Park and had not cleaned up the dog mess after them.

Fraser stated that several of the DDC workers walked the dogs through that park and that it was unfair to automatically assume it was him. Dani said that the fine was all the evidence she needed and that the matter was now closed.

Sunny was surprised by Fraser's dismissal and wanted to check his employment contract to see if this could happen to him. When he asked Dani for his contract, Dani told him he was not entitled to one until he had finished his probationary period.

Scenario 2 Questions

1. Explain whether Fraser is an employee of DDC.

(10 marks)

For the purposes of Questions 2 and 3, assume that Fraser is an employee of DDC Ltd.

2. Explain the procedure DDC should have followed before dismissing Fraser.

(10 marks)

3. (a) Explain whether Fraser is eligible to claim unfair dismissal.

(9 marks)

- (b) Explain the remedies available if Fraser is successful in his claim.

(7 marks)

(Total: 16 marks)

4. Identify:

- (a) the written document that Sunny is legally entitled to and when it should be received by;

(2 marks)

- (b) any **two** particulars that should be contained in that document.

(2 marks)

(Total: 4 marks)

(Total Marks for Scenario 2: 40 marks)

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Scenario 3

Yusuf is a senior account handler for a large carpet manufacturing company called 'Cumfy Carpets' (CC) Ltd.

As CC was so successful, it was decided that the accounts department should be expanded, and the decision was taken by CC to promote one of the current account handlers to the position of Accounts Manager. One of the senior managers within the company encouraged Yusuf to apply, saying that he was 'the best account handler they have' and would be 'an obvious choice' for the role.

Yusuf applied for the promotion, believing he had a good chance of getting it. However, he was not even invited for an interview. Instead, the promotion was given to a junior account handler. Yusuf was surprised by this, particularly as he was the most qualified account handler, with the highest sales figures in the company. When he asked why he had not been interviewed, he was told it was because he didn't fit 'the company image'. Yusuf believes this is due to him wearing his traditional religious dress to the workplace.

Earlier this year, Yusuf had asked if the weekly staff team meetings could be changed or varied as they were always held at 12 o'clock, each Friday. Yusuf's religion requires him to pray at this time. His request was denied, and he was told that attending the meetings was compulsory for all staff.

Yusuf is very upset about this and also wants to do something about not getting the promotion. He does not want to leave as, overall, he enjoys working at CC.

Stan also works at CC. He has suffered with severe depression for over ten years and regularly attends therapy sessions to treat his depressive disorder. Recently, Stan's mum died and this has worsened his depression, making it difficult for him to come into work.

Stan asked his manager for a phased return. This would mean that Stan would return for two days a week, then three days a week, increasing until he was back to five days a week. Stan's manager refused this request and called Stan a 'lazy idler'. Stan was so upset that he resigned.

Scenario 3 Questions

1. Identify and explain the claims which Yusuf may have against his employer under the Equality Act 2010.

(10 marks)

2. Explain how the burden of proof will work in Yusuf's case and whether he is likely to be able to discharge this burden.

(6 marks)

3. Explain the remedies available to Yusuf if he is successful in his claims.

(6 marks)

4. Explain whether Stan has a disability within the meaning of the Equality Act 2010.

(6 marks)

5. (a) Identify and explain the claims that Stan may have against CC.

(9 marks)

- (b) Identify the remedies for unfair dismissal.

(3 marks)

(Total: 12 marks)

(Total Marks for Scenario 3: 40 marks)

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