

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. Explain what is meant by 'mutuality of obligation'.
(2 marks)
2. Explain when an employee can refuse to follow an order from their employer.
(3 marks)
3. Explain how statutory notice periods are calculated.
(4 marks)
4. Identify **four** particulars that must be included within the written statement under s.1 Employment Rights Act 1996.
(4 marks)
5. Explain what is meant by a collective agreement.
(2 marks)
6. Identify **two** specific exclusions from the definition of disability in the Equality Act 2010.
(2 marks)
7. Explain what is meant by 'repudiation' in relation to summary dismissal, using case law to illustrate your answer.
(4 marks)
8. Explain how damages for wrongful dismissal are calculated.
(4 marks)
9. Identify **three** potentially fair reasons for dismissal.
(3 marks)
10. Identify the powers of the Employment Tribunal where procedural fairness has not been established in a claim for unfair dismissal.
(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

Jack owns Fad Ice Creams (FIC). The business makes ice cream and sells it through its fleet of ice-cream vans.

Four years ago, Robin started driving one of the ice-cream vans owned by FIC. Robin increases his earnings by selling his own brand of ice lollies at the same time as the FIC ice creams, something which Jack is unaware of. Jack has found out that Robin has posted to his social media account an article about the increase of listeria in ice cream. Listeria bacteria can cause serious illness. The article recommends that the public switch to eating ice lollies, to avoid the chance of becoming ill. Jack is so angry that he emails Robin, informing him that he is sacked.

Bai is 28 and has worked at the FIC factory for ten hours a day, six days a week, for the last nine months. He does not wish to continue working such long hours and has asked Jack to reduce the number of days he works. Jack has told Bai that it will not be possible to reduce the number of days he works and that he agreed to work six days a week.

Asim has worked in the FIC factory making ice cream for the past six years. Jack has just introduced a new line of nut-based ice creams, and Asim has been told to work on that production line. Asim has a nut allergy, and he has told Jack that he cannot work on that production line without safeguards being put in place. Jack has informed Asim that he does not think allergies are 'a real thing' and that he either works on that production line or leaves the job.

Scenario 1 Questions

1. Explain:

(a) whether Robin is in breach of an implied term in respect of him selling his own brand of ice lollies;

(7 marks)

(b) whether Robin is in breach of an implied term in respect of him posting the article to his social media account;

(3 marks)

(c) whether Robin is likely to be successful in a claim for wrongful dismissal.

(9 marks)

(Total: 19 marks)

2. Explain to Bai whether Jack can insist that he continues to work ten hours a day, six days a week.

(8 marks)

3. Explain:

(a) whether Asim would be eligible to make a claim for disability discrimination under the Equality Act 2010;

(8 marks)

(b) whether Fad Ice Creams has a duty to make reasonable adjustments in Asim's case.

(5 marks)

(Total: 13 marks)

(Total Marks for Scenario 1: 40 marks)

Turn over

Scenario 2

Frankie owns the Jamboree Jazz Club.

Zuzanna, who is transgender, is employed to work in the bar, serving drinks. Other members of staff make 'jokes' about her being transgender. Often, such comments are made in Zuzanna's presence and in front of Frankie, who fails to challenge the behaviour. Frankie's view is that Zuzanna should not take what is being said by other members of staff seriously, as it is just 'banter' and is all part of the work culture, where everyone is teased about something. Zuzanna is very upset as a consequence of these comments.

Jane has been employed by Frankie for four years as the resident singer at the Club. Jane has been very upset for a number of weeks by the way Frankie has introduced her to the audience. Frankie uses phrases such as 'Put your hands together for our vocally challenged singer' and 'Sorry we haven't got anybody better'. After challenging Frankie about the way she was being treated, Frankie laughed and said that she would continue to introduce Jane in that way, until Jane 'gets the message'. Jane has resigned.

Scenario 2 Questions

1. Explain:

(a) whether Zuzanna has a protected characteristic under the Equality Act 2010;

(3 marks)

(b) what claim Zuzanna may make under the Equality Act 2010;

(8 marks)

(c) the remedies available to Zuzanna, if her claim is successful;

(4 marks)

(d) whether Zuzanna can claim compensation for injury to her feelings.

(5 marks)

(Total: 20 marks)

2. (a) Explain the requirements to claim constructive dismissal.

(6 marks)

(b) Explain the duty of mutual trust and confidence, and how it can be breached.

(6 marks)

(Total: 12 marks)

3. Explain:

(a) whether Frankie's behaviour towards Jane would amount to constructive dismissal;

(5 marks)

(b) whether Jane is likely to be successful in such a claim.

(3 marks)

(Total: 8 marks)

(Total Marks for Scenario 2: 40 marks)

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Scenario 3

Mary is the general manager at Plink Discounts Ltd (PD), a supermarket.

Harry has worked at PD for the last six years as a shelf-stacker. Over the last three months, a substantial amount of alcohol has gone missing from the shelves of the supermarket. Mary suspects that Harry has been stealing the alcohol.

Mary phones Harry on his day off and tells him that he must attend a meeting that day. Mary does not tell Harry what the meeting is about. Harry attends the meeting and is informed by Mary that he is being dismissed for gross misconduct. Mary instructs the security guard to escort Harry from the supermarket. This is very embarrassing, as all his fellow workers see him being escorted off the premises.

James works for PD as an accounts assistant and his role involves ensuring that invoices are paid on time. James has worked in the role for the last five years and has always carried out his duties to a satisfactory standard. Recently, James has missed a number of deadlines that have been set to pay suppliers. As a result, some of the suppliers now require PD to pay in advance for supplies. Mary has dismissed James, due to his failure to do his job properly.

Scenario 3 Questions

1. Explain:

(a) whether Harry meets the preliminary requirements for a claim for unfair dismissal;

(8 marks)

(b) whether Mary followed the correct procedure when dismissing Harry.

(10 marks)

(Total: 18 marks)

2. Explain the remedies available, if Harry decides to make a claim for wrongful dismissal.

(7 marks)

3. Explain:

(a) whether Mary has a potentially fair reason to dismiss James;

(4 marks)

(b) whether Mary has acted reasonably in dismissing James;

(6 marks)

(c) the potential remedies available to James, if he is successful in his claim for unfair dismissal.

(5 marks)

(Total: 15 marks)

(Total Marks for Scenario 3: 40 marks)

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