

## 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.**

## SECTION A

(Answer ALL questions in Section A)

1. Identify **three** sources of employment law. *(3 marks)*
  
2. Explain what a 'garden leave' clause is and why an employer would insert one in a contract of employment. *(5 marks)*
  
3. Identify **two** particulars that do **not** need to be contained in the s.1 statement, Employment Rights Act 1996, but must be specified in other documents. *(2 marks)*
  
4. Define 'indirect discrimination'. *(4 marks)*
  
5. Identify **three** work exceptions under Schedule 9 Equality Act 2010. *(3 marks)*
  
6. Identify the **three** ways in which a dismissal may occur under s.95(1) Employment Rights Act 1996. *(3 marks)*
  
7. Explain what is meant by 'repudiation of a contract' in relation to wrongful dismissal. *(4 marks)*
  
8. Explain the compensatory award given as a remedy for unfair dismissal. *(4 marks)*
  
9. Define the protected characteristic of gender reassignment. *(1 mark)*
  
10. Define what is meant by 'self-employed'. *(1 mark)*

*(Total Marks for Section A: 30 marks)*

## SECTION B

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

### **Scenario 1**

Ed is a supervisor at Kemps Construction Supplies (KCS), a building supply warehouse in Kempston.

Franz works for KCS in the warehouse, preparing online orders ready for delivery. A few weekends ago, Franz and his partner Jim were seen kissing in a café in Kempston by some of Franz's work colleagues. The following week at work, some of Franz's colleagues started calling him 'Princess'.

Franz also noticed that when he went to the staff canteen, his colleagues would no longer sit at the same table as him, and he could often hear them laughing and making homophobic jokes.

Franz complained to Ed about the conduct of his colleagues. Ed said he would look into it. However, Ed thought it was just a bit of fun and has not done anything about it yet.

Greta also works at KCS preparing orders, and has recently returned to work after being seriously injured in a car accident. The accident left her with severe permanent back pain, and she is no longer able to walk for long periods unaided or lift heavy weights. Greta asked Ed if she could change roles and become a stock checker, as they only have to count the stock and do not lift the boxes.

Ed told Greta that there was no point in her becoming a stock checker, as she cannot walk around the warehouse unaided. Ed also said that the stock checkers were paid a higher amount and, therefore, she would have to pass the same physical and aptitude tests, as he cannot give her preferential treatment. Greta wants to make a complaint about Ed.

***Turn over***

## Scenario 1 Questions

1. (a) Explain the criteria, which must be met, to establish if a working environment has been made 'hostile'.

**(4 marks)**

- (b) Explain whether Franz is likely to be successful in a claim against KCS under the Equality Act 2010.

**(6 marks)**

**(Total: 10 marks)**

2. Explain whether Greta satisfies the criteria for disability.

**(8 marks)**

3. (a) Explain the circumstances in which the duty to make reasonable adjustments may arise.

**(5 marks)**

- (b) Identify the factors that an employer should consider when deciding whether to make reasonable adjustments.

**(3 marks)**

- (c) Explain whether Ed has a duty to make reasonable adjustments in Greta's case and what would be considered reasonable in these circumstances.

**(8 marks)**

**(Total: 16 marks)**

4. Greta has decided to raise a grievance against Ed.

Explain the main steps of a grievance procedure.

**(6 marks)**

**(Total Marks for Scenario 1: 40 marks)**

## **Scenario 2**

Anna runs Kempston Spa Hotel ('the Hotel'). The Hotel is popular and always has excellent reviews in Spa Monthly, an online magazine.

Burt has worked at the Hotel for three years, providing treatments. His contract of employment describes him as a 'Spa Consultant'. Burt is provided with a uniform to wear. Each week, Anna emails the staff a list of their shifts for that week. At the end of each month, Burt must submit a time sheet for Anna's approval. All staff, including Burt, are given a 'Friends & Family' discount card for 30% off treatments.

Anna suspects that Burt has recently been leaving work early. Anna believes that he has been asking another employee, Corrine, who also provides treatments, to cover for him.

Last Saturday night, Anna went into the treatment room where Burt was supposed to be, but she could not find him anywhere. Anna asked Corrine if she knew where Burt was. Before Corrine could answer, a guest, who overheard Anna's conversation with Corrine, said that she had just seen Burt leaving the Hotel with his guitar.

On hearing the guest say this, Corrine called the guest a liar. Corrine told Anna that Burt had merely gone to put his guitar in the staffroom. The guest was furious about being called a liar. The guest demanded a refund for the rest of her stay, and immediately went online and gave the Hotel a one-star review in Spa Monthly magazine.

***Turn over***

## Scenario 2 Questions

1. Explain Burt's employment status. **(8 marks)**

2. Explain the procedure that Anna should follow, if she decides to discipline either Burt or Corrine. **(8 marks)**

3. Explain whether Burt meets the eligibility criteria to bring a claim for potentially unfair dismissal. **(5 marks)**

4. Assume for the purposes of Question 4 that Anna decides to dismiss Burt.

Explain:

(a) whether Anna has carried out an adequate investigation into Burt's absences;

**(6 marks)**

(b) whether Anna has a potentially fair reason to dismiss Burt.

**(4 marks)**

**(Total: 10 marks)**

5. (a) Explain what potentially fair reason Anna may rely on, to dismiss Corrine in relation to the bad review.

**[NOTE TO CANDIDATES: Do NOT discuss the potentially fair reason of conduct.]**

**(4 marks)**

(b) Explain the need for Anna to act with substantive fairness, if she decides to dismiss Corrine.

**(5 marks)**

**(Total: 9 marks)**

**(Total Marks for Scenario 2: 40 marks)**

### Scenario 3

Ali owns Ali's Gym and Swim (AG&S) in Kempston town centre. Ali has recently opened a new branch of AG&S, 15 miles outside Kempston.

Ali has asked his employees if any of them would like to volunteer to work in the new premises for three months, to help get it up and running. None of them has volunteered.

Oscar, who is 26, has worked at AG&S as a personal trainer and a lifeguard for 18 months. He is contracted to work 35 hours per week. Ali told Oscar that he must work extra hours every week. Oscar now works Monday to Saturday 10am till 10pm. He has a 20-minute lunch break each day.

As an employee, Oscar receives £7.50 per hour. Oscar is also entitled to free gym membership and a monthly clothing allowance of £20 for gym and swim wear. Oscar also has 30 days holiday per year.

Last week, Oscar was late for work on Tuesday morning, as he had missed the bus. Ali was furious, as there was a private children's pool party booked. He took Oscar to one side and told him this was unacceptable. On Wednesday, Oscar received an email from Ali, stating that he must finish work on Friday and not come back.

On Thursday evening, after the gym had closed at 10pm, Oscar secretly invited his friends to AG&S for a farewell swimming pool party. Unexpectedly, Ali returned to the gym that night, having forgotten some important paperwork, and discovered the pool party. Ali told everyone to leave immediately. Ali then told Oscar that he should never come back. He also told Oscar he could forget about being paid.

*Turn over*

### Scenario 3 Questions

1. Describe the clause that Ali could have included in his employment contracts, to require the employees to work at his other gym outside Kempston. **(2 marks)**

2. Explain Oscar's rights in relation to:

(a) the hours he works; **(7 marks)**

(b) his annual leave entitlement; **(6 marks)**

(c) his rest breaks; **(7 marks)**

(d) his pay. **(4 marks)**

**(Total: 24 marks)**

3. Explain:

(a) the criteria for an employee to claim wrongful dismissal; **(4 marks)**

(b) whether Oscar has received the correct notice period; **(3 marks)**

(c) whether Oscar is likely to be successful in a claim for wrongful dismissal. **(7 marks)**

**(Total: 14 marks)**

**(Total Marks for Scenario 3: 40 marks)**

**End of Examination Paper**