



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 2016–2017, 26th edition, Richard Kidner, Oxford University Press, 2016.**
- 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 evaluate the employment protection given to atypical workers in England and Wales and whether it has increased in recent years.
(25 marks)

2. (a) Critically analyse how the National Minimum Wage Act 1998 protects workers' rights.
(6 marks)

- (b) Critically analyse the rights available to workers regarding working hours and rest breaks under the Working Time Regulations 1998.

[For the purposes of (b), you do not need to discuss holidays.]

(19 marks)
(Total: 25 marks)

3. Critically evaluate the extent to which the law in England and Wales on unfair dismissal is concerned with the concept of fairness.
(25 marks)

4. Critically evaluate the extent to which the Transfer of Undertakings (Protection of Employment) Regulations 2006 **provide** effective protection for employees.
(25 marks)

Turn over

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

Question 1

Zoe is an administrative assistant at Flintshire University. She is partially sighted. Her manager, Yvonne, is aware of Zoe's visual impairment and has provided suitable equipment for Zoe. Zoe has also received support from her colleagues for a few tasks in her administrative support job. However, Zoe's eyes have deteriorated recently. She has informed Yvonne that she has successfully applied for an assistance dog, but Yvonne says she cannot have pets in the departmental school office.

Zoe has explained to Yvonne that an assistance dog is not a pet. Rather, it is a working animal trained to sit quietly at its owner's feet and not bother other people. However, Yvonne said that the office is no place for a dog and has informed Zoe that she will have to manage without her assistance dog at work.

Xi-Ying is a cook at Flintshire University. She feels that her job is of equal value to that of university gardeners, who are mainly male, in terms of qualifications and experience. The gardeners earn £1,800 per annum more than Xi-Ying, although she receives free meals and free transport to and from work, provided by Flintshire University. The gardeners do not receive free meals or free transport. Flintshire University said that to increase Xi-Ying's pay would involve restructuring the pay scales of all the catering staff both at the main campus and at the halls of residence. This would involve a great deal of additional administrative work.

- (a) Advise Zoe as to whether she may have a claim under s.15 Equality Act 2010 and possible outcomes.

(14 marks)

- (b) Advise Xi-Ying as to the claim she can pursue and possible outcomes.

(11 marks)

(Total: 25 marks)

Question 2

Walter is a production worker at Veltam Productions Limited. Throughout his employment he has always worked at the company's Sheffield factory. Three weeks ago, Veltam Productions Limited decided to move all its production workers to its Blackpool factory because of a lack of work at the Sheffield factory. Walter refused to move to Blackpool, which is about 90 miles from Sheffield. He was dismissed without notice, having worked at Veltam Productions Limited for three years.

Last week, Veltam Productions Limited conducted a reorganisation, during which the company regraded several workers. One such worker is Umako. She was downgraded, so she is earning £500 less per month and suffers a loss of status. The regrading was on different terms from her original contract and included a provision in relation to compulsory overtime. Umako rejected the new package and resigned. She has worked at Veltam Productions Limited for five years.

Advise Veltam Productions Limited as to any statutory claims (**other than for unfair dismissal**) that Walter and Umako may bring against Veltam Productions Limited.

(25 marks)

Turn over

Question 3

Edekar Limited is an advertising business based in London. A fortnight ago, Tim was offered a job as an advertising manager for the company. While reading his employment contract, he noticed the following clauses:

'Restrictive Covenants following Termination of Employment:

17.1

You undertake to the Company that you will not, without the prior written consent of the Company, directly or indirectly:

17.1.1

For a period of nine months from the Termination Date, be engaged, interested or concerned whether as principal, agent, representative, partner, director, employee, joint venturer, investor, consultant or otherwise in any advertising business;

17.1.2

For a period of nine months from the Termination Date, on behalf of an advertising business have dealings with any Customer of the Company with whom you have had dealings on behalf of the Company;

17.1.3

For a period of nine months from the Termination Date, on behalf of an advertising business entice or solicit, or endeavour to entice or solicit, the custom or business of any Customer'.

Tim is not sure if the clauses are reasonable and what the consequences would be if they are not.

Sangeeta is a trainee advertising sales assistant. She has been with Edekar Limited for eight months. She is unhappy with her experience so far, because she does not seem to have much work to do. Initially, she did menial administrative tasks and shadowed her supervisor. She was told repeatedly that she would soon have the opportunity to get involved with a big project. She is disappointed with her training so far and has made a formal complaint about these matters. Sangeeta is thinking of leaving the company if she is not given more work, and wonders if Edekar Limited will have to provide a reference for her.

Advise Tim and Sangeeta.

(25 marks)

Question 4

Paul owns a coffee shop, Cafe Allegro. Rebecca, his assistant manager, has worked at Cafe Allegro for two years. She recently informed Paul that she is pregnant and will be taking maternity leave in four months' time. She also indicated that she would like to make a request to work flexibly when she returns from maternity leave.

Neil is a new waiter at the coffee shop, having started working there almost three months ago. Yesterday, Neil was serving a party of customers when he did not see a loose wire on the floor. He tripped and dropped the tray, breaking five expensive coffee cups and saucers and a full bottle of Irish whiskey. Paul was angry and told Neil that he will be deducting the value of the breakages from his salary. Neil is unhappy about this and blamed the accident on the loose wire. He said that it was not the first time that he has seen loose wires in Cafe Allegro.

Neil twisted his knee in the accident. He is able to work at the coffee shop but, according to his doctor, he will miss three football matches for a local semi-professional football team. He would have been paid match fees of £200 for each game.

- (a) Advise Paul with regard to Rebecca's maternity pay and leave, as well as her desire to work flexibly.

(15 marks)

- (b) Advise Paul of any potential claims from Neil.

(10 marks)

(Total: 25 marks)

End of Examination Paper

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