



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** employment rights that an 'employee' has that a 'worker' does not.

(2 marks)
2. Explain the duty of good faith/fidelity.

(3 marks)
3. Name the regulation which protects a firm's employees when a firm is transferred or sold.

(1 mark)
4. Identify **two** protected characteristics recognised under the Equality Act 2010, giving the correct section number for each named characteristic.

(4 marks)
5. Identify the **three** situations outlined under s.95 Employment Rights Act 1996 as to how an employee can be dismissed.

(3 marks)
6. Explain whether a claim for wrongful dismissal can be brought when an employee is summarily dismissed.

(2 marks)
7. Identify the **three** situations where a redundancy situation may arise.

(3 marks)
8. Explain **one** advantage and **one** disadvantage of using the control test to establish employment status.

(4 marks)
9. Identify **three** optional terms that an employer could include in a contract of employment to protect their business interests.

(3 marks)
10. Explain the statutory notice period required for an employee with 15 years' continuous service.

(5 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

Gregory manages 'deliver2u', a delivery service in Bedfordshire, operated through a smartphone app.

Heidi is 24 and has worked for 'deliver2u' for nine months. She is the youngest driver and regularly works 35 hours per week. Heidi's contract states that she is self-employed, that 'deliver2u' does not have to provide work and that she can choose not to accept work.

Heidi provides her own smartphone. She also drives and maintains her own car. Heidi has been issued with a 'deliver2u' identification badge and she must display the company logo on her car at all times.

When a customer places an order, Heidi is given all of the details through the app on her phone. She must follow the exact details given. On one occasion, Heidi took a different route to the one specified, and received a warning from Gregory. Gregory also refused to allow Heidi's sister to carry out her deliveries when Heidi needed some time off. Heidi submits timesheets to Gregory each month and he issues her with a payslip but does not deduct any tax or national insurance.

Each month, Gregory gives a bonus to the driver who has made the most efficient and timely deliveries. This month it was Heidi. However, Gregory told her that you have to be over 25 years old to be included in the bonus scheme and he gave the bonus to another driver.

Idris, another driver employed by Gregory, overheard Heidi's conversation with Gregory. Idris told Gregory that Heidi should have received the bonus. This annoyed Gregory and he told Idris it was none of his business. As a result of this, Gregory has put Idris onto the nightshift for two months and given him 50% fewer deliveries.

Scenario 1 Questions

1. State **three** advantages of being self-employed rather than being an employee.
(3 marks)

2. (a) Identify and explain any **two** tests used to establish employment status.
(6 marks)

(b) Explain which of the factors could be used to establish whether Heidi is:

(i) an employee;

(7 marks)

(ii) self-employed.

(5 marks)

(Total: 18 marks)

3. Assuming that Heidi is an employee, explain:

(a) which initial document Heidi should have been provided with and by when;
(2 marks)

(b) what action she should take if the document is not provided;

(4 marks)

(c) **two** things that must be included in the document;

(2 marks)

(d) any **one** term that would be implied in the document.

(3 marks)

(Total: 11 marks)

4. Explain what claim Idris may bring under the Equality Act 2010.

(8 marks)

(Total Marks for Scenario 1: 40 marks)

Turn over

Scenario 2

Clifford manages Cirque de Kempston, one of the highest-ranking circus schools in Europe.

Faith is the most popular instructor and she has worked in the Cirque de Kempston for three years. Faith is a well-respected acrobat, with many years' experience, and there is always a long waiting list to join her classes.

On 20 April, Oliver, a well-known celebrity, enrolled on the high-wire class, even though he had no experience of wire walking. Faith told Oliver that he was not good enough to be in her classes and refused to let him join. She recommended that he join the junior class to gain more experience. Feeling insulted by this, Oliver complained to Clifford about Faith and insisted that, as he had paid his fees, she should be sacked or he would tell his story to the media. Fearing bad publicity, Clifford called Faith into his office and immediately dismissed her.

Faith soon found another job with a rival circus school, which requested a reference from Clifford. Clifford was worried that Faith may try to recruit some of his students for classes at the rival circus school, so he wrote her a poor reference.

Clifford also employs Archie, who is 19 and works 15 hours per week. Clifford asked Archie to teach Faith's classes until he could find another instructor. Clifford is still unable to find a replacement instructor. By taking over Faith's classes, Archie is working 13 hours a day, six days per week. He is paid £5.50 per hour and is allowed a 30-minute lunch break each day.

Scenario 2 Questions

1. Faith wishes to make a claim for unfair dismissal. Explain to her:
 - (a) whether she meets the eligibility criteria to make a claim;
(7 marks)
 - (b) whether her dismissal was procedurally fair.
(7 marks)**(Total: 14 marks)**

 2. If Faith decides to make a claim, explain to her:
 - (a) where she should issue her claim and by when;
(3 marks)
 - (b) whether she is likely to be successful with her claim.
(8 marks)**(Total: 11 marks)**

 3. Explain the claim that Faith may have against Clifford in respect of the bad reference.
(4 marks)

 4. State the term that Clifford could have included in Faith's contract, to prevent her from recruiting his students.
(1 mark)

 5. Explain the **two** statutory claims that Archie could bring against Clifford and whether he is likely to be successful.
(10 marks)
- (Total Marks for Scenario 2: 40 marks)**

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Scenario 3

Ashar is the manager of 'Kempston Today', a local radio station in Kempston.

Lance is 25 and has worked for Ashar for 19 months as the station weather presenter. He is responsible for delivering the weather updates throughout the day. He is late for work almost every day and also pops out for a cigarette every few hours.

Celia has worked at 'Kempston Today' as a reporter for six months. It is her job to go out into the community to interview people and to report on local events. Celia has recently been convicted of assault, after she got into a fight while reporting on a demonstration in Kempston. When Ashar found out about this, he dismissed her immediately. Celia's contract states that she is entitled to three months' notice. Celia was paid £300 per week and, in addition, she was entitled to private healthcare, subsidised gym membership and £20 per week for meal vouchers.

Mikhail is 30 and is in charge of the advertising department. He has a strongly held belief about climate change and the environment. He tries to encourage everyone in the office to recycle and to use mugs instead of disposable coffee cups. On Monday, Mikhail put up a poster in the office supporting a 5p tax on disposable cups. Sandy, a co-worker, often pops to the local coffee shop to collect everyone's coffee order, but on Tuesday, when Mikhail went to give Sandy his order and reusable mug, Sandy pointed at Mikhail and said, 'People like you with your stupid beliefs can get your own coffee'. Sandy has also started calling Mikhail a 'tree-hugger' and 'Greeny'. Mikhail tells Ashar that he finds this very upsetting, but Ashar tells him it's just a bit of office fun and to get over it.

Scenario 3 Questions

1. Explain the procedure that Ashar should follow, if he decides to discipline Lance.
(7 marks)

2. Explain to Celia:

(a) what claim, if any, she may have against Ashar;

(10 marks)

(b) what she would be entitled to, if she were successful in her claim.

(8 marks)

(Total: 18 marks)

3. (a) Describe what is meant by 'religion or belief' under the Equality Act 2010.

(3 marks)

(b) Explain which **two** claims Mikhail could bring under the Equality Act 2010.

(10 marks)

(Total: 13 marks)

4. Explain the burden of proof in discriminations claims.

(2 marks)

(Total Marks for Scenario 3: 40 marks)

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