

## 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 the question paper fully.** However, you may make notes on the question paper or in your answer booklet during this time, if you wish.
- **The 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 in Section B ONLY.**
- Write in full sentences – a yes or no answer will earn no marks.
- Candidates must comply with the ILEX 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 ball point 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 ILEX qualifications: **LEVEL 3 CERTIFICATE IN LAW AND**

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## SECTION A

(Answer ALL questions in Section A)

1. Give **three** examples of rights that an 'employee' has which a 'worker' does not.  
(3 marks)
2. List **three** advantages of being an employee rather than a self-employed contractor.  
(3 marks)
3. Bob, an employee, has a wrongful dismissal claim with a value of £50,000 and an unfair dismissal claim. Where should his claims be heard and why?  
(4 marks)
4. Alan, a factory owner, introduces a new shift system for his workers which involves working at night. This affects the female workers more than the male workers as they have primary responsibility for looking after their children and cannot work on the night shift.  
  
Describe the claim the female workers may have against their employer, Alan.  
(5 marks)
5. Give **two** examples of common law duties an employee owes to their employer.  
(2 marks)
6. When must an employer provide a s1 statement to a new employee?  
(2 marks)
7. Explain the remedies available to an employee who has been unfairly dismissed.  
(5 marks)
8. What is the purpose of a garden leave clause in a contract of employment?  
(3 marks)
9. Danielle wants to dismiss her personal assistant Sue, who keeps making mistakes. Sue has been working for Danielle for 18 months. How much notice must Danielle give Sue and can Danielle pay her instead?  
(3 marks)

(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

Parmjit has worked as a cleaner at a local company for six years. She works from 7pm-10pm, Monday to Friday. They provide all her cleaning materials and a uniform for her to wear. She has not received a pay rise or a bonus for the last two years like the other staff. She is paid in cash every week and has to arrange her own tax and National Insurance. She finds this very difficult.

If Parmjit is off sick or on holiday, she has to find a friend to cover her work. As the cleaning has to be done when the office is closed, only a list of people approved by the company can cover her sickness and holidays.

The company are very specific about the cleaning; Parmjit has a rota for what to do and when. Sometimes her boss leaves her notes listing specific jobs and how they must be done. She finds this very annoying.

Two weeks ago, she wrote a note in reply on the office notice board saying "Clean your own toilets if you don't like the way I do it." Her boss gave her a verbal warning for this.

This upset Parmjit, who is fed up with her job. She did not clean the toilets this week and today received a letter stating that she has been dismissed and the company do not wish to see her again. Parmjit does not know what to do as they owe her two weeks pay.

One of Parmjit's friends, Rob, has just started work as a mechanic in a motorbike shop. It is a small business. Rob has been asked to work Monday until Saturday from 8am until 7pm each day as there is so much work to do. He has been unemployed for a year so does not want to jeopardise his new job, but is concerned that he only gets one hour off each day for breaks. He has also been given a very long document labelled 'Contract of Employment' which he is too scared to read.

## Scenario 1 Questions

1. Explain whether Parmjit is an employee or a self-employed contractor.  
(10 marks)
2. Assume for the purpose of **this question only** Parmjit is an employee, explain what potential claims she may have and why.  
(10 marks)
3. (a) Explain what legal arguments the company may raise in response to Parmjit's claim for unfair dismissal.  
(7 marks)  
(b) What action must the company take and within what time limit?  
(3 marks)  
(Total: 10 marks)
4. Advise Rob what action he can take against his new employer and why.  
(4 marks)
5. List **three** types of clauses which may be found in Rob's contract of employment and explain the effect of each clause.  
(6 marks)

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

## Scenario 2

Ed and Mandy work for a garden centre. Mandy has worked there for ten years and Ed for nine months. They got married this summer following a romance, which started when they were doing the summer flower displays.

Mandy had previously been engaged to Barry, the garden centre manager, but left him for Ed. Barry has been making it very awkward for Mandy and Ed at work.

Last week, Mandy told Barry that she was pregnant and so would be going on maternity leave in July, but would like to return to work in October. Barry told Mandy she was 'sacked' and should never return to the garden centre. He paid her ten weeks' notice pay and a payment for her outstanding holidays.

Ed is very upset about the way Mandy has been treated. He is considering helping Mandy with any claim against the garden centre. Barry has been following Ed around the garden centre and Ed believes he is looking for an excuse to sack him too.

Jane also works at the garden centre and has seen everything that happened to Ed and Mandy. Jane has telephoned them this morning to say she will be a witness if Mandy wants to claim against the garden centre. Jane is looking for another job and does not care if Barry sacks her too.

## Scenario 2 Questions

1. Explain whether Mandy satisfies the eligibility criteria for a potential dismissal claim.

**(7 marks)**

2. What additional claim may Mandy have and why?

**(7 marks)**

3. (a) How long does Mandy have to issue her claims?

**(4 marks)**

- (b) Describe how the burden of proof moves in a discrimination case.

**(4 marks)**

**(Total: 8 marks)**

4. Barry discovers that Jane has agreed to be a witness for Mandy and dismisses Jane.

Discuss what claim, if any, Jane has.

**(8 marks)**

5. (a) Explain the remedies Jane and Mandy may claim.

**(6 marks)**

- (b) Explain which of the above remedies is most appropriate and why.

**(4 marks)**

**(Total: 10 marks)**

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

### Scenario 3

Tim owns a nursery for children under the age of five called 'Little Round Horse'. He has an employee, Sarah, who has worked there for 18 months. Sarah is popular with both the parents and the children, who think she is brilliant.

However, Tim has received a number of complaints from other staff at the nursery. They have complained to him that Sarah does not do her share of the work and she is always on her mobile phone. The other staff believe that sometimes the children are neglected by Sarah.

Last week, a child fell over and broke her finger when Sarah was supposed to be supervising her. The parents were not concerned as they like Sarah.

Tim has now received a complaint in writing from the nursery manager, Emily, who has threatened to resign if he does not 'do something' about Sarah. Emily has told Sarah that her work and attitude are unacceptable, but Sarah has ignored her.

Yesterday, Emily found a pile of dirty nappies had been put under the windscreen wipers on her new car. Emily had only just collected her new car and she is very upset. She suspects Sarah had put the nappies on her car as Emily had made Sarah empty the nappy disposal units that afternoon.



### Scenario 3 Questions

1. Explain what steps Tim would have to take if he decided to start disciplinary proceedings against Sarah.

**(9 marks)**

2. Assume Sarah has now been dismissed and claims unfair dismissal against the 'Little Rocking Horse' nursery.

(a) Explain how Tim may be able to defend the decision to dismiss Sarah.

**(10 marks)**

(b) If Sarah was successful in a claim of unfair dismissal against the 'Little Rocking Horse' nursery what would the most appropriate remedy be and why?

**(4 marks)**

**(Total: 14 marks)**

3. If Tim decided to ignore Emily's complaint against Sarah, what action could Emily take against Tim?

**(9 marks)**

4. Emily decides that after 14 years of running the 'Little Rocking Horse' nursery, she wants to have a change of career and decides to go back to college part-time.

(a) What period of notice does she have to give Tim?

**(2 marks)**

(b) Explain what restrictions there may be in her contract of employment which may affect her ability to work elsewhere after she leaves the 'Little Rocking Horse' nursery.

**(6 marks)**

**(Total: 8 marks)**

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

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