

## 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 PRACTICE** and **LEVEL 3 PROFESSIONAL DIPLOMA IN LAW AND PRACTICE**

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## SECTION A

### (Answer ALL questions in Section A)

1. List **three** duties a company owes to its employees as opposed to its self-employed contractors.  

**(3 marks)**
  2. If an employee works four continuous hours explain what, if any, break(s) they are entitled to under the Working Time Regulations?  

**(2 marks)**
  3. Company A buys all the shares in Company B but no other assets. There are 120 employees in Company B. Explain whether they automatically become employees of Company A?  

**(4 marks)**
  4. List the remedies that are available to an employee who successfully claims disability discrimination.  

**(3 marks)**
  5. Emma has been employed for three years but wishes to leave. What period of notice does she have to give her employer?  

**(2 marks)**
  6. Harvey has worked for Amie & Co for eight years. Yesterday he was told that he was dismissed. He was given two weeks pay.  

List the claims that Harvey may make against Amie & Co.

**(4 marks)**
  7. Outline the eligibility criteria which a claimant must demonstrate to succeed in a claim for unfair dismissal.  

**(5 marks)**
  8. List the potentially fair reasons for dismissal.  

**(5 marks)**
  9. Which form does an employer have to file at the Employment Tribunal to defend a claim of unfair dismissal and within what time limit must it be filed?  

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

## SECTION B

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

### Scenario 1

Jamie is employed by a small bookshop called 'Loving it'. The bookshop sells first edition romantic fiction books. The owner of the bookshop is Babs. There are four employees, Sarah, Rick and Faye who all work part-time, and Jamie, who runs the internet based part of the business, who works full-time.

Jamie is 30 years old, but has a very young looking face. He is sometimes asked for identification when he goes to the pub, which his friends find very funny, but Jamie finds annoying. At work, Babs calls him 'my baby face' which Jamie finds slightly annoying, but he really likes Babs so has never complained. However, last month Rick started calling Jamie 'baby' and kept making remarks about him being the baby of the team. Jamie tried talking to Rick about it and was told 'not to be such a baby'. Jamie is older than Rick.

Sarah had a talk with Jamie and said that Rick was just jealous of how good looking Jamie is and to ignore Rick. Sarah is worried that Jamie is getting very depressed about the taunting. Jamie now dreads going into work and tries to avoid working the same days as Rick. Jamie is not sleeping well and worries about working with Rick.

Sarah and Faye enjoy working in the bookshop together. Faye has only worked in the shop for six months. Babs is very kind to them and allows them to live in the flat above the shop at a reduced rent. Faye has found that she enjoys working with books so much that she has started to do a little dealing in books on the internet herself. Last week she found a very rare first edition romantic fiction book at a market and sold it on the internet for £300. She was so pleased with her sale that she told Babs, who immediately dismissed her. Faye cannot understand why she was dismissed.

Sarah is considering leaving her job at the bookshop as she is so upset about Faye being dismissed. She has found a new job at another bookshop nearby.

### Scenario 1 Questions

1. (a) Explain what initial steps Jamie should take in relation to the taunting by Rick.  

**(5 marks)**
- (b) If the taunting by Rick worsens, what potential claims may Jamie have against Babs and why?  

**(10 marks)**
- (c) If Jamie is successful in his claim(s) against Babs, what remedies would be most suitable for him?  

**(6 marks)**  
**(Total: 21 marks)**

2. Explain how Babs may justify her dismissal of Faye.  

**(6 marks)**

3. Jamie has asked Sarah to be a witness for him in his claim against the bookshop.  

Sarah is worried that Babs will not like her helping Jamie. What reassurance can you give Sarah?

**(5 marks)**

4. Identify and explain the **two** most likely clauses Sarah may find in her contract of employment which might affect her ability to work for a competitor.  

**(8 marks)**

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

## Scenario 2

Winston Andrew has worked for ABC Ltd, a car manufacturer, for the past 10 years on an 'as and when required' basis. He is originally from Trinidad and Tobago in the Caribbean, but has lived in London since he was four years old. He is now 58.

All of Winston's documentation from ABC Ltd states that he is self-employed factory worker. He works at different locations, dictated to him by ABC Ltd. He has never worked for anyone else. He is given a company van and tools to use. However, he is paid in cash every week and is responsible for paying his own tax and National Insurance. He is paid less than the employees of ABC Ltd but is scared to do anything about it as he feels he is getting too old to do manual work and will find it difficult to find work elsewhere. He has always suspected that he is paid less because he is black as all the rest of the employees are white.

ABC Ltd has 12 employees and a bank of self-employed contractors like Winston. Jeff is one of the employees and has worked for ABC Ltd for six years as an electrician. He loves his job but sometimes has to travel a long way from home to do his work. His family are not very happy about this. Jeff promised that he would go to his daughter's school's Christmas play and booked the day as holiday just to make sure. However, the day before the Christmas play his boss told him he could not now take the day off. Jeff protested and said that he had to have the day off to attend the school play as he had missed sports day and parents evening because of working away from home. He was told it was his choice, but he would not have a job to come back to if he had the day off. Jeff took the day off, went to the play and did not return to ABC Ltd again.

## Scenario 2 Questions

1. Explain whether Winston is:
  - (a) an employee
  - or
  - (b) a self-employed contractor.

**(10 marks)**

2. If Winston is paid less than the employees of ABC Ltd, what type of claim may he make and is he likely to be successful?

**(9 marks)**

3. If Winston were successful, explain which remedies he could be awarded by an employment tribunal and why.

**(7 marks)**

4. Explain whether Jeff may claim unfair dismissal and on what basis such a claim arises.

**(10 marks)**

5. Identify which remedies are available to Jeff if he is successful in his claim of unfair dismissal.

**(4 marks)**

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

### Scenario 3

Aled Moredun runs a small brewery in the Welsh hills making blueberry beer. The recipe and brewing methods of the special 'Blues Beer' is a closely guarded family secret which has been passed down from Aled's great-great grandfather to Aled and dates back to 1884. Aled fears that the company would find it impossible to trade if the secret were to become known in the industry, particularly by a competitor.

Aled is very proud of his Welsh heritage and he requires all of the staff to be fluent in Welsh as well as English.

Recently, Aled recruited a new master brewer but is concerned about sharing the family recipe with him in case he leaves and goes to work for a competitor.

Last week, Aled found one of his staff, Ben stealing six bottles of the blueberry beer. He found them in Ben's bag when he was doing a routine search of all employees' bags. Aled does not know what to do now as Ben has always been a good employee and denies that he put the beer in his bag. He claims he was set up by someone, but cannot say who. Aled has suspended Ben from work.

### Scenario 3 Questions

1. Identify and explain **three** clauses Aled should consider including in the contract for his new master brewer.  

**(9 marks)**
  
  2. What issues arise from the requirement that all of the employees must be fluent in Welsh?  

**(7 marks)**
  
  3. Describe the steps Aled should follow in relation to finding the beer in Ben's bag.  

**(10 marks)**
  
  4. Aled is considering dismissing Ben. Advise Aled on the following:
    - (a) Can he fairly dismiss Ben and if so, explain on what basis he would be able to justify the dismissal?  

**(10 marks)**
  
    - (b) If the dismissal is fair, what payments, if any, should Aled make to Ben?  

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

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