



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 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 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 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 CILEX qualifications: **LEVEL 3 CERTIFICATE IN LAW AND PRACTICE**, **LEVEL 3 PROFESSIONAL DIPLOMA IN LAW AND PRACTICE**

BLANK PAGE

StudentBounty.com

SECTION A

(Answer ALL questions in Section A)

1. State **two** advantages of being self-employed rather than being employee.

(2 marks)

2. Ellen works at Pricequick DIY store. Her Manager told that she would not obtain a promotion as she is married and likely to go on maternity leave soon.

Explain whether Ellen will be successful in a claim against Pricequick DIY.

(5 marks)

3. Identify the regulations which protect a firm's employees when a firm is transferred or sold.

(1 mark)

4. Margaret, aged 28, works 30 hours per week and is paid £5.99 per hour. Advise Margaret whether legally she is being paid the correct rate.

(3 marks)

5. Wendy has worked as a telephone sales advisor for a car insurance company for four months. She has a two month notice period in her contract. She earns £300 net per week plus private health insurance, gym membership and use of a mobile phone. Briefly state what Wendy would be entitled to if she is wrongfully dismissed and why.

(4 marks)

6. Explain what a mobility clause is and why an employer may include one in an employee's contract.

(4 marks)

7. State the potentially fair reasons for dismissal under the Employment Rights Act 1996.

(5 marks)

8. Ben has been employed for three years. What period of notice does Ben have to give his employer if he wishes to leave?

(2 marks)

9. Explain what is meant by the term 'mutuality of obligation'.

(4 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

In March 2010, Ranjeet, started work as a car salesman with Meadows Garages selling prestige used cars. Ranjeet is now 63. His most recent appraisal went very well. His manager, Carla was very pleased with his sales figures.

Ranjeet enjoyed chatting to customers and found that he was very good at selling. However, last Tuesday, when returning from a test drive with a customer he accidentally reversed a large sports car into a wall at the garage. The damage to the sports car was estimated at £12,500. Carla, was very angry and told Ranjeet he was "the worst salesman ever". As Ranjeet walked to his car he heard Carla call to him "Go away you old fool. You are too old to drive".

Ranjeet did not know what to do, as he was not sure whether he had been dismissed by Carla. Ranjeet decided to stay at home for five days until he knew a different manager would be working at the garage. On Friday he went to the garage and saw Elias, the deputy manager. Elias said that Ranjeet was not allowed on the premises as Carla had told him Ranjeet had resigned.

Ranjeet enjoys his job at Meadows Garages. He is worried that it will be difficult to find another job at his age.

Ranjeet's contract of employment contains the following clause which he thinks may affect his ability to find another job;

'5.2

The employee shall not for a period of 3 months' work in another sales position for a competitor garage within a 10 mile radius of any of the employer's salesrooms.'

Scenario 1 Questions

1. (a) Explain whether Ranjeet has grounds for a claim of unfair dismissal against Meadows Garages.

(10 marks)

- (b) Identify and explain the alternative claim Ranjeet may have against Meadows Garages and whether he is likely to be successful. **Do not discuss wrongful dismissal.**

(10 marks)

(Total: 20 marks)

2. Explain whether clause 5.2 in Ranjeet's contract of employment is likely to be enforceable.

(10 marks)

3. State what notice period Ranjeet would be entitled to and explain whether Meadows Garages can pay him instead.

(5 marks)

4. State what remedies Ranjeet would be entitled to if his claim(s) were successful.

(5 marks)

(Total Marks for Scenario 1: 40 marks)

Scenario 2

Ella works as a book seller. She travels to a variety of baby groups and school fairs selling children's books to the public. She buys the books from a company called 'Baby Books Ltd' (BBL), who invoice her monthly for the books she orders. She pays them a 30% commission on all her sales and wears a uniform they supply. The books she offers for sale each month are chosen by BBL and they produce a catalogue which Ella distributes to schools and babygroups in her area. BBL maintain a website upon which Ella's details are given as the BBL sales person for Bedfordshire with her contact details.

Ella has to pay her own tax and national insurance and file annual tax returns and accounts. She has an accountant who helps with this who was recommended to her by BBL because they also use the same accountant.

Recently, Ella started to sell some additional books from a different supplier. When BBL discovered this, Ella was called to a disciplinary meeting at the head office of BBL in central London. At the meeting Ella was told that it was a condition of her continued work with BBL that she must immediately stop selling any books other than those supplied by BBL. Ella was also told that unless she signed a contract of employment with BBL her details would be removed from their website and no books would be supplied to her.

Ella is confused as she believed she already was an employee and cannot see why she should sign a new contract of employment.

Scenario 2 Questions

1. Identify the factors and relevant tests which indicate Ella is an employee of Baby Books Ltd (BBL).

(10 marks)

2. Identify the factors and relevant tests which indicate Ella is self-employed.

(10 marks)

3. Assuming Ella is an employee of BBL identify and explain:

(a) the common law duties that Ella may have breached;

(4 marks)

(b) the steps which BBL should take if they wish to discipline Ella for selling books from another supplier.

(7 marks)

(Total: 11 marks)

4. BBL have told Ella that if she wishes to continue working for them she will be required to work 50 hours a week.

Explain any legal issues which may arise from this requirement.

(5 marks)

5. Identify and explain **two** clauses which BBL should include in any contract of employment for sales staff.

(4 marks)

(Total Marks for Scenario 2: 40 marks)

Scenario 3

Mike employs seven people in his deli shop in Kempston.

Barry bakes the speciality bread for the deli. Barry is keen to develop a wider range of bread and has been trialling different speciality breads. He has made several suggestions for new breads. Mike has rejected all his ideas as he thinks that people in Kempston will not buy speciality bread. Barry is considering selling his own bread at the food market which is held every Sunday in Kempston Square.

Fidel has worked as a cleaner for the past two years but was promoted last week. He now assists Sharon on the cheese counter. Fidel is very unhappy as Sharon keeps calling him 'Fi Fi'. He believes she wants him to leave. Yesterday Fidel overheard Sharon saying that she hated working with him. Fidel told Mike about Sharon's comments and Mike agreed he would speak to Sharon. However, yesterday Sharon threatened Fidel saying he "would not be working here much longer as no one likes someone who tells tales to the boss." When staff were leaving at 6pm, Mike asked to search their bags because two expensive jars of caviar had gone missing. When Mike opened Fidel's bag he found the missing jars of caviar. He dismissed Fidel immediately.

Charlotte is the cleaner. Charlotte wears very masculine clothes and does not wear makeup. Sharon believes that Charlotte is gay as she lives alone and does not mention a boyfriend. Charlotte is not gay and has been dating Fidel for two months. Sharon leaves Charlotte rude messages and calls her 'butch'. Yesterday after her confrontation with Fidel, Sharon called Charlotte an abusive term and said she did not want a lesbian washing her coffee mug. Charlotte was very upset and is dreading going back to work.

The other employees work across the two counters.

Scenario 3 Questions

1. Explain whether Barry may lawfully start running a stall at the food market.
(7 marks)

2. Identify and explain what action Mike could take against Barry if he discovers that Barry is selling bread at the food market.
(5 marks)

3. Briefly explain whether Fidel satisfies the eligibility criteria for a claim of unfair dismissal.
(6 marks)

4. In relation to Fidel's dismissal:
 - (a) explain whether he is likely to be successful in a claim of unfair dismissal;
(10 marks)

 - (b) identify what remedies would be available to him if he was successful.
(3 marks)**(Total: 13 marks)**

5. Explain what claim(s) Charlotte may have in relation to Sharon's actions.
Do not discuss unfair or wrongful dismissal.
(9 marks)

(Total Marks for Scenario 3: 40 marks)

End of Examination Paper

BLANK PAGE

StudentBounty.com

BLANK PAGE

StudentBounty.com

BLANK PAGE

StudentBounty.com