



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 the question paper fully.** However, you may make notes on the 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. The 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 2012-2013, 22nd. edition, Richard Kidner, Oxford University Press 2012.**
- 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 6 CERTIFICATE IN LAW, LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE** and the **LEVEL 6 DIPLOMA IN LEGAL PRACTICE**

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

1. Both contract law and legislation play important roles in a contract employment. Critically analyse the following in employment law:
- (a) The role of implied terms of a contract and the different implied terms imposed on both employer and employee.

(18 marks)

- (b) Section 1 of the Employment Rights Act 1996 regarding express terms of employment contracts.

(7 marks)

(Total: 25 marks)

2. Critically examine the background and purpose of the law on working time. This law is currently contained in the Working Time Regulations 1998 as amended by the Working Time (Amendment) Regulations 2007.

(25 marks)

3. Atypical workers are workers who do not conform to the standard or 'typical' model of full-time, regular, open-ended employment with a single employer over a long period. Critically explain the protection given to:

- (a) Casual workers;

(8 marks)

- (b) Agency workers;

(11 marks)

- (c) Employees on fixed-term or limited term contracts.

(6 marks)

(Total: 25 marks)

4. 'The Equality Act 2010 is a major piece of legislation. It purports to harmonise all the law dealing with the prevention of discrimination and the promotion of equality in society.'

N. Selwyn, Selwyn's Law of Employment, 16th Edition.

Critically discuss the changes to discrimination law introduced by the Equality Act 2010.

(25 marks)

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

Question 1

Westgate Abbey is a large, private boarding school in Kempston. Boys and girls aged between 11-18 study at Westgate Abbey. The school employs 100 full-time teaching staff, 40 of whom are women. There are six full-time members of the Music Department, three men and three women. It also employs five part-time teachers in the Music Department. Four of these part-timers are women.

The school has a policy of preferring to employ teachers on a full-time basis, since members of staff are expected to take part in the pastoral side of the school, namely to supervise after-school evening and weekend activities. The school provides accommodation for full-time teachers and their families. In order to overcome a short-term lack of specialist expertise, five part-time teachers are currently employed in the Music Department despite the policy of requiring full-time working.

Alan, the Headmaster, announces that a new internal post of Head of Music will be created. To fill this post one of the current full-time staff in the Music Department will be promoted. Brigitte, one of the part-time teachers in the Music Department, wishes to work full-time and applies for the promotion. Although Brigitte is very well qualified, she has only ever taught on a part-time basis. Brigitte is not short-listed for the promotion interviews as only current full-time teachers are deemed eligible to apply.

Celia applies for the promotion as she is a full-time teacher in the Music Department. When Alan realises that Celia has applied, he tells her that 'she should turn up to the interview in a short skirt showing her legs'. He also brushes his hand against her thigh as he walks past her. Alan claims this was an accident but Celia is upset by the incident.

Advise Westgate Abbey of any claims Brigitte and Celia can bring. You should also explain the remedies available.

(25 marks)

Turn over

Question 2

Uxtor Limited is a travel and holiday advisory company. It has offices in Birmingham, Manchester and London. It is suffering from a severe drop in sales as many consumers are reluctant to spend on holidays in the weak economic climate. Uxtor Limited employs 60 staff in the London office, 50 in the Manchester office and 40 staff in the Birmingham office. Gordon, the Managing Director of Uxtor Limited, announces that the Birmingham office will shut down. Gordon has drawn up a redundancy selection matrix where experience, time-keeping, reliability and sickness record are taken into account.

Hee-Yan is a Travel Sales Consultant in the Birmingham office. She has worked there for five years. Her terms and conditions of employment state that she is self-employed and not entitled to sick pay or holiday pay. She is responsible for paying her own Income Tax and National Insurance. She cannot work for any other organisation whilst being employed by Uxtor Limited. Her working hours are 30 hours per week. She can send a suitably qualified substitute to replace her if she cannot work for any reason. She has to wear company uniform at all times and is under the direct control of Gordon. Hee-Yan has been told that her employment has been terminated because the Birmingham office will shut down.

Irene has been selected for redundancy. She worked as a Travel Advisor in the Birmingham office. Irene has been offered a transfer to the Manchester office but was unable to transfer due to her family commitments. Irene would have been prepared to transfer to London, where there are several relevant vacancies. Irene scored well on the redundancy matrix, has worked at Uxtor for 20 years and has had excellent feedback from customers and colleagues. She suspects that she has not been offered a transfer to London because she was asked by her colleague, Kathy, to be a witness for her discrimination claim two months ago. When Gordon found out that Irene agreed to be Kathy's witness, he became very distant and reduced her workload.

- (a) Examine the employment status of Hee-Yan and explain the significance of this in the redundancy situation.

(8 marks)

- (b) Advise Irene whether she can bring any claims including any possible remedies.

(17 marks)

(Total: 25 marks)

Question 3

Lipson & Sons Limited is a well-established cleaning company. It has 100 employees.

Rachel has been employed for three years as a Hygiene Worker (Clinical Sector), which means she mainly works in hospitals and retirement homes. All her colleagues, except one, are women. They are paid a base rate of £10 per hour. She has discovered that Hygiene Workers (Industrial Sector), who mainly work in factories, are paid a base rate of £12 per hour. The Industrial sector is wholly staffed by men. When she questioned her supervisor about the differential pay rate, he replied, "It's because factory work is physically harder".

Steve has been a cleaner at Lipson & Sons Limited for 14 years. He was recently dismissed by the manager because he was seen by a security guard one evening taking money from the office petty cash box. He insisted that he was merely borrowing the money for his wife, who is seriously ill with pneumonia. The manager arrived and dismissed him there and then.

Tim was cleaning the outside windows of a customer's office one day when he slipped and fell. Tim was wearing a safety belt, but upon investigation, was found not to be wearing it correctly. Tim broke his leg and received serious cuts on his arm. Lipson & Sons Limited provides an induction session for all workers about the importance of wearing safety belts when cleaning windows. They also place notices around the site and office about the importance of wearing safety belts. Tim is illiterate and missed the induction because he was ill when the induction took place. He has repeatedly stated to his manager that he considers the safety belt to be uncomfortable.

- (a) Advise Lipson & Sons Limited as to any claims Rachel can bring. **(8 marks)**
- (b) Advise Lipson & Sons Limited as any claims Steve can bring including any remedies available. **(10 marks)**
- (c) Advise whether Lipson & Sons Limited may be liable for Tim's injury under the law of tort. **(7 marks)**

(Total: 25 marks)

Turn over

Question 4

Leo is a warehouseman with George Hope Ltd ('the Company'), a sportswear manufacturer based in Manchester. He has worked there for 10 years. Last week an audit undertaken by the Company's accounts department revealed that there was a serious shortfall between the stock present in the warehouse and the amount that should be present according to the documentary records. Marcus is the Warehouse Manager at the Company. Marcus was called to a meeting by senior management but it is unclear what happened or what matters were discussed.

Marcus returned from the meeting in a furious temper and stormed into the staff canteen during the morning break. He accused Leo of being a "Sly, underhand, snivelling thief" and further told him "Your life will not be worth living from now on". Leo was very upset by Marcus's remarks particularly as the whole of the warehouse staff had overheard. An hour later, Marcus phoned Leo and told him that he has been dismissed with immediate effect.

There is no express clause regarding the length of the notice period in Leo's employment contract.

Leo feels that he has been treated appallingly by the Company. He has been lucky in that he has been offered a job as a warehouseman with Roulon Ltd, a competitor of his old employer, but feels Marcus might attempt to spoil his chances with the new firm.

In Leo's employment contract with George Hope Ltd, clause 7 reads as follows:

- 7.1 The Employee must not for a period of 6 months from the termination of the Appointment directly or indirectly engage or be concerned in the business of sports wear manufacturing within a radius of 2 miles from the Company's head office.
- 7.2 The Employee must not for a period of 6 months from the termination of the Appointment solicit orders or custom from any individual or firm or company who within a period of 2 years before the termination of the Appointment bought agreed to buy hired or hired on hire purchase or otherwise acquired goods or services from the Company or otherwise dealt with the Company.

Advise Leo as to the enforceability, or otherwise, of Clause 7 of his contract, of any claims he can bring and the remedies available.

(25 marks)

End of Examination Paper

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