



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 2013-2014, 23rd edition, Richard Kidner, Oxford University Press, 2013.**
- 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**

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

1. Using appropriate case law and statutory authority, critically evaluate whether the law on determining employee status is satisfactory.

(25 marks)

2. 'The Equality Act 2010 recognises the special needs of disabled people.'

(B Hepple, The New Single Equality Act in Britain, The Equal Rights Review (2010))

- (a) Critically discuss how the Equality Act 2010 protects disabled workers. Illustrate your answer with relevant cases and legislative authority where appropriate.

(18 marks)

- (b) What are the potential remedies available to a disabled worker if he succeeds in a disability discrimination claim?

(7 marks)

(Total: 25 marks)

3. Critically compare and contrast the law on wrongful dismissal with the law on unfair dismissal.

(25 marks)

4. Redundancy is a 'no-fault' dismissal where an employee is dismissed for economic reasons.

- (a) Critically discuss when a redundancy situation arises.

(10 marks)

- (b) Critically analyse the elements of a properly implemented redundancy procedure where there are more than 20 employees being dismissed.

(15 marks)

(Total: 25 marks)

Turn over

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

Question 1

- (a) Jones & Harris is a firm of accountants and auditors in Kempston. It has a specialised business rescue and support unit which is expanding. After a partners' meeting, the firm decided to appoint two junior accountants to deal with the extra work. Alex, the Human Resources Manager, has posted the following job advertisement in the local newspaper:

Job Advertisement

Jones & Harris

We are a young, dynamic firm of accountants and auditors in Kempston. We offer a range of quality services to clients and good career prospects. Due to expansion, we are seeking two junior accountants. Candidates must be between 21-31 years old. Candidates with a good degree in accountancy, commerce or business should email their CV to Alex Robins at: A.Robins@jones&harris.com

Chantelle is 34 years old. She has a first class degree in accountancy and has not worked since she gave birth to twins shortly after graduating. Chantelle would like to work at Jones & Harris because she believes that the firm offers good career prospects and the office is close to her home. She is very annoyed that she cannot apply due to the age limit.

Advise Chantelle whether the job advertisement is discriminatory and, if so, what remedies are available to her.

(15 marks)

- (b) Diana is a trainee accountant at Jones & Harris. She has a disabled father who suffers from epilepsy and multiple sclerosis. Her father's condition has worsened recently and she went to see her line manager, Eric, and asked whether she can work flexi-time. Eric told her that she cannot work flexi-time because of the heavy workload in the department. Diana is upset about this and started to cry as she left Eric's office. William, the senior partner of the firm, saw Diana and put his arms round her. He told her that if she turns up in his office tomorrow in a see-through shirt and short skirt, she may be able to work flexi-time. William put his arms round her at last year's office Christmas party.

Advise Diana whether she can bring any claims against Jones & Harris.

(10 marks)

(Total: 25 marks)

Question 2

Elaine is a radio presenter at K2 FM, the local radio station in Kempston. She has worked there for four years. She is a good presenter and is well-liked by listeners in the local area. Three months ago, Elaine discovered that her mother had been diagnosed with cancer. Elaine is the main carer for her mother. K2 FM has a very strict policy of requiring radio presenters to switch off their mobile phones when presenting a show. During a show in October 2013, Elaine forgot to switch off her mobile before presenting a show. Her mother called while she was on air. Elaine was worried, but knew that she could not answer the call. She cancelled the call and turned the phone to 'silent'. During an advertisement break, she went out of the recording studio to call her mother. When Frank, Elaine's manager, found out about this incident, he reminded her of the strict mobile policy. Elaine apologised and has been careful since that incident.

Three days ago, Elaine was presenting her radio show. She forgot to switch off her mobile and it rang while she was doing a live interview. Elaine was highly embarrassed about this because it was the second time within three months that her mobile went off during a live show. She immediately switched off her mobile phone and carried on with the show. When she finished the show, Frank walked into the studio and shouted: 'Elaine, have you lost your mind? This is the second time that your phone went off while on air. I've had it with you.' Five other staff in the studio also heard this. Elaine is very upset by this incident. Frank later dismissed her with immediate effect in an email.

Gianluigi is a trainee radio presenter at K2 FM. He has been with the radio station for nine months now. He is unhappy with his experience so far because he does not seem to have much work to do. Initially, he did menial administrative tasks and shadowed his supervisor. He was told repeatedly that he would soon have the opportunity to start presenting a show. He is disappointed with his training so far as he has ambitions to become a top radio presenter. Gianluigi has made a formal complaint about these matters.

- (a) Advise K2 FM whether Elaine can bring any claim at common law. Discuss any potential remedies as well.

(14 marks)

- (b) Advise K2 FM of their obligation to produce a reference for Elaine.

(5 marks)

- (c) Advise K2 FM of their implied duty to Gianluigi in respect of the matters about which he has complained.

(6 marks)

(Total: 25 marks)

Turn over

Question 3

Hotel Reglio employs a number of staff, some of whom are permanent, some on fixed term contracts, some are agency workers. The staff includes a number of full-time and part-time workers.

Haruto is an agency worker, having arrived from Japan two years ago. He has worked for Hotel Reglio as a porter for 20 consecutive weeks now. He asked his manager, Ivy, whether he can take a week off work. Ivy refused, saying that the hotel is busy and needs him to be on-site. Yesterday, Haruto was leaving to go to the bank at lunch time, but was stopped by Ivy. She told him that he is an agency worker and is not entitled to a break during his eight hour shift.

Jocelyn is a part-time chef at the hotel. She has worked there for five years. She is particularly renowned for her French cuisine. Last week, she was upset by two incidents. First, she asked the Head Chef whether she could attend a cookery course on French desserts. He told her that only full-time chefs can attend courses. Second, during a busy shift last week, Jocelyn left a tray of duck portions in the oven for too long so they were all burnt. The Head Chef was very angry since the duck was expensive. He told her that a week's wage will be deducted because of her carelessness.

Kit-Ling is a receptionist on a fixed-term five year contract at the hotel. She found out recently that her friend, who is a permanent receptionist at the hotel, is entitled to 30 days paid annual leave. Kit-Ling is, however, only entitled to 26 days paid annual leave. She would ultimately like to obtain a permanent position at the hotel and wonders whether the renewal of her existing contract would suffice.

Advise Haruto, Jocelyn and Kit-Ling of their employment positions.

(25 marks)

Question 4

The St Margaret's Private Hospital is the largest hospital in Kempston. Liam is a Registrar at the hospital and has worked there for eight years. He received a letter recently asking him to serve as a juror. When Liam asked his supervisor for time off to be a juror, he was told that this is not possible. The next day, Liam received a letter saying that he has been dismissed from work. Liam's work record has been excellent so far and he has only had three days off sick during his eight year period at the hospital. He thinks his dismissal is purely due to the request for jury service.

Matthew is a junior doctor in the Intensive Care Unit of the hospital. He has worked at the hospital for two years. Since joining the hospital, he has been contracted to work 80 hours a week. Although Matthew enjoys his work, he is feeling very tired from the long hours and intense pressure. Further, he is worried about making mistakes when he is tired. The strain is also affecting his personal relationships. On the other hand, he wants to make progress in his medical career. He thinks that he can put up with another three months of long hours. He fears he will have a mental breakdown after that.

Nadia is a cleaner at the hospital. She is 17 years old and earns £2.50 an hour. She feels that her wage is rather low and has asked for a pay rise. Her manager told her that 'she should count herself lucky to have a job'.

Advise the hospital of what employment claims Liam, Matthew and Nadia can potentially bring.

(25 marks)

End of Examination Paper

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