

UNIVERSITY COLLEGE LONDON

University of London

EXAMINATION FOR INTERNAL STUDENTS

For The Following Qualification:–

LL.B.

Employment Law

COURSE CODE : LAWS3002

DATE : 02-MAY-06

TIME : 10.00

TIME ALLOWED : 3 Hours 15 Minutes

EMPLOYMENT LAW

Answer **THREE** questions.

1. “The capacity of international labour rights to make a difference is entirely dependent on the arrangements made to enforce them.”

Critically evaluate this statement with particular reference to the International Labour Organisation and the Council of Europe.

2. “International protection of labour rights is becoming irrelevant, because it has not kept pace with changes in the way that work is done.”

Critically evaluate this statement with particular reference to the right to freedom of association and the UK.

3. “The aims and priorities of European social law are more likely to be achieved by means of the new, soft law, techniques which have risen to prominence in recent years.”

Discuss.

4. “EU regulation of workers’ rights to be informed and consulted has had the unintended consequence of undermining the position of trade unions in the UK.”

Do you agree?

5. “The fractured application of the common law implied terms regarding mutual trust and confidence, and to take reasonable care not to injure others, demonstrate that common law reasoning about the contract of employment has caused more trouble than it is worth.”

Discuss.

TURN OVER

6. The Employment Act 2002 encourages the resolution of disputes between employers and employees within the workplace, rather than before employment tribunals. Does this measure strengthen or erode standards of procedural fairness?
7. "Fairness at work and competitiveness go hand in hand, and ... one must reinforce the other" (*Fairness at Work*, Cm 3968. May 1998).

Has UK employment law since 1997 conformed to this ideal?

8. Seth's first job after finishing his management training was in a factory. Most of the people he was managing were 10 years older than him. They had difficulty accepting his authority and started a campaign to undermine him. This started with humorous heckling in meetings and on the shop-floor. A series of practical jokes followed. For example, ways were found to embarrass Seth whenever he showed visitors round. As the months passed, a particularly resentful group got into the habit of making threatening statements when Seth gave them instructions.

Seth's boss, Caleb, knew what was going on. He offered informal support while telling Seth that coping effectively with the situation was a part of his job.

After a particularly bad week, Seth walked out of the factory early on a Friday afternoon. He needed time to cool down and to gather his thoughts. He'd noticed that he was developing digestive problems and felt anxious all the time. He was fearful for his future prospects if he didn't make a success of this first job.

Advise Seth about any claims he may have based on his contract of employment.

CONTINUED

9. Marissa has worked as an office manager for a firm of solicitors for three years. Her job involves administration of office accounts, overseeing the firm's information technology systems and supervising five other administrative staff.

On several occasions Marissa has been asked by Jack, the firm's senior partner, to run errands for him, such as collecting his dry cleaning. She resents such tasks as she considers they are not part of her job. One morning, Jack asked Marissa to "be a good girl and get me some cigarettes". Although unhappy with this request, Marissa nevertheless complied. She did, however, mention to another partner, Harry, that she found Jack an "unacceptable creep". Harry passed this on to Jack, who called Marissa in to inform her that he was giving her a formal warning for "insubordination".

Two days later, Marissa was called in by Harry, who told her that there had been a complaint by a client of the firm that she had mislaid an important document and tried to cover this up. Harry told Marissa that she was being dismissed for incompetence, and urged her to accept two weeks' pay in lieu of notice.

Advise Marissa about a possible claim for unfair dismissal.

10. Kirsten had been employed by the same property development company for 20 years. She held a senior position and had a fixed term contract of employment with 2 years left to run. Kirsten's contract provided for a modest basic salary and a much larger discretionary, performance-related bonus. For the previous five years the amount of Kirsten's bonus had been determined by a mathematical formula being applied to the profit she had realised for the company during the year.

There was a written disciplinary procedure in the company handbook which was, in practice, always adhered to. But Kirsten had repeatedly been told (when she was disciplining other members of staff) that whether or not she followed the procedure was up to her.

The company was bought out. The new management decided to get rid of Kirsten. For business reasons they concluded that this decision needed to be implemented as quickly as possible. They were particularly worried about her hearing about their future plans. Kirsten was given one hour to clear her desk and then a security officer escorted her from the premises.

Advise Kirsten about any claims she may have, both based on her contract of employment **AND** for unfair dismissal.

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