

UNIVERSITY COLLEGE LONDON

University of London

EXAMINATION FOR INTERNAL STUDENTS

For the following qualifications :-

LL.B.

LL.B. Part II: Employment Law

COURSE CODE : LAWSII31
DATE : 08-MAY-02
TIME : 10.00
TIME ALLOWED : 3 hours 15 minutes

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TURN OVER

EMPLOYMENT LAW

Answer **FOUR** questions.

1. “The legal distinction between employment and self-employment does not correspond to a clear divide between different forms of working relationship.”

Is this a valid criticism of the law?

2. “The judges are a long way from evolving stable principles to govern the relationship between express and implied terms in a contract of employment. Yet this is the most pressing issue in British employment law.”

Discuss.

3. “The decision of the House of Lords in *Johnson v Unisys* is aptly depicted as a bonfire of the common law of wrongful dismissal.”

Do you agree?

4. “The new regime for the statutory regulation of working time will have no lasting impact on working life in Britain.”

Discuss.

5. Does the law of unfair dismissal give priority to promoting security of employment, or can you identify other goals that it is more concerned with achieving?

6. “The enactment of the Human Rights Act 1998 marks a new era for British employment law, because its effect is that there is now a positive right to freedom of association.”

Discuss.

7. Analyse the significance for collective representation in Britain of statutory information and consultation rights that now exist.

8. “There is no clear vision underlying the statutory recognition procedure of how collective labour relations are best pursued.”

Discuss.

TURN OVER

9. Doug was employed by a local hospital, County General, as a specialist in the treatment of children. There was a severe personality clash between Doug and the Head of the Section, Carrie. A serious complaint was made against Doug by the mother of a patient. Carrie perceived this as an opportunity to get rid of Doug and therefore suspended him on the spot. In doing so Carrie ignored the practice at County General of carrying out an initial investigation of a complaint before suspending on the basis of it. Moreover, Carrie suspended Doug in plain view of the patient and of several other members of staff.

Doug has now been suspended for one week and is waiting to be called to an internal disciplinary hearing. He is deeply hurt and angry by Carrie's conduct and is determined to recover compensation from the Hospital in respect of it. Advise Doug about a claim based on his contract of employment.

10. Samantha and Miranda both work as waitresses at a bar called the Cosmopolitan. Samantha has been employed full time for six months. Miranda is doing a doctorate in law and so works part time, on two evenings a week and on Saturdays. Miranda has worked steadily in this way for two years, only ever being absent because of illness or pre-arranged holiday. But there is an ongoing understanding with the manager of the bar, Aiden, that Miranda is not obliged to come to work during periods of intense exam pressure. Samantha plans to take maternity leave at the same time that Miranda intends to take parental leave. They go through the necessary formalities with Aiden and arrangements are made for both of them to start their leave in a few months' time.

Samantha's performance at work declines in the period leading up to her maternity leave. She is warned several times that her conduct is unacceptable. There is no improvement and Samantha is dismissed the day before she is due to start her maternity leave. At the same time, to her immense surprise, Miranda is also dismissed. Aiden explains that it would poison the working atmosphere for Miranda to remain once Samantha has gone. Aiden feels he cannot allow this to happen for fear of destroying the friendly atmosphere which has been the key to the Cosmopolitan's success.

Advise Samantha and Miranda about bringing claims for unfair dismissal.

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