



## THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

### UNIT 19 – THE PRACTICE OF EMPLOYMENT LAW\*

**Time allowed: 3 hours plus 15 minutes reading time**

#### Instructions to Candidates

- You have been provided with a clean copy of the case study materials for you to use in this examination.
- You have **FIFTEEN** minutes to read through this question paper and the case study materials 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 paper or in your answer booklet during this time if you wish.
- **All questions are compulsory. You must answer ALL the questions.**
- 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, 23<sup>rd</sup> 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**

## Question 1

Reference: Question relates to **Documents 1 and 2** of the case study materials.

For the purpose of Question 1, assume that it can be proved that Tim Geere has taken the secret recipe of Oluf Pork Pie Limited without authorisation and the rumour that he is setting up a rival business is true.

- (a) Brian Cotter would like to prevent Tim Geere from working at Oluf Pork Pie Limited during his notice period. There is no garden leave clause in Tim's employment contract.

Advise him on the common law position regarding garden leave.

**(6 marks)**

- (b) Advise on the nature and effect of clauses 6.1, 6.2 and 6.3 in Tim's contract as shown in **Document 2**.

**(15 marks)**

- (c) Brian Cotter mentioned that Oluf Pork Pie Limited have a health and safety policy at work. Advise him what other core policies and procedures are necessary for the smooth running of the company.

**(8 marks)**

**(Total: 29 marks)**

## Question 2

Reference: Question relates to **Documents 3 and 4** of the case study materials.

- (a) Advise whether Danielle Hoberge is entitled to paid antenatal leave. What are the remedies available to Danielle if Ken Jones unreasonably refuses?

**(5 marks)**

- (b) Ken Jones will only permit Danielle to take 26 weeks maternity leave. Advise Danielle whether this is legal under UK employment legislation and what remedies are available to Danielle.

**(6 marks)**

- (c) Ken Jones has forced Edward Kettering to retire due to his age. Edward would like to bring a claim of age discrimination. Advise Edward if he has been discriminated against under the Equality Act 2010.

**(10 marks)**

**(Total: 21 marks)**

### Question 3

Reference: Question relates to **Documents 5 and 6** of the case materials.

- (a) Felicity Ling is bringing an unfair dismissal claim. Advise her which potentially fair reason(s) her employer will seek to rely on. Also advise her about the evidential burden/process.

**(6 marks)**

- (b) Advise Felicity whether Zoe Mumford's action would be considered by the Employment Tribunal as falling within the 'range of reasonable responses'.

**(8 marks)**

- (c) Felicity Ling instructs your firm to commence a claim to the Employment Tribunal on her behalf in relation to the **unfair dismissal claim**.

Draft the 'Details of Claim' which could be included in a Form ET1.

**Note: Write your answer to this question in your answer booklet.**

**(15 marks)**

**(Total: 29 marks)**

#### Question 4

Reference: Question relates to **Documents 5 and 6** of the case study materials.

- (a) Alice Mountbatten files the ET1 Form as requested by Felicity Ling. What is the usual time limit and jurisdiction for an unfair dismissal claim? When will this time limit be extended?

**(8 marks)**

Before your supervisor receives a response form from Head Master Hairdressing Salon, the Advisory, Conciliation and Arbitration Service (ACAS) make contact indicating that the Respondent wishes to settle your client's claim. An offer of £6,000 is put forward. Felicity Ling decides to accept the offer.

- (b) There are two ways to resolve an employment law claim if the parties are willing to settle. Explain these two methods and how they are different.

**(5 marks)**

- (c) Explain the requirements of a settlement agreement necessary to ensure that it is legally binding and enforceable between the parties.

**(8 marks)**

**(Total: 21 marks)**

**End of Examination Paper**

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