



**CILEX Level 6 Single Subject Certificate/CILEX Level 6 Professional Higher Diploma in Law and Practice/CILEX Level 6 Graduate Fast-Track Diploma**

**Unit 4 – Employment**

**Question paper**

**June 2024**

**Time allowed: 3 hours and 15 minutes (includes 15 minutes reading time)**

**Instructions and information**

- It is recommended that you take **fifteen** minutes to read through this question paper before you start answering the questions. However, if you wish to, you may start answering the questions immediately.
- There are **two** sections in this question paper — Section A and Section B. Each section has four questions.
- You must answer **four** of the eight questions — at least **one** question must be from **Section A** and at least **one** question must be from **Section B**.
- This question paper is out of 100 marks.
- The marks for each question are shown — use this as a guide as to how much time to spend on each question.
- Write in full sentences — a yes or no answer will earn no marks.
- Full reasoning must be shown in your answers.
- Statutory authorities, decided cases and examples should be used where appropriate.
- You are allowed to make notes on your scrap paper during the examination.
- A basic calculator is provided should you require the use of one.
- You can use your own unmarked copy of the following designated statute book — ***Blackstone's Statutes on Employment Law 2022-2023, 32nd edition, Richard Kidner, Oxford University Press, 2023.***
- You must comply with the CILEX Exam Regulations – Online Exams at Accredited Centres/CILEX Exam Regulations – Online Exams with Remote Invigilation.

**Turn over**

## SECTION A

**Answer at least one question from this section.**

1. Critically assess the rights and remedies available to agency workers in relation to 'difference in treatment' and fixed-term workers in relation to 'less favourable treatment'.

**(25 marks)**

2. 'Case law interpretation of the definition of 'harassment' in the Equality Act 2010 s26 has become too broad, leading to instances of 'workplace banter' being held to be harassment. As such, law makers have failed to recognise that standards of acceptable behaviour differ considerably within working environments and working relationships.'

Critically evaluate the statement above.

**(25 marks)**

3. Critically analyse:

- a) the common law duties of an employer towards their employees in relation to creating a safe working environment;

**(14 marks)**

- b) the grounds upon which a restrictive covenant contained within a contract of employment may be enforced against an employee.

**(11 marks)**

**(Total: 25 marks)**

4. Critically analyse the statutory duties of an employer in a redundancy situation in relation to employee consultation and fair selection for redundancy.

**(25 marks)**

## SECTION B

Answer at least one question from this section.

### Question 1

Amy is a 26-year-old female who has been employed by 'We Build Cars' for 7 years. Amy works in the 'We Build Cars' factory on the assembly line and her job has high physical demands, including assisting in the lifting and assembly of heavy car parts. Amy has always worked the same shift: 11:00 pm to 08:00 am, five days a week. This has been the same shift pattern throughout her employment with 'We Build Cars'. She is paid £7.90 per hour and this has amount not changed throughout her employment.

During one of her shifts, Amy was lifting an expensive, heavy car part. She was struggling to lift and move the car part within the time given on the assembly line, which resulted in Amy dropping and damaging the car part. 'We Build Cars' deducted the cost of this damaged car part from Amy's wages the following month.

Following this incident, Amy asked 'We Build Cars' if she could be given more time to accommodate the physical demands of the job as she cannot move heavy items as quickly as other male employees can. 'We Build Cars' refused this request as the assembly line demands each employee complete their task within the time allotted. The company added that any delays would not only increase costs but would also create a potentially unsafe situation in the factory.

Advise Amy as to whether 'We Build Cars' has breached her rights (Do not consider remedies).

**(25 marks)**

## Question 2

Cakes Galore is a company operating a bakery and cake shop specialising in birthday cakes for children. The company recently extended its activities to include the production of wedding cakes and took over the wedding cake department of a nearby cake shop, Deb's Delights. This involved the transfer of three employees from the wedding cake department of Deb's Delights to Cakes Galore. One of these transferred employees was Ibrahim, who had worked as a baker at Deb's Delights.

Ibrahim was paid a higher wage at Deb's Delights than Cakes Galore pays its chefs. Cakes Galore initially agreed to continue paying Ibrahim this higher amount. However, six weeks after the transfer, Cakes Galore noticed that the wedding cake services were not generating the increased business hoped for. Cakes Galore decided it could no longer justify paying Ibrahim a higher wage than its existing chefs and his wages were reduced to match those of existing staff in the same role.

Ibrahim arrived late for work twice in his first six weeks of employment at Cakes Galore. Cakes Galore contacted Deb's Delights and asked if he had also been late to work during his employment at their shop. Deb's Delights confirmed that Ibrahim had two prior disciplinary warnings for lateness. Cakes Galore complained to Deb's Delights that it should have been made aware of this. Deb's Delights stated that its manager had a phone call with the manager of Cakes Galore two days before the transfer, at which time it was mentioned that Ibrahim did have 'at least one prior disciplinary warning'.

Advise Cakes Galore:

- a) if there has been a transfer under the Transfer of Undertakings (Protection of Employment) Regulations 2006;  

**(5 marks)**
- b) as to the bases on which changes are allowed to be made to transferred employees' contracts and if the change made to Ibrahim's wage is valid;  

**(11 marks)**
- c) if it can make any claims against Deb's Delights regarding Ibrahim's disciplinary record and, if so, its potential remedy.  

**(9 marks)**

**(Total: 25 marks)**

### Question 3

Sook has been working as an administrator at Lights Ltd for three years. She recently took 26 weeks maternity leave after giving birth to her first child. On her return to work, Sook was told that her previous position of administrator had been taken over by another employee. Sook was told that although her wages would remain the same, she would now be working in a more junior role.

Sook made a written request to have her work rota changed as she needed to breastfeed at regular intervals. Lights Ltd refused this request within 24 hours, on the grounds of 'business demands'.

Jalisa is also employed by Lights Ltd as a business analyst. She has been working for the company for the past six months and has received no written documentation from her employer in that time. Jalisa requested a statement on how her wages are calculated. This request was denied by Lights Ltd.

Jalisa recently found out that her male colleague, Siresh, is being paid a higher wage than her, despite them both performing the same role of business analyst at the same working location. Siresh has worked for Lights Ltd for 8 years, and has a master's degree, which Jalisa does not have.

Advise Lights Ltd if it has breached the rights of Sook and Jalisa. (Do not consider remedies.)

**(25 marks)**

#### Question 4

Kiki has been employed by Underwater Ltd for 12 months as a bar tender. Kiki has a son named Jason, who is 24 years old. One afternoon, Kiki was working alone in the bar when she received a phone call from Jason informing her that he had just had a tooth removed and needed her to pick him up from the hospital. Kiki phoned her manager, Xander, and asked if she could have emergency leave to collect her son from the hospital. Xander refused to allow Kiki this leave as it would mean the bar would be left unattended.

Kiki also has a 12-year-old daughter named Tabitha. Tabitha recently started a new school and Kiki wanted to amend her working hours to allow her to collect Tabitha from school. Kiki left Xander a voicemail asking if she could change her working hours from 09:00 am to 17:00 pm to 08:00 am to 16:00 pm instead. Kiki also confirmed that she had never before requested any such change. Xander replied to Kiki's voicemail the same evening, rejecting her requested change of working hours.

Uri had also worked at Underwater Ltd as a bar tender. Uri was employed for a total of eight months. During one of his shifts, Uri noticed that some of the bottles of drinks in the storeroom had expired by over a year. Uri told Xander about this and asked if he should dispose of them. Xander told Uri not to dispose of the drinks but instead to sell them to customers at half price. Uri placed a sign in the bar stating 'drinks half price as they are expired and potentially poisonous'; no customer purchased the drinks. When Xander learned of this, he fired Uri for gross misconduct.

a) Advise Kiki:

- if she had a right to emergency leave;
- if she made a valid request for flexible working.

**(11 marks)**

b) Advise Uri of any claims he may have against Underwater Ltd and his potential remedies.

**(14 marks)**

**(Total: 25 marks)**

**End of the examination**