

## **GCSE**

### **Law**

Unit **B143**: Employment Rights and Responsibilities

General Certificate of Secondary Education

## **Mark Scheme for June 2015**

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This mark scheme is published as an aid to teachers and students, to indicate the requirements of the examination. It shows the basis on which marks were awarded by examiners. It does not indicate the details of the discussions which took place at an examiners' meeting before marking commenced.

All examiners are instructed that alternative correct answers and unexpected approaches in candidates' scripts must be given marks that fairly reflect the relevant knowledge and skills demonstrated.

Mark schemes should be read in conjunction with the published question papers and the report on the examination.

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## Annotations

Annotation	Meaning
	Tick
	Cross
	Benefit of doubt
	Benefit of doubt not given
	Repeat
	Extendable vertical wavy line
	Omission mark
	Level 1
	Level 2
	Level 3
	Expansion of a point
	Development of point
	Vague
	Not answered question

Question		Answer	Mark	Guidance
1	(a)	<p>Candidates will identify up to <u>three</u> of the following:</p> <ul style="list-style-type: none"> <li>• Worker does not get the employment rights and protections of employees</li> <li>• Worker has to organise payment of their own tax and National Insurance</li> <li>• Worker can set their own holidays</li> <li>• Worker will provide their own equipment</li> <li>• Worker will receive no pay if absent</li> <li>• Worker can pick the hours they work.</li> </ul> <p>Credit any other relevant answer.</p>	[3]	<p><b>ASSESSMENT OBJECTIVE 1</b></p> <p>1 mark for each correct element identified</p> <p><b>(maximum 3 marks)</b></p> <p><b>No credit for no ‘contract of employment’ as it is in the stem question. Annotate as REP.</b></p>

Question		Answer	Mark	Guidance
1	(b)	<p>Candidates will select up to <u>three</u> of the following:</p> <p><b>(i)</b> Albert – economic reality  <b>(ii)</b> Carrie - control  <b>(iii)</b> Harriet – integration/organisation.</p>	[3]	<p><b>ASSESSMENT OBJECTIVE 3</b></p> <p>1 mark for each correct test identified</p> <p><b>(maximum 3 marks)</b></p>

Question		Answer	Mark	Guidance
2	(a)	<p>Candidates will identify up to <u>two</u> of the following:</p> <ul style="list-style-type: none"> <li>▪ Judges or courts</li> <li>▪ Parliament</li> </ul>	[2]	<p><b>ASSESSMENT OBJECTIVE 1</b></p> <p><b>Credit examples of either judges/courts or statute.</b></p> <p>1 mark for each correct source identified</p> <p><b>(maximum 2 marks)</b></p> <p><b>Accept examples of answer as an alternative.</b></p>

Question		Answer	Mark	Guidance
2	(b)	<p>Candidates will select up to <u>four</u> of the following:</p> <ul style="list-style-type: none"> <li><b>(i)</b> Personal Protective Equipment (PPE) Regulations</li> <li><b>(ii)</b> Workplace (Health, Safety and Welfare) Regulations</li> <li><b>(iii)</b> Display Screen Equipment (DSE) Regulations</li> <li><b>(iv)</b> Provision and Use of Work Equipment Regulations</li> </ul>	[4]	<p><b>ASSESSMENT OBJECTIVE 3</b></p> <p>1 mark for each correct regulation identified</p> <p><b>(maximum 4 marks)</b></p> <p><b>Accept Visual Display Unit or VDU for (iii) and mark as BOD</b></p>

Question		Answer	Marks	Guidance
2	(c)	<p>Candidates will explain up to <u>three</u> points for each of the following:</p> <p><b>Improvement Notice:</b></p> <ul style="list-style-type: none"> <li>▪ Issued when inspectors believe legal requirements are being breached which is based on evidence</li> <li>▪ Two weeks' 'grace' period given to enable employer to correct situation before Improvement Notice issued</li> <li>▪ If not corrected, the Improvement Notice is issued which states breach and time limit to put it right so that employer cannot avoid acting as they are clear what they must do</li> <li>▪ Business is allowed to continue while process is in operation.</li> </ul> <p><b>Prohibition Notice:</b></p> <ul style="list-style-type: none"> <li>▪ Issued when inspectors believe there is a risk of serious personal injury which is based on evidence</li> <li>▪ Issued immediately to take effect</li> <li>▪ No breach is needed and can be effective immediately which is important to protect worker safety</li> <li>▪ A business can be closed until the problem is fixed which shows that the serious situation is being dealt with quickly.</li> </ul>	[6]	<p><b>ASSESSMENT OBJECTIVE 2</b></p> <p><b>Credit should be given for both breadth and depth</b></p> <p>For <u>each</u> notice explained:</p> <p>3 marks – develops an explanation  2 marks – explains one relevant point with some elaboration  1 mark – makes any valid point  0 marks – no response or nothing worthy of credit</p> <p><b>Maximum 3 marks for each notice</b></p> <p><b>(maximum 6 marks)</b></p> <p><b>Examples can gain some credit</b></p>

Question			Answer	Marks	Guidance
2	(d)		<p><b>Candidates will explain the following:</b></p> <p><b>Importance of duties:</b></p> <ul style="list-style-type: none"> <li>▪ To avoid risk of injury to staff</li> <li>▪ To avoid claims</li> <li>▪ An employer wants to have a good reputation and not get bad media coverage for failures.</li> </ul> <p><b>Reasonableness:</b></p> <ul style="list-style-type: none"> <li>▪ An employer can only do so much to protect workers on the basis of what they knew or should have known</li> <li>▪ Cost can be a fair limiting factor</li> <li>▪ An employer can also expect an employee to behave reasonably.</li> </ul> <p>Credit any other relevant answer.</p>	[6]	<p><b>ASSESSMENT OBJECTIVE 3</b></p> <p><b>Credit should be given for both breadth and depth</b></p> <p>For <u>each</u> explanation:</p> <p>3 marks – develops an explanation  2 marks – explains one relevant point with some elaboration  1 mark – makes any valid point  0 marks – no response or nothing worthy of credit</p> <p><b>Maximum 3 marks for each explanation</b></p> <p><b>(maximum 6 marks)</b></p> <p><b>Using examples attracts some credit</b></p>

Question			Answer	Mark	Guidance
3	(a)	(i)	<p><b>Candidates will identify up to <u>three</u> of the following:</b></p> <ul style="list-style-type: none"> <li>▪ Like work - broadly similar work</li> <li>▪ Equivalent work - different work but jobs assessed as being the same</li> <li>▪ Work of equal value.</li> </ul>	[3]	<p><b>ASSESSMENT OBJECTIVE 1</b></p> <p>1 mark for each correct situation identified</p> <p><b>(maximum 3 marks)</b></p>

Question			Answer	Mark	Guidance
3	(a)	(ii)	<p><b>Candidates will identify the following:</b></p> <ul style="list-style-type: none"> <li>▪ Six months</li> </ul>	[1]	<p><b>ASSESSMENT OBJECTIVE 1</b></p> <p>1 mark for correct time limit stated</p> <p><b>(maximum 1 mark)</b></p>

Question			Answer	Mark	Guidance
3	(b)	(i)	<p>Candidates will identify up to <u>three</u> of the following:</p> <ul style="list-style-type: none"> <li>• <b>Munir:</b> Religion and/or belief discrimination</li> <li>• <b>Jill:</b> Sexual Orientation discrimination</li> <li>• <b>Pauline:</b> Gender reassignment/Transsexual discrimination.</li> </ul>	[3]	<p><b>ASSESSMENT OBJECTIVE 1</b></p> <p>1 mark for each correct identification</p> <p><b>(maximum 3 marks)</b></p>

Question			Answer	Marks	Guidance
3	(b)	(ii)	<p>Candidates will state and explain up to <u>two</u> points for each of the following:</p> <p><b>Munir:</b></p> <ul style="list-style-type: none"> <li>▪ Has been discriminated against</li> <li>▪ Because his faith means that he should not be made to go on nights out with the other candidates with the suggestion that he must drink alcohol</li> </ul> <p><b>Jill:</b></p> <ul style="list-style-type: none"> <li>▪ Has been discriminated against</li> <li>▪ Because she was not given the job as she is a homosexual which the employer believes is contrary to the 'family atmosphere'</li> </ul> <p><b>Pauline:</b></p> <ul style="list-style-type: none"> <li>▪ Has been discriminated against</li> <li>▪ Because it would appear that she has been treated less favourably than other employees going for an operation</li> </ul>	[6]	<p><b>ASSESSMENT OBJECTIVE 2</b></p> <p>Credit should be given for both breadth and depth</p> <p>1 mark for identifying whether there has been discrimination.</p> <p>1 mark for reasoning</p> <p>0 marks – no response or no response worthy of credit</p> <p><b>(maximum 6 marks)</b></p>

Question		Answer	Mark	Guidance										
3	(c)	<p>Candidates will select up to <u>two</u> of the following:</p> <table border="1"> <thead> <tr> <th>Statement</th> <th>True</th> </tr> </thead> <tbody> <tr> <td>Positive action can be used when a particular racial group is under-represented in the workplace.</td> <td>✓</td> </tr> <tr> <td>People from a particular racial group cannot be encouraged to apply for a job.</td> <td></td> </tr> <tr> <td>People from a particular racial group can be selected for a job above better qualified applicants.</td> <td></td> </tr> <tr> <td>Special training can be provided for people of a particular racial group.</td> <td>✓</td> </tr> </tbody> </table>	Statement	True	Positive action can be used when a particular racial group is under-represented in the workplace.	✓	People from a particular racial group cannot be encouraged to apply for a job.		People from a particular racial group can be selected for a job above better qualified applicants.		Special training can be provided for people of a particular racial group.	✓	[2]	<p><b>ASSESSMENT OBJECTIVE 3</b></p> <p>1 mark for each correct statement selected</p> <p><b>(maximum 2 marks)</b></p>
Statement	True													
Positive action can be used when a particular racial group is under-represented in the workplace.	✓													
People from a particular racial group cannot be encouraged to apply for a job.														
People from a particular racial group can be selected for a job above better qualified applicants.														
Special training can be provided for people of a particular racial group.	✓													

Question		Answer	Mark	Guidance
4	(a)	<p>Candidates will identify the following:</p> <ul style="list-style-type: none"> <li>▪ constructive</li> <li>▪ fundamental</li> <li>▪ employment tribunals</li> </ul>	[3]	<p><b>ASSESSMENT OBJECTIVE 1</b></p> <p>1 mark each for each correct answer</p> <p><b>(maximum 3 marks)</b></p>

Question		Answer	Mark	Guidance
4	(b)	<p>Candidates will identify up to <u>three</u> of the following:</p> <ul style="list-style-type: none"> <li>▪ Show a valid reason for dismissal</li> <li>▪ Show that they acted reasonably</li> <li>▪ Investigate the situation</li> </ul> <p>Credit any other reasonable answer.</p>	[3]	<p><b>ASSESSMENT OBJECTIVE 1</b></p> <p>1 mark each for each correct identification</p> <p><b>(maximum 3 marks)</b></p>

Question		Answer	Marks	Guidance
4	(c)	<p>Candidates will state whether the situation is fair or unfair and give a reason the following:</p> <p><b>Terry:</b></p> <ul style="list-style-type: none"> <li>Dismissal is <b>fair</b></li> <li>Fighting with a customer would be classed as gross misconduct.</li> </ul> <p><b>Julie:</b></p> <ul style="list-style-type: none"> <li>Dismissal is <b>unfair</b></li> <li>Membership of a trade union is a statutory right and not a reason to dismiss her on its own.</li> </ul> <p><b>Doctor Jones:</b></p> <ul style="list-style-type: none"> <li>Dismissal is <b>fair</b></li> <li>Drinking a large amount of alcohol and then carrying out an operation would be seen as gross misconduct.</li> </ul>	[6]	<p><b>ASSESSMENT OBJECTIVE 2</b></p> <p>For each of the three scenarios give credit as follows:</p> <p>1 mark for identifying whether dismissal is fair or unfair</p> <p>1 mark for reasoning</p> <p>0 marks – no response or no response worthy of credit</p> <p><b>(maximum 6 marks)</b></p>

Question	Answer	Marks	Guidance
4	<p>(d)*</p> <p>Candidates will discuss up to <u>three</u> of the following:</p> <p><b><u>Procedural route:</u></b></p> <p><b>Last in, first out</b></p> <ul style="list-style-type: none"> <li>▪ This is good for an employer as they have invested least in new employees but the most in longer serving employees</li> <li>▪ This redundancy is less expensive for employer</li> </ul> <p><b>Asking for volunteers</b></p> <ul style="list-style-type: none"> <li>▪ This is good for an employer as it is less likely to create a bad feeling</li> <li>▪ Therefore there is less likelihood of litigation</li> </ul> <p><b>Disciplinary records</b></p> <ul style="list-style-type: none"> <li>▪ These are good for employers as they give an objective reason for their decision</li> <li>▪ This is a fair way to enable employers to retain best employees</li> </ul> <p><b>Skills, qualifications and experience</b></p> <ul style="list-style-type: none"> <li>▪ These are good for employers as they are a transparent and tangible way of measuring an employee's ability</li> <li>▪ This enables the employer to retain their most competent employees</li> </ul>	[9]	<p><b>ASSESSMENT OBJECTIVE 3</b></p> <p><b>Candidates will score as follows:</b></p> <p>L3: 7-9 marks – points explained with good reasoning and with effective communication through discussion. The response is well organised, structured, with few errors in grammar, punctuation and spelling.</p> <p>L2: 4-6 marks – points made with some elaboration and adequate communication. The response is adequately organised, structured and with some errors of spelling, punctuation and grammar.</p> <p>L1: 1-3 marks – basic points made with basic communication. The response lacks organisation, structure and accuracy of spelling, punctuation and grammar.</p> <p>0 marks – no response or no response worthy of credit</p> <p>If only one reason is discussed than maximum top L1.</p> <p>To get into L3 overall at least two of the reasons discussed must each be in L3.</p> <p><b>Students can go down both a substantive route and procedural route or a combination.</b></p> <p><b>Credit should be given for both breadth and depth</b></p> <p><b>Using examples attracts some credit (maximum 9 marks)</b></p>

Question	Answer	Marks	Guidance
	<p><b><u>Substantive route:</u></b></p> <p><b>The introduction of new technology</b></p> <ul style="list-style-type: none"> <li>• This may be necessary for increased productivity but makes an employee's job unnecessary</li> <li>• Such as a machine replacing a person's job</li> </ul> <p><b>The work that employee does no longer exists</b></p> <ul style="list-style-type: none"> <li>• In many heavy industries workforces have been made redundant due to international competition</li> <li>• Areas such as coal mining and ship-building has stopped, reduced output or has moved abroad</li> </ul> <p><b>Staff numbers must be reduced</b></p> <ul style="list-style-type: none"> <li>• This could be due to a product or service is no longer in demand.</li> <li>• Or that the product or service has been discontinued or scaled back</li> </ul> <p><b>Closure of workplace</b></p> <ul style="list-style-type: none"> <li>• This could be as a consequence of business' relocating from one part of the country to another or another country</li> <li>• This means that most employees are unable to travel or re-locate</li> </ul> <p><b>Need to cut costs</b></p> <ul style="list-style-type: none"> <li>• In order to stay competitive employee numbers must be reduced</li> <li>• This will hopefully save the company or save other employees' jobs in the long-term.</li> </ul>		

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