

GCSE

Law

Unit **B143**: Employment Rights and Responsibilities

General Certificate of Secondary Education

Mark Scheme for June 2016

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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.

OCR will not enter into any discussion or correspondence in connection with this mark scheme.

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Annotations

Annotation	Meaning
	Tick
	Cross
BOD	Benefit of doubt
NBOD	Benefit of doubt not given
REP	Repeat
	Extendable vertical wavy line
	Omission mark
L1	Level 1
L2	Level 2
L3	Level 3
E	Expansion of a point
	Development of point
VG	Vague
NAQ	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"> Judges/Common law Parliament EU. <p>Credit any other relevant answer including examples.</p>	[3]	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for each correct source identified</p>
	(b) (i)	<p>Candidates will select the following:</p> <p>Albert – Display Screen Equipment (DSE) Regulations</p>	[1]	<p>ASSESSMENT OBJECTIVE 2</p> <p>1 mark for each correct area selected</p>
	(ii)	<p>Candidates will select the following:</p> <p>David – Personal Protective Equipment (PPE) Regulations</p>	[1]	<p>ASSESSMENT OBJECTIVE 2</p> <p>1 mark for each correct area selected</p>
	(iii)	<p>Candidates will select the following:</p> <p>Elena – Workplace(Health, Safety and Welfare) Regulations</p>	[1]	<p>ASSESSMENT OBJECTIVE 2</p> <p>1 mark for each correct area selected</p>
2	(a)	<p>Candidates will identify and explain up to <u>two</u> of the following:</p> <ul style="list-style-type: none"> Asking for volunteers – this is fair because it allows employees to choose to stop work Last in, first out – this is fair as it gives longer serving workers some protection Staff appraisal markings – this is fair as it allows the best workers to be retained based on their continued progress Skills, qualifications and experience – this is fair as a clear standard is applied which gives the employer the best chance to make sure the business succeeds. <p>Credit any other relevant answer</p>	[4]	<p>ASSESSMENT OBJECTIVE 1 ASSESSMENT OBJECTIVE 2</p> <p>1 mark for each correct reason identified and 1 mark for each explanation</p> <p>Credit will not be given to students who refer to disciplinary records as this is in the stem of the question.</p>

Question		Answer	Mark	Guidance
	(b)	<p>Candidates will identify and explain up to <u>two</u> points:</p> <p>Dolly</p> <ul style="list-style-type: none"> • Summary/dismissal on the spot • Dolly has been harassing her colleague and fighting which is gross misconduct 	[2]	<p>2 marks – explains one relevant point with some elaboration</p> <p>1 mark – makes any valid point</p> <p>0 marks - no response or nothing worthy of credit</p>
	(ii)	<p>Candidates will identify and explain up to <u>two</u> points:</p> <p>Guy</p> <ul style="list-style-type: none"> • Wrongful • Guy’s editor has not followed the disciplinary procedure and the notice period is too short <p>Or</p> <ul style="list-style-type: none"> • Unfair • Any dismissal connected with trade union membership is automatically unfair. 	[2]	<p>2 marks – explains one relevant point with some elaboration</p> <p>1 mark – makes any valid point</p> <p>0 marks - no response or nothing worthy of credit</p>
	(iii)	<p>Candidates will identify and explain up to <u>two</u> points:</p> <p>Vladimir</p> <ul style="list-style-type: none"> • Constructive • Vladimir’s boss is expecting him to travel further and take a demotion 	[2]	<p>2 marks – explains one relevant point with some elaboration</p> <p>1 mark – makes any valid point</p> <p>0 marks - no response or nothing worthy of credit</p>
	(c)	<p>Candidates will state up to <u>two</u> of the following:</p> <p>(i) Reinstatement (ii) Compensation (iii) Reengagement</p>	[2]	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for each correct remedy selected</p> <p>(maximum 2 marks)</p>

Question	Answer	Mark	Guidance
(d)	<p>Candidates will explain <u>two</u> of the following:</p> <ul style="list-style-type: none"> • An employee might have lied about their qualifications/issue of misconduct. This means they did not get the job fairly. They are earning money they are not entitled to and could give the employer a bad reputation. • An employee might not be able to do their job even with training and support/issue of capability. This makes them incompetent. Employer must be able to protect himself, other workers and customers. • An employee might have long-term illness/issue of capability. There will come a point when it is not fair for the employer to have to keep them on. It costs too much money and reduces productivity. • An employee might be incompetent/issue of conduct. Because they will not follow workplace rules. This is unsafe to other employees and the employer needs to protect them. • An employee may be violent, dishonest or been repeatedly disciplined for bad behaviour/issue of gross misconduct. This is bad for other employees. It may also affect the reputation of the business. • An employee may no longer be needed because the business has failed or be close to failure or been restructured. It is unfair for the employer if he cannot change the business. This would prevent employers starting businesses <p>Credit any other relevant answer.</p>	[6]	<p>ASSESSMENT OBJECTIVE 3</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>Credit should be given for both breadth and depth</p> <p>L1-Point L2-Explanation L3-Example/Further explanation</p> <p>Using examples attracts some credit</p> <p>Maximum 3 marks for each explanation</p> <p>(maximum 6 marks)</p>

Question		Answer	Mark	Guidance
3	(a)	<p>Candidates will identify up to <u>two</u> of the following:</p> <ul style="list-style-type: none"> • Employment Rights Act 1996 • 2 months 	[2]	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark for the law and 1 mark for the time limit</p> <p>(maximum 2 marks)</p>
	(b)	<p>Candidates will explain up to <u>two</u> points for each of the following:</p> <p>Economic reality:</p> <ul style="list-style-type: none"> • This is the extent to which the employer bears a financial risk • An employee is likely to be provided with the equipment and materials to do the job <p>Integration:</p> <ul style="list-style-type: none"> • This is the extent to which an employee is part of an organisation • An employee is likely to have access to workplace benefits and a grievance procedure <p>Control:</p> <ul style="list-style-type: none"> • This is the extent to which the employer sets the tasks the employee must do and how they are done • An employee is likely to have strict procedures to follow and set hours when they work <p>Mutuality of obligations:</p> <ul style="list-style-type: none"> • This is the extent to which an employer must offer an employee work and whether they are expected to do it • An employee is likely to have to do the work the employer sets for the whole time whilst employed by the employer 	[8]	<p>ASSESSMENT OBJECTIVE 3</p> <p>For each test give credit as follows:</p> <p>L2: 1 mark for a relevant example</p> <p>L1: 1 mark explaining a test</p> <p>0 marks – no response or no response worthy of credit</p> <p>Credit should be given for both breadth and depth</p> <p>Using examples attracts some credit</p> <p>(maximum 2 marks per point; maximum 8 marks in total for question)</p>

Question	Answer	Mark	Guidance																											
(c)	<p>Candidates will identify the following:</p> <table border="1" data-bbox="369 312 1128 1070"> <thead> <tr> <th data-bbox="369 312 786 379">Statement</th> <th data-bbox="786 312 958 379">Employed</th> <th data-bbox="958 312 1128 379">Self-employed</th> </tr> </thead> <tbody> <tr> <td data-bbox="369 379 786 451">Income tax is deducted before payment</td> <td data-bbox="786 379 958 451">✓</td> <td data-bbox="958 379 1128 451"></td> </tr> <tr> <td data-bbox="369 451 786 523">There is a right to statutory sick pay</td> <td data-bbox="786 451 958 523">✓</td> <td data-bbox="958 451 1128 523"></td> </tr> <tr> <td data-bbox="369 523 786 624">There is no requirement to take holidays at a particular time</td> <td data-bbox="786 523 958 624"></td> <td data-bbox="958 523 1128 624">✓</td> </tr> <tr> <td data-bbox="369 624 786 695">Rest breaks must be part of the working day</td> <td data-bbox="786 624 958 695">✓</td> <td data-bbox="958 624 1128 695"></td> </tr> <tr> <td data-bbox="369 695 786 798">The individual must always provide their own personal protective equipment.</td> <td data-bbox="786 695 958 798"></td> <td data-bbox="958 695 1128 798">✓</td> </tr> <tr> <td data-bbox="369 798 786 898">There is a right to be protected from unlawful discrimination.</td> <td data-bbox="786 798 958 898">✓</td> <td data-bbox="958 798 1128 898"></td> </tr> <tr> <td data-bbox="369 898 786 1000">The individual decides how much to charge for the work that they do</td> <td data-bbox="786 898 958 1000"></td> <td data-bbox="958 898 1128 1000">✓</td> </tr> <tr> <td data-bbox="369 1000 786 1070">There is a right to take maternity and paternity pay</td> <td data-bbox="786 1000 958 1070">✓</td> <td data-bbox="958 1000 1128 1070"></td> </tr> </tbody> </table>	Statement	Employed	Self-employed	Income tax is deducted before payment	✓		There is a right to statutory sick pay	✓		There is no requirement to take holidays at a particular time		✓	Rest breaks must be part of the working day	✓		The individual must always provide their own personal protective equipment.		✓	There is a right to be protected from unlawful discrimination.	✓		The individual decides how much to charge for the work that they do		✓	There is a right to take maternity and paternity pay	✓		[8]	<p>ASSESSMENT OBJECTIVE 2</p> <p>1 mark for correct employment status selected</p> <p>(maximum 8 marks)</p>
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Question		Answer	Mark	Guidance
4	(a)	<p>Candidates will state the meaning of each of the following:</p> <p>Victimisation:</p> <ul style="list-style-type: none"> An employee is treated less favourably because they have complained <p>Harassment:</p> <ul style="list-style-type: none"> An employee is subjected to abuse, offensive language or intimidation <p>Indirect discrimination:</p> <ul style="list-style-type: none"> An employee is part of a group that is unfairly disadvantaged by particular conditions 	[3]	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark each for each correct definition</p> <p>(maximum 3 marks)</p> <p>Accept any of the following for indirect discrimination:</p> <ul style="list-style-type: none"> Where employer applies a policy, criteria or practice to everyone But the PCP has a disproportionate effect on a particular group with a protected characteristic. And the PCP is not a proportionate means of achieving a legitimate aim'.
4	(b)	<p>Candidates will identify in the following order:</p> <p>Equal, Wages, salaries and pensions, Comparator</p>	[3]	<p>ASSESSMENT OBJECTIVE 1</p> <p>1 mark each for each correct answer</p> <p>(maximum 3 marks)</p>
4	(c)	<p>Candidates will identify and explain the following, giving a reason:</p> <ul style="list-style-type: none"> This is discrimination based on religion or belief Although Samir feels he has suffered because he complained his boss has the right to refuse his request as it will affect the business Samir has not been discriminated against <p>Credit any other relevant response.</p>	[3]	<p>ASSESSMENT OBJECTIVE 2</p> <p>1 mark for identifying the type of discrimination</p> <p>1 mark for reasoning</p> <p>1 mark for conclusion that unlikely to be discrimination</p> <p>(maximum 3 marks)</p>

Question	Answer	Mark	Guidance
4	<p>(d)*</p> <p>Candidates will discuss up to <u>three</u> of the following:</p> <p>Protection against bullying and harassment:</p> <ul style="list-style-type: none"> • This means that workers are happier which is economically beneficial • Workers feel that they can work together with a sense of common purpose and so are more productive. <p>Appointment and promotion based solely on merit:</p> <ul style="list-style-type: none"> • This gives the business the reputation of employing and promoting people based on an objective standard • Workers feel that they can succeed and this can promote hard work through loyalty <p>Fairness and justice in the workplace:</p> <ul style="list-style-type: none"> • This gives a business a good reputation so they attract workers who can make the business more profitable • Workers spend a lot of time at work and will work better where they feel they are well treated <p>Equality in the workplace:</p> <ul style="list-style-type: none"> • This means that the employer will not need to spend money fighting claims made against them • Workers feel valued and secure as they all have an equal chance of success <p>Lack of stereotyping and prejudice:</p> <ul style="list-style-type: none"> • This gives a business the chance to attract workers simply because they are the best for the job • Workers feel that if they have what is needed for the job that they will only be judged on those criteria 	[9]	<p>ASSESSMENT OBJECTIVE 3</p> <p>Candidates will score as follows:</p> <p>L1-Identification of point/reason L2-Consideration of point from perspective of employer L3- Consideration of point from perspective of employee</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>Credit should be given for both breadth and depth</p> <p>Using examples attracts some credit</p> <p>(maximum 9 marks)</p>

Question	Answer	Mark	Guidance
	<p>Harmony in the workplace/Happy working environment</p> <ul style="list-style-type: none">• This means less disruption and more time spent maximising profits of the business.• This makes a better environment so better attendance and less tension for workers, <p>Credit any other relevant response.</p>		

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