



GCSE

Law

Unit **B143: Employment Rights and Responsibilities**

General Certificate of Secondary Education

Mark Scheme for June 2018

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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
	Not Relevant
	Not answered question
	Level 1
	Level 2
	Level 3
	Benefit of Doubt
	Cross
	Unclear
	Repeat
	Tick
	Vague
	Omission mark

Question		Answer	Mark	Guidance												
1	(a)	<p>Candidates will identify any three of the following:</p> <ul style="list-style-type: none"> • Control test • Integration test • Mutuality of obligations test • Economic reality test. <p>Credit any other relevant response.</p>	3	<p>1 mark for each test identified</p> <p>Credit also specific definition of test instead of specific title</p> <p>Credit also any other relevant test to this area e.g. trade specific.</p>												
1	(b)	<p>Candidates will successfully tick any or all of the following:</p> <table border="1" data-bbox="426 627 842 833"> <tr><td>i</td><td></td></tr> <tr><td>ii</td><td>✓</td></tr> <tr><td>iii</td><td></td></tr> <tr><td>iv</td><td>✓</td></tr> <tr><td>v</td><td>✓</td></tr> <tr><td>vi</td><td></td></tr> </table>	i		ii	✓	iii		iv	✓	v	✓	vi		3	<p>1 mark for each correct tick identifying an express term.</p> <p>If there are more than three ticks pick the first three in top to bottom order.</p> <p>Accept any other mark e.g. X that clearly defines the candidate's response.</p>
i																
ii	✓															
iii																
iv	✓															
v	✓															
vi																
2	(a)	<p>Candidates will identify any three of the following:</p> <ul style="list-style-type: none"> • The same work • Broadly similar work • Different work but that their jobs have been assessed as being the same <p>Credit any other relevant response.</p>	3	<p>1 mark for each relevant situation identified</p> <p>Credit variations of those opposite but be wary of overlap.</p> <p>Do not credit 'equal value' as this is the example given in the question's stem.</p>												

Question		Answer	Mark	Guidance
2	(b)	<p>Candidates will explain the following:</p> <p>Harassment:</p> <ul style="list-style-type: none"> • This means that there is offensive or intimidating behaviour, sexist language or racial abuse used against employees or employers; • This is aimed to humiliate, undermine or injure its target. • An example could include deliberately hiding an employee's tools or equipment over a number of occasions. <p>Indirect discrimination:</p> <ul style="list-style-type: none"> • This is when a condition set by the employer disadvantages one group of people more than another; • There will not be indirect discrimination if there is a good reason for a particular condition. • Indirect discrimination could be through advertising or through work practices, for example, not recruiting people over a certain weight. <p>Direct discrimination</p> <ul style="list-style-type: none"> • This is where an employer clearly treats an employee less favourably than others which could be, for example, because of their gender, race or on the grounds of religion; • The less favourable treatment, on the facts, would seem to be obvious. • For example, not recruiting females in their 20s, or not recruiting a person from a minority group even though they were the best qualified and had the best experience. <p>Credit any other relevant response.</p>	9	<p>For <u>each</u> type explained:</p> <p>3 marks – develops an explanation on the type of discrimination.</p> <p>2 marks – explains the relevant type of discrimination with some elaboration.</p> <p>1 mark - explains the relevant type of discrimination or makes any valid point.</p> <p>0 marks - no response or nothing worthy of credit.</p> <p>Maximum 3 marks for each type discussed</p>

Question		Answer	Mark	Guidance
2	(c)	<p>Candidates will discuss any three of the following:</p> <ul style="list-style-type: none"> Employees spend a lot of time at work and they need to feel comfortable so that they can do their best and are treated fairly; Employees need to know that there is fairness in their workplace and that if they work hard everyone has the same chance to be promoted for doing well; Employees need to know that there is equality in the workplace and everyone has the chance to get a job as long as they are the best person for the job; Employees need to know that there will not be any prejudice or stereotyping in their workplace and so they will be more productive as they will have trust in their employer; Employees need to know that harassment and bullying are not tolerated in their workplace, so they can work better and feel that they work for a good employer. <p>Credit any other relevant response.</p>	6	<p>Credit should be given to both breadth and depth:</p> <p>2 marks – discusses one relevant reason with some elaboration</p> <p>1 mark - discusses a relevant reason or makes any valid point</p> <p>0 marks - no response or nothing worthy of credit</p> <p>(Maximum 2 marks per reason)</p> <p>Candidates can be credited with both breadth and depth for each reason</p>
3	(a)	Candidates will insert accidents , statutory and European in this order.	3	1 mark for each correct word identified
	(b)	Candidates will mark the boxes as follows: i Breach of duty ii No breach of duty iii Breach of duty iv Breach of duty v Breach of duty vi No breach of duty	6	1 mark each for each correct answer

Question		Answer	Mark	Guidance	
3	(c)	<p>Candidates will successfully identify any of the following:</p> <ul style="list-style-type: none"> • Provide a safe place of work • Provide a safe system of work • Provide safe plant and appliances • Provide competent fellow employees • Provide safe equipment • Provide protection against psychiatric injury. 	3	1 mark for each correct common law duty identified	
3	(d)	<p>Candidates will describe up to three of the following:</p> <ul style="list-style-type: none"> • The business is likely to be in breach of the Management of Health and Safety at Work Regulations. In falling asleep, the supervisor is not paying attention to the risks of the young trainee while at work as she hangs from the tree's branch. • The business is likely to be in breach of the Provision and Use of Work Equipment Regulations. In allowing the trainee to use a broken saw the supervisor has put the trainee at risk of serious injury. • The business is likely to be in breach of the Personal Protective Equipment Regulations. As the safety-helmet's strap is broken off, the supervisor has failed to ensure it is maintained and in good repair. <p>Credit any other relevant response.</p>	6	<p>Credit should be given to both breadth and depth:</p> <p>2 marks – describes one relevant reason with some elaboration</p> <p>1 mark - describes a relevant reason or makes any valid point</p> <p>0 marks - no response or nothing worthy of credit</p> <p>(Maximum 2 marks per reason)</p> <p>In relation to each:</p> <p>1 mark for describing the Six Pack Regulation.</p> <p>1 mark for describing the breach of each scenario.</p> <p>Candidates can be credited with both breadth and depth for each reason</p>	
4	(a)	(i)	<p>Candidates will identify any three of the following reasons:</p> <ul style="list-style-type: none"> • New technology is introduced which makes a job unnecessary • A new system of work or practice makes a job unnecessary • The job that the employee was hired for no longer exists 	3	1 mark for each reason identified

Question		Answer	Mark	Guidance
		<ul style="list-style-type: none"> • The legitimate need to save money and costs requires staff numbers must be reduced • In certain circumstances where the location of a business moves and the employee does not wish to move as well. <p>Credit any other relevant response.</p>		
4	(a)	<p>(ii) Candidates will explain any of the following:</p> <ul style="list-style-type: none"> • This could be constructive dismissal since being told to drive a car with faulty brakes means he would be required to work in dangerous, life-threatening, conditions • This could be constructive dismissal since being shouted at by the Director, that unless he performs the stunt, he will never be able to do his job again could be classed as bullying or harassment • This could be constructive dismissal as he was told for no reason to change his working conditions through a sudden demotion and pay cut from being a stunt-car driver to a sandwich maker. <p>Credit any other relevant response.</p>	3	1 mark each for each correct answer
4	(b)	<p>Candidates will identify any three of the following examples:</p> <ul style="list-style-type: none"> • Fighting • Threats of violence • Theft • Arson or serious criminal damage • Deliberate falsification of time-sheets • Accessing pornography on work computers • Distributing pornography on work computers • Serious bullying or harassment 	3	1 mark for each example identified

Question		Answer	Mark	Guidance
		<ul style="list-style-type: none"> • Serious and deliberate breaches of health and safety regulations • Being drunk or, in some situations, drinking alcohol while at work • In some circumstances, smoking at work. <p>Credit any other relevant response.</p>		
4	(c)*	<p>Candidates will discuss the following:</p> <p>Conduct: In this context this covers unacceptable specific behaviour of an employee while at work. This could also include acts carried out outside work. It may be that an employer must dismiss the employee in this situation because their behaviour is completely unacceptable. For example, despite being told on numerous occasions to wear a safety-helmet, the employee refuses to do so.</p> <p>Capability: This covers situations where the employee is accused of incompetence or unable to do the job through illness or injury. If the dismissal is based on incompetence the company will usually issue a warning about the standard of their work and how to improve it before further action is taken. If the issue is sickness then the employee will be spoken to and later, if necessary, medical advice could be taken. In both situations sometimes a different job may be offered or reduced hours are considered before dismissal. For example, an employee who has been diagnosed with a mental health issue which prevents them from leaving their home.</p> <p>Illegality: In certain situations it may be that the job an employee is doing becomes illegal. Here, the employer cannot insist on the employee carrying out the job without breaking the law. The employer should consider finding the employee a different job first. For example, those employed in the wheel-clamping industry after its ban in 2012.</p> <p>Credit any other valid response.</p>	9	<p>Candidates will score as follows:</p> <p>Level 3: 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. To get into Level 3 overall at least two of the reasons discussed must each be in Level 3.</p> <p>Level 2: 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>Level 1: 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>

OCR (Oxford Cambridge and RSA Examinations)
The Triangle Building
Shaftesbury Road
Cambridge
CB2 8EA

OCR Customer Contact Centre

Education and Learning
Telephone: 01223 553998
Facsimile: 01223 552627
Email: general.qualifications@ocr.org.uk

www.ocr.org.uk

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Head office
Telephone: 01223 552552
Facsimile: 01223 552553

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